



Report Reference Number 2021/1360/FUL

To: Planning Committee
Date: 17th August 2022
Author: Elizabeth Maw (Senior Planning Officer)
Lead Officer: Hannah Blackburn (Planning Development Manager)

APPLICATION NUMBER:	2021/1360/FUL	PARISH:	Stillingfleet Parish Council
APPLICANT:	S Atkinson & Son	VALID DATE: EXPIRY DATE:	15th November 2021 10th January 2022
PROPOSAL:	Change of use of land for the siting of four shepherd huts and associated works (part retrospective)		
LOCATION:	Old Pasture Park York Road Stillingfleet Selby North Yorkshire YO19 6HW		
RECOMMENDATION:	GRANTED subject to conditions and that no objections are received following expiry of the publicity period.		

This application has been brought before the Planning Committee by virtue of 3.8.9(b)(iii) of the Council's Constitution as the proposal is contrary to the requirements of the development plan (namely Criterion 1 of Policy RT11 of the Selby District Local Plan), but it is considered that there are material considerations (more up to date policy) which would justify approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is known as Old Pasture Park and it is located on York Road, to the north of Stillingfleet Village. The site is outside development limits and within open countryside. The owner has a farming business on the land and this scheme is a diversification project for the farming business. This is not the only farm diversification project on the site, as a fishing lake was granted consent in 2009 and a touring caravan site was granted consent in 2021.

The Proposal

- 1.2 The proposal is for four shepherd huts in the grounds of Old Pasture Park. The shepherd huts are to be used for holiday lets. The shepherd huts are proposed to be located on the northeastern corner of the fishing lake. Two of the four proposed huts are already on site. The huts come pre constructed and are therefore 'use of land' for the siting of the huts.
- 1.3 Access is via the existing access off York Road, which also serves the farm business and the touring caravan park. Parking is proposed within the central yard/ main car park, which is already used for parking for staff and visitors.
- 1.4 The application has been publicised by site notice and no observations were received. Given that the proposal is contrary to RT11 of the Local Plan, it is a departure from the Development Plan and was required to be re-advertised accordingly before the determination of the application. The advertisement period will expire on the 17.8.22, which is the day of the Planning Committee. Therefore, should Members be minded granting planning permission as per the officer recommendation, this would need to be subject to the expiry of the second round of publicity and no objections raising material planning considerations being received. If material planning objections are received during the period of re-advertisement, the application would be brought back to the next committee meeting for further consideration.

Relevant Planning History

- 1.3 The following historical applications are considered to be relevant to the determination of this application:
 - 2021/0088/COU - Change of use of land to a caravan park for up to 12 touring caravans and associated operational development (retrospective)
Granted 13.08.2021.
 - 2014/1237/OUT - Outline planning application with all matters reserved for an agricultural worker dwelling to be used in association with existing agricultural operation and fishing lakes.
Granted 08.06.2015.
 - 2009/0425/FUL - Construction of lake to use for irrigation and recreational fishing
Granted: 20-AUG-09.

2. CONSULTATION AND PUBLICITY

2.1 NYCC Highways

No objections.

2.2 The Ouse & Derwent Internal Drainage Board

No objections, subject to conditions.

2.3 Natural England

No comments.

2.4 **County Ecologist**

The application is supported by a thorough Preliminary Ecological Appraisal (PEA). This identifies few nature conservation constraints, but the applicant should be mindful of the advice set out in section 6.2 of the PEA (this could be reinforced via an Informative, if considered appropriate).

Section 6.3 of the PEA proposes a number of options for ecological enhancement but there is no indication of which, if any, of these would be implemented. This needs to be clarified in order to demonstrate how the proposed development would deliver net gains for biodiversity in line with the requirements of the NPPF.

2.5 **Parish Council**

No observations received.

2.6 **Publicity**

The application has been advertised by site notice and no observations have been received.

A second round of publicity is ongoing and expires on 17.08.2022. The application has been advertised in the press and a new site notice displayed at the site.

3 SITE CONSTRAINTS

3.1 The site is outside development limits and lies within the open countryside.

3.2 The site is not vulnerable to flooding (flood zone 1).

4 POLICY CONSIDERATIONS

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced the February 2019 NPPF, first published in March 2012. The NPPF does not change the status of an up-to-date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2021 NPPF.

