

COMMITTEE REPORT

Date: 8 August 2019 **Ward:** Copmanthorpe
Team: Major and **Parish:** Copmanthorpe Parish
 Commercial Team Council

Reference: 18/02614/FUL
Application at: 4 Croft Farm Close Copmanthorpe York YO23 3RW
For: Erection of 1 no. dwelling with detached double garage and
 new vehicular access
By: Mr Jon Browne
Application Type: Full Application
Target Date: 17 May 2019
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application seeks full planning permission for the erection of a detached one and a half storey dwelling with detached double garage and workshop on the rear garden of 4 Croft Farm Close. Access would be taken from the lane to the east of the site, which is adopted highway.

1.2 The application is supported by a planning report, sustainability statement, drainage strategy report, highway report and a tree survey. Revised plans have been submitted during the course of the application that seek to overcome the initial objection by Yorkshire Water relating to construction close to public sewers as well as concerns raised by the Council's Highway Engineer relating to highway safety and the Landscape Architect relating to proximity to a protected Ash tree.

1.3 The site lies within an area of modern housing in the heart of the village that is outside the village conservation area. It falls within Flood Zone 1 (low probability). There is an area of archaeological interest to the north of the site. The northern site boundary is marked with mature trees running in a band east-west, some of which are covered by two separate group tree preservation orders - TPO - 2/1972-G9 and 2/1072-G10 (9 Station Road 25 Main Street). There are also trees on the eastern site boundary with the lane.

1.4 The original housing estate was approved consent in the early 1980s. There is no relevant planning history for the site itself.

1.5 The application has been called in to Committee by Councillor Carr if the recommendation is to refuse solely on highway grounds relating to the lane between Low Green and Merchant Way, in order to allow further scrutiny and discussion of the offered improvements whilst maintaining the lane as a no-through route for vehicular traffic between Low Green and Merchant Way.

2.0 POLICY CONTEXT

2.1 City of York Draft Local Plan (2005):

- GP1 – Design
- GP3 – Planning Against Crime
- GP4a – Sustainability
- GP9 - Landscaping
- GP10 – Subdivision of Gardens and Infill Development
- GP15a – Development and Flood Risk
- NE1 – Trees, Woodlands and Hedgerows
- H4a – Housing Windfalls
- T4 – Cycle parking standards

2.2 City of York Publication Draft Local Plan (2018):

- D1 - Placemaking
- D2 – Landscape and setting
- GI4 – Trees and Hedgerows
- ENV4 – Flood risk
- ENV5 – Sustainable drainage
- T1 – Sustainable Access

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 Object to proposed vehicular access on highway safety grounds.

3.2 The proposed development is seen to promote the use of motorised vehicles in an area currently protected as a mostly traffic free route [by a Traffic Regulation Order restricting motorised vehicle access to works and agricultural vehicles only], which currently provides pedestrian and cycle access to the local amenities and the local primary school. The alteration of a Traffic Order and the provision of a sub standard footpath [omitted from scheme at Network Management's request as not compliant with Manual for Streets] with limited turning facilities for larger vehicles giving rise to unsafe reversing movements, will lead to unacceptable conflicts between vehicles, pedestrians and cyclists. The changes would give the appearance of a street, which will encourage parents to use the lane for dropping off/picking up children.

3.3 Following the submission of a Highways Statement by the applicant during the

course of the application, Network Management's confirmed opinion unchanged. It clarifies that the proposal of bollards beyond the access to the house will not be agreed due to the current order allowing agricultural access to York Field Lane beyond. If the Traffic Order is changed in this location to prohibit motor vehicles except for access (as would be required to access the new dwelling), any school related traffic would therefore be allowed to use the lane. Objection maintained on highway safety grounds as previously outlined.

