

## COMMITTEE REPORT

**Date:** 10 August 2017      **Ward:** Osbaldwick and Derwent  
**Team:** Major and      **Parish:** Dunnington Parish  
Commercial Team      Council

**Reference:** 16/02663/FUL  
**Application at:** The Ridings 95 York Street Dunnington York YO19  
5QW  
**For:** Erection of 1no. dwelling  
**By:** Mr Richard Fowler  
**Application Type:** Full Application  
**Target Date:** 1 February 2017  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application site is the side garden of 95 York Street. The host property is a semi-detached dormer bungalow located towards the western end of the village.

1.2 It is proposed to erect a detached 2 bedroom bungalow to the side of the host property. The development is set back towards the rear of the site. The proposed dwelling would have two off-street car parking spaces. The host dwelling would retain the garden area immediately to its rear. It would have parking for at least two cars to the side adjacent to the blank wall of the proposed dwelling. The area to the front of both homes is proposed for manoeuvring.

1.3 The application is brought to Committee at the request of Cllr Brooks. The reasons relate to:

- Overdevelopment of the plot.
- The adverse impact on the amenity of the residents of the proposed house, existing house and neighbours.
- Because it is contrary to the recommendation of Dunnington VDS on not allowing subdivision of gardens.

### PLANNING HISTORY

1.4 In 2000 (ref:00/01842/FUL) planning permission was granted for a one and two storey extension to the side of the property. This was not built.

1.5 In 2002 (ref: 02/02488/FUL) planning permission was granted for a wide single storey extension to the side of the property. This was not built.

1.6 In 2005 (ref: 04/04358/FULM) planning permission was refused for the erection of 11 dwellings with garages/parking spaces after the demolition of 95 and 97 York Street. The reasons for refusal related to the impact on great crested newts, inadequate sight lines for vehicles and overdevelopment.

## **2.0 POLICY CONTEXT**

2.1 Draft York Local Plan (2005 4<sup>th</sup> set of changes) relevant policies include:

CYGP1 - Design

CYGP10 - Subdivision of gardens and infill development.

CYH4 - Housing development in existing settlements

CYGP15 - Protection from flooding

CYHE2 - Development in historic locations

2.2 Draft Local Plan (2014) Publication Draft – relevant policies include:

DP2 – Sustainable Development

D2 – Place making

H2 - Flood risk

ENv4 – Flood Risk

## **3.0 CONSULTATIONS**

### INTERNAL

#### Highway Network Management

3.1 No objections.

#### Public Protection

3.2 No objections subject to condition requiring the provision of car re-charging plug and consideration of contamination.

#### Flood Risk Management

3.3 No objections. Issues regarding drainage and flood risk can be dealt with by condition.

## EXTERNAL

### Yorkshire Water

3.4 No objections. Strongly recommend discharge to soakaway or watercourse before considering discharge to the public sewer.

### Internal Drainage Board

3.5 Watercourses in the vicinity are known to be subject to high flows during storm events. Surface water run-off from the site should be attenuated to avoid increasing flood risk.

### Parish Council

3.6 Object for the following reasons:

- A very significant overdevelopment of the plot.
- Development in a back garden is contrary to policy in the Village Design Statement.
- The over development results in inadequate garden provision both for the proposed and the existing house leading to a significant loss of amenity for both.
- If permission is granted safeguards should be put in place to avoid increasing flood risk.

### Neighbour Notification and Publicity

3.7 Three residents have commented on the proposal. Two do not object subject to site boundary (ownership) issues being addressed and no new dormers or windows being subsequently inserted in the proposed dwelling. One resident objects to the application. The reasons stated for this are:

- Road safety concerns. Dunnington is already congested.
- The countryside is being eroded.
- Concerns regarding further blocking of sewerage pipes.
- Concerns regarding standing water in gardens

## **4.0 APPRAISAL**

4.1 The key issues in assessing the proposal are:

- principle of development
- impact on the streetscene/countryside/conservation area
- impact on amenity and living conditions of adjacent occupiers
- highway issues
- drainage
- quality of accommodation provided

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of 12 principles set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 In respect to the development of gardens it states (paragraph 53) that LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where it would harm the Local area.

4.4 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. In considering proposals for new or improved residential accommodation, the benefits from meeting peoples housing needs and promoting the economy will be balanced against any negative impacts on the environment and neighbours' living conditions.

4.5 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.6 Local Plan Policy GP1 'Design' states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and vegetation.

