

COMMITTEE REPORT

Committee: East Area
Date: 8 November 2007
Ward: Strensall
Parish: Strensall And Towthorpe Parish Council

Reference: 07/01942/FULM
Application at: OS Field 3000 Lords Moor Lane Strensall York
For: Erection of organic free range egg unit (1061sqm)
By: Mr Nigel Pain
Application Type: Major Full Application (13 weeks)
Target Date: 13 November 2007

1.0 PROPOSAL

1.1 The site is located outside the settlement limit of Strensall. It is sited to the south of a railway line on the opposite side of an existing residential area. The application site is located almost in the centre of one large and two smaller grass fields owned by the applicant. The application site also includes an access farm track connecting the proposed free range egg unit with Lords Moor Lane. The site is situated in fields which are of significant wildlife interest. As the result they are currently on the proposed Site of Importance for Nature Conservation (SINC) nomination list.

1.2 The northern boundary of the site is formed by a high field hedge. Behind this hedge is a railway line. On the opposite side of the railway line lies another hedge. Behind this second hedge further to the north is the existing residential area. The fields are enclosed by high hedges. To the west of the site along Lords Moor Lane lies a row of residential properties. Strensall Golf Course is situated to the south of the fields, and to the east is a property known as Riverdale. These hedges are outside the application site. The application site is given as 3426 sq.m.

Proposal Description:

1.3 This application seeks planning consent to erect an organic free range egg unit. The building proposed to accommodate the unit would measure 58.0m x 18.3m; with an eaves height of 2.44m and a ridge height of 5.36m. It would be a weatherboarding structure with a polyester coated profiled steel sheeting roof above. A total of 6 fanshafts are proposed along the ridge for ventilation purposes.

1.4 The proposed building would be approximately 150.0m away from the nearest residential property to the north of the site, approximately 310.0m from the nearest dwelling along Lords Moor Lane to the west of the site, more than 200.0m away from Strensall Golf club, and approximately 220.0m away from Riversdale.

1.5 Access to the building is through an existing track which runs in parallel with the railway line to the north. The track would be connected to a stone surface access

road before reaching the building. The overall length of the access road would be approximately 500.0m. The access road is partly owned by Network Rail.

Relevant Planning History:

1.6 07/01943/FUL: Siting of a mobile home as a temporary agricultural dwelling. This application is directly related to the scheme proposed. Hence it has been submitted before the planning committee for determination.

1.7 06/00015/OUT: Outline application for erection of 1 no. dwelling after demolition of existing dwelling and outbuildings. This application was refused on 22 February 2006 due to the following reasons:

i. The proposed development would constitute the construction of a new dwelling in the York Green Belt. There is no dwelling on the site that would enable the proposal to be reasonably considered to be a replacement dwelling. The construction of such a dwelling would be an inappropriate form of development in the Green Belt, and therefore by definition would be harmful to the Green Belt.

ii. The construction of such a new dwelling and its residential curtilage would also give rise to the impression of sporadic development in the Green Belt outside of any settlement limits, diminishing the openness and conflicting with one of the purposes of including land within the Green Belt, of assisting in safeguarding the countryside from encroachment.

iii. The development is considered contrary to advice PPG2: Green Belts, Policies E8, E8a, E9 of the Adopted North Yorkshire Structure Plan (Alteration no. 3 Adopted 1995) and Policies SP2, GB1, GB5, GB6 of City of York Draft Local Plan Incorporating the Fourth Set of Changes - Development Control Local Plan (Approved April 2005).

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (2) 0005

2.2 Policies:

CYSP2
The York Green Belt

CYSP6

Location strategy

CYGP1
Design

CYGP3
Planning against crime

CYGP4A
Sustainability

CYGP9
Landscaping

CYGP14
Agricultural land

CYGP15
Protection from flooding

CYNE3
Water protection

CYNE5A
Local Nature Conservation Sites

CYNE7
Habitat protection and creation

CYGB1
Development within the Green Belt

3.0 CONSULTATIONS

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EXTERNAL

3.1 Neighbours notified, site notice posted and press advertised. Consultation expired 24 October 2007. 65 letters of objections received to date raising the following concerns:

