



**Report Reference Number:** 2018/1111/FULM

**To:** Planning Committee  
**Date:** 6 February 2019  
**Author:** Simon Eades (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Lead Officer – Planning)

APPLICATION NUMBER:	2018/1111/FULM	PARISH:	Stapleton Parish Council
APPLICANT:	Dovecote Park Ltd	VALID DATE: EXPIRY DATE:	26 September 2018 26 January 2018
PROPOSAL:	Proposed construction of an extension to the existing facility to provide a new burger production building		
LOCATION:	Dovecote Park Bankwood Road Stapleton Pontefract West Yorkshire WF8 3DD		
RECOMMENDATION:	MINDED TO APPROVE – Refer to the Secretary of State		

This application has been brought before Planning Committee because it constitutes inappropriate development within the Green Belt.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The topography of the land running from Bankwood Road (the entrance of the complex) to the northern edge of the site at the adjacent property of Home Farm has an undulating character. From the entrance at Bankwood Road the land rises and then dips where the main complex of buildings are located. From the main complex of buildings the land significantly rises again. The topography of the land running from west to east has an undulating character where the main complex building is located in the hidden dip of the land.

- 1.2 From the south of the site at the entrance the boundary treatment is high natural stone walling with a plantation of large mature deciduous trees which screens the highest part of the existing buildings. Surrounding the main complex of buildings there are high mature evergreen trees.

### **The proposal**

- 1.3 The application seeks planning permission for the construction of an extension to the existing facility to provide a new burger production building which includes the following elements:

A: The proposed erection of a Burger facility building which measures 18.6m width, 46m depth, height to eaves 5.4metres and 8.5metres ridge height. A further element which measures 5.2m width, 15.5m depth, height to eaves 5metres and 5.6metres ridge height. This building is attached to the existing complex buildings.

B: The proposed erection of an inward loading bay building which measures 5.5m width, 5.1m depth, height to eaves 4.8metres and 5.6metres ridge height

C: The proposed erection of a pallet freeze building which measures 15.7m width, 16.9m depth, height to eaves 4.8metres and 5.6metres ridge height

D: Re-location of 3 existing CO2 tanks and the proposed erection new balance tank which is 5.6m in width and 4.6metres high.

The proposed floor area of the buildings would be 1320 square metres. All proposed buildings would have a metal profiled roof and timber clad wall with a brick plinth.

### **Planning History**

- 1.5 There have been a large number of applications relating to this site, and the current applicants have been operating here since 1997. The most relevant recent permission is from 2017.
- 2017/0283/FUL Extensions to the established commercial premises at Dovecote Park to provide a new tray storage facility, venison lairage facility, dray aged chiller and a replacement site office
- 1.6 The total gross new floorspace on this approval was 815 sq m so it did not need to be referred to the Secretary of State and the authority concluded that very special circumstances existed to warrant the granting of this consent in May 2017.
- 1.7 There is currently a pending application for the proposed erection of a new dry aged chiller and extension to the fat processing room and retrospective extensions to the venison lairage facility under application number 2018/0450/FULM which was taken to 16<sup>th</sup> January 2019 Planning Committee and members resolved to a minded to approve recommendation subject to referral to the Secretary of State.

## **2.0 CONSULTATION AND PUBLICITY**

- 2.1 The application was advertised by site and press notice as a departure to the Local Plan and neighbours notified by letter. No neighbour representations have been received as a result.

- 2.2 **Yorkshire Water Services Ltd** - No response received.
- 2.3 **Environmental Health** - No response received.
- 2.4 **Public Rights Of Way Officer** - No response received.
- 2.5 **Parish Council** - No response received.
- 2.6 **Danvm Drainage Commissioners Shire Group Of IDBs** - No response received.
- 2.7 **NYCC Highways** – Replied with no objections.
- 2.8 **Heritage Services Officer** – Replied with no objections.
- 2.9 **SuDS And Development Control Officer** - Replied with no objections.
- 2.10 **Designing Out Crime Officer** - Replied with no objections.
- 2.11 **North Yorkshire Fire & Rescue Service** - Replied with no objections.