4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

“219.existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

Selby District Core Strategy Local Plan

4.6 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP13 - Scale and Distribution of Economic Growth
SP15 - Sustainable Development and Climate Change
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development
ENV2 – Environmental Pollution and Contaminated Land
RT11 – Tourist Accommodation
T1 – Development in Relation to the Highway Network
T2 – Access to Roads

National Planning Policy Framework (NPPF)

4.8 The relevant chapters of the NPPF are:

2. Achieving sustainable development
4. Decision-making
5. Delivering a strong, competitive economy
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

5 APPRAISAL

5.1 The main planning considerations are:

- The principle of the development
- Impact on the character and appearance of the area
- Impact on residential amenity
- Impact on highway safety
- Drainage
- Ecology

The Principle of the Development

- 5.2 The proposal is for four shepherd huts to be used as holiday lets. Each hut has a bed, small kitchenette and bathroom. The site lies within open countryside and the shepherd huts would be sited alongside a fishing lake. Two huts are already on site.
- 5.3 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 12 of the NPPF.
- 5.4 Paragraph 84(c) of the NPPF states that, "Planning policies and decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. When considering sustainability, the NPPF has three overarching objectives – economic, social and environmental".
- 5.5 Policy SP2A(c) of the Core Strategy states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13. Rural tourism and farm diversification schemes are supported by Core Strategy Policy SP13 providing, amongst other criteria, it is considered sustainable. Policy RT11 (Part 1) (adopted 2005) permits new tourist accommodation in the open countryside providing its either the re-use of a building or an extension to an existing premises.
- 5.6 The proposed shepherd huts would work towards achieving the social and economic objectives of the NPPF, as it encourages tourism, supports the existing farming business and has economic benefits to the local economy, such as from visitors spending in the nearby village of Stillingfleet and surrounding villages.
- 5.7 Paragraph 85 of the NPPF states that decisions should recognise that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements in locations that are not well served by public transport. In these circumstances, it will be important to ensure that the development is sensitive to its surroundings and does not have an unacceptable impact on local roads and exploits opportunities to make a location more sustainable by improving the scope for access on foot, cycle or public transport. This is a small-scale tourism scheme and a short walk to the village of Stillingfleet. The village is served by a local bus service. Some may use bicycles to visit local attractions and services. Nevertheless, most are likely to make any journeys by car. This weighs against the proposal, however on balance, when taking into account the nature of the use, that it is

reasonably well related to Stillingfleet, a small-scale scheme and not being truly isolated, it is considered to be acceptable.

- 5.8 Saved Policy RT11 (1) of the Local Plan 2005 permits new tourist accommodation in the open countryside providing it is either the re-use of a building or an extension to an existing premises. The proposal does not meet part 1 of Policy RT11, as the shepherd huts are new and not a conversion or extension to an existing premises. The proposed huts are therefore contrary to the requirements of the Development Plan. However, the approaches taken by Policy SP13 and Paragraph 84 of the NPPF are significantly different to that taken in Policy RT11, as these later policies do not restrict tourist accommodation to only conversions and extensions. The more up to date consideration is whether the tourism development is sustainable when considering the objectives of the NPPF. Therefore, whilst the huts do not comply with Policy RT11 (part 1) of the Selby District Local Plan, it should be given limited weight due to the conflict between the requirements of part 1 of the policy and the different more up to date tests set out both in the Core Strategy and the NPPF. Therefore, officers are of the view that limited weight should be attached to the requirements of Policy RT11 and significant weight should be attached to the more up to date policies of both the Core Strategy and the NPPF.
- 5.9 In conclusion, this is a small-scale tourism scheme and a diversification project for an established farming business. It would support rural tourism and benefit the local economy of Stillingfleet. Visitors may rely on the use of the car therefore the scheme does not promote more sustainable forms of transport, but this does not override the material benefits of the scheme, particularly its economic and social benefits set out within paragraph 8 of the NPPF. The Government, through the NPPF supports decisions that would help create conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth taking into account both local business needs and wider opportunities for development. Paragraph 84 of the NPPF supports the sustainable growth and expansion of all types of businesses in rural areas and the development and diversification of agricultural and other land-based rural businesses. On balance, the proposal is considered acceptable in principle and a small-scale proposal that is suitable in scale for its location. Overall, the proposal is considered to be a sustainable development taking into account all the factors described above.
- 5.10 Therefore, whilst the proposed huts would be contrary to Criterion 1 of Policy RT11, limited weight is attached by officers to policy RT11 on the basis of it being superseded by more up to date policies in the NPPF, Policies SP2A(c) and SP13 of the Core Strategy, along with meeting other criteria set out in policy RT11 of the Selby Local Plan.