- the noise and smell generated by the proposal would affect local residents,
- the proposal would pollute the local environment,
- the proposed intensive egg production is of such an environmental significance that it requires special controls,
- the Environment Agency's Integrated Pollution Prevention and Control (IPPC) regulations refer to sensitive properties within 400 metres. The property at 8 Cundall Close is much closer than this,

- the proposal would harm the living environment of the local community,
- the proposal could result in waste contamination of this environmentally sensitive location,
- the land should be cleared up before further applications are considered,
- the site drainage from the proposal could lead to contamination,
- the proposal would have significant effects on the health and safety of residents with regard to air bourn pollution, the increased effects of contamination to the watertable, the migration of diseases, and other bio-security hazards,
- the proposal would cause light pollution,
- the amount of birds proposed could have a health implication,
- the provision of utilities including electricity and clean water supply has not been mentioned,
- the proposal would increase the local vermin population,
- the proposal should be away from high density residential locations,
- the amount of birds proposed could affect the health of the occupants at Little Garth,
- the disposal of bird waste, flies and vermin could affect the health of the local community,
- the applicant's suggestion that a cleaning cycle of 65 weeks is inaccurate,
- various types of hazardous materials will be required to run the site
- a large amount of hens would be released on a daily basis,
- the proposal, if granted, could place a potential source of bird flu, foot and mouth infections and other pandemic threats within 100m of residential areas,
- the proposal would spoil the view of the open countryside and the surrounding residential properties,
- the proposal is a large scale development,
- the proposal would harm the visual amenity of the locality,
- the proposal might not recognize the maintenance and management of the countryside and the most valued landscapes, as required by Planning Policy Statement no.7.
- the proposal might not achieve the outcome of revitalising country towns and villages whilst maintaining the local character and high quality environment,
- the proposal would not be fully screened by the existing hedge,
- some of the hedges might require to be removed in order to accommodate the development,
- the proposal is far too near to the city itself, Strensall Common, and two prestigious golf clubs,
- the proposal would affect the existing public open space within the area,
- the proposed use of building materials in this location is not appropriate and is not environmentally acceptable,
- the proposal is not a small enterprise in the context of a residential area of Strensall,
- the site in question is far bigger than the size of the application site,
- the proposal is disproportional to the suburban area,
- the applicant should provide a statement proving that there are no other brownfield sites within the area available for this type of development,
- a large area of land would be used for the proposed enterprise,
- the proposal could have an impact on the sensitive and rare natural habitat,
- the proposal might affect the already well established fox population,
- the proposal would harm the designated ancient meadow (old neutral grassland),
- the fields are rich in flora and fauna and provide a habitat for many threatened species,

- the proposal would affect ancient hedgerow and meadow grass in the area,
- the proposal would cause extra traffic generations,
- there would be more than the estimated number of lorries traveling down the access lane during the construction process,
- the additional noise from traffic would be unacceptable to Beechwood,
- access is not adequate to service an enterprise of this kind requiring use by HGVs and Fire Engines and emergency vehicles in the event of problems,
- the proposal access would present an unacceptable hazard for pedestrians and drivers using Lords Moor Lane and for local residents,
- vehicles using the track would transfer wet mud onto the highway causing skid hazard,
- sightline from the entrance is unacceptable,
- the proposal would attract more vehicle parking,
- due to its narrow entrance the site is unsuitable for large vehicles,
- A transport assessment should be made available,
- the area is already suffering from a lack of effective runoff,
- the water table within the locality is already very high,
- the site floods due to poor clay soil and drainage, hence the business would be affected,
- the proposal would stretch water supply at peak times.
- the proposal would harm York tourist industry,
- the proposal would not address community safety,
- the proposal would affect the value of the properties in Strensall,
- the proposal, if granted, would lead to a demand for a reduction in council tax rates for many local properties,
- earlier applications to development the land by York Golf club has been turned down,
- the proposed development would violate the human rights of local residents,
- a precedent has been set to allow living accommodation in this locality,
- it is unclear whether or not the land is an agricultural holding,
- it is unclear whether or not the proposal would include storage and commercial uses,
- the applicant is already living in the site illegally,
- the application site should be OS field 3000 and not OS field 2000,
- local residents should be widely consulted,
- there should be a meeting for the local residence to air their views,
- there is a risk that the proposal would be further extended if approved,
- it is unlikely that the applicant would comply with future regulations and conditions due to the applicant's previous history,
- the applicant's competence to manage/run the proposed unit is in question,
- the proposal would demand more specialized staff,
- there is a potential that the applicant is using the business plan of the free range egg unit as a means to secure planning permission for the temporary dwelling,
- only one or two full time equivalent positions will be created by this development,
- the proposal is not commercially viable and would soon require to extend substantially,
- the static caravan included in the planning application will lead to dwelling application,

