

## COMMITTEE REPORT

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

**Reference:** 13/03168/FUL  
**Application at:** Westholme 200 York Road Haxby York YO32 3EX  
**For:** Erection of 4no. detached two storey dwellings with associated garages, access and landscaping (resubmission)  
**By:** Mr Daniel Gath  
**Application Type:** Full Application  
**Target Date:** 21 November 2013  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1 Erection of four detached houses (1 x 3-bedroom, 2 x 4-bedroom and 1 x 5-bedroom) within the garden area of Westholme, 200 York Road. Each house would have a double garage and private amenity space. Access would be via a shared drive from a lay-by on York Road. An additional garage would be provided to serve the retained house. The existing garage of the house would be demolished to provide access to the development.

1.2 The application is a resubmission of 13/00660/FUL, which was refused in June 2013. The refused scheme comprised 3 x 3/4 bedroom houses and 2 x 4/5 bedroom houses. The reason for refusal was that the high density of the proposal would result in a cramped development that would not successfully integrate into the surrounding area. The main changes between the refused scheme and the current proposal are:

- A reduction in the number of houses from five to four;
- A different composition of house types
- A modest increase in green space/landscaping.

1.3 The application has been called in by Cllr. Cuthbertson due to the concerns raised by local residents.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: East Area (2) 0005

## 2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP10	Subdivision of gardens and infill devt
CGP15A	Development and Flood Risk
CYNE1	Trees, woodlands, hedgerows
CYL1C	Provision of New Open Space in Development
CYED4	Developer contributions towards Educational facilities
CYH4A	Housing Windfalls

## 3.0 CONSULTATIONS

### INTERNAL

#### Highway Network Management

3.1 No objections. Add standard highway conditions regarding provision parking, cycle storage and a construction method of works statement.

#### Children's Services, Education and Skills

3.2 The development would require a financial contribution of £11,984 towards education for an additional place at the local primary (Headlands Primary) which is currently oversubscribed.

#### Environmental Protection Unit

3.3 No objections. Add conditions relating to potentially contaminated land and facilities for recharging electric vehicles.

#### Communities, Culture and Public Realm

3.4 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.

#### Flood Risk Management Team

3.5 No objections to the principle of development. Include a condition requiring drainage details including attenuation and evidence of the suitability of the proposed outfall.

## EXTERNAL

### Haxby Town Council

3.6 Objects on the grounds of overdevelopment, limited access, detrimental impact on the site and mature trees, drainage and flood risk concerns.

### Foss Internal Drainage Board

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

### Neighbour Notification and Publicity

3.8 Twelve objections have been received raising the following planning issues:

- Loss of open green landscape, trees and hedges
- Out of keeping with character of the area
- Overdevelopment
- The scheme is not significantly different from the previous proposal
- Backland development
- Would exacerbate drainage problems
- Inadequate parking and access
- Risk of contamination
- Overbearing impact on residential neighbour
- Loss of sunlight/daylight to residential neighbours
- Loss of privacy to residential neighbours.

3.9 Two letters of support/no objections have been received.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Principle of development for housing
- Scale of development
- Neighbour amenity
- Drainage and flood risk
- Contamination
- Financial contributions.

## THE APPLICATION SITE

4.2 The site is the large rear garden (0.3ha) of a 2-storey detached house at 200 York Road. The site is bounded on all sides by 2-storey detached and semi-detached houses in Eastfield Avenue, Sunnysdale and Pinelands. Access is via the private drive of the existing house on the site. Immediately to the south of the

access is an electricity substation. The access is approached via a lay-by alongside York Road. The site is not within a conservation area and no buildings in the immediate vicinity are listed. The whole of the application site is within Flood Zone 1 which is the lowest flood risk category. The garden had a sizeable pond that was in-filled in 2012.

## 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. Relevant local plan policies are listed in section 2.2 of the report.