3.4 Further comment following submission and consultation on revised plans, which reiterates the previous written comments from Network Management that the proposed development has an unacceptable impact on highway safety due to the introduction of vehicles on an existing traffic free route (except for agricultural and works access) in close proximity to a primary school and maintains a CYC Highways objection to the proposal in its current form, for the following reasons:

- pedestrians and children at increased risk from motorised vehicles from those accessing the dwelling and those likely to use the lane at pick up and drop off time;
- removes the options currently available to CYC to implement physical measures at the junction with Low Green to address current illegal use;
- reduces the quality of an important walking route being developed by CYC to serve the village of Copmanthorpe and support sustainable travel from strategic housing site (ST31);
- contrary to CYC objectives to encourage more people to travel to school sustainably by adding traffic to 25m of key route to school serving the north east of Copmanthorpe.

Road Safety Officer

3.5 The lane is a currently lit footpath which connects Croft Farm Close to Merchant Way. It forms part of a longer footpath that connects a significant number of homes with a walked route to the local shops as well as a walked route to school. From visiting it would appear to form part of a long and well used walking route for many of the local people. It is currently signed (with the appropriate TROs in place) as prohibited for motorised vehicles. In order for the proposed dwelling to use this as a vehicle access to the property, the status of the lane would need to be altered to allow motorised traffic. This essentially means that any motorised traffic would be able to use the lane. Changing the status of the road, to allow motorised vehicles, could have detrimental effects on road safety in the area, which would not be diminished by signing this road as "access or residents only". If the road is physically engineered to accept vehicles then vehicles will use it, irrespective of the signage.

Design, Conservation and Sustainable Development (Landscape)

3.6 Initially objected to the close proximity of the proposed dwelling to the protected Ash tree (TPO 2/1972) in the garden of 3 Faber Close and the potential conflict between the tree and future occupants, resulting in demands to have the trees

reduced or removed and the proposed property being too close to the tree for the purposes of construction. Raised further concerns about the proposed alterations to York Field Lane, which would substantially alter the character of this section of the lane and thus harm its rural quality and amenity value as a pedestrian and recreational walkway.

3.7 Following submission of Level 2 visual tree assessment and tree risk assessment (26.6.19 by Bartlett Consulting), provides further comment. Whilst the vitality of tree evidenced in the canopy is poor, there is no evidence of significant decline or die back nor of decay or structural defects. In its current condition the overall risk rating for the Ash tree is classified as 'low'. The Ash has a good even form/spread measured across the four cardinal points.

3.8 To introduce a building that would necessitate a reduction to the crown of a tree that is still currently worthy of a tree preservation order would be inappropriate, as it could imbalance the appearance of the tree, and/or introduce the need for repeat tree surgery, and open up additional entry points for infection. Depending on the tree's response to the possible threat of Ash die-back, the tree could be retained as a viable tree for many years yet. The distance of the dwelling and first floor bedroom balcony, presence of low limbs and the working area required to excavate and install foundations and construct the building, suggests that the canopy would need to be pruned back and possibly crown lifted. The tree would not sit comfortably within the confinements of the newly created space. The tree continues to be worthy of its TPO status given has good form and is clearly visible from the lane.

3.9 Unless the property can be moved further away from the Ash tree, there are no exceptional circumstances to justify the proximity of the building to a protected tree. As an absolute minimum, the property should be moved away from the tree to provide a 2m clearance between the crown spread and the proposed dwelling to negate the need to trim back and keep construction outside the root protection area.

Public Protection

3.10 Air Quality - In line with paragraph 110 of the NPPF, developments should be designed to incorporate facilities for charging plug-in and other ultra low emission vehicles in safe, accessible and convenient locations. Given that the application involves off-street parking for vehicles and in view of the above and the Council's adopted Low Emission Strategy, which aims to facilitate the uptake of low emission vehicles in York, requests a condition for an electric vehicle charging facilities.

