

COMMITTEE REPORT

Date: 6 February 2014 **Ward:** Haxby and Wigginton
Team: Major and **Parish:** Haxby Town Council
Commercial Team

Reference: 13/02280/FUL
Application at: 122 York Road Haxby York YO32 3EG
For: Erection of 2no. dwellings and garages to the rear of 122 York Road with access from Old Orchard (resubmission)
By: Mrs T Devlin
Application Type: Full Application
Target Date: 6 September 2013
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 Erection of two, part two-storey, part single-storey, 3-bedroom detached houses. They would be reached by an existing dedicated vehicular access, which would be improved, from Old Orchard.

1.2 The application is a resubmission of 12/03818/FUL, which was withdrawn due to officers' concerns about impact on trees. The main change is that the mass of the house at plot 1 has been reduced by:

- reducing the number of bedrooms from four to three,
- replacing the gable roof with a hipped roof,
- making the garage and part of the living space single-storey with a flat roof,
- giving the 2-storey element a more compact, T-shaped footprint.

1.3 The house at plot 2 remains unchanged.

1.4 The application has been called in by Cllr Cuthbertson on the grounds of its level of development, massing, probable impact on St Margaret Clitherow church and other dwellings nearby, combined with the access and drainage issues.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

DC Area Teams GMS Constraints: East Area (2) 0005
Schools GMS Constraints: Headlands Primary 0199

2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP10	Subdivision of gardens and infill devt
CYNE1	Trees, woodlands, hedgerows
CYL1C	Provision of New Open Space in Development
CGP15A	Development and Flood Risk

3.0 CONSULTATIONS

INTERNAL

Design, Conservation and Sustainable Development (Landscape)

3.1 All the existing trees shown to be retained could be adequately protected during construction provided an agreed protection method statement is strictly adhered to. The proposals appear to involve removal of the Oak tree tight up against the garage at 109 Old Orchard. Whilst this is a reasonable tree, the local authority would not seek to protect it due to its very close proximity to private property.

Flood Risk Management Team

3.2 No objections. The development is in low risk Flood Zone 1 and should not suffer from river flooding. The submitted drainage proposals are satisfactory. Add a condition requiring compliance with proposals seeking further details.

Communities, Culture and Public Realm

3.3 As there is no on site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used to improve a local site within the town council area (b) play space - which would be used to improve a local site within the town council area and (c) sports pitches - which would be used to improve a facility within the North Zone of the Sport and Active Leisure Strategy. The contribution to off site provision is to be based on the latest York formula through a Section 106 Agreement.

Environmental Protection Unit

3.4 No objections. Add the standard contamination/construction informatives.

EXTERNAL

Haxby Town Council

3.5 Objects on the grounds of scale, massing, impact on the street scene, pressure on local amenities and drainage. It supports all the numerous neighbours who have objected to the application.

Foss Internal Drainage Board

3.6 Add a condition requiring drainage details, including attenuation, to be submitted for approval.

Neighbour Notification and Publicity

3.7 Eight objections have been received raising the following planning issues:

- Loss of daylight to church windows
- Impact on church services
- Overdevelopment
- Out of keeping with surrounding area
- Loss of trees
- Loss of attractive open space
- Loss of view of attractive open space
- Garden grabbing
- Overbearing impact on residential neighbour
- Loss of sunlight/daylight to residential neighbours
- Loss of privacy to residential neighbours.

3.8 In addition a petition with 109 signatures has been received. The given reason for the petition is detrimental impact on the level of natural light entering the church through the north-facing stained glass windows, which would severely affect the congregation's worship. The petitioners also object to the loss of precious and attractive green open space.

4.0 APPRAISAL

4.1 KEY ISSUES

- Principle of development for housing
- Street scene
- Impact on trees
- Impact on the adjacent church
- Neighbour amenity
- Open space

THE APPLICATION SITE

4.2 The site (0.14ha.) comprises the rear part of the long rear garden of a former psychiatric hospital community unit, known as Blair Atholl. The unit ceased operating in 2011 and has now been converted to two houses (the building's original use). The site has been fenced off and is now somewhat neglected. A field gate provides vehicular access from Old Orchard. To the south is St Margaret Clitherow Roman Catholic Church, which has a contemporary design with windows facing

(obliquely) the application site. To the north are the rear gardens and elevations of 2-storey houses fronting onto a short cul-de-sac (a spur of Old Orchard). The site contains a range of trees, none of which is protected. Close to the site boundary, but within the grounds of the church is a mature Oak, which is subject to a tree preservation order (TPO 1980/30-T3).

