



Report Reference Number 2022/0188/FUL

To: Planning Committee
Date: 7th September 2022
Author: Emma Howson (Senior Planning Officer)
Lead Officer: Hannah Blackburn (Planning Development Manager)

APPLICATION NUMBER:	2022/0188/FUL	PARISH:	Skipwith Parish Council
APPLICANT:	Skipwith Parish Council	VALID DATE: EXPIRY DATE:	28th March 2022 14 th October 2022
PROPOSAL:	Change of use of land from agricultural to recreational area with new perimeter timber fence to 2 No sides with double gates, new pedestrian access and 3 No new rustic timber benches		
LOCATION:	Land Off Main Street Skipwith Selby North Yorkshire		
RECOMMENDATION:	Grant		

This application was deferred at 6th July Committee due to unresolved objections from the landowner. These have now been resolved.

This application has been brought before Planning Committee as 3.8.9(b)(vi) is triggered as there have been more than 10 letters of representation received which raise material planning considerations and where officers recommend determination contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises of an existing open field situated at the junction of Main Street and York Road and directly opposite the village pond, which is located to the south of the site.
- 1.2 Residential properties exist to the east and west of the site with open fields to the north.

- 1.3 The application site was transferred to Skipwith Parish Council under a lease agreement in relation to a signed S106 legal agreement for the provision of open space in relation to planning approval 2014/0894/FUL.

The Proposal

- 1.4 The application originally sought permission for a wildflower meadow however the description has been amended following consultation with the landowner. The application now seeks permission to change the use of the land from agricultural to the creation of a recreational area, with new perimeter timber fencing to 2 No sides with double gates, a new pedestrian access and 3 No new rustic timber benches.
- 1.5 The proposed fencing is 1m in height and will be in the form of timber post and rail design. The gates both pedestrian and vehicular are also of the same style and 1m in height.
- 1.6 The proposed benches are shown on the amended location plan, along with photographs of the style of bench (rustic timber) and the materials to be used on the small area of hardstanding to be provided (Yorkshire Flagstone) at the juncture of the pedestrian access point and the highway.

Relevant Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application.
- 2014/0894/FUL - Proposed redevelopment of farmstead (including the conversion of former agricultural buildings) to provide 14 No dwellings, garaging, and hard and soft landscaping PER 03 Dec 2015.
 - 2016/0119/COU - Change of use of land from agricultural land to a children's play area on land off Main Street, adjacent to York Road PER 03 Jun 2016.
 - 2018/0051/FULM - Erection of 14 dwellings with associated access, garages and parking PER 12 Aug 2019.
 - 2019/0884/DOC - Discharge of conditions 3 (facing materials), 5 (surface water drainage), 9 (site access), 11 (wheel washing), 12 (construction method statement), 13 (landscaping) and 14 (external works) of approval 2018/0051/FULM for erection of 14 dwellings with associated access, garages and parking PER 23 Dec 2020.
 - 2019/0892/S73 - Section 73 application for erection of 14 dwellings with associated access, garages and parking without complying with condition 2 (approved plans) of approval 2018/0051/FULM granted on 12 August 2019 PER 23 Dec 2020.

2. CONSULTATION AND PUBLICITY

2.1 County Ecologist

No objections.

2.2 NYCC Highways

No local highway authority objections to the proposed development.

2.3 Ouse & Derwent Internal Drainage Board

The Board has no comment to make on the proposal.

2.4 Publicity

The application has been advertised by site notice. Twenty-three representations have been received.

Eighteen raise objections to the proposal on the following grounds:

- The land is set aside for a children's play area in line with the S106 agreement in relation to planning application 2014/0894/FUL.
- There is a need for a children's play area in the village as there are no nearby facilities.
- There is no need for a wildflower meadow in close proximity to Skipwith Common.
- Unsuitable recreational land for children to use if changed into a wildlife meadow.

Five letters of support have been received which state that this would be a positive contribution to the area.

A letter of objection was received from the landowner however this has now been removed following on from an agreement to change the wording of the description of the development.

The application has been re-advertised to include the new description and no further comments have been received.

3. SITE CONSTRAINTS

Constraints

- 3.1 The application site is located outside defined Development Limits in Open Countryside and forms part of a Strategic Countryside Gap.