3.11 Contamination - Requests a condition in case unexpected contamination is detected during the development works.

EXTERNAL

Yorkshire Water

3.12 On the Statutory Sewer Map, there is a 600mm and a 150mm diameter public surface water sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme. Stand-off distances of 4 and 3 (four and three) metres are required at each side of the sewer centre-line (build over of the 150mm sewer may be possible via Building Regulations). Object as the site layout shown on drawing 2018/158/P AL(0)01 dated October 2018 shows buildings will be sited over the public sewerage system located within the site, which could seriously jeopardise Yorkshire Water's ability to maintain the public sewerage network.

3.13 In response to revised site layout details (2018/158/P AL(0)02 D), which shows surface water diversion, have no objection and make no further comments.

Ainsty Internal Drainage Board

3.14 The application sits within the Board's district, where it has assets in the form of various watercourses known to be subject to high flows during storm events. The proposal would enlarge the impermeable area on site and has the potential to increase the rate of surface water run-off from the site if it is not effectively constrained. The Board has no objections to the principle of development providing the applicant clarifies the drainage strategy to enable an evaluation to be undertaken in terms of flood risk and provides the necessary consent is obtained from the asset owner allowing discharge to the public surface water sewer.

Ward Councillor

3.15 Councillor Carr makes no comment about the merits or de-merits of the application, but expresses interest in the deficiencies in the adjoining public highway which links Low Green and Merchant Way. As an issue of concern to residents, the Councillor has tried to address the issue on previous occasions in discussions with CYC highways and community safety managers as it presents itself as an unsafe place and requires improvement.

3.16 This 'link' is subject to a traffic management order and, with some vehicle exceptions, is meant to function as a pedestrian access between the centre of the village and the substantial amount of housing development (with more to come if the submitted draft local plan is approved), which has taken place on the eastern side of the village. The link is not barriered at the Low Green end and by removing the bollards at the Merchant Way end, it operates as a diversion route for all vehicular traffic when circumstances require.

3.17 It is the physical nature of this link which raises concerns. It comprises a lengthy blind bend, it is poorly lit, the 'inside' of the bend is hidden by trees and

dense undergrowth, and it is bounded on one side by the school grounds and, on the other, by the side elevations of a couple of houses. It is not therefore 'self-policing'.

3.18 To compound the safety hazards, the link is often used by cyclists and motorcyclists which can pass unhindered, and by errant larger vehicles (which miss the prohibition signs and have to reverse back into Low Green) all of which puts pedestrians at risk. In addition, the secluded nature of the link so close to the centre of the village attracts anti-social behaviour.

Copmanthorpe Parish Council

3.19 Support application.

NEIGHBOUR NOTIFICATION AND PUBLICITY

Copmanthorpe Primary School

3.20 Governors express concern about vehicular access along the single track lane which connects Low Green to Merchant Way. The lane is used by parents and children coming from Merchant Way accessing Upper School who are discouraged from going through the school. Any vehicle wishing to access the proposed bungalow will only be able to turn around by doing so in the drive of the new bungalow or by continuing to the end of the single track lane where the bollards are. This area will allow a small vehicle to turn around but will bring vehicles directly to the school gate where parents and children have to cross the lane. If vehicles are unable to turn round (particularly large vehicles) they will need to reverse down the lane which will not be ideal.

3.21 If planning permission is granted to use this lane, the governors request that the proposed path is wide enough to take a double buggy/parent with child in hand and that it is raised above the road by use of a kerb. Request consideration is given as to how to ensure the safety of parents and children who use the Merchant Way gate into school, if vehicles are allowed to come as far as the existing bollards in order to turn round.

3.22 Following submission of revised plans removing the footpath, the Governors object as it will not be possible for pedestrians and vehicles to pass safely due to the present width of the lane. If vehicle movement along Yorkfield Lane is allowed (which currently is not the case) it is believed that it is essential for the safety of pedestrians that a footpath with a raised kerb is a condition of granting planning. The school is a large primary school of almost 400 pupils which encourages children and staff to walk and bike to school and need all entrances and pedestrian ways around school to be as safe as possible. Opportunity to improve the lane for safety of pedestrians without cost to tax payer should not be missed.