POLICY CONTEXT

4.3 National planning policy is set out in the National Planning Policy Framework (NPPF). The essence of the framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

4.4 The City of York 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 National Planning Policy Framework.

PRINCIPLE OF DEVELOPMENT FOR HOUSING

4.5 The National Planning Policy Framework requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The application site is in a sustainable location within the settlement limit of Haxby and with good access to public transport and local services. Whilst the site was last used in connection with a psychiatric unit it has the character of a residential garden. The National Planning Policy Framework states that local authorities should consider policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Policy H4a of the local plan goes further and sets out the criteria on which development of such windfall sites should be judged. It states that permission will be granted for new housing development on land within the urban area providing: it is vacant/derelict/underused or involves infilling, redevelopment or conversion; has good access to jobs, shops and services by non-car modes; is of an appropriate scale and density to surrounding development; and would not have a detrimental impact on existing landscape features. The current proposal meets these criteria. Officers consider that the principle of developing the land for housing is acceptable.

STREET SCENE

4.6 The NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56). Permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64). Policy GP1 of the local plan sets out the design requirements for development and GP10 states that planning permission will only be granted for the sub-division of garden areas or infilling to where this would not be detrimental to the character and amenity of the local environment.

4.7 The heights of the houses at plots 1 and 2 would be 7.9m and 8.4m respectively. The houses would each have a traditional design with most parts having pitched roofs, brick, render and pantiles. The scale and designs would be in keeping with the character of the area. This includes the single-storey, flat-roofed elements, which would not be easily visible from any public viewpoint. Materials should be made a condition of approval.

IMPACT ON TREES

4.8 The National Planning Policy Framework states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including the loss of aged or veteran trees, unless the benefits of the development clearly outweigh the loss (paragraph 118). Whilst none of the trees on the site is protected, their presence - and the absence of development - provide an attractive open space that contributes to the character of the area. The most significant trees are towards the western end of the site where they are clearly visible from the public highway. The proposed houses have been located to avoid these trees as far as possible - most of them would be retained. The only significant losses would be a Poplar along the southern boundary of the site and a mature Oak near the north-west corner. The Poplar is of little amenity value. The Oak is attractive but is in an unsuitable location close to a neighbour's garage; the tree is not worthy of TPO protection. The most important tree in the vicinity of the site is the Oak (the subject of a TPO) in the grounds of the church. If planning permission is granted this tree should be protected during construction. The connection to the foul drain is shown running tight along the northern boundary to avoid the roots of another tree (an Acer). The proposed underground water storage tank and surface water connection have also been sited to avoid tree roots. The proposed house on plot 1 is set back from the street thereby maintaining the attractive tree cover along the highway frontage. Overall, the impact on the trees would be acceptable and would not justify refusal of the application.

IMPACT ON THE ADJACENT CHURCH

4.9 The church has a contemporary design with large stained glass windows facing the site. Worshippers object to the impact the house at plot 2 would have on their worship and light levels entering the windows. The windows are broadly north facing so the church does not have the benefit direct sunlight. The house would be visible but the nearest point (a corner) would be over 12m away. The intervening distance, oblique angle and the bright colouring of the glass would all mitigate views from inside the church. Officers acknowledge the importance of the setting to worshippers but do not consider that the presence of either house would have a material impact on church services.

NEIGHBOUR AMENITY

4.10 The north side of the site abuts the rear gardens of houses, in particular nos. 101, 103 and 109 The Orchard. These houses all have large windows that are broadly south facing. The outlook for the occupiers is a main consideration of the proposal. The applicant has sought to address residents' concerns by locating only small windows on the north elevations to prevent overlooking. The structure nearest the boundary is single-storey (the garage to plot 2) and much of the house at plot 1 is also single-storey, with a flat roof. These measures are designed to avoid significant overbearing. The most affected houses are nos. 101 and 103, both of which broadly face the application site. The nearest structures to these houses would be the single-storey double garage and single-storey element of plot 1. These structures would be 11-12m from the rear elevations of nos. 101 and 103. Bearing in mind the low height of these structures the intervening distance is considered acceptable. A condition should be attached requiring details of the proposed fencing along the shared boundary.