Impact on the Character and Appearance of the Area

- 5.11 The NPPF, particularly paragraph 130 states that amongst other criteria, developments should add to the overall quality of an area, be visually attractive, sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not preventing or discouraging innovation or change.
- 5.12 Core Strategy Policies SP18 and SP19 of the Core Strategy seek to ensure developments safeguard and, where possible, enhance the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Developments should have layout and a high-quality

design that has regard to the local character and the open countryside. Local Plan Policies ENV1 and RT11 require developments to consider the impact on the character of an area.

- 5.13 The proposed shepherd huts are wooden clad structures with a height of 2.6m. The four huts would be clustered together on the north side of the fishing lake. The fishing lake has established planting around it and a bund on the east and south side. The shepherd huts would not be clearly visible from public vantage points, due to their small footprint and low height, the bund and established planting. In the summer, trees would screen the shepherd huts from York Road. In the winter, there would be views of the top of the huts through the planting, but it would be limited to only glimpses and these limited views would not have an adverse effect on the rural character of the area overall.
- 5.14 On this basis, the impact of the shepherd huts on the character and appearance of the area is limited as it would be well screened by existing and established vegetation.

Impact on Residential Amenity

- 5.15 Policy ENV1 (part 1), which states that proposals should take account of the effect upon the amenity of adjoining occupiers.
- 5.16 The site is surrounded by open countryside and the shepherd huts are a significant distance away from housing. The four huts would generate limited comings and goings and noise as it is such a small-scale scheme.
- 5.17 As such, the proposal has taken into account the amenity of nearby properties and no harm has been identified. Therefore, the development complies with Policy ENV1 (part 1).

Impact on Highway Safety

- 5.18 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and criterion f) of Core Strategy Policy SP15. The aims of these policies accord with paragraph 110 (b) of the NPPF which states that development should ensure that safe and suitable access can be achieved for all users to a site. In addition, paragraph 111 of the NPPF advises that development should only be refused (on highway grounds) where it would result in an unacceptable impact on highway safety.
- 5.19 The site is served via an existing access off York Road and parking is available within the grounds of the farm. The proposal would generate limited vehicular activity. Highways have been consulted and raised no objections.
- 5.20 Therefore, officers are of the view that a safe and suitable access can be provided and that there would be no highway safety issues or impacts on the wider transport network. The proposal therefore complies with the aforementioned policies.

Drainage

- 5.21 The application site is in flood zone 1, therefore at a low risk of flooding.

- 5.22 The site is not served by mains drainage. A package treatment plant (PTP) is proposed for foul water. This is the preferred drainage option as it is the most sustainable form of non mains drainage. The PTP must comply with general binding rules, or a permit will be required by the Environment Agency (EA). An informative can be applied to any decision to remind the applicant of the general binding rules.
- 5.23 Surface water is not considered problematic due to the size of the proposal and the adjacent fishing lake could hold any run-off.
- 5.24 In summary, the use of a package treatment plant is deemed acceptable for the disposal and treatment of foul drainage. No surface water issues are expected to arise. The proposal meets Planning Practice Guidance for non mains drainage, the NPPF and local plan policy ENV2.

Ecology

- 5.25 The NPPF makes it clear that planning decisions should protect our natural environment and this is one of three main objectives of the NPPF. Paragraph 174 of the NPPF states "Planning policies and decisions should contribute to and enhance the natural and local environment by a number of measures including d) minimising impacts on and providing net gains for biodiversity". The need to protect biodiversity and wildlife habitats is also relayed in local policies ENV1 and SP18.
- 5.26 The application is supported by an ecological appraisal. This survey found that the scheme would have no impact on protected species. The site has no evidence of newts. The recommendations of the report included special care for lighting to protect bats, any vegetation clearance to be timed outside the nesting season and if any trenches are needed to be dug for footings, these should include slopes to protect hedgehogs. The recommendations of the ecology report can be an informative of any planning approval.
- 5.27 In conclusion, the scheme would protect the natural environment. A biodiversity net gain could be secured by a condition for an ecological enhancement plan.