3.2 Network Rail consulted. Response received 15 October 2007. The following comments were made:

- the applicant should be made aware of the level crossing and its operation does not cause delay to road traffic,
- there should be a condition that all vehicles using the access track must be driven in forward gear to avoid any awkward manoeuvres in the vicinity of the level crossing,
- the application would be required to obtain a legal right to use the track from Network Rail prior to commencing the development,
- all operations must at all times be carried out in a "fail safe" manner so that the railway line would not be affected,
- all surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property,
- the excavations/earthworks must not interfere with Network Rail property,
- security of the railway boundary will be required to be maintained at all times,
- method statements will be required to be submitted to Network Rail,
- consideration should be given to ensure that construction and maintenance can be carried out without adversely affecting Network Rail's properties,
- soundproofing should be made to protect local residents,
- suitable crash barriers or high kerbs should be provided where new roads, turning spaces or parking areas are to be situated adjacent to a railway,
- the developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary. Network Rail's fence/boundary must not be removed/damaged.

3.3 York Natural Environmental Panel consulted. Response received 11 September 2007. The Panel objected due to the following reasons:

- The roaming hens would result in the degradation and ultimate loss of a SINC quality grassland by the enrichment of the soil and selective grazing,
- The hen droppings would cause the eutrophication (excess nutrients) of the soil, which would not support a species rich grassland.
- Hens tend to selectively graze the sweeter grass species, leaving the more vigorous, unwanted weed species such as dock and elder.

3.4 Strensall and Towthorpe Parish Council consulted. Response received 20 September 2007. The Council objected due to the following reasons:

- this application should read OS Field 3000, not OS Field 2000,
- the proposal is in a green belt,
- the proposal is excessively large relative to surrounding properties,
- due to its height the proposal would have considerable visual impact on the neighbourhood,
- the proposal would require a sophisticated drainage system to dispose service water,
- the proposal to provide a soakaway is not acceptable,
- the land is low-lying and subject to areas of standing water following periods of heavy rain,
- the applicant has taken little account of extra traffic which would be generated by veterinary, H&S visits and access for emergency vehicles,
- the proposal would harm the significant wildlife interest of the land, which is on the proposed SINC nomination list,
- concerns have been expressed over the likelihood of smells coming from the unit,

- Noise from birds, vehicles and machinery is a concern,
- Environmental Impact Assessment should be undertaken,
- the site has a history of non-compliance with planning regulations,
- this application should be regarded as invalid and therefore withdrawn,

3.5 Foss Internal Drainage Board consulted. Response received 25 September 2007. The following comments were made:

- it is not convinced that soakaways will work in this location,
- the area is believed to suffer from overland flows from Strensall Common,
- the proposal would increase discharge. As the result it would increase the risk of property flooding.
- conditions recommended.

3.6 York Golf Club. Response received 10 September 2007 - the club objected in terms of potential nuisance from noise and unpleasant smell.

INTERNAL

3.7 Environment and Conservation consulted. Response received 10 September 2007. The following comments were made:

- Both OS Fields 2000 and 3000 are of significant wildlife interest, notably as old species rich grassland, and are on the proposed SINC nomination list. Thus they are protected by Policies NE5a and NE7 of the draft local plan;
- This designation does not necessarily prevent development if it can be done in such a way as to maintain and enhance the wildlife interest;
- There are two aspects to be considered. The first is the location of the chicken house itself. The other is the much greater area of land actually affected by the application (i.e. the area to be used by the free range chicken unit as a whole);
- Location of the chicken House: This would be located on the field of slightly lesser interest. However it could be sited in an area of even less significance to further reduce the impact. The building should be located closer to the static caravan site as this area is already disturbed by previous buildings;
- Both the proposed building and any future development should be kept together in the one location;
- Larger area of land that will be affected by the proposal: the information contained in the report submitted by the agent with regard to the hours poultry will be out is misleading and needs clarification;
- The eutrophication caused by 5000 chickens is likely to be considerable. This, coupled with feeding behaviour and trampling could destroy the value of the site completely, especially in wet conditions when puddling could turn the area into a muddy mess;

