

COMMITTEE REPORT

Date: 7 July 2016 **Ward:** Dringhouses and Woodthorpe
Team: Major and Commercial Team **Parish:** Dringhouses/Woodthorpe Planning Panel

Reference: 16/00870/FUL
Application at: Land between 8 and 12 White House Gardens York
For: Erection of 1no. detached dwelling
By: Mr David Blackwell
Application Type: Full Application
Target Date: 11 July 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site is part of the rear garden of 254 Tadcaster Road between 8 and 12 White House Gardens. The street was developed in a piecemeal manner after 1940. It comprises two storey housing in a mix of styles but the prevalent materials used are brick and pantile. The application is for a 2-storey house on site. The scheme has been revised since the original submission.

1.2 A recent application to accommodate two houses on the site was withdrawn; application 16/00443/FUL. In 1988 planning permission was granted for a dormer bungalow on site.

1.5 The application has been called in by Cllr Fenton. The request was to allow members to assess the impact on neighbours and on the street scene.

2.0 POLICY CONTEXT

2.1 Draft Local Plan 2005 Policies:

CYGP1 Design
CYGP10 Subdivision of gardens and infill development

2.2 Emerging Local Plan

2.4 At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of planning applications. The policies relevant to this application area as follows:

3.0 CONSULTATIONS

Archaeology

3.1 The site is situated alongside a Roman road thought to have been established soon after the Roman conquest in c.71. Burials were often placed in cemeteries alongside these roads such as at Trentholme Drive to the north-east. It is possible that groundworks associated with this proposal may reveal or disturb archaeological features. It will be necessary to record any revealed features and deposits through an archaeological watching brief on all groundworks.

Highway Network Management

3.2 Officers have no objection to the proposals. Conditions which require that car and cycle parking facilities on site are provided are recommended.

Flood Risk Management Team

3.3 No objection. Recommended a planning condition to agree the drainage design.

Public Protection

3.4 No objection to the application. Officers recommend planning conditions as follows -

- Due to the site being in a residential street officers recommend times of construction are restricted.
- If unexpected contamination is found it is reported to the council.
- Facilities are provided for charging electric vehicles.

Yorkshire Water

3.5 No response.

Ainsty Drainage Board

3.6 No objection in principle and advise that the application could be approved subject to imposition of a planning condition to approve the drainage strategy. The site is in an area where drainage problems exist. Surface water should be managed in a sustainable manner. The Board would seek that wherever discharge from the site is to enter a Board watercourse either directly, or indirectly via a third party asset, the rate of discharge would be constrained at the greenfield rate (1.4 l/s/ha) plus an allowance for any brownfield areas any of the site which are currently impermeable and where there is positive drainage and a proven connection to the watercourse (at the rate of 140 l/s/ha), less 30%.

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3.7 Support the application.

Neighbour Notification and Publicity

3.8 The following objections (12 in total) were made to the original scheme -

Impact on neighbour's amenity

- At no.12 there are windows serving the lounge, kitchen, 2 bedrooms and the landing which overlook the application site and face south. To develop the plot to the south would lead to a loss of light. Due to the proximity and scale of the proposed house it would be overbearing. Loss of light into no.8 as the ground floor side window would be blocked.

Street scene

- There would be a loss of a gap in the street scene, where landscaping makes a positive contribution to the street.
- The scale, architecture and materials of the proposed house would not respect the local vernacular and would harm the distinctive character of the street, which is contrary to national planning advice.

Highway safety

- Inadequate off street car parking is proposed. The street is used for recreation and this poses a safety issue, and it is too narrow to accommodate parked cars.
- White House Gardens is a private, un-adopted road.
- Damage has already been caused by construction vehicles to the road surfaces and kerb edges and further damage may be caused during the building phase. It seems unfair the cost of any repair works would need to be met by residents. A planning condition should ensure that the developer and not residents is responsible for making good any damage.

Drainage

- The local drainage network is at capacity and unable to accommodate further demand. There have been recent incidents of drains backing up and flooding. Concern the drainage network would be damaged, in particular as it passes through neighbouring gardens and under buildings (the latter at 22a).

Legal matters

- There is a covenant on the land which prevents development of a house of the scale proposed.
- It is questioned whether the applicants are legally permitted to gain vehicle access from White House Gardens because of its un-adopted status.

3.9 As a consequence of re-consultation on the revised plans the following further comments were received -

- The neighbours at 8 and 12 are still in objection and concerns raised originally remain applicable. In particular -
- The proposed building still appears over-sized for the plot in both height and width.
- The building remains too close to the side elevations of the neighbours, which would mean a loss of residential amenity. Neighbours would be over-shadowed and suffer a loss of light and the proposed house would dominate outlook from side windows.
- From number 7 – building remains too large for the plot.
- From 22a – slight improvement but still over-development.
- Other concerns already raised about drainage and damage during construction re-iterated.

