

COMMITTEE REPORT

Date: 6 September 2018 **Ward:** Fishergate
Team: Major and **Parish:** Fishergate Planning
Commercial Team Panel

Reference: 18/01381/FUL
Application at: 115 Fulford Road York YO10 4ET
For: Erection of dormer bungalow with cycle/refuse store and air
source heat pump (resubmission)
By: Mr & Mrs Breene
Application Type: Full Application
Target Date: 11 September 2018
Recommendation: Approve

1.0 PROPOSAL

1.1 The application seeks permission for the erection of a three bedroom detached bungalow within the rear garden of 115 Fulford Road. The dwelling would sit to the rear of the site with it's main aspect facing the rear of 115 Fulford Road. The dwelling would provide living accommodation to the ground floor with a third bedroom located within the roof space. Access would be from a narrow drive off Kilburn Road.

1.2 The application is the resubmission of a previous scheme which was refused at Area Sub Committee on 7th June 2018 for the following reason:

'The proposal is considered to be an overdevelopment of a backland site which because of its plot coverage and massing would be out of character with the established pattern of development and would have an overbearing impact that would be harmful to the living conditions of neighbouring residential properties.

The proposal is considered to be contrary to policy D1 of the Publication Draft Local Plan 2018 which states that development proposals should demonstrate that the resultant density will be appropriate for its neighbouring context and that the proposal does not dominate other buildings. The proposal would also be contrary to the National Planning Policy Framework which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17) and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area (paragraph 64).'

1.3 The main alterations are as follows:

- Length reduced to the boundary with 113b Fulford Road from 15.2m to 11.9m with a small 2.5m flat roof cycle store proposed in place of the previously proposed garage
- Gable end retained at 5.2m
- Ridge reduced from 5.2m to 4m
- Inset from the boundary with 7 Kilburn Road by an additional 0.8m increasing the distance to 1.8m

RELEVANT SITE HISTORY

00/02106/FUL Erection of detached bungalow with access from Kilburn Road
Approved 09.10.2000

05/00500/FUL Renewal of planning permission 00/02106/FUL for erection of detached bungalow with access from Kilburn Road Approved 04.05.2005

10/00798/FUL Erection of dwelling (Application to extend time period for implementation of permission 05/00500/FUL) Approved 18.06.2010

CALL-IN

1.4 The application has been brought to committee at the request of Cllr A D'Agorne on the grounds that the site is of an insufficient size, the dwelling would dominate the outlook from neighbouring properties and that there is uncertainty about the ownership of the access

2.0 POLICY CONTEXT

2.1 Publication Draft Local Plan (2018)

Policy D2	Landscape and setting
Policy D1	Placemaking
Policy ENV5	Sustainable drainage

2.2 City of York Draft Local Plan (2005)

CYGP1	Design
CYGP10	Subdivision of gardens and infill devt
CYH4A	Housing Windfalls

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 No objections subject to conditions

Highway Network Management

3.2 The site has historic planning permission for a similar dwelling, with similar parking arrangements including turning space and a garage located at the end of the drive. The access is served by an existing dropped crossing. No significant changes have arisen since these previous approval and no objections are raised.

Design, Conservation and Sustainable Development (Heritage Project Officer)

3.3 The development site lies within an area of archaeological interest. Roman funerary, Anglian occupational and Medieval deposits exist in the wider vicinity particularly to the north-west. It is possible that this range of archaeological deposits extends along Fulford Road.

Flood Risk Management Team

3.4 The drainage report states that foul water will discharge to public combined water sewer. In terms of surface water disposal, our knowledge of the sub-soil conditions would not support the use of soakaways and a watercourse is remote from the site. As stated in the report, surface water will discharge to public sewer via storage with restricted discharge of 1.5 (one point five) litres/second. This will include dwellings, associated garages and driveways.

EXTERNAL

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3.5 The size of the building is too big for the enclosed nature of the plot and is clearly an overdevelopment of the site. It will be detrimental to the neighbouring residential properties.

Neighbours Notification and Publicity

3.6 Ten responses raising the following objections

- Building too big for the site
- Due to raised land there will be overlooking, loss of light and loss of privacy

- Overdevelopment of the backland site
- Loss of green space and trees
- Dangerous precedent to set
- Large sites becoming available soon for development
- Parking is an issue in the area
- Vehicular access will be limited due to on street parking
- Access would cause a nuisance to residents
- Existing drainage system can not cope
- Construction vehicles will cause problems

One letter of support received

4.0 APPRAISAL

4.1 Key Issues

- Principle of the development
- Design and character
- Amenity issues
- Highways considerations
- Flood risk

4.2 The National Planning Policy Framework (July 2018) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. For decision making this means approving development proposals that accord with an up-to-date development plan without delay or, where there are no relevant development plan policies, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

4.3 Paragraph 38 states that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. It goes on to say that they should seek to approve applications for sustainable development where possible. Paragraph 59 states the Government's objective of significantly boosting the supply of homes.

Publication Draft Local Plan (2018)

4.4 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 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);

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- 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).

