

## COMMITTEE REPORT

**Date:** 5 July 2012                      **Ward:** Strensall  
**Team:** Major and                      **Parish:** Earswick Parish Council  
                    Commercial Team

**Reference:** 12/01059/FUL  
**Application at:** 238 Strensall Road York YO32 9SW  
**For:** Part retention of existing building and alterations to create single storey dwelling (revised scheme)  
**By:** Mr and Mrs R Binns  
**Application Type:** Full Application  
**Target Date:** 9 May 2012  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 The application is for the retention of the existing building with alterations to remove the first storey to create a single storey dwelling. A two storey residential building is present on the site which does not have planning permission.

1.2 The site is within the City of York Green Belt as defined on the Proposals Maps. The site is outside the domestic curtilage of 238 Strensall Road, on land to the rear of the property. There is a dilapidated piggery and a static caravan in close proximity.

1.3 The dwelling has been constructed on the site of a previous outbuilding. The submission states the outbuilding had a larger footprint than the proposed building; however an application submitted in 1992 indicates a smaller footprint. This is confirmed by aerial photographs and OS maps. It would appear that that if there was ever a larger building on the site, then part of it had been demolished for some time. From a previous application (3/35/32B/FA - 1992) the one and two storey outbuilding had a footprint of 5.4 metres by 7.7 metres, at its tallest point it was 6 metres (the roof height ranged from 4.4 to 6 metres). The plans show the proposed building to have a footprint of 10.6 metres by 6.6 metres, although the previous two applications indicate a footprint of 10.8 metres by 6.8 metres (not including the staircase) and the agent has confirmed an area of 73 sq m. The application is to remove the first storey and to retain the ground floor and footprint, rather than demolish the building. The altered building would be 5.4 metres in height. The increase in footprint is approximately 77% over that of the previous outbuilding which was 172 cubic metres in volume. The proposed building would be 290 cubic metres (the agent states a figure of 288.5 cubic metres), an increase of 68.5% (67.3%) in volume over the demolished outbuilding.

1.4 The dwelling/annex has all the facilities for independent living, the existing garden curtilage has not been shown on the plans and the red line has been drawn tightly around the building. Whilst the garden is not referred to in the Planning Statement, Figure 2 does show a garden curtilage still present.

1.5 There have been two previous applications for a two storey residential building on this site. Both applications (11/02102/FUL and 11/03175/FUL) were refused on the same grounds: inappropriate development in the Green Belt and its visual impact. The previous application (11/03175/FUL) came before the committee on 2 February 2012. The latter application together with an enforcement notice is the subject of an ongoing appeal.

1.6 This application differs from the previous applications in that the first storey has been removed; and the garden curtilage may have been removed. The previous application offered to remove the partially collapsed piggery; however this has not been put forward in this application. However as with the previous application the applicants have offered to remove the caravan. The caravan appears to have been on the site for some time although it is not shown in the 2007 aerial photographs of the site. The caravan has a degree of permanency by virtue that it has its own enclosed garden. No application for planning permission for the change of use of the land for the siting of a caravan has been received.

1.7 The application has been called in before committee by Cllr Doughty as he considered the application to be sensitive by virtue of the health condition of the occupant of the building. A site visit has been requested.

## **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:

CYSP2  
The York Green Belt

CYGP1  
Design

CYGP4A  
Sustainability

CGP15A

Development and Flood Risk

CYGB1

Development within the Green Belt

CYGB6

Housing devt outside settlement limits

CYL1C

Provision of New Open Space in Development

### **3.0 CONSULTATIONS**

#### INTERNAL CONSULTATIONS

3.1 ENVIRONMENTAL PROTECTION UNIT - No objections

3.2 COMMUNITIES AND CULTURE - 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 Parish (b) play space - which would be used to improve a local site within the Parish (c) sports pitches - 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.