- Wet conditions are also not suitable for keeping hens in, creating problems both with regard to health (worms) and with regard to marketing and selling eggs;
- There is no reference to the requirement to fence this larger area in the application. This may in itself be a planning consideration, depending on the height and style of fencing required;
- the unit in present climate is probably viable for one person. This is strengthened at the moment by the recent ruling that battery production will finish in 2012. There are therefore additional payments for free range eggs. However, it is possible that such payments will decrease, as more and more people change over, making the viability more suspect. There are also likely to be further increases in feed costs due to the shortage of grain. This too will affect the viability of such a unit;
- this application would lead to a complete loss of wildlife interest;
- this application should be refused as there are approximately 20ha of known sps rich grassland of this type left in York, of which this comprises 25% (5ha) of what remains;
- Environmental Impact Assessment (EIA) should be carried out in this instance.

3.8 Environmental Protection Unit consulted. Response received 12 September 2007. The following comments were made:

- Odour: Given the low stocking densities involved with the proposed free range unit, it is considered unlikely that odours from the unit would lead to local loss of amenity or cause a nuisance.
- Dust: Whilst dust can be generated from dry litter and manure such dust does not normally spread beyond 100m away from the unit, and since the nearest dwelling is well in excess of this distance it is satisfied that the proposed development is unlikely to cause a dust nuisance to residential properties near to the site.
- Noise: The most likely and primary source is the proposed supplementary mechanical ventilation to back up the otherwise natural ventilation system. However the distance to the nearest residential dwelling would fall below the background noise level for the area. Hence the proposal would not pose a noise concern.
- Noise from vehicles movements is not considered to pose a problem since no more than 2.4 lorry movements a week are expected and the timing of such movements can be restricted by conditions.
- Flies and Vermin: they would be unlikely to have an impact on local properties. However they should be adequately controlled by the good management and pest control practices indicated within the application.
- Light nuisance: As there is no mention of any external lighting in the application. Nevertheless condition could be used to control or restrict this.

- Provisions do exist within current legislation such as the Environmental Protection Act 1990 to deal with statutory nuisances.
- Conclusion: No objections. Conditions recommended.

3.9 Highways Network Management consulted. Latest response received 22 October 2007. The team objected due to the following reasons:

- The access is restrictive both in terms of its width and achievable visibility on the traffic approach side.
- There is no potential to widen the access due to land ownership issues and the position of the existing signal box.
- The access currently serves the farmland and as such will only generate very limited vehicle movements.
- The proposed use is intensive and will generate higher levels of traffic than the existing use with the potential to grow.
- The use of HGVs as stated by the applicant are generally slower moving and require larger areas for manoeuvring.
- Vehicles approaching from the Village will have to cross the solid white line system and face oncoming traffic to turn left into the site. Such a manoeuvre would be difficult and slow resulting in hazards to both traffic on the highway and the safe operation of the level crossing.
- The right turn into the site from Lords Moor Lane is also hindered by the restrictive width of the access and HGV's are likely to require a multipoint manoeuvre to access the site safely.

3.10 Public Rights of Way consulted. Response received 7 September 2007. It has been confirmed that there are no Public Rights of Way recorded on Definitive Map for the area of land affected by this application.

3.11 City Development Unit consulted. Response received 3 September 2007 - The following comments were made:

-Policy GP14 (Agricultural Land) of the City of York Draft Local Plan 2005 does not apply as the site is designated on the Farming and Rural Conservation Agency's "Reconnaissance Agricultural Land Classification (ALC) Survey Report and Map" (February 1999) as Grade 3b moderate quality.

-Policy GB1 (Development within the Green Belts): This policy states that agricultural and forestry is acceptable. However, the applicant must still comply with points a-c of the policy. The decision would rest upon whether the proposal impact on the Green Belt would be detrimental to its openness.