Objections from residents

3.23 Objections from eleven individuals of Copmanthorpe with one being a resident from Bramham, including the following reasons:

- Impact on trees covered by Tree Preservation Order and other trees that provide soft visual impact;
- Access to Yorkfield Lane has been prohibited to vehicles since at least 1979;
- Over-development of site from proximity to neighbouring houses on Faber Close resulting in permanent and unsightly wall/barrier and impact on amenity;
- Design and materials of property, balconies and garage at front is not in-keeping with surrounding properties and is close to the conservation area;
- Traffic along lane between the two entrances of the Infant School would endanger pedestrians including local residents going to shops and parents taking children to school;
- Putting an unnecessary path along the lane would encourage the belief that cars could park and wait on the lane;
- Questions the assertion in the supporting documents that neighbours of Faber Close support the removal of the trees, including the large, Mature Ash Tree;
- Considerable danger to young and disabled due to use of heavy machinery and lorries during construction, close to school entrance and at school drop off/pick up times;
- Concerned that Yorkfield Lane will not retain its nature as a 'no through road' and would possibly encourage more motorised vehicles and potential opening as a through road;
- Urbanisation of lane with concern that proposals to change Yorkfield Lane will impact on its rural and leafy feel that complements Low Green, part of which is in a conservation area;
- Pavement is unnecessary if the lane retains its vehicle free status;
- This is a smoke and mirrors tactic as the majority of those supporting this application are really wanting upgrades to the lane and not necessarily supporting the building of a dwelling;
- Not experienced anti-social behaviour or felt unsafe along path despite living there for 27 years;
- Drainage issues due to amount of hard standing;
- What assurances can be given that if the application is successful, all upgrades are at the applicant's expense and the life time maintenance and upkeep;
- Refer to restrictive covenants in deeds of conveyance from 1955 [not a material planning matter].

Support from residents

3.24 Responses from nine local residents supporting the scheme for the following reasons:

- Extension/provision of pavement and lighting are welcomed to make areas nicer and address anti-social behaviour and safety, encouraging use of lane;
- A dedicated pavement will make a lane that is currently closed to traffic safer for pedestrians as it will separate them from cyclists and motor scooters;
- CYC Highways have not maintained the lane or trees;
- Amount of additional traffic on lane would be minimal;
- A dwelling will help reduce anti-social behaviour as perpetrators will be more visible;
- TPO regime can protect against harmful reduction and loss to tree;
- Need for housing;
- the lane is not currently protected as a traffic free route, so there is pre-existing conflict between pedestrians and vehicular users of the lane.

General comments

3.25 Two responses from local residents/users of lane, raising following points:

- No objection to scheme, but worried about builders and parents making a mess of the grass verge outside properties on Low Green;
- Questions how entry to a road that is clearly no entry for vehicles will affect the highway notices.

4.0 APPRAISAL

4.1 Key issues:

- Principle of development;
- Access, parking and highway safety;
- Character and appearance;
- Biodiversity;
- Residential amenity;
- Flood risk and drainage.

POLICY CONTEXT

National Planning Policy Framework

4.2 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", February 2019). Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. For decision-taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of

relevant development plan policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

4.3 The relevant chapters of the Framework include 5 'Delivering a sufficient supply of homes', 8 'Promote healthy and safe communities', 9 'Promoting sustainable transport', 11 'Making effective use of land', 12 'Achieving well-designed places', 14 'Meeting the challenge of climate change, flooding and coastal change' and 15 'Conserving and enhancing the natural environment'.

Development Plan

4.4 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

Draft Local Plan

4.5 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. However, such policies can be afforded very limited weight. Relevant policies are listed in section 2. The site is shown on the accompanying Proposals Map as lying within the built-up settlement of Copmanthorpe.

Emerging Local Plan

4.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

4.7 Relevant policies are set out in section 2. In particular, policies GP1 and H4a can be attributed moderate weight as they are compliant with the aims of the NPPF.