### **3.0 SITE CONSTRAINTS AND POLICY CONTEXT**

#### **Constraints**

- 3.1 The application site is located outside the defined development limits, within the Green Belt and the Locally Important Landscape Area, and within Flood Zone 1 on the Environment Agency's Flood Risk Maps.

#### **National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

- 3.2 The National Planning Policy Framework (July 2018) replaces the first NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (paragraph 12). This application has been considered against the 2018 NPPF.

#### **Selby District Core Strategy Local Plan**

- 3.4 The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP3 - Green Belt
- SP13 - Scale and Distribution of Economic Growth
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

#### **Selby District Local Plan**

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

“213. ....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).”

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development  
ENV15 - Locally Important Landscape Areas  
EMP9 - Expansion of Existing Employment Uses  
T1 - Development in Relation to Highway

## **4.0 APPRAISAL**

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

- Principle of Development
- Policies in the NPPF which require development should be restricted
  - i) Green Belt
- The Impacts of the Proposal:
  - a) Impact on the Character and Form of the area
  - b) Residential Amenity
  - c) Highways
  - d) Flood Risk
  - e) Nature Conservation and Protected Species
  - f) Contamination
- Case for Very Special Circumstances

**Policies in the NPPF which require development should be restricted.**

### **Green Belt**

4.2 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:

- a. It must be determined whether the development is appropriate development in the Green Belt. The NPPF and Local Plan set out the categories of appropriate development.
- b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
- c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.

- 4.3 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.4 Paragraphs 145 and 146 of the NPPF set out inappropriate development in the Green Belt in that 'the construction of new buildings is inappropriate', however exceptions to this include 'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.
- 4.5 The term 'disproportionate' is not defined. On the basis of planning appeal decisions and case law it is normally considered that extensions exceeding 50% of the volume of the original building, taken either singularly or cumulatively with other extensions, constitute a disproportionate addition. Notwithstanding this the 50% volume addition of the original building 'criterion' should only be used as a guide and not a definitive rule and even additions of 40% could appear to be disproportionate dependent upon the size, scale and design of the extension and host property.
- 4.13 It is also important that regard is given to cumulative impacts of successive extensions to avoid incremental additions resulting in disproportionate additions over time. In such cases a particular extension in itself may appear small, but when considered together with other extensions may be considered to constitute a disproportionate addition.
- 4.14 A number of extensions to the Dovecote Park Complex have been approved and a particularly large extension had been approved under application reference 2010/1301/FUL. Taking these extensions cumulatively they would result in disproportionate additions over and above that of the original building.
- 4.15 The proposed development would therefore be inappropriate development in the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, 'is clearly outweighed by other considerations' (NPPF para 144).

### **Assessment of Harm from the Proposed Development**

- 4.16 In order to assess whether the proposal would result in any other harm than the definitional harm by means of inappropriateness it is important to undertake the 'normal tests' applied to any planning submission.

### **Impacts of the proposal**

#### **Impact on the Character and Form of the area**

- 4.17 The proposals would extend the footprint and mass of the complex and the extensions would be viewed against the back drop of the main complex of buildings which are greater in height or of the same height.
- 4.18 The proposed burger facility, inward loading bay and pallet freeze building extension is located in between the gap of the west boundary of the site and the most western part of the complex buildings of the site. The proposed buildings would be seen against the back drop of the host buildings and would relate to the host buildings in terms of scale, bulk and mass.

- 4.19 The extensions to the host building would be positioned where the functional and operational demand for these new additions would be met. The position of the proposed extensions would not appear isolated additions and would relate to the current large mass of buildings on the site. The context of the extensions in this proposed scheme is considered not to adversely affect the openness of the Green Belt and therefore, in this respect, it accords with Policy SP3 of the Selby District Local Plan and the NPPF.
- 4.20 Policy ENV15 relates to design and impacts on the Locally Important Landscape Area (LILA). The buildings on the site are confined within the boundary parameters of the business and there would be no encroachment into land outside this parameter. The impact on the LILA would therefore be minimal.