## 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 is used as a domestic garden, its size in relation to the host house is very large. 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. Given the need for new housing, the size and

sustainability of the site and the NPPF's presumption in favour of sustainable development, it is considered 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 application site is within a residential area, with a range of housing types and sizes. However, within this area are a number of different forms of development. The main concern of the previous application was that the substantial gardens of some of the houses in the area (particularly the application site) provide a sense of openness and relief from more-recent higher density residential development in the area. The application site was therefore seen as making a significant contribution to the character of the area. That remains the position but the considerations are finely balanced. The previous scheme was, on balance, unacceptable and was refused. The current application has reduced the number of units at the western end of the site from three to two and moved the most-easterly house a further 2m into the site, i.e. further from any public viewpoint. Although the footprint of the two westernmost houses is not materially different from the three houses previously proposed their overall mass is less (due to a greater proportion of the houses being single-storey). Furthermore the revised layout enables slightly more green space to be retained where it is most significant, i.e. along the line of sight from the public highway at York Road. On balance officers consider that the scheme is sufficiently improved to justify approval.

## IMPACT ON NEIGHBOURING RESIDENTIAL AMENITY

4.8 The proposed access would pass to the side of the host house. Two secondary windows of the host house would face the new drive at a separation distance of approximately 3m. Between the access and host house would be a new brick wall and an area of landscaping. Officers consider that the access arrangement is acceptable and would not result in a significant loss of amenity for residents of the host house through noise or disturbance.

4.9 The proposed development includes houses close to site boundaries. A number of garden areas back onto the application site and therefore any development would have some impact on amenity. Plots 3 and 4 would face towards the rear gardens and elevations of houses along Eastfield Avenue. The rear elevations of the houses at plots 3 and 4 would face the garden of 198 York Road. Whilst these dwellings would be visible from the gardens of these neighbouring houses and windows would be visible the level of separation is sufficient to not cause a loss of privacy or appear so overbearing as to justify refusal of the planning application under policy GP1.

4.10 The relationship between the western end of the site and houses along Eastfield Avenue, Sunnydale, and Pinelands is much more constrained. The gardens of these existing houses are small so the location of new dwellings at this end of the site needs careful consideration. The previous application comprised three houses at this end of the site (plots 1-3). In the current application the houses have been replaced by two (plots 1 and 2). The most affected occupiers are at No.27 Pinelands. The house nearest No.27 (plot 2) is proposed to be within 2m of the boundary. When the application was first submitted the element nearest the boundary was a narrow single-storey projection. Since submission, plots 1 and 2 have been swapped and handed so that the element nearest the boundary is now a single-storey double garage. The new house type, together with the oblique angle, has improved the juxtaposition of the two houses and the impact on the occupiers of No.27.

4.11 Plots 1 and 2 face the rear gardens of houses at nos 2 and 3 Sunnydale. The new houses would be at least 11m from the boundary and at least 21m from the main elevations of the existing houses. These houses face the application site obliquely. The combination of the separation distances and the oblique outlook are sufficient to prevent significant overbearing or overlooking. The house at plot 1 would be less than 2m from the boundary with nos 10-14 Eastfield Avenue. The main elevations of these houses would be at least 30m from the house at plot 1. This distance is sufficient to prevent any significant overbearing or overlooking.

4.12 Subject to an appropriate condition not allowing new openings on the side elevations of plots 1 and 2 it is not considered that there would be a loss of privacy or outlook sufficient to justify refusal of the application.

## LANDSCAPE

4.13 The site is exceptionally large relative to neighbouring gardens and most of the vegetation is along the garden perimeter. The northern boundary is marked by a mixed hedge including Elder and Holly and the western boundary is marked by a privet hedge. The trees around the perimeter are not in themselves worthy of protection by way of a tree preservation order (TPO) but some of the young trees are suitable for incorporation into a final landscape scheme. Whilst the submitted plans show trees along the perimeter as being retained it is likely that some would

be removed by future owners. Nevertheless the potential loss of these trees, which would otherwise provide an element of screening is not, on its own, sufficient reason for refusal. Some of the trees are likely to be retained and some replacement landscaping is to be provided along the southern boundary. This is the side that is visible from the public highway at York Road. Landscaping in this location would help to retain some element of the site's current green character.