4.11 Whilst the site has an attractive open character (despite recent neglect), the site is not a protected landscape. Neighbouring occupiers have benefitted from this pleasant outlook for many years but there is no right to views over another person's land.

OPEN SPACE

4.12 The application requires a contribution of £4008 towards open space in accordance with policy L1c of the local plan. Such contributions are calculated on the basis of each new dwelling approved. The applicant has agreed to make the contribution and is in the process of submitting a unilateral undertaking to that effect. Members will be updated at the meeting.

OTHER MATTERS

4.13 Drainage, access, parking and cycle storage are all acceptable, subject to standard conditions being applied as appropriate.

5.0 CONCLUSION

5.1 The proposal accords with national and local planning policy and is considered to be acceptable. The applicant has agreed to enter into a unilateral undertaking to pay a contribution towards off-site open space (£4008).

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out only in accordance with drawings numbered 12:39:01/B, 12:39:02 and 12:39:03/E.

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

3 VISQ8 Samples of exterior materials to be app -

4 Notwithstanding the approved plans the development shall not commence until details of boundary treatment have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the protecting the amenities of neighbouring occupiers and the character and appearance of the area.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no door, window or other opening, other than those hereby approved, shall at any time be inserted in the northern elevation of the houses hereby approved without the prior written approval of the local planning authority.

Reason: In the interests of the amenities of occupiers of adjacent residential properties.

6 Before the commencement of development, including the importing of materials, excavations, utility works, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing, phasing of works, site access during development operations, type of construction machinery/vehicles to be used including delivery and collection lorries and arrangements for loading/off-loading, parking arrangements for site vehicles, and locations for stored materials. It

shall also include construction details and methodology for the driveway where it is located within the canopy spread and potential rooting zones of the trees.

Reason: To protect existing trees which are considered to make a significant contribution to the amenity of this area and the development.

7 Drainage for development shall be carried out in accordance with the details shown on approved plan 12:39:03/E, unless otherwise agreed in writing by the local planning authority. The development shall not commence until site specific details of the existing/proposed manhole, including invert and cover level to ordnance datum, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

8 Prior to the development coming into use, the initial 5m of the vehicular access, measured from the back of the public highway, shall be surfaced, sealed and positively drained within the site. Elsewhere within the site all areas used by vehicles shall be surfaced and drained, in accordance with the approved plans.

Reason: To prevent the egress of water and loose material onto the public highway.

9 No barrier or gate to any vehicular access shall be erected within 5m of the rear of the verge abutting the site, without the prior written approval of the Local Planning Authority, and shall at no time open towards the public highway.

Reason: To prevent obstruction to other highway users.

10 HWAY19 Car and cycle parking laid out -

11 LAND1 New Landscape details

12 PD1A Removal of specific Perm Dev rights (Classes A (enlargements or extensions), B (additions or alterations to the roof), E(a) (garden buildings or structures) and F (provision of hard surfaces))

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 has secured improvements to the scale and layout and attached appropriate conditions to the approval, thus enabling a positive outcome to be achieved.

2. VEHICLE CROSSING

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named: Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361.

3. RECHARGING OF ELECTRIC VEHICLES

In order to facilitate the uptake and recharging of electric vehicles/bikes/scooters, it is recommended that the applicant should install a standard domestic 13A electrical socket on an internal or external wall. This should be capable of charging at a minimum of 3KWh for up to 8 hours without overheating the cabling or socket. Ideally, a 13/32Amp socket should be supplied which can offer up to 7KWh continuous charging with a control and protection function on a specific circuit (to avoid overload through use of other appliances on the circuit). Where mounted on an external wall, a suitable weatherproof enclosure for the socket will be required.

4. CONTROL OF POLLUTION

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.

5. CONTAMINATION

If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a scheme remediation to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

6. UNILATERAL UNDERTAKING

This planning permission includes a unilateral undertaking to make a financial contribution of £4008 towards off-site public open space.

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