4.8 The evidence base that underpins the proposed emerging policies is a material consideration in the determination of planning applications. The directly relevant evidence base is the Green Belt Topic Paper 1 Addendum and its Annex 4, which excludes the village of Copmanthorpe from the Green Belt. The site lies within the settlement of Copmanthorpe on the Proposals Map that accompanies the emerging 2018 Plan.

PRINCIPLE OF DEVELOPMENT

4.9 The application sits within the main built-up part of the village, in easy reach of local facilities and a public transport service connecting the village with York City, and surrounded by other residential properties. It would provide one residential property, which would contribute, albeit minimally, to the City's housing supply. It is noted that the Council cannot currently demonstrate an NPPF compliant 5 year supply of deliverable housing sites.

4.10 Paragraph 11 of the NPPF establishes the presumption in favour of sustainable development stating that permission should be granted where relevant development plan policies are out of date unless either there are specific policies in the NPPF that provide clear reason for refusing the development proposed, or adverse impacts significantly or demonstrably outweigh the benefits when assessed against policies in the NPPF as a whole.

4.11 Therefore, the proposal is considered to be acceptable in principle as it provides an additional dwelling in a sustainable and accessible location that is on land considered to fall outside the general extent of Green Belt and within a predominantly residential area.

ACCESS, PARKING AND HIGHWAY SAFETY

4.12 The NPPF encourages development that is sustainably located and accessible. Paragraph 108(b) requires that all development achieves safe and suitable access for all users. It advises at paragraph 109 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Further, paragraph 110 requires development to, inter alia, give priority first to pedestrians and cycle movements and create places that are safe, secure and attractive thereby minimising the scope for conflicts between pedestrians, cyclists and vehicles. Policy T1 of the 2018 emerging Local Plan supports the approach of the NPPF in that it seeks the safe and appropriate access to the adjacent adopted highway, giving priority to pedestrians and cyclists.

4.13 The site lies within the established village of Copmanthorpe, which is well served by local services and facilities and, as such, development of the site is supported in principle.

4.14 The proposed dwelling would be accessed from Yorkfield Lane via a newly created vehicular and pedestrian entrance. There would be space on site for motor vehicle parking either in the double width garage or on the driveway. Covered and secure cycle parking is indicated in a separate bin and cycle store at the side of the dwelling, but could also be provided in the proposed garage. The entrance to the property could act as a small turning head on the lane.

4.15 Yorkfield Lane is a historic lane in the village. The section between Low Green and Merchant Way is tarmaced and is adopted highway. It connects the houses to the north-east of the village to its centre and local amenities. The lane is covered by a long-standing Traffic Regulation Order (TRO) that restricts motor vehicles other than those proceeding to/from land adjacent to Yorkfield Lane for the purposes of agricultural, horticulture or silviculture. There is currently no physical restriction at the Low Green end apart from signage, but there are bollards at its junction with Merchant Way and a locked gate to the unadopted section of the lane beyond Merchant Way. It is predominantly used by local residents as a shortcut for foot and cycle movements accessing villages amenities and as an external link to Copmanthorpe Primary School.

4.16 The Council's Highway Network Management team, including the Road Safety Officer, objects to the proposal due to the introduction of vehicles on an existing traffic free route with access prohibited by a TRO to limited vehicle movements for agricultural, horticultural and silvicultural purposes. The proposal would require a legal change to the TRO that would allow access to motorised vehicles for premises accessed from the lane (potentially, this is not just vehicles associated with the proposed dwelling) in an area that currently has restricted traffic movements and that would have inadequate turning provision for larger vehicles resulting in the potential for such vehicles to reverse back onto Low Green. The lane is in close proximity to Copmanthorpe Primary School and is being developed as an important walking route between the village centre and strategic housing site ST31. It is considered that the proposal, due to its access and necessary changes to the TRO, would lead to increased potential for conflict between vehicles that could legitimately use the lane and existing use by pedestrians and cyclists, which would have an unacceptable impact on highway safety.