4.5 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The following policies are relevant to consideration of this application:

- Policy D1 Placemaking. This policy supports development proposals where they improve poor existing urban and natural environments; enhance York's special qualities and better reveal the significances of the historic environment. Detailed design issues should be addressed by development proposals.
- Policy D2 Landscape and setting. Development proposals will be supported where they demonstrate an understanding of the local landscape character and its contribution to the setting and context of the city and surrounding villages. This landscape quality and character should be conserved and enhanced.
- Policy ENV5 Sustainable drainage. This policy includes detailed drainage requirements for site drainage and a preference for SUDS. Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) (DCLP)

Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) (DCLP)

4.6 This plan is not adopted policy but was approved for Development Management purposes. Policies in the DCLP carry very little weight but are capable of being material considerations in the determination of planning applications where these are consistent with those in the NPPF. Policies GP1 Design, GP10 Subdivision of gardens and infill development and H4a Housing windfalls are all relevant

PRINCIPLE OF DEVELOPMENT

4.7 The proposal is for a residential dwelling within the urban area. Paragraph 70 of the NPPF states that LPAs should consider setting out policies to resist inappropriate development of gardens, particularly where this would cause harm to the local area. The emerging Local Plan does not contain policy relating directly to this type of infill development, however D1 and D2 are of some relevance. Policy GP10 of the DCLP allowed for garden development where it would not be detrimental to the character

and amenity of the local environment. In this instance the proposal sits comfortably within a similarly sized plot to the host property. The density of the development is appropriate and the proposed use fits with the character of the area. The proposal is considered acceptable in principle subject to other material planning considerations.

DESIGN AND CHARACTER

4.8 The application site forms the existing rear garden of 115 Fulford Road. It is bounded to the north by a 1.8m close boarded fence with mature hedges to the east and west boundaries. A long single storey extension also runs along part of the eastern boundary to a neighbouring property. An existing detached single storey dwelling lies immediately to the north which was erected within the rear garden of 113 Fulford Road which was erected in 2002. The area is a mixture of two storey and single storey dwellings.

4.9 Planning permission was originally granted for a detached dwelling on the site in 2000 and subsequently renewed. The last approval expired in June 2013. Permission was refused in June 2018 for the erection of a dwelling on site. The current scheme is smaller than the previously refused scheme. The dwelling would still lie between the north and south boundaries with the main aspect facing onto the rear elevation of 115 Fulford Road. The main bulk of the dwelling would lie immediately adjacent to the existing single storey dwelling at 113b Fulford Road and this would be constructed with a gable end facing 115 Fulford Road at the same height of 5.2m. However, the ridge height running from north to south, across the site, has been reduced from 5.2m to 4m. The rear section, along the northern boundary, has been reduced in length from 15.2m to 11.9m. The attached garage has been deleted from the scheme and 2.5m flat roof cycle store has been provided. The southern extent of the dwelling, adjacent to the garden with 7 Kilburn Road, would still be constructed with a flat roof with an eaves of 2.4m but would be at a distance of 1.8m as opposed to the previous scheme which sat 1m away.

4.10 The previous scheme was refused on overdevelopment of the site due to its plot coverage and massing which was considered to be out of character with the established pattern of development. The massing of the dwelling has since been reduced, the height lowered and the footprint reduced. The immediate vicinity of the site is relatively built up, primarily due to the neighbouring backland development and properties facing onto Maida Grove, Fulford Road and Kilburn Road. To the east of site long undeveloped gardens are characteristic. The development of this site would not push the built form into this open area and would infill an area which is developed to three sides and further enclosed by a long single storey extension to the eastern boundary. As such the scheme would not appear to have any detrimental impact upon the character of the area. Amenity space is provided around the proposed dwelling and it sits comfortably within the site.

RESIDENTIAL AMENITY

4.11 One of the core principles of the planning system outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants. In terms of neighbouring residential amenity objections have been raised in connection with the previous submission and its potential impact upon the amenities of the neighbouring residents at 113b Fulford Road and 7 Kilburn Road.

4.12 Number 7 Kilburn Road lies immediately to the south of the proposed dwelling. It comprises of a dormer bungalow located on lower lying land and has a rear garden of approximately 5.4m. The boundary with the application site comprises of a mature hedge adjacent to the development. The scheme proposes a flat roof element with a height of 2.4m set in from the boundary by approximately 1.8m. 7 Kilburn Avenue has a kitchen and dining room window present to the rear elevation which lies to the south of the development and as such there would be no loss of direct light. The previous scheme indicated a roof hipping away from 7 Kilburn Road at a height of 5.2m. The now reduced height of 4m would considerably reduce the bulk of the dwelling and reduce the impact further. Whilst the neighbouring site lies on lower lying ground the majority of the dwelling would be hidden from view by the existing hedge and any line of sight would be above the ridge of the dwelling. It is therefore considered that the development would not be over-dominant or overbearing.

4.13 The dwelling to the north lies on higher lying land. Again the scheme has been amended to reduce the length of the rear element which lies immediately adjacent to the neighbouring conservatory. The increase land level of the neighbouring site means that there would be limited impact upon the amenities of this property in terms of overshadowing or overdominance.

HIGHWAY SAFETY

4.14 Access to the site would be off a private drive from Kilburn Road. The access is approximately 3m wide and runs between the boundaries of numbers 7 and 9 and is separated by a high fence. Concerns have been expressed that the land is not within the ownership of the applicant. Whilst Land Registry indicates that the access is unregistered the applicant has supplied information which indicates that they have a long standing right of way over the land as outlined in deeds dating back to 1931 dating back to the previous sites use as a post office.

4.15 The previous approvals also indicated access to the site along this route. The site indicates space for two vehicles on the drive along with space for cycles within the small cycle/refuse store. Adequate space is available to allow for vehicles to turn within the site and leave in a forward gear.

4.16 The NPPF encourages sustainable travel and the location of development in sustainable and accessible locations. The site lies within the urban area, close to an

existing public transport route and within short distance of York city centre. It is not envisaged that one additional three bedroom property would materially increase traffic generation or adversely impact safety on the highway network. As such, the proposal is considered to comply with the general thrust of the NPPF.

FLOOD RISK

4.17 Paragraph 155 of the NPPF states that development should be directed to the areas of low flood risk with paragraph 163 stating that the local planning authority should ensure flood risk is not increased elsewhere. Policy GP15a of the Draft Local Plan supports this approach to flood risk.

4.18 The site lies within Flood Zone 1. A drainage statement has been submitted with the application. If soakaways are deemed to be acceptable due to ground conditions this is the preferred option with permeable paving for all hard surfaced areas. However, if ground conditions are unsuitable for infiltration, the surface water is proposed to connect to the combined public sewer. The proposal to discharge to the public sewer would be at a reduced rate of 1.5 l/s, using a hydrobrake, with geo-cellular surface water attenuation storage of 5.8m³ under the driveway or garden. It is considered that details can be secured by condition

5.0 CONCLUSION

5.1 It is considered that the development of this site for a dwelling is acceptable. The impact on highway safety and the impact upon residential amenity are considered to be acceptable. The erection of a dwelling within this location would not have any detrimental impact upon the character and appearance of the area. As such the application accords with policies contained within the Draft 2005 Local Plan, Publication Draft Local Plan (May 2018) and policy contained within the NPPF

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing numbers F172.01.01 Rev C, F172.01.02 Rev F and F172.01.03 Rev B

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 HWAY19 Car and cycle parking laid out

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5 No groundwork shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological evaluation and, if necessary, excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification approved by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Interest and the development may affect important archaeological deposits including Roman funerary, Anglian occupational and Medieval deposits which must be recorded prior to destruction.

6 EPU1 Electricity socket for vehicles

7 LC4 Land contamination - unexpected contam

8 The site shall be developed with separate systems of drainage for foul and surface water on site

Reason: In the interest of satisfactory and sustainable drainage.

9 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The information shall include site specific details of:

- i) the means by which the surface water discharge rate shall be restricted to a maximum rate of 1.5 (one point five) litres per second, and
- ii) the means by which the surface water attenuation up to the 1 in 100 year event with a 20% climate change allowance shall be achieved

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

10 VISQ4 Boundary details to be supplied

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

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or

alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

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

Reason: To protect the amenities of adjacent residents.

13 The existing hedge to the southern boundary of the site shall be retained. If within a period of five years from the completion of the development the hedge dies, is removed or becomes seriously damaged or diseased it shall be replaced in the next planting season with one of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: In order to protect the amenities of the neighbouring residents and in the interests of the character and appearance of the area.

7.0 INFORMATIVES:

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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 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority attached appropriate conditions in order to achieve a positive outcome.

2. AVOIDING DAMAGE TO THE HIGHWAY GRASS VERGE

Applicants/Developers are reminded that great care should be taken to ensure that no damage to the surface or structure of the public highway is caused, by activities relating directly to the approved development (e.g. delivery of building materials via HGV's). The Council is particularly concerned at the increasing impacts and damage occurring to grass verges. This is detrimental to residential amenity, can present safety issues and places an unreasonable financial burden on the Council, if repairs are subsequently deemed necessary. Therefore, applicants/developers are strongly advised to work proactively with their appointed contractors and delivery companies to ensure that their vehicles avoid both parking and manoeuvring on areas of the public highway (grass verges) which are susceptible to damage. The council wishes

to remind applicants that legislation (Highways Act 1980) is available to the authority to recover any costs (incurred in making good damage) from persons who can be shown to have damaged the highway, including verges. If the development is likely to require the temporary storage of building materials on the highway, then it is necessary to apply for a licence to do so. In the first instance please email highway.regulation@york.gov.uk, with details of the site location, planning application reference, anticipated materials, timelines and volume. Please refer to the Council website for further details, associated fees and the application form.

3. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

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

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

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

(f) There shall be no bonfires on the site

4. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available at:

<https://www.gov.uk/party-wall-etc-act-1996-guidance>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

Contact details:

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