-Policy GP4a (Sustainability): this policy states that all commercial development is required to be accompanied by a sustainability statement, describing how the proposal fits for the criteria a - i listed in the policy.

- Conclusion: In terms of policy GB1 (Development within the Green Belt), the DC Officer should ensure that the proposal would not materially affect the openness of the green belt. No policy objection raised.

4.0 APPRAISAL

BACKGROUND:

4.1 Schedule 2, part 6, class A "Agricultural Buildings and Operations" of The Town and Country Planning (General Permitted Development) Order 1995 gives automatic consent to certain development works in an agricultural unit of 5 hectares or more without planning permission. This is providing that the work proposed falls outside any of the criteria listed under A.1 and meets the conditions under A.2.

4.2 In this case although the scheme proposed falls under the definition "Agricultural Buildings and Operations", by virtue of its size (exceeds 465 sq.m) and its purpose (for accommodating livestock) the proposed free range egg unit cannot be treated as 'permitted development' and thus requires planning permission.

4.3 By virtue of the definition of 'development' under Section 55 of the Town and Country Planning Act 1990 this free-range egg production enterprise would not require planning permission if undertaken in mobile buildings.

4.4 There is no change of use involved as the scheme proposed is for agricultural purposes on agricultural land. It is acknowledged that the activities associated with the proposed free range egg unit (i.e. fields where birds will be out) would extend well beyond the application site (the red line boundary) onto the fields owned by the applicant (the blue line boundary). However, because there is no change of use involved, birds kept for agricultural purposes (as in this case) can be out on agricultural land without planning permission.

4.5 The main issues to be considered are therefore the development proposed within the application site (i.e. works which require planning permission) only.

MAIN ISSUES:

4.6 The main issues to be considered are as follows:

- i. Green Belt Development
- ii. Scale, Design and External Appearance
- iii. Environmental Health and Protection
- iv. Access/Highway safety
- v. Natural and Habitat Protection
- vi. Flood and Drainage
- vii. Sustainability
- viii. Environmental Impact Assessment (EIA)
- ix. Other considerations

GREEN BELT DEVELOPMENT:

4.7 For Development Control purposes paragraph 3.4 of Planning Policy Guidance (PPG) no.2 "Green Belts" sets out a list of development purposes which are appropriate inside a Green Belt, one of which is "agriculture and forestry". Policy P2

of the Regional Spatial Strategy for Yorkshire and the Humber (2004) defines the purposes of Green Belts in Yorkshire, which are to support urban renaissance and conserve the countryside. Policy E8 of the North Yorkshire County Structure Plan 1995 defines the parameter of Green Belts in North Yorkshire, and Policy GB1 "Development in the Green Belt" of the City of York Local Plan Draft 2005 states that agricultural and forestry is acceptable. However, the applicant must still comply with points a - c of the policy.

4.8 By virtue of its use, it is considered that the proposed free range egg unit would comply with the policies as set out above. Hence it is not considered that the proposed development is a departure from the development plan.

4.9 Criteria a - c of the Local Plan Draft policy GB1 will be considered under the sub-heading "Scale, Design and External Appearance" below.

SCALE, DESIGN AND EXTERNAL APPEARANCE:

4.10 In line with the principles set out in paragraph 12 of Planning Policy Statement no.7 (2004) and paragraphs 33-35 of Planning Policy Statement no.1 (2005), Policy GP1 (Design) of the City of York Draft Local Plan 2005 set out a list of criteria development proposals should comply with. In addition, criteria a - c of policy GB1 states development will not be granted where its scale, location and design would detract the open character of the Green Belt, would conflict with the purposes of including land in the Green Belt, and would be prejudicial to the setting and special character of the City of York.

4.11 Due to its overall floor area (as briefly described in paragraph 1.3 above), this is understood to be a large agricultural building. Its overall scale would also be considerably larger than any other structures within the vicinity. Nevertheless, this application has been considered in the light of the fact that the proposal relates to an agricultural building. Class A, Part 6, Schedule 2 of The Town and Country Planning (General Permitted Development) Order 1995 permits the erection of agricultural buildings up to a size not exceeding 465 square metres and up to the height not exceeding 12 metres (if over 3 km away from the perimeter of an aerodrome). Given that what can be built without planning permission is already substantially larger than any other buildings within the vicinity, the proposed building should be assessed bearing in mind the fact that the building proposed is for agricultural use.