4.17 The application as first submitted included a dedicated tarmac footpath along the western and northern side of the lane with dropped kerbs and tactile paved crossing points. The provision of footpath was not supported for two reasons: firstly, it would change the appearance of the lane to a street with dedicated footway that continued on from Low Green and would encourage drivers to use it though it was of insufficient width for two way traffic and had inadequate turning provision for larger

vehicles resulting in potential conflict between opposing traffic; and, secondly, the proposed footway was sub-standard in that it did not meet the minimum width required by Manual for Streets with inadequate turning provision for larger vehicles. The removal of the footpath was sought and revised plans submitted to omit it from the scheme.

4.18 In terms of local responses to the application, there has been a mixed response, including both support for the proposed changes to the lane and objections to the loss of what is considered to be a traffic-free route and a green lane within the village. The Parish Council does not object to the proposal and the Ward Councillor highlights that there are existing issues with conflict between pedestrians and motorised scooters from the lack of barriers at the Low Green end of the lane as well as anti-social behaviour along it. Copmanthorpe Primary School Governors raise concerns on safety grounds to access to the dwelling from the lane and consider that if the scheme is approved there should be a footpath to reduce safety concerns.

4.19 The applicant has submitted a Highway Report that concludes that the proposed dwelling would generate a low number of vehicle movements and that the Traffic Management Order can be amended to allow vehicular access to the dwelling. As such, the report considers that there would be no significant road safety risks arising to the other road users as a result of the traffic that would be generated by the proposed dwelling. It also states that the proposal represents the only realistic opportunity to provide the footpath and improved lighting to address highway safety without Council funding. It concludes that the proposal would not result in any severe highway impacts. Further correspondence by, or on behalf of, the applicant reiterate national planning policy and the basis for assessing and determining planning applications and consider that there are no highway grounds for refusal as the site has safe and suitable access and the local road network has capacity to safely accommodate the limited additional traffic resulting from the proposed development.

4.20 However, as the proposal has been identified as compromising highway safety along Yorkfield Lane and would not adhere to the aims of creating safe and appropriate access and prioritising pedestrian and cycle movements, the proposal does not accord with paragraphs 109 and 110 of the NPPF. The test in paragraph 109 of the NPPF is an unacceptable impact on highway safety rather than a severe highway impact. Whilst the applicant points to existing conflict on the lane, this does not justify compromising highway safety further and could be at part addressed through the consideration of gates/barrier at the Low Green end of the lane.

CHARACTER AND APPEARANCE

4.21 Chapter 12 of the NPPF gives advice on design, placing great importance to that design of the built environment. In particular, paragraph 127 of the NPPF states

that planning decisions should ensure that development, inter alia, will add to the overall quality of the area, be visually attractive, sympathetic to local character and history and have a high standard of amenity for existing and future users. This advice is reflected in Draft Local Plan policies GP1 and GP9 of the 2005 Draft Local Plan and D1 and D2 of the 2018 Draft Local Plan and, therefore, these policies can be given weight.

4.22 The application site comprises the rear garden of 4 Croft Farm Close, which sits on slightly lower ground beyond the immediate levelled space at the rear of the property. It is abutted by the gardens of neighbouring property 6 Croft Farm Close, 22 Merchant Way, and 1-3 Faber Close and enclosed along its eastern side by Yorkfield Lane. This lane appears on historic maps (Epoch 1 1846-1901) as a green lane running from Low Green to the fields beyond the village and remains today as a green corridor sandwiched between the rear gardens of modern residential development or subsumed within it. Therefore, Yorkfield Lane is considered to be a valuable remnant of the village's rural character and context, which retains some of its original character and appearance due to the existing vegetation and narrow nature of the lane. Views from Merchant Way or Low Green are of the openness of the gardens to the rear of the properties and the trees and shrubs within them and along the lane.