#### EXTERNAL CONSULTATIONS/REPRESENTATIONS

3.3 EARSWICK PARISH COUNCIL - No comments

3.4 APPLICANT SUBMITTED 3 LETTERS OF SUPPORT FROM NEIGHBOURS

- No detriment to residential amenity
- Improvement on the previous building

3.5 APPLICANT SUBMITTED 2 LETTERS FROM THE STRENSALL MEDICAL SURGERY

- Confirming the personal circumstances of the applicants son

3.6 1 LETTER OF COMMENTS FROM THE NHS COMMUNITY RECOVERY TEAM

- Confirming the personal circumstances of the applicants son
- Finding alternative accommodation may cause a relapse
- The workshop aids rehabilitation

## 4.0 APPRAISAL

### RELEVANT SITE HISTORY

4.1 11/03175/FUL - Erection of two storey live/work annex (retrospective) (resubmission) - Refused, for the following reasons:

'The proposed dwelling is considered to be inappropriate development within the Green Belt. The circumstances provided for the justification of the proposed dwelling are not considered to represent very special circumstances and as such do not overcome the presumption against inappropriate development within the Green Belt. The proposed dwelling, by virtue of its siting and urban appearance is also considered to be out of keeping with the prevailing character and pattern of development in the area and leads to an encroachment of development and as such impacts adversely on the openness of the Green Belt. For these reasons the proposed dwelling is considered to be inappropriate development and therefore is contrary to Policies GB1 and GP1 of the City of York Council Development Control Local Plan (2005); Policy CS1 of the emerging CYC Core Strategy; Policy YH9 and Y1 of the Yorkshire and Humber Regional Spatial Strategy (May 2008); and national planning advice contained within Planning Policy Statement 2 'Green Belts' and Planning Policy Statement 1 'Delivering Sustainable Development'.'

4.2 This application is subject to an ongoing appeal.

4.3 11/02102/FUL - Erection of two storey live/work annex (retrospective) - Refused, for the following reasons:

'The proposed dwelling is considered to be inappropriate development within the green belt. The circumstances provided for the justification of the proposed dwelling are not considered to represent very special circumstances and as such do not overcome the presumption against inappropriate development within the green belt. The proposed dwelling, by virtue of its siting and urban appearance is also considered to be out of keeping with the prevailing character and pattern of development in the area and leads to an encroachment of development and as such impacts on the openness of the green belt. For these reasons the proposed dwelling is considered to be inappropriate development and therefore is contrary to Policy GB1 and GP1 of the City of York Council Development Control Local Plan (2005); Policy CS1 of the emerging CYC Core Strategy; Policy YH9 and Y1 of the Yorkshire and Humber Regional Spatial Strategy (May 2008); and national policy contained in Planning Policy Statement 2 'Green Belts' and PPS1 'Delivering Sustainable Development'.'

4.4 97/00256/FUL - Renewal of change of use and alterations to agricultural building to form one holiday cottage with associated parking and access - Approved

4.5 3/35/52B/FA (1992) - Change of use and alterations to agricultural building to form 1 holiday cottage with associated parking and access - Approved

4.6 3/35/52A/FA (1991) - Change of use and alterations to agricultural buildings to form 5 holiday cottages with associated parking and access - Refused, for the following reasons:

'The proposed development fails to comply with policy H16 of the Draft Southern Ryedale Local Plan regarding conversion of redundant rural buildings to alternative uses and would thereby result in a scheme which would be alien to the quality of the existing buildings on this prominent site and the rural character of the area in general'

'The land lies within the Green Belt for the City of York wherein there is a presumption against any new development other than for agricultural, forestry or recreational purposes, or other uses appropriate to such area, or where there are overriding special circumstances. These criteria have not been met in this case'

4.7 This application was subject of Appeal APP/D2728/A/91/196539/P5 - Part dismissed and part allowed, the development allowed was the conversion of stable/store to one holiday cottage (14.04.1992). There was a condition placed on the decision that the building be used as a holiday let only.

## KEY ISSUES

- Principle of development within the Green Belt.
- Impact on residential amenity.