4.7 Local Plan Policy H4a 'Housing Windfalls' states that new development should be accessible to shops and services and of an appropriate scale.

4.8 Local Plan Policy GP10 'Subdivision of gardens and infill development' states that new dwellings should not be detrimental to the character or amenity of the local environment.

4.9 Local Plan Policy HE2 'Development in Historic Locations' states that development adjoining conservation areas will be required to maintain or enhance the character or appearance of the area.

4.10 Dunnington has an approved Village Design Statement. The advice within it is material to determination of the application. Design Guideline 9 states that 'the preservation of open spaces within the village...should be encouraged, including the retention of larger garden plots. Subdivision should only be granted where it is not detrimental to the character and amenity of the local environment.'

4.11 Guidelines 19 - 27 relate to new buildings. Advice includes respecting form and character and retaining landscape features. Guideline 26 states that housing types suitable to meet the needs of all sections of the population should be provided.

## PRINCIPLE OF DEVELOPMENT

4.12 The NPPF promotes the approval of proposals that accord with the development plan or where the plan is absent, silent or out of date, planning permission should be granted unless the adverse impacts of doing so demonstrably outweigh the benefits when assessed as a whole. One of the core planning principles set out in the NPPF is the effective use of land through the reuse of land which has been previously developed providing it is not of high environmental value. The NPPF, however, excludes private residential gardens in built-up areas from the definition of previously developed land. Notwithstanding this, paragraph 49 of the NPPF states that housing applications should be considered in the context of a presumption in favour of sustainable development. Local Plan Policy GP10 accords with paragraph 53 of the NPPF in that it seeks to resist inappropriate development of residential gardens, which would cause harm to the local area. The Dunnington VDS also states that the subdivision of gardens should only be granted where it is not detrimental to the character and amenity of the local environment.

4.13 The application site falls within the settlement limit of Dunnington. It is not located in the Green Belt. It is in a sustainable and accessible location, within walking distance of a range of local facilities and employers. Residential

development would be a land use compatible with the surrounding land uses. Broadly speaking the principle of development is considered to be appropriate. It is however the case that for the application to be acceptable it needs to be ensured that the proposed dwelling would provide good quality accommodation and not detract from issues of importance including, neighbour amenity, local character and highway safety. The site specific issues relating to the proposal are considered below.

## IMPACT ON THE STREETSCENE/COUNTRYSIDE/CONSERVATION AREA

4.14 Dunnington Conservation area borders the front of the application site. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) Act requires the Local Planning Authority when determining planning applications to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Case law has made clear that when deciding whether harm to a Conservation Area is outweighed by the advantages of a proposed development, the decision-maker must give great weight to desirability of avoiding such harm. There is a "strong presumption" against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special attention to preserving the Conservation Area.

4.15 The house is set back towards the rear of the garden. Because of its low height and because the land to the rear is slightly lower than the frontage it will not be particularly prominent from the street and not considered to have a detrimental impact on the conservation area. As there has been recent two-storey development on land immediately to the rear it will not be beyond the southern extent of built development in the immediate area and will largely be viewed against the larger home to the rear. It is noted that the property attached to the host has been extended significantly to the side and rear, and projects almost as far into the rear garden as the proposed dwelling. The plot of 97 already contains a similar amount of development as that proposed at 95.

4.16 The proposed works would lead to much of the grass within the home's front garden being replaced by paving. This is to be largely a turning and access area so will not lead to the frontage being dominated by car parking. The important strip of landscaping that runs along the York Street frontage is of most significance in terms of setting a landscaped approach to the village and will be retained.

4.17 The rear offshoot will sit relatively close to Blackberry Gardens. Subject to the use of appropriate materials it is not considered that the development will detract from the setting of this development.

## IMPACT ON NEIGHBOURS' LIVING CONDITIONS

4.18 One of 12 principles set out in paragraph 17 of the NPPF is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.19 The development is adequately separated from the home attached to 95 to avoid harm.

4.20 The nearest ground floor openings on the rear and side of the host dwelling serve garaging/utility areas and as such any loss of light or outlook will not be unduly significant. The host property would still retain a reasonable sized enclosed rear garden (10m x 8.5m).

4.21 Number 93 has been much extended to the side. There are no clear glazed openings in the ground floor side elevation. The main windows in the property are adequately separate and oblique to the proposed dwelling to avoid undue harm in respect to light or outlook. As the proposed new dwelling has windows facing towards the rear garden of number 93 details of new boundary fencing have been conditioned to ensure that adequate privacy remains between the two properties.