### **Residential Amenity**

- 4.21 Due to the combination of the orientation of the site, the height, the projection and siting of the proposed scheme and distance away from the neighbouring properties, the proposal is considered not to cause significant adverse effects of overlooking, overshadowing and or oppression.
- 4.22 It is therefore considered that the amenity of the adjacent residents would be preserved in accordance with Policy ENV1 of the Selby District Local Plan in this respect.

### **Highways**

- 4.23 The Highway Authority raises no objections to the application and it is therefore considered that the proposal would not create conditions prejudicial to highway safety therefore the proposed scheme is considered acceptable and accords with policies ENV1 and T1 of the Local Plan, and the advice contained with the NPPF.

### **Flood Risk**

- 4.24 The application site is located in Flood Zone 1 (low probability of flooding). As such a sequential flood risk test is not required. There are existing drainage systems within the site and further details are not required at this stage. The proposed scheme therefore accords with Policies SP15 and SP19 of the Core Strategy.

### **Contamination**

- 4.25 The site is operational and is undertaken within large industrial buildings and converted offices. The new extensions would be located on hard standing land that is considered previously developed land. There is a constraint for the site as potentially contaminated land – slaughter house, abattoir. There are no expected contaminants from other forms of land contamination. Therefore given the current use of the site and the known slaughter use operating on the site, it is considered that it is not necessary to seek land contamination information at this stage.
- 4.26 The proposal is therefore considered to be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## Case for Very Special Circumstances

- 4.27 In relation to Very Special Circumstances (VSC's) it is necessary for the decision maker to conduct a balancing exercise by weighing the harm by reason of inappropriateness and any other harm against other circumstances in order to form a view whether those other circumstances amount to very special circumstances. An authority on this is from the Court of Appeal in *Wycharon District Council v Secretary of State (2008)*. A normal or common planning consideration is capable of giving rise to very special circumstances and the correct approach, it was found, is to make a qualitative judgment as to the weight to be attached to the factor under consideration. The NPPF limits itself to indicating that the balance of such factors must be such as 'clearly' to outweigh the harm by reason of inappropriate and any other harm.
- 4.28 The application has submitted a case for very special circumstances and they consider that there are several significant considerations which comprise the case required to overcome the harm to the Green Belt caused by the proposal. These are as follows:
- the Scope for Disaggregation;
  - the need for the facility in both commercial and economic terms; operational considerations; and
  - employment Impact.
- 4.29 Each VSC will be discussed in turn.

### The Scope for Disaggregation.

- 4.30 The agent has stated:
- 4.31 *"The consideration of alternative sites has previously been a major consideration for the applicant in resolving the objective of meeting the identified need.*
- 4.32 *The possibility of processing the burgers at an alternate site has been explored by our client. However, the purchase or leasing of another processing site and the additional resources that would be required in terms of the equipment, production staff, quality assurance staff, administration staff and engineers could not be justified for the quantity of additional burger production.*
- 4.33 *Burger King have approached the applicant because of their integrated approach meant that the availability of all facilities on site imparts a great degree of confidence in the process, control, integrity and product traceability. The raw material for burgers consisting of forequarter cuts of beef, are prepared in the boning hall post slaughter, stored chilled or frozen and transferred internally from the main storage chiller that is adjacent to the proposed burger facility.*
- 4.34 *The setting up of a standalone site would require unrealistic returns on investment since many site functions would need to be duplicated at an alternative location, including supply chain, quality assurance, Human resources and production management. In addition, there are extra costs for setting up potential sewerage systems, power, boilers, compressed air and other services.*

- 4.35 *Purchase of a new site or leasing would add a prohibitive additional cost compared to the current site that is owned by Dovecote Park. When all these additional costs are analysed, the project is not economically viable.*
- 4.36 *Whilst these operations will be for a different end user they are still intricately interlinked with the existing facilities on site.*
- 4.37 *The purpose of the proposal is to provide a new facility on site which is interlinked to the existing facilities on site and will provide a high quality product for a new client. This will help the business adapt to the market demands which could not be achieved by splitting the operations across multiple sites.”*
- 4.38 *Due to the combination of the existing complex facility, technological techniques and requirements for the complex, the production line process, availability of local skilled labour force, the lack of land availability and that the facility is unique in the UK, officers consider that there are compelling reasons against the possible disaggregation of the site processes. It is considered that the case for the expansion for the Dovecote Park site has been established. Officers consider that these are VSC's and should be given significant weight.*