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
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:

SG1 – Strategic Countryside Gaps
ENV1 – Control of Development
T1 – Development in Relation to the Highway Network
T2 – Access to Roads
RT5 – Informal Recreation and Access in the Countryside

National Planning Policy Framework

4.8 The relevant sections of the NPPF are:

2 – Achieving sustainable development
4 – Decision-making
8 – Promoting healthy and safe communities
11 – Making effective use of land
12 – Achieving well designed places
15 – Conserving and enhancing the natural environment

5. APPRAISAL

5.1 The main issues to be taken into account when assessing this application are:

- The position with regards the S106 agreement
- The principle of development
- Visual Impact/Impact on Open Character
- Residential Amenity
- Highway Safety
- Ecology
- Drainage
- Other Matters

The position with regards the S106 agreement

- 5.2 The application site was transferred to the Parish Council under a lease agreement associated with a S106 agreement in relation to planning approval 2014/0894/FUL in order to provide the open space contribution required for the proposed housing development for 14 units.
- 5.3 The S106 agreement covenant stated:
- A Provision of open space
- The Owner hereby undertakes and covenants to contribute to the need for the provision of recreational public open space generated by the Development by entering into and executing a lease of a play area with Skipwith Parish Council in the form attached to this Deed at Appendix A ('the Lease') or in a substantially similar form Mutatis Mutandis and to complete such lease forthwith on receipt of a request so to do from Skipwith Parish Council provided always that if Skipwith Parish Council fails to make such a request and does not complete the Lease within one month of the Commencement of Development then the Owner will make a commuted payment to a total maximum value of £15,330 to be sued for the provision of new or the enhancement of existing recreational open space within Skipwith Parish Council of the Locality.*
- 5.4 The lease attached to the S106 at Appendix A refers to the lease of a play area. Nowhere within the S106 or the lease agreement is there any requirement that this area must be a 'children's play area' or that provision must be made for play equipment.
- 5.5 The land was duly transferred to the Parish Council, however a subsequent application to develop the site was approved under 2018/0051/FULM for the provision of 14 houses. As the land transfer was already completed it was considered that there was no requirement for open space provision in relation to this approval and the S106 agreement was not transferred to the 2018 approval.
- 5.6 The 2018 approval was duly implemented (not the 2014 approval) and thus the S106 agreement was no longer attached to any implemented approval and therefore lapsed. This has been confirmed by the Council's Monitoring Officer and by the fact that no requests were made for the outstanding education monies also included within the S106 agreement.
- 5.7 There is therefore no requirement for a 'children's play area' to be provided by the Parish Council in relation to the S106 or implicitly within the lease agreement with the landowner. The Parish Council have provided confirmation that the landowner has no objection to the use of the land as a wildflower meadow.

- 5.8 The Parish Council applied for permission to provide children's play equipment in 2016 which was approved; however, this was not implemented as there were no monies available to provide and maintain the equipment as this was not part of the original S106 agreement.

Principle of Development

- 5.9 Saved Policy SP1 of the Core Strategy outlines "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 11 of the NPPF.
- 5.10 The application site is located outside the defined development limits of Skipwith and is located within the Countryside on land that is designated as a Strategic Countryside Gap.
- 5.11 Paragraph 92 of the NPPF states that planning decisions should aim to achieve healthy, inclusive and safe places through the support for healthy lifestyles by the provision of safe and accessible green infrastructure. Whilst paragraph 93 specifies the need for the provision of open space. Paragraph 98 goes on to say that the provision of high-quality open spaces is important for the health and well-being of communities and can deliver wider community benefits.
- 5.12 Core Strategy SP2 sets out the Council's hierarchical spatial strategy that seeks to direct development to existing towns and larger villages in order to deliver sustainable development. Under SP2A (c) seeks to restrict development in the Countryside.
- 5.13 The site is also within a Strategic Countryside Gap and thus Policy SG1 applies, which seeks to protect against development which would have an adverse impact on the open character of the countryside or where the gap between settlements would be compromised.
- 5.14 Also relevant is Saved Local Plan Policy RT5, which supports proposals for small-scale developments associated with informal public use and enjoyment of the countryside subject to conditions.
- 5.15 The application site is an open agricultural field and the Parish Council seek permission to change the use to a recreational area. The plans show that this will be grass and wildflowers. The proposal also includes the erection of timber post and rail fencing; gates; hardstanding and the provision of 3 no. benches.
- 5.16 It is considered that the use of the land for recreational purposes is a suitable use in the open countryside and in a Strategic Countryside Gap and therefore the proposal is acceptable in principle subject to no other planning considerations outweighing the benefit of the proposal.

Visual Impact/Impact on Openness

- 5.17 Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapers and recognising the intrinsic character and beauty of the countryside.

