

## COMMITTEE REPORT

**Date:** 2 February 2012      **Ward:** Wheldrake  
**Team:** Major                      and **Parish:** Wheldrake                      Parish  
                Commercial Team                      Council

**Reference:** 10/01637/FUL  
**Application at:** Newlands Back Lane South Wheldrake York YO19 6DT  
**For:** Erection of a replacement single storey dwelling (resubmission)  
**By:** Mr Simon Crowther  
**Application Type:** Full Application  
**Target Date:** 1 November 2010  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 Members may recall that this application was initially considered at the meeting of the East Area Planning sub-Committee held on 13 October 2011, when it was resolved to defer a decision on the application. This was to enable the submission of a report into the effect of the proposed replacement dwelling on