The need for the facility in both commercial and economic terms and operational considerations:

- 4.39 *The agent has stated:*
- 4.40 *“The need for the proposed development principally relates to Burger King's need to establish a UK supplier as it is currently supplied from facilities in the Republic of Ireland. In order to meet that need it requires a producer to meet its own ethical and high quality standards. Dovecote Park is the only producer in the UK as the leading large scale producer that meets those standards and can meet the requirements of the contract*
- 4.41 *The applicant has been approached as they are well recognised within the industry and have a very long pedigree for operating a high quality beef operation at Dovecote Park. The existing facilities on site are fully integrated and include cattle purchased from known farmers, abattoir, de-boning plant and retail packing operation. The facilities on site are particularly important to Burger King as they provide a product that can be fully traced in the one facility from one end of the process to the final burgers being produced.*
- 4.42 *In order to meet the requirements of Burger King, the production units for burgers would have to be operational by the end of February 2019.*
- 4.43 *Burger King would require 70 tonnes of frozen burgers to be produced per week, in order to produce this quantity there is the need to design and install a new production line in addition to the manufacturing and packing equipment that is already on site.*
- 4.44 *Dovecote Park currently operate 20 production lines for retail packing in the existing retail packing hall for fresh retail packs of mince, diced, joints and burgers. There is also an existing small freezer tunnel on site for a minor amount of frozen beef products for the existing main client, Waitrose. However, there is not sufficient space within the existing building to install a new production line of the required size.*



- 4.45 *The Burger King process requires specified production equipment to be provided on site which includes specialised blending and grinding equipment and a freezer tunnel to handle the volumes of produce. The existing freezer tunnel is far too small to handle the production output for Burger King. Therefore the existing facilities on site cannot be used for the Burger King process and both new equipment and facilities are required to be provided on site.*
- 4.46 *The new Burger King production line requires specialised sophisticated grinding, blending and burger formation equipment along with a 14m freezer tunnel that will freeze the products prior to packing into cases and onward despatch.*
- 4.47 *However, the Burger production building will use the existing facilities on site such as the abattoir therefore it is intrinsically linked to the existing operations on site. Constructing the burger production facility elsewhere along with additional facilities that would be required by the operation would not be viable nor would it be operational possible to disaggregate the unit from the site.*
- 4.48 *There are a number of other practical reasons as to why the operations cannot be disaggregated which are set out below highlighting that there are a number of operational requirements that would prevent these operations being separated on to more than one site:*
- *Cold Chain Control - Cold chain control is optimised by carrying out all operations on one site as the ability to control temperature is diminished as meat is moved over distance;*
  - *Just in time Delivery and Management Focus - The business needs to respond within very short timescales to process the orders for meat which come through from Burger King, and therefore needs to be able to meet that order as promptly as possible. If different elements of the process were situated on different sites the ability to meet the Burger King deadlines would be greatly diminished.*
  - *Legislation – The UK Beef Labelling Regulations and EU Directive requirements are such that there is a competitive advantage if labels for the entire production process are from the same factory. In addition there is a real advantage to being able to trace all stages in the process to one location.*
- 4.49 *Overall, the proposal will provide a new facility on site which will meet the needs of Burger King which is key to utilising the existing facilities on site.*
- 4.50 *A further significant benefit is that the proposed facility will help the business to diversify the business and protect it against potential market fluctuations therefore it will both protect existing jobs as well as create new jobs on site.”*
- 4.51 *Officers consider that proposal would create expansion of two businesses. The proposal the proposal will result in the expansion of Burger King in Selby. The proposal also allows the expansion of existing abattoir of Dovecote Park which currently has the existing workforce and some of the processing facilities for Burger King. The proposal creates expansion of the Dovecote Park business both economically and physically as there additional facilities required for the processing of burgers. The expansion of the Dovecote Park business will allow for any fluctuations in the market as the complex will be able meet market demand in the through the different products they produce.*

- 4.52 It is considered that the economic benefits associated with the expansion of the two businesses locally and the operational requirements of a local employer/employers is a VSC.