4.12 Due to its distances from the residential properties within and outside Strensall settlement limit (as described in paragraph 1.4 above), together with the screening effect already provided by the mature hedges enclosing the fields (as described in paragraph 1.2 above), it is considered that on balance the scale of the proposed agricultural building is acceptable in this location. The proposed development would be well away from in particular the York Minister and the conservation areas/historic locations/open space as defined in the City of York Draft Local Plan 2005. It is therefore considered that the proposal would not conflict with the purposes of including land within the Green Belt and would not be prejudicial to the setting and special character of the City of York.

4.13 The building materials proposed are regarded as acceptable for an agricultural building of this size in this location. Details of material samples could be secured by condition.

ENVIRONMENTAL HEALTH AND PROTECTION:

4.14 As part of the consultation process the Council's Environmental Protection Unit (EPU) have commented on a number of environmental health issues, namely the potential for odour, noise, dust, flies and vermin, and light pollution from the proposed development.

4.15 With regard to odour, EPU are aware that whilst poultry houses have the potential to cause odour nuisance, as is common with any livestock buildings, given the low stocking densities involved with the proposed free range unit, which tend not to result in high ammonia emissions commonly associated with more intensive units, and the cleaning frequency of the poultry houses, which will occur every 65 weeks and last for two days, it is considered unlikely that odour from the unit would lead to local loss of amenity or cause a nuisance.

4.16 It is also aware that dust can be generated from dry litter and manure. Nevertheless such dust does not normally spread beyond 100m away from the unit, and since the nearest dwelling is well in excess of this distance the environmental protection unit is satisfied that the proposed development is unlikely to cause a dust nuisance to residential properties near to the site.

4.17 With regard to noise the most likely and primary source is the proposed supplementary mechanical ventilation to back up the otherwise natural ventilation system. Supplementary information provided by the agent has indicated that the site will have four extractor fans each producing a sound pressure level of 60dB(A) at a distance of 1 metre. Based on this information the resultant combined sound pressure level of 66dB(A) would at a distance of 160 metres away, the distance to the nearest residential dwelling, fall below the background noise level for the area and would not, therefore, pose a noise concern. Noise from vehicles movements is not considered to pose a problem since no more than 2.4 lorry movements a week are expected and the timing of such movements can be restricted through the attached proposed conditions.

4.18 With regard to flies and vermin on the site this department considers that they would be unlikely to have an impact on local properties and should be adequately controlled by the good management and pest control practices indicated within the application.

4.19 There could be potential light nuisance from the development as a result of external lighting on the site. However there is no mention of any such external lighting in the application, although such concern can be control or restrict by condition.

4.20 Due to the organic nature of the scheme, it is unlikely that contaminant substances would be required/needed as part of the production processes. As such it is not considered that the scheme would cause waste and land contamination and

contamination to the watertable. Issues concerning poultry-related outbreaks such as bird-flu and/or any other forms of airborne/poultry-related diseases tend to be rare. In any case these concerns are dealt with on a national scale by government departments such as the Department for Environment, Food and Rural Affairs (DEFRA).

4.21 Provisions do exist within current non-planning legislation such as the Environmental Protection Act 1990 to deal with statutory nuisances.

4.22 In view of the above, it is considered that the proposed development would be unlikely to result in a significant detriment to the residential amenities enjoyed by the occupiers of nearby properties.

ACCESS/HIGHWAY SAFETY:

4.23 The application site is served by an existing access track from Lords Moor Lane, which immediately abuts a controlled level crossing, on the York - Scarborough line. The access is restrictive both in terms of its width and achievable visibility on the traffic approach side. There is no potential to widen the access due to land ownership issues and the position of the existing signal box.

4.24 The access currently serves the farmland and as such will only generate very limited vehicle movements. The proposed use would generate higher levels of traffic than the existing use with the potential to grow. As stated by the applicant the type of vehicle associated with the proposed free range egg unit is predominantly HGV's. Such vehicles are generally slower moving and require larger areas for manoeuvring.