## ASSESSMENT

4.8 The site is within the City of York Green Belt. The National Planning Policy Framework (NPPF) sets out the purposes of including land within Green Belts including to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment. The protection of the Green Belt is one of the core planning principles of the NPPF (Para 17). The NPPF states the types of development that are appropriate within Green Belts. All other development is deemed inappropriate and therefore harmful to the Green Belt. The NPPF sets out the situations where development that is not inappropriate development in the Green Belt these include: the replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces; and limited infilling or the partial and complete redevelopment of previously developed sites,

whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt and the purpose of including within it than the existing development (Para 89). The NPPF states that the local planning authority should ensure that substantial weight is given to any harm to the Green Belt. The NPPF sets out the 5 purposes of the Green Belt (Para 80) these are: to check unrestricted sprawl of large built up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.9 Policy YH9 and Y1 of the Yorkshire and Humber Regional Spatial Strategy (May 2008) sets out the extent of the City of York Green Belt. However the Coalition Government has made clear its intention to pursue the revocation of Regional Strategies and s.109 of the Localism Act 2011 grants powers to the Secretary of State to revoke the RSS which is a material consideration. The NPPF states that the general extent of Green Belts across the country has already been established. The extent of the Green Belt is detailed on the Proposals Map of the City of York Council Development Control Local Plan.

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

4.11 Policy SP2 'The York Green Belt' in the City of York Council Development Control Local Plan (2005) states that the primary purpose of the York Green Belt is to safeguard the setting and historic character of the City of York.

4.12 Policy GP1 'Design' includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape.

4.13 The boundaries of the Green Belt are detailed on the Proposals Map of the City of York Council Development Control Local Plan and this site clearly falls within the Green Belt. Policy GB1'Development in the Green Belt' reflect advices in the NPPF and the superseded PPG2 in stating that permission for development will only be granted where: the scale, location and design would not detract from the open character of the Green Belt; it would not conflict with the purposes of including land within the Green Belt; and it would not prejudice the setting and special character of the City, and is for a type of development listed as appropriate development. All other forms of development are considered to be inappropriate and very special

circumstances would be required to justify where the presumption against development should not apply.

4.14 The proposed dwelling does not comply with the type of development listed as appropriate within the Green Belt set out in the NPPF or Policy GB1. In addition it fails to comply with the purposes of including land within the Green Belt by resulting in encroachment of development into the Green Belt. As such the proposal constitutes inappropriate development. Very special circumstances must, therefore, be demonstrated to show that the harm to the Green Belt and its purposes is outweighed by other considerations. In order to address this, the agent has outlined the personal circumstances of the occupant. These are that the applicant's son has a mental illness which justifies the retention of the proposed dwelling. The information submitted indicates that the applicant's son is required to live in close proximity for his continuing health and moving from the proposed dwelling may cause a relapse. The position is supported by two letters from the Strensall Medical Practice and a letter from the NHS Community Recovery Team. Whilst there is sympathy for the applicant's case the personal circumstances are not considered to be very special circumstances that overcome the presumption against inappropriate development in the Green Belt. There is particular concern that the permanent nature of the development is likely to long outlast the personal circumstances of the applicant. It is considered that the needs of the applicant could be met by a less permanent form of development which could be removed from the site when the circumstances no longer apply.

4.15 The applicants have also stated that they would accept the removal of the caravan. As previously discussed the caravan has a degree of permanency, no application for planning permission has been submitted for its siting. Whilst the removal of the caravan is considered beneficial, it is considered to have little material weight as it is in any event unauthorised, and without sufficient justification is unlikely to gain planning permission.

4.16 The applicants have stated that they would accept a condition to ensure that the building shall be used as an annex only. However, it is not considered that the dwelling could be reasonably described as an annex. There is significant visual separation between the proposed dwelling and 238 Strensall Road, and it is outside the domestic curtilage of 238 Strensall Road. The design of the dwelling allows for a significant degree of independent living; there are no shared facilities. Whilst it is noted that the accommodation provided includes a workshop etc, it would be easily convertible into a one to two bedroomed dwelling. It is considered to be very likely that in the future the 'annex' as described could readily be used as an independent dwelling unit.