6. CONCLUSION

- 6.1 The proposal is deemed to be in accordance with Core Strategy Policies Policy SP2 and SP13 and paragraph 84 of the NPPF, because it is for an appropriate use in the open countryside and a sustainable proposal that will enhance the vitality of rural communities and support economic growth. As set out above, the proposal does not comply with criteria 1 of Selby Local Plan Policy RT11. However, officers are of the view that this part of the policy has been superseded by more up to date policies contained within the Core Strategy and the National Planning Policy Framework which seeks to support all types of businesses in rural areas.
- 6.2 The proposal will protect the character of this rural area due to its small-scale nature and the established landscaping on the boundaries. There are no residential amenity, highway, drainage or ecological issues. The proposal is considered to be a sustainable rural tourism and leisure development and as such considered to comply with the NPPF, Core Strategy Policies SP1, SP2, SP15, SP18 and SP19 and Local Plan Policies ENV1, T1 and T2.

7 RECOMMENDATION

This application is recommended to be **Granted** subject to the expiry of the publicity on the 17.08.2022 and subject to no new issues being raised. Following the expiry of the publicity the Head of Planning/Planning Development Manager be authorised to issue the permission subject to the following conditions:

- 01 The development hereby permitted shall not be carried out otherwise in complete accordance with the approved plans and specifications:

Site Location Plan (received 04.11.2021)
Proposed Site Layout Plan (received 04.11.2021)
Shepherd Huts Manufacturer Details (received 04.11.2021)
Section 3.3 of the Planning Statement by ELG Planning (floor plans and dimensions).

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

- 02 The foul drainage for the four shepherd huts shall connect to the existing Klargester BioTec Sewage Treatment Plant (location as shown on the approved site layout) and the connections shall be completed prior to any of the shepherd huts being brought into use.

Reason:

To ensure the development is provided with satisfactory means of drainage in accordance with the NPPF and Local Plan Policy ENV2

- 03 The shepherd huts shall be occupied for holiday purposes only and not be occupied as a person's sole, or main place of residence.

Reason:

This site is in a position where the Local Planning Authority, having regard to the sustainability, residential amenity, access, would not permit permanent residential accommodation in accordance with the NPPF, Core Strategy Policy SP2 and Selby Local Plan Policies ENV1, RT11, RT12 of the Selby District Local Plan.

- 04 The owners/ operators of the site shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at the request of the Local Planning Authority.

Reason:

This site is in a position where the Local Planning Authority, having regard to the sustainability, residential amenity, access, would not permit permanent residential accommodation in accordance with the NPPF, Core Strategy Policy SP2 and Selby Local Plan Policies ENV1, RT11, RT12 of the Selby District Local Plan.

- 05 Should any lighting be required in connection with the development hereby approved, details of the lighting including type, design, siting and times of use shall

be submitted to and approved in writing by the Local Planning Authority prior to installation. The approved lighting shall be installed and retained in accordance with the approved details.

Reason:

In the interests of protecting the character of the area, residential amenity and nature conservation in accordance with Policy ENV1 of Selby District Local Plan, SP18 and SP19 of the Selby Core Strategy and the NPPF.

- 06 Within 3 months of the date of this permission, a biodiversity enhancement scheme, including a timetable for implementation shall be submitted to the Local Planning Authority for approval.

The biodiversity enhancement scheme shall be carried out in accordance with the approved details and to a timetable to be agreed with the Local Planning Authority.

Reason:

In order to protect and enhance the sites ecological value in accordance with the NPPF, Policy SP18 of the Selby Core Strategy and ENV1 of the Selby Local Plan.

INFORMATIVES

INFORMATIVE

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

INFORMATIVE

The operator must ensure that they are meeting the general binding rules. The General Binding Rules cover small discharges from package treatment plants and septic tanks. A list of the rules can be found here: General binding rules: small sewage discharge to the ground - GOV.UK (www.gov.uk). If the operator cannot comply with any of the rules, they must apply for a discharge permit with the Environment Agency. There are additional rules for if the discharge is installed after the 1st January 2015.

INFORMATIVE

The business may require licensing under the Caravan Sites and Control of Development Act 1960. The operator is advised to contact the Selby Environmental Health Team for further information and advice.

INFORMATIVE

The applicant is advised to follow the recommendations set out in part 6.2 of the submitted Preliminary Ecological Appraisal by BJ Collins dated February 2021.

8. Legal Issues

8.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

8.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However, it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

9. Financial Issues

Financial issues are not material to the determination of this application.

10 Background Documents

Planning Application file reference 2021/1360/FUL and associated documents.

Contact Officer: Elizabeth Maw, Senior Planning Officer

Appendices: None