4.25 Should vehicles approach from the Village, they will have to cross the solid white line system and face oncoming traffic to turn left into the site. Such a manoeuvre would be difficult and slow resulting in hazards to both traffic on the highway and the safe operation of the level crossing. The right turn into the site from Lords Moor Lane is also hindered by the restrictive width of the access and HGV's are likely to require a multipoint manoeuvre to access the site safely. The above situation would be hindered further with the presence of vehicles exiting the site at the same time.

4.26 The track leading to the proposed unit is only of sufficient width for single flow and in the region of 500m long. The initial 380m from the public highway is single width and incapable of being widened due to the extent of land ownership and adjacent railway line. No passing places have been nor would appear to be able to be provided. As such should vehicles meet on the access route one vehicle would be required to reverse a significant distance, potentially out onto the public highway and adjacent controlled signalised crossing.

4.27 In response to the above concerns, the agent stated in his e-mail dated 22 October 2007 that it is no longer their intention to use any articulated HGV vehicles to access this site. The applicants agent considers that this can be restricted by planning condition, and deliveries to and from the site restricted to rigid vehicles only.

The applicant has taken delivery of two steel containers on such a vehicle and these vehicles accessed the site without problem.

4.28 The main issue regarding the use of planning condition to restrict heavy goods vehicles is the concern over enforceability, a specific requirement of planning conditions as set out in Department of the Environment Circular 11/95 "The Use of Conditions in Planning Permissions" Such a condition could be difficult to enforce due to the requirement for constant surveillance. In addition, in the case of the breach of this condition it is doubtful that sufficient evidence could be gathered to justify enforcement action. Even if this can be achieved, enforcement action would have to be taken every time the condition had been breached. Overall, it is unlikely that such a condition would overcome highway's concerns.

4.29 With regard to suggested conditions recommended by Network Rail, again, it is not considered that planning condition requiring all vehicles using the access track to be driven in forward gear is enforceable. Having taken the above into account, on balance it is unlikely that concerns over highway safety and safety of the existing railway line can be resolved by conditions.

NATURAL AND HABITAT PROTECTION:

4.30 The development is situated on fields which are of significant wildlife interest, notably as old species rich grassland. Hence both fields are on the proposed Site of Importance for Nature Conservation (SINC) nomination list, although they are not designated on the Proposal Maps of the City of York Draft Local Plan 2005.

4.31 With regard to the scheme proposed in respect of wildlife issues there are two aspects to be considered. The first is the location of the proposed development which require planning permission (as shown within the red line boundary), the other is the much greater area of land affected by the proposal but is outside the consideration of this planning application (the area outside the red line but within the blue line boundary) as explained in paragraphs 4.1, 4.2 and 4.4 above.

4.32 No objections were raised by the Environment and Conservation section with regard to location of the proposed building, as it would be sited on the field of slightly lesser interest. It is recommended that the building could be site in an area of even less significant to further reduce its impact by locating it closer to the static caravan site. However, having considered that such relocation would reduce the distances between the proposal and the residential properties to the north of the site, on balance it is unlikely that the proposed suggestion would improve the overall scheme.

4.33 From a natural conservation prospective the main concerns are in relation to the larger area of land which would be affected by the proposal. As explained in paragraphs 4.1, 4.2 and 4.4 above, by virtue of Schedule 2, part 6, class A of The Town and Country Planning (General Permitted Development) Order 1995 this area of land already has a lawful agricultural use (which could include the keeping of livestock) and is outside the consideration of this planning application.

4.34 No evidence exist to suggest that the proposal would affect species protected by law.

FLOOD AND DRAINAGE:

4.35 The application site is not within any Flood Zone categories (as defined by the Environment Agency) and the application site is less than 4.0 hectares. Hence the proposal does not require a Flood Risk Assessment.

4.36 According to the information submitted the method of disposing surface water would be to soakaways. It is considered by Foss Internal Drainage Board that such method will not work in this location, as the site is located adjacent to old brickworks. In order to minimise the risk of flooding by virtue of additional discharge from the development a set of conditions have been recommended.

SUSTAINABILITY:

4.37 Policy GP4a "Sustainability" of the City of York Draft Local Plan 2005 states all development should have regard to the principles of sustainable development as summarised in criteria a - i of this policy.