## DRAINAGE

4.14 The application site is within flood zone 1 and should therefore not suffer from river flooding. The applicants are proposing the use of underground storage tanks which would collect surface water and would release it at a controlled rate into the existing drainage system. At present the site is green and undeveloped and therefore any development has the potential to increase the amount and speed of surface water runoff unless it is adequately controlled. This principle is considered acceptable by the flood risk engineers. A substantial amount of drainage information has been submitted with this application (and the application before it) and has been considered by the council's flood risk engineer. He is content that the site could be properly drained.

4.15 Some neighbouring residents remain concerned that the infilling of the pond is the cause of drainage problems in the vicinity of the site. No evidence has been provided to support it. In particular there is no evidence that the site was raised when the pond was filled in 2012 nor that the land drain (at the south-west corner of the site) is not functioning. Irrespective of any pre-existing drainage problems, the applicant proposes to drain the whole site and attenuate the surface water run-off to the level required by the council and the internal drainage board. A condition should be attached requiring drainage details to be submitted for approval and implemented.

## HIGHWAY MATTERS

4.16 The four dwellings would be served from a private drive which accommodates 2-way traffic by means of a passing place within the site and provides turning facilities. Each dwelling has a garage capable of accommodating cars and cycles. The level of traffic generated by the proposals would not have a material impact on the adjacent highway network. Adequate visibility is achievable at the access onto the highway.

## CONTAMINATION

4.17 Some objectors have raised concerns that the type of material used to fill the pond in 2012 is not known and may be contaminated. The subsoil was sourced from a greenfield site at Crayke Road, Easingwold and the topsoil was sourced from the same supply as was used for a development at Brecks Lane. That topsoil had

previously been tested and found to be free from contamination. The council's contamination officer is content that contamination is very unlikely to be present at the application site.

4.18 However, the council's records show that another pond was on the application site had been infilled in the 1950s. The council has no information about that material so the applicant should be required to carryout a contaminated land investigation and to remediate the site as necessary. Risk of contamination is not sufficient reason to justify refusal of the application.

## FINANCIAL CONTRIBUTIONS

4.19 The application requires a contribution of £11,344 towards off-site open space and £11,984 towards education (policies L1c and ED4 respectively of the local plan). The applicant has agreed to make the contributions and is in the process of submitting a unilateral undertaking to that effect. Members will be updated at the meeting.

## 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 pay the required contribution towards open space and education totalling (£23,328).

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

2 PLANS1 Approved Drawings

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 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 southern elevation of the house at Plot 1 or the northern elevation of the house at Plot 2 without the prior written approval of the local planning authority.

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

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properties.

5 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with these approved details. They shall include:

- a. Calculations and invert levels to ordnance datum of the existing foul and surface water system together with calculations and invert levels of the proposals for the new development.
- b. Surface water drainage proposals. Peak run-off from the development shall be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable areas). Storage volume calculations, using computer modelling, shall 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 shall also include an additional 20% allowance for climate change. The modelling shall use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.
- c. Evidence of the suitability of the proposed outfall from the site.

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

6 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - ground waters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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.

7 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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.

8 Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and 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.

9 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, 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 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. Such a statement shall include at least the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

11 HWAY18 Cycle parking details to be agreed -

12 HWAY19 Car and cycle parking laid out -

13 HWAY40 Dilapidation survey -

14 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A (enlargements or extensions), B (additions or alterations to the roof), E(a) (garden buildings or structures) and F (provision of hard surfaces) 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 the retention of protected trees and other landscaping 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 1995.

15. No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a **detailed landscape scheme** which shall include the species, stock size, planting details and position of trees, shrubs and other plants as compensatory planting for the loss of trees. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme.

Reason: In the interests of the privacy of adjacent occupiers and the character of the area.

16. Before the commencement of development including importing of materials and any excavations, a method statement regarding protection measures for the existing trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details of protective fencing, site access during clearance earthworks and construction, 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 storage of materials; construction details in specific areas to minimise impact on trees.

Reason: To protect existing trees which as a whole contribute to screening development on the site from adjacent occupiers and make a significant contribution to the amenity of the area.

## **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 layout, sought further drainage information from the applicant and attached appropriate conditions to the approval, thus enabling a positive outcome to be achieved.

## 2. 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.

## 3. 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 financial contributions of £11,344 towards off-site open space and £11,984 towards education.

### **Contact details:**

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