4.23 The proposal would infill the space between 4 Croft Farm Close and the properties to the north with a 1.5 storey dwelling, detached garage and wide access from the lane. It would result in the loss of some vegetation on site and along the lane from the construction of the new access. The existing high boundary enclosure to Yorkfield Lane would be replaced by brick piers and open railings and a sliding gate, which would make the development particularly the garage more visible in views along the lane. The character and appearance of the historic lane would be altered as a result and, in turn, the local environment in this part of the village. However, this would only be for a short section along the length of the lane and the dwelling would be read in the context of the modern housing that bounds the site. Further, the lane falls outside the designated conservation area and the vegetation along the lane, much of which is self-seeded and overgrown, could be removed separate to this application as it is not protected.

4.24 The design of the dwelling, being 1.5 storeys with a deep roof slope, pitched dormers and with render walls and grey roof tiles, would not be characteristic of surrounding properties. However, it would sit within an area of mixed age and style of houses. The materials of construction could be amended by condition to be a more sympathetic and characteristic palette of materials that reflects surrounding properties. Subject to this, and given the variety of housing design in the local area, the design of the proposed dwelling would not detract from the overall quality of the area.

4.25 The introduction of a dwelling may contribute to increased natural surveillance along the lane, though its set back and inclusion of bedroom accommodation to the rear and en-suites to the front, would reduce any informal overlooking of the lane at night when anti-social behaviour is more likely to be an issue.

4.26 Therefore, the proposal would not conflict with the aims of paragraph 127 of the NPPF or policies GP1 of the 2005 Draft Local Plan or D1 of the 2018 Draft Local Plan, subject to a condition requiring a more sympathetic palette of materials.

BIODIVERSITY

4.27 Paragraph 170 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity. Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats.

4.28 The application form states that there are no trees on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character. As such, a tree survey was not originally submitted to support the application. However, there is a large Ash tree in the garden of 3 Faber Close that is adjacent to and overhangs the site and is protected by a Tree Preservation Order (TPO 2/1972/-G9).

4.29 The Council's Landscape Architect raised concerns about the proximity of the proposed dwelling to this tree in terms of the likely resultant conflict between it and the future occupants of the dwelling. As a result, the applicant instructed a tree assessment be undertaken, which confirmed that there is no evidence of significant decline or die back nor decay or structural defects and that the tree continues to be worthy of its TPO. As such, it was requested that the dwelling be set away from the tree canopy by a minimum 2m clearance distance, which the revised plans indicate has been achieved. As such, the proposal would mitigate the potential impact on the protected tree in future years in accordance with paragraph 175 of the NPPF.

RESIDENTIAL AMENITY

4.30 Paragraph 127(f) of the NPPF seeks a good standard of amenity for all existing and future occupants. Paragraph 178 of the NPPF requires new development to be appropriate for its location to prevent unacceptable risks from pollution and land instability. Policy GP1(i) of the 2005 Draft Local Plan seeks to ensure that development proposals do not unduly affect the amenity of nearby residents in terms of noise disturbance, overlooking, overshadowing or from overbearing structures.

4.31 A contamination screening assessment has been submitted with the application, which confirms that the historic uses of the land are agriculture and

more recently residential. Public Protection is satisfied with the assessment and requests a condition in the event that unexpected contamination is found as well as a condition requiring electric vehicle charge points.

4.32 The proposed dwelling would be located within the rear garden of 4 Croft Farm Close, which is a two storey detached dwelling. There would be a separation distance of approximately 12m between no.4 and the proposed dwelling. Whilst this is tight, it is acknowledged that the proposed dwelling would sit at an angle to the existing dwelling in order to avoid direct overlooking. Further, the existing property would retain a 10m long rear garden and is at a slightly higher land level than the site of the proposed dwelling.