4.38 In this case the main issue concerning sustainability is whether the proposed scheme would be a financially viable enterprise. According to the financial analysis prepared by the agent, based on gross margin data, organic free range egg production units produce gross margins of £14 per bird after feed and birds. This would equate to a gross margin of £70,000 for the unit (£14 per bird X 5000 birds). After deducing the gross margin of £70,000 from various fixed costs (total fixed costs = £34,500), the projected profit is expected to be £35,500 per annum.

4.39 In consultation with Environment and Conservation Section it is contented that the figures supplied are realistic and that the unit is likely to be viable for one person (as proposed). Overall, there is insufficient evidence to suggest that the proposal would not be a viable business based on the present climate. It is therefore considered that the scheme proposed is a viable enterprise which would support the rural economy and would help to support local services.

4.40 Policy GP4a of the Draft Local Plan does not require the submission of a sustainability statement in relation to agricultural development. The policy only requires such statement to be submitted for commercial and residential development.

ENVIRONMENTAL IMPACT ASSESSMENT

4.41 The request to submit an Environmental Impact Assessment can not be justified in this instance, as under Section 17, Schedule 1 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, the minimum threshold for such requirement is 60,000 hens. The proposal is well within this threshold.

OTHER CONSIDERATIONS:

4.42 Neighbours' notifications: This was carried out in accordance with the standards set out in the "Publicity for Planning Application" document produced by the Council. This procedure was prepared in line with the standards set out in Circular 15/92 "Publicity for Planning Applications" published by the then Department of the Environment and the Welsh Office.

4.43 Human Rights: This application has been processed in accordance with the relevant legislations, which take into account the rights of the local residents, stakeholders and consultees to comment on planning applications as well as the rights of the applicants to put forward their planning applications for determination.

4.44 Crime: All developments including the development proposed could attract crime/anti-social behaviours. The protection of livestock from theft or injury by intruders is considered by the applicant as a contributing factor towards the need for a mobile home as a temporary agricultural dwelling. Whether the need of a mobile home can be justified falls outside the consideration of this application. This will be considered in the 07/01943/FUL application.

4.45 Future Business Expansion: Each application is considered on its own merits. By virtue of Schedule 2, part 6, class A "Agricultural Buildings and Operations" of The Town and Country Planning (General Permitted Development) Order 1995 a separate planning application will be required should the applicant wishes to expand his business for similar purposes (accommodating livestock) by erecting a permanent building.

4.46 Sequential Approach to Development: In line with Planning Policy Statement no.6 and policy SP7a of the City of York Draft Local Plan 2005, this is only required in respect of new retail, commercial, leisure and office development.

4.47 Affect on Tourism/Leisure Facilities: The existing leisure activity most likely to be affected by this development is York Golf Club. Nevertheless little evidence can be found, based on the above appraisal, which suggest that the proposal would unacceptably harm the surrounding uses. Hence on balance it is unlikely that the proposal would affect the tourism/leisure industries in York.

4.48 Property devaluation and Council Tax bandings are not material planning considerations.

4.49 Having taken the above into account, it is considered that although the proposed development would not cause undue harm to a number of main issues identified. However, due to the concerns regarding its detrimental effect on both the safety of highway users and the safe operation of the level crossing, together with the consideration that these concerns cannot be satisfactorily resolved by planning conditions, on balance this application is recommended for refusal.

5.0 CONCLUSION

By virtue of the above this application is recommended for refusal.

6.0 RECOMMENDATION: Refuse

1 The proposed use would generate higher levels of traffic than the existing use with the potential to grow. The access is immediately adjacent to a level crossing and is of restricted width. The limited width cannot be improved due to boundary features/land ownership and will make access for in particular heavy goods vehicles difficult. The restrictive width will increase the likelihood of such vehicles having to undertake multi point (shunt) manoeuvres on Lords Moor Lane in the vicinity of the controlled level crossing to gain access. Such manoeuvres would be detrimental to both the safety of highway users and the safe operation of the level crossing.

2 The restrictive width of the access reduces vehicle flow to one-way and as such would be unable to accommodate opposing vehicles. This situation would result in vehicles having to reverse out onto the public highway in the vicinity of said level crossing, to the detriment of safety of highway users and the safe operation of the level crossing.

7.0 INFORMATIVES:

Contact details:

Author: Billy Wong Development Control Officer
Tel No: 01904 552750