- 5.18 SDLP Policy ENV1 requires the potential loss, or adverse effect on features important to the character of the area to be considered.
- 5.19 CS Policy S18 seeks to sustain the high quality and local distinctiveness of the natural and manmade environment. Policy SP19 seeks good design. SDLP Policy RT5 states that the proposal should not be intrusive by virtue of associated noise or appearance, whilst Policy SG1 states that development will not be permitted where there would be an adverse effect on the open character.
- 5.20 The proposal is for a change of use of the land for recreational purposes including fencing, hardstanding and benches. The overall proposal would not impact on the openness of the area as the open character of the site would remain intact. The proposed fencing is small scale only 1m in height and is of a design which would be commonly found in the open countryside. The three benches would be placed within the site, but again due to the small scale and rustic design would not be overtly prominent and would not impact on the open character of the landscape.
- 5.21 The site boundary with the highway comprises of a large hedgerow and this provides a high level of screening to the majority of the site. The small area of Yorkshire Flagstone to be provided has been discussed with the Highways Authority to enable a suitable transfer between the site and the footway. This small area would be of limited visual impact due to its scale and would not detract from the character of the area. The proposal is therefore considered to comply with SDLP Policies ENV1, RT5 and SG1, Core Strategy Policies SP18 and SP19 and the guidance within the NPPF.

Residential Amenity

- 5.22 Relevant policies in respect to impacts on residential amenity include Policy ENV1(1) of the Local Plan. It reflects policy in the NPPF at paragraph 130(f), which seeks a high standard of amenity for existing and future users.
- 5.23 The application site is situated outside the development limits of Skipwith, but in relatively close proximity to the nearby residential properties. The use of the land for recreational purposes has the potential to create more noise than the existing agricultural use of the site, however it is well screened by the existing hedgerow, which would also provide a buffer for noise emanating from the site. The use of the land would also be intermittent, remaining free from use for significant periods. There is no external lighting proposed, which would reduce the timescales that residents may choose to use the site and therefore reduce the overall impact of any noise from the site.
- 5.24 Overall the site would provide an area of recreational open space for the village and thus would improve the overall residential amenity of the residents of Skipwith. It is considered that the proposed development would have a positive impact on residential amenity and would comply with Policy ENV1(1) of the Local Plan and paragraph 130 of the NPPF.

Highway Safety

- 5.25 Saved Policies ENV1(2) and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network. Paragraph 110 of the NPPF seeks a safe and suitable access and only supports refusal of development on highway grounds if there would be unacceptable impacts on highway safety.

- 5.26 The proposed development provides for pedestrian and vehicular access to the site. Vehicular access is required to maintain the site only. NYCC Highways Authority have been consulted on the proposal and raise no objections. The proposal is considered to accord with relevant Local Plan policies relating to highway safety.

Ecology

- 5.27 Core Strategy Policy SP18 (1) and (3) seek to protect and enhance biodiversity within the District whilst Saved Policy ENV1 (5) seeks to protect wildlife habitats.
- 5.28 NYCC Ecologist has been consulted on the application and raises no concerns with the proposal. It is considered that the provision of a wildflower meadow has the potential to improve the biodiversity associated with the land and therefore would comply with the above policies.

Drainage

- 5.29 Relevant policies in respect to drainage include saved Policy ENV1(3) of the Local Plan and Policy SP15 of the Core Strategy.
- 5.30 The change of use of the land and the associated works will not have any significant impact on the local drainage infrastructure.

Other Matters

- 5.31 Several objections have been received from the residents of Skipwith, in relation to the change of use of the land as it is considered that the land has already been allocated for the provision of a children's play area.
- 5.32 The S106 referred to in these objections is now lapsed as explained previously in this report and did not require the provision of a children's play area, merely the transfer of the land to provide a play area in terms of open space provision.
- 5.33 This application seeks permission to change the use of the land for recreational purposes which is in line with the open space provision intended by the S106 and whilst there may be a preference locally for a children's play park, there is no legal requirement for its provision. The preference for a park of this kind is therefore not a material planning consideration in the determination of this application, which should be determined based on the details submitted and the impacts of this proposal.

6. CONCLUSION

- 6.1 This application seeks permission for the change of use of the land to a recreational area including the provision of gates, fencing and 3 no. benches.
- 6.2 The proposal would not lead to harm to the character of the area, residential amenity, drainage, highway safety, ecology or an adverse impact on the openness of the Strategic Countryside Gap and would comply with both national and local planning policies.
- 6.3 The proposal would provide a positive contribution to the area in terms of provision of open space and recreational facilities which would benefit the local community in accordance with paragraph 98 of the NPPF. The proposal would therefore accord

with Policies ENV1, T1, T2, RT5 and SG1 of the Selby District Local Plan, Policies SP1, SP2, SP15, SP18 and SP19 of the Core Strategy and the NPPF.

7. RECOMMENDATION

This application is recommended to be GRANTED subject to conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

Site Location Plan – 004-B
Layout Plan - 001
Fence and Gate Details – 002

Reason:

For the avoidance of doubt.

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 2022/0188/FUL and associated documents.

Contact Officer: Emma Howson (Senior Planning Officer)

Appendices: None