4.0 APPRAISAL

4.1 Key Issues

- Principle of the proposed development
- Residential Amenity
- Visual Impact
- Highway safety
- Drainage

Principle of the proposed development

4.2 The NPPF states housing applications should be considered in the context of the presumption in favour of sustainable development. It advises that Local Planning Authority's may establish their own policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

4.3 Local Plan policy GP10 relates to sub-divisions and infill development. GP10 states permission will only be granted for sub-division or infilling to provide new development where this would not be detrimental to the character and amenity of the local environment. The policy advises that the space between and around existing buildings often contributes significantly to the character of an area and residential amenity. When considering applications for development of small infill sites or existing gardens regard will be given to the impact of the proposal on the surrounding area and overdevelopment would be resisted.

4.4 The site is within an urban area and in principle housing development would be policy compliant. The impact of the proposal on the character of the locality and residential amenity are assessed below.

Residential Amenity

4.5 The National Planning Policy Framework requires that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from overlooking, overshadowing or from over-dominant structures. It requires that developments have adequate space for cycle and waste storage.

4.6 There is a ground floor side window at number 8. Behind a single storey rear extension has been added. The boundary fence height varies in height but is lower outside the window. The outlook from the side window would be affected due to proximity of the proposed house. However this is not a primary window serving number 8, these are on the principal (front) elevation and overlooking the rear garden. It would reasonably be expected outlook and light gain from windows to main rooms would be over the front and rear gardens of the house and not from the side elevation over third party land. The proposed house would have comparable front and rear building lines to no.8 and be of similar scale. Guideline standards for residential development recommend distances to prevent new windows overlooking neighbours, but do not include a standard for separation distances between side elevations, or to protect existing windows overlooking private land or gardens given that outlook tends to be required either over the garden of the host building or public views, not over private land in separate ownership. It should also be noted outbuildings, walls and fences can be added that would have an affect on outlook from windows adjacent side boundaries without needing planning permission. There would be no undue impact on the amenity of residents at no.8 that would warrant refusal of the application.

4.7 At number 12 there are multiple south facing windows which overlook the application site. Those which serve living and bedrooms are only secondary windows to these rooms; the principle windows are on the front and rear elevations. The houses would be 4.25m apart (the proposed house would be further from the side boundary than both neighbours). The north side of the proposed house would be of lesser scale; set down in height to 1.5 storey and setback some 2.9m from the front building line of no.12. The outlook from the side windows would be affected; the new house would be apparent, rather than the neighbours garden. Understandably the current view would be favourable, but the neighbours have no right to this view. Due to the position and shape of the proposed building the affected rooms would continue to receive a reasonable level of daylight and outlook beyond the proposed house. The low adverse impact on what are secondary windows to rooms and a staircase would not be sufficient grounds to refuse the application on loss of amenity.

Visual Impact

4.11 The National planning practice guidance advises that in assessment of design, consideration, where appropriate should be given to layout, form, scale, detailing and materials.

4.12 Relevant Plan policies in this respect are GP10, referred to in 4.3 and GP1: Design. GP1 requires developments be of a density, layout, scale, and mass that is compatible with neighbouring buildings, spaces and the character of the area; use appropriate materials; avoid the loss of, or create townscape features, which contribute to the quality of the local environment.

4.13 The street was developed in a piecemeal manner. The application site has the appearance of an undeveloped plot, and is the last remaining one in the street. The site is slightly wider and of comparable depth to other plots on this side of the street (numbers 4-18 evens). Permission has been granted to develop a house on the site in the past.

4.14 The proposed building, as shown on the revised plan, relates to the front building line and height of the buildings to each side. The development respects the character of the street through its form, detailing, scale and now proposes to use the materials prevalent in the street; brick and pantile roof. The applicants have advised their preference would be for a low front boundary wall, with planting behind, to replace the hedge. This arrangement would not be out of character with the street. A planning condition can secure the details.

4.15 There are not any protected trees on site or street trees on the adjacent verge. The trees on site do not have a high public amenity value. However the scheme does not propose to remove any of the existing trees on site. Creating a single vehicle access to the plot, given its width, would not be out of character with the street. There would be no undue harm to the setting in this respect.

Highway safety

4.16 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

4.18 The application site is within a residential street. The proposed means of access to serve the house would not be materially different to any other on the street. The highway is not adopted and therefore whether the applicants may construct the proposed access onto the road is a legal matter. There are no

highway safety issues which could be used to oppose the proposed access on planning grounds.

4.19 There is car parking for 2 cars off street, which meets the council's standards in the 2005 Local Plan. Electric vehicle parking facilities could be secured through a planning condition.