#### Employment considerations

- 4.53 The agent has stated that:
- 4.54 *“The revised NPPF provides that planning decisions should help to create the conditions in which businesses can invest, expand and adapt, and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In addition, it also provides that decisions should enable the sustainable growth of all types of business in rural areas.*
- 4.55 *The protection of existing jobs from potential market down turns as well the creation of 25 additional jobs and the benefits that bring to the local economy should carry significant weight in the balance of considerations.”*
- 4.56 Officers consider that the application continues to utilise an existing skilled workforce and would create a further expansion of a skilled workforce through the creation of 25 new jobs. It is considered employment consideration VSC put forward through the creation of new jobs and utilisation of an existing workforce should be afforded significant weight.

#### Conclusion on very special circumstances

- 5.30 In order to constitute very special circumstances the weight attributed to these factors should clearly outweigh the harm by reason of inappropriateness and any other harm.
- 5.31 In terms of harm to the Green Belt, and any other harm resulting from the proposal, the NPPF makes it clear that substantial weight should be given to harm by reason of inappropriateness alone. Furthermore significant weight should also be given to the actual harm to the openness and visual amenities of the Green Belt resulting from the location, design and encroachment resulting from the proposal.
- 5.32 In respect to the benefits of the proposal, it is considered that substantial weight should be attached to the applicant’s case that there is no real scope for disaggregation, that the expansion of the facility would contribute towards the local economy and will address operational requirements and that it would have a positive impact on local employment.
- 5.33 Notwithstanding the harm arising from the inappropriateness of the proposal there are very limited effects upon openness and visual amenities or upon the purposes of including land within the Green Belt. It is considered that the applicant has coherently and cogently demonstrated that there are very considerable benefits arising from the proposal. It is considered that a case for very special circumstances considered cumulatively together has been made. It is therefore concluded that the case put forward for very special circumstances by the applicant outweighs any harm by virtue of inappropriateness and any other harm in terms of the impact on openness or the visual amenities of the Green Belt.

## 6. CONCLUSION

- 6.1 The proposed development constitutes inappropriate development within the Green Belt. It is considered that the case for very special circumstances put forward by the applicant has been made.
- 6.2 These very special circumstances outweigh the harm by reason of inappropriateness and any harm to the openness and visual amenities of the Green Belt. Having had regard to the development plan, all other relevant local and national policy considerations, consultation responses and all other material planning considerations. The proposal is acceptable in all other regards, according to Policies EMP9, ENV1, ENV15 and T1 of Selby District Local Plan and Policies SP1, SP2, SP3, SP13, SP15, SP18 and SP19 of Selby Core Strategy and the NPPF.

## 7. RECOMMENDATION

- A: That Committee is minded to approve this application;**
- B: Authority is given to refer this application to the Secretary of State under the 2009 Consultation Direction with the indication that the authority is minded to approve it subject to the conditions below;**
- C: i) In the event that the application is not called-in the Planning Development Manager has delegated authority to approve this application in accordance with the conditions set out below and subject to any necessary changes to them subsequent to the Minister's decision, or**
- ii) In the event that the application is called-in a further report will come to Committee to outline the authority's case in support and the other and financial implications.**

Recommended 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 1 Rev -  
Site Plan as proposed Drawing no P02 Revision A  
Elevations Existing and Proposed Drawing no P03 Revision –  
Plan as proposed P05 Revision –  
Burger Drainage MF-BP-230

Reason: For the Avoidance of Doubt

03. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those stated in the submitted plan

Elevations Existing and Proposed P03 Revision - received by the Council on 26<sup>th</sup> September 2018 and on drawing Proposed and Existing Elevations P05 Revision D.

Reason: In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

## **8. Legal Issues**

### **8.1 Planning Acts**

This application has been recommended 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 recommended 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 2018/1111/FULM and associated documents.

**Contact Officer:** Simon Eades, Senior Planning Officer  
[seades@selby.gov.uk](mailto:seades@selby.gov.uk)

**Appendices:** None