4.33 The site is surrounded by other detached residential properties. The proposed dwelling would not directly face towards any of these properties and would have approximate distances of 16m to 6 Croft Farm Close, 17m to 22 Merchant Way and 20m to 1 Faber Close. The elevations facing NE towards 22 Merchant Way and 1 Faber Close and SW facing no.4 would be solid other than a ground floor utility. There would be the potential for loss of privacy to 6 Croft Farm Close, particularly to its rear garden from the first floor Juliet balconies. There is the potential for some casting of shadows over the gardens on Merchant Way and Faber Close during the day, though this already occurs to a certain degree by the presence of vegetation. Whilst neighbouring occupants would be aware of an additional property closer to them, the 1.5 storey height, the angle of the building and the presence of other structures and vegetation, would help to mitigate any erosion of living conditions of neighbours.

4.34 As such, and as there would be adequate internal and external space to serve the proposed two bedroom dwelling, the proposal would accord with the aims of the NPPF and local planning policies that seek a good standard of amenity for existing and future residents.

FLOOD RISK AND DRAINAGE

4.35 Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk but, where development is necessary, making it safe without increasing flood risk elsewhere.

4.36 The site lies in Flood Zone 1 (low probability) and, as such, should not suffer from river flooding. Foul water is proposed to be disposed of to mains sewer and surface water to a sustainable drainage system or mains sewer with appropriate attenuation. A 150mm surface water sewer would need to be re-located - an alternative location for this sewer is indicated on the revised site layout plan within Yorkfield Lane. Yorkshire Water has withdrawn its initial objection to the proposal on the basis of the revised plans that show a re-directed 150mm sewer and the

required stand-off distance to the 600mm diameter public surface water sewer that crosses the northern boundary of the site.

4.37 As a result, the proposal is considered to be acceptable in terms of drainage, subject to a condition requiring further details of surface water discharge that adequately attenuates flow from the site.

5.0 CONCLUSION

5.1 The NPPF establishes the presumption in favour of sustainable development in paragraph 11, which means granting permission where there are no relevant development plan policies unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. York does not have an adopted Local Plan and the Development Plan comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy relating to Green Belt and neighbourhood plans not relating to Copmanthorpe.

5.2 The development of the site is acceptable in principle being in a sustainable and accessible location in an existing village. It would contribute one dwelling to the City's housing supply and, to a limited extent, increase natural surveillance on Yorkfield Lane. However, there is considered to be an unacceptable impact on highway safety due to the introduction of traffic along a restricted lane that is primarily used as a pedestrian and cycle link. It is considered that, when balancing the benefits and adverse impacts, the harm to highway safety for the wider public using Yorkfield Lane would significantly and demonstrably outweigh the benefits of one private dwelling. Issues relating to anti-social behaviour and any existing conflict on the lane could be addressed in part through increased lighting, cutting back of vegetation and the gating of the lane at its Low Green end, separate to, and without the need for, the proposed dwelling.

5.3 Therefore, in line with paragraph 109 of the NPPF, the proposal is recommended for refusal on highway safety grounds due to the unacceptable impact on highway safety.

COMMITTEE TO VISIT

6.0 RECOMMENDATION:

1 Paragraph 109 of the National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. It is considered that the proposed development would result in an unacceptable impact on highway safety due to the introduction of vehicles on an existing lane with access restricted by a Traffic Regulation Order, and the conflict with pedestrian and cycle users of the

lane. The lane lies in close proximity to a primary school whose parents and pupils are encouraged to use the lane to access the school and which provides a pedestrian and cycle link to services within the village from houses to its north-east. The benefits of the scheme, being the provision of one dwelling to the City's housing supply, do not outweigh the adverse impact of the scheme, being the unacceptable impact on highway safety.

7.0 INFORMATIVES:

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 (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

- Pre-application advice;
- Revised plans to address objections relating to stand-off distances to sewers and proximity to a protected Ash tree;
- Investigation of highway safety concerns;
- Consideration of conditions to mitigate any harm.

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

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