4.20 Residents have raised concern that the road may be damaged by construction traffic. White House Gardens is not adopted and therefore any responsibility for its maintenance would fall to the owner's and not the council. If damage were to occur to the highway during construction it would be a private matter that would need to be resolved between interested parties. A planning condition or obligation can not be used in this case as the road is not adopted. This is clearly explained in national planning guidance which states that "*conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability*".

Drainage

4.21 The National Planning Policy Framework requires that development should be directed into areas where flood risk is low. Developments should be safe from flooding and not increase flood risk elsewhere. Local Plan policy GP15 seeks to reduce flood risk elsewhere by ensuring developments do not lead to increased surface water run-off.

4.22 The submitted drainage strategy is compliant with national and local planning policy. The preference is a sustainable means of surface water drainage, via soakaway, if ground conditions are unsuitable then there would be on site attenuation to limit surface run off into sewers so no material increase compared to the existing rate. This is compliant with local policy which requires surface water run-off is reduced by up to 30% (compared to the existing rate) where practical. The strategy and detail would be approved through a planning condition before development commenced. It is proposed foul sewage be connected into the existing sewer that passes through the site (at the rear of the proposed garden). The council would agree the strategy and run off rate for the surface water drainage only, permission would be required from Yorkshire Water for connection into their sewers.

5.0 CONCLUSION

5.1 The revised scheme proposes a house which is designed to sit comfortably in the street and it would not have an undue impact on neighbour's amenity. There is a drainage design solution which would be policy compliant and the detail can be secured through a planning condition. Any developer would also require permission from Yorkshire Water in this respect. The proposed house would have no material impact on highway safety. Any damage that may occur off site during construction

is not a material consideration in determination of the application in this case and as the road is not adopted it is for any interested parties to agree any mitigation and not the council. In a similar manner any covenants relevant to the site relate to legal matters and are not material planning considerations.

5.2 The proposals do not conflict with the relevant local policies listed in section 2 and nor is there undue conflict with the National Planning Policy National Planning Policy Framework.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to conditions

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following plans: - B166 01 10 REV A

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 No construction shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure proper and sustainable drainage of the site and to prevent increased flood risk in accordance with section 10 of the National Planning Policy Framework.

INFORMATIVE:

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. infiltration tests to BRE Digest 365, witnessed by York Council officers, to discount the use of SuD's.

As the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.

If SuDs methods can be proven to be unsuitable then in accordance with City of York Council's Strategic Flood Risk Assessment peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas) where practical. Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas are not proven then a Greenfield run-off rate based on 1.4 l/sec/ha shall be used for the above.

If any variation in ground levels are proposed the applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

As the public sewer network does not have capacity to accept an unrestricted discharge of surface water surface water discharge to the existing public sewer network must only be as a last resort.

4 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site is situated alongside a Roman road which approached York from the south-west thought to have been established soon after the Roman conquest in c.71. Burials were often placed in cemeteries alongside these roads. Due to the nature of the application the development may affect important archaeological deposits which must be recorded during the construction programme.

5 The materials to be used shall be as annotated on the approved plans. Notwithstanding the approved plans a sample panel of the brickwork to be used on the new block shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: In the interests of preserving the distinctive character of the street in accordance with design advice in the National Planning Policy Guidance and Local Plan policy GP1 : Design.

6 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

7 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

8 The storage facilities (shed and utility space) as shown on the approved plans shall be provided in accordance with the approved plans prior to first occupation of the development hereby approved.

Reason: To provide adequate space for storage, including cycle storage, in the interests of good design and to promote sustainable travel, in accordance with Local Plan policy GP1: Design and sections 4 and 7 of the National Planning Policy Framework.

9 Before the occupation of the development an electric vehicle recharging point shall be provided on-site and maintained for the lifetime of the development, to the satisfaction of the Local Planning Authority.

REASON: To promote and facilitate the uptake of electric vehicles in accordance with the Council's Low Emission Strategy and the National Planning Policy Framework (paragraph 39).

INFORMATIVE: Electric Vehicle Recharging Point means a recharging unit capable of charging two electric vehicles simultaneously with the capacity to charge at both 3kw (13A) and 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point.

10 Prior to occupation of the dwelling hereby approved details of the boundary treatment beyond the front building line of the dwelling (to the side and front boundaries) and details of soft landscaping (clarifying existing and proposed) shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and local distinctiveness, in accordance with Local Plan policy GP1: Design and design policies in National Planning Policy Guidance.

7.0 INFORMATIVES:

STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: provided advice and sought revised plans in order to make the proposal policy compliant in terms of design and impact on neighbours and through the use of planning conditions.

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