4.22 Derwent House to the rear has no clear glazed windows on the side elevation facing the proposed dwelling. The single storey development is sufficiently set apart from the front windows to avoid harm. Derwent House has a large rear garden and patio which will retain a good standard of amenity.

4.23 It is not considered that the proposed dwelling or sub-division of the garden would create significant concerns regarding noise or privacy.

## HIGHWAYS ISSUES

4.24 The scheme proposes parking for at least two cars for the existing dwelling and two cars for the proposed dwelling. There is adequate communal turning space at the front of the site to ensure cars can exit safely in a forward gear. Both properties would have space within the garden for cycle parking and bin storage.

## DRAINAGE, FLOOD RISK

4.25 The property is in area classified as being of low flood risk from watercourses. It has been conditioned that surface water is discharged in a way that reduces run-off rates to the minimum practical. The issue of foul drainage has been discussed with officers of the Council's Building Control team and they raise no objections.

## QUALITY OF ACCOMMODATION CREATED

4.26 It would be imagined that the small bungalow would typically be attractive to an older person or couple, though could be occupied by a small family. The submitted plans show an indicative furniture layout for the living areas. The use of roof lights will ensure living spaces have good light levels. The outlook from the bedrooms is reasonable. The shared lounge/kitchen/dining area has a more restricted outlook, however, the proposed triple aspect with full height openings and use of roof lights will create a reasonable feeling of openness for occupants.

4.27 The proposed garden appears very small compared to those of neighbouring properties, however, the side garden alone would be around 60sqm in size. In area this equates to gardens of a modern terraced house that would typically be around 11 x 5m. It is noted that not all home owners/occupiers desire a large external amenity space and it would meet the needs of the occupiers for sitting out, drying clothes etc.

## 5.0 CONCLUSION

5.1 The proposal would provide a new bungalow in an existing residential area. It would be a low key development that would have a minimal impact on the amenities of neighbouring properties. The host dwelling would still retain adequate parking and garden space. Taken on its merits it is considered that the owner's proposal to erect a small bungalow on the site amounts to sustainable development and is recommended for approval.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans:



Revised proposed site plan 1601/105/P04 received by the Local Planning Authority on 25 January 2017.

Revised proposed floor plan 1601/130/P01 received by the Local Planning Authority on 12 January 2017.

Revised proposed elevations 1601/130/P01 received by the Local Planning Authority on 12 January 2017.

Proposed site section of dwelling only 1601/131/P00 received by the Local Planning Authority on 18 November 2016.

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

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the external walls. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

4 Notwithstanding the details shown on the approved drawings details of means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied and shall be provided on site in accordance with the approved details before the development is occupied.

Reason: So as to achieve a visually cohesive appearance and protect living conditions.

5 The dwelling 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.

6 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, details for the surfacing of the site shall be submitted to and approved in writing by the local planning authority prior to being constructed on the site. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance and reduce surface water run-off.

7 The applicant shall install a three pin 13 amp external electrical socket at the property or other alternative installation which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable.

Note: Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations and be suitable for charging electric vehicles.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles

8 No development 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.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

9 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the

development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C (extensions, roof alterations) of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents and to avoid over-development the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order) the southern facing windows in the side wall elevation shall be obscure glazed to a standard equivalent to Pilkington Glass level 4 and be fixed shut.

Reason: In the interests of the amenities of occupants of the adjacent residential property.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. 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 an acceptable outcome:

Revisions sought to address boundary issues, car parking and the impact on neighbours' living conditions.

#### 2 INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and

noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

### 3. Drainage Informative

**EXISTING INFRASTRUCTURE:** On the Statutory Sewer Map, there is a small 100mm diameter public sewer recorded within the site. In this instance, YWS are happy this matter to be controlled by Requirement H4 of the Building Regulations. The sewer will be affected by the siting of the proposed new building.

**SURFACE WATER - Requirement H3 of the Building Regulations 2000** establishes a preferred hierarchy for surface water disposal. Consideration should firstly be given to discharge to soakaway, infiltration system and

watercourse, then to public sewer, in this priority order. In this case we strongly recommend surface water drainage to either soakaway or the watercourse immediately adjacent the site and not into the combined sewer as shown on the plans.

**Contact details:**

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