4.17 As the development is considered to be inappropriate development within the greenbelt and the personal circumstances of the applicants' son could not be considered in planning terms to be very special circumstances that would overcome this presumption against development in the Green Belt, the imposition of a personal condition would overcome the presumption against development in the Green Belt. As with an annex condition discussed above, when imposing such a condition the full lifetime of the building has to be considered, not just the requirements of the present occupiers. If and when the applicants move away from the site, it would be difficult to refuse the removal of such a condition, resulting in a dwelling in the Green Belt that would not normally have been granted planning permission and in conflict with green belt policy. Government advice contained within DoE Circular 11/95 ("The Use of Conditions in Planning Permissions") recognises that there will be occasions where it is proposed exceptionally to grant permission for the use of a building or land for some purpose that would not normally be permitted, because there are strong compassionate or other personal grounds for doing so. In such a case the permission should normally be made subject to a condition that it shall ensure only for the benefit of a named person, usually the applicant. However, Circular 11/95 cautions that a personal occupancy condition will scarcely be justified in the case of permission for the erection of a permanent building, as in this case. For this reason it is highly likely that such a condition would be removed on appeal to the Secretary of State.

4.18 The original building on the site did have planning permission for a change of use to a holiday let. However that permission related to a substantially smaller unit and for a conversion not a new build. Although this is considered to be a material consideration, officers consider it to carry only limited weight by virtue of the permission being for the re-use of an existing building (which is no longer there) and for the reason that the planning permission lapsed some time ago.

4.19 The proposed dwelling, by virtue of its larger size than the previous outbuilding clearly impacts on the openness of the Green Belt. The design of the building is urban, which is incongruous within its rural surroundings. In addition the location of the dwelling does not accord with the prevailing character and pattern of development in the area, which is predominantly linear development. As such it fails to comply with Policies GB1 and GP1 of the City of York Development Control Local Plan. The granting of permission could also weaken the Council's case in seeking to prevent erosion of the local character and the Green Belt's status by virtue of opening up the gardens and paddocks to the rear of the dwellings along Strensall Road to development. Although it is recognised that each application is dealt with on a case by case basis it would become more difficult to resist further such development.

4.20 By virtue of the significant distance between the proposed dwelling and the neighbouring dwellings (minimum 45 metres) there is considered to be no loss of residential amenity to nearby residents.

## **5.0 CONCLUSION**

5.1 The proposed dwelling/annex is considered to be inappropriate development within the Green Belt. Whilst there is sympathy for the applicants situation, and given the background to the case, the personal circumstances are not considered to constitute very special circumstances and therefore do not overcome the presumption against inappropriate development within the Green Belt. It is considered that the needs of the applicant could be met by a less permanent form of development which could be removed from the site when the circumstances no longer apply. The proposed dwelling by virtue of its siting and urban appearance is also considered to be out of keeping with the prevailing character and pattern of development in the area and leads to an encroachment of development and as such impacts adversely on the openness of the Green Belt. For these reasons refusal is recommended.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1 The proposed dwelling is considered to be inappropriate development within the Green Belt. The circumstances provided for the justification of the proposed dwelling are not considered to represent very special circumstances and as such do not overcome the presumption against inappropriate development within the Green Belt. The proposed dwelling, by virtue of its siting and urban appearance is also considered to be out of keeping with the prevailing character and pattern of development in the area and leads to an encroachment of development and as such impacts adversely on the openness of the Green Belt. For these reasons the proposed dwelling is considered to be inappropriate development and therefore is contrary to Policies GB1 and GP1 of the City of York Council Development Control Local Plan (2005); and national planning advice for Green Belts contained within the National Planning Policy Framework.

## **7.0 INFORMATIVES:**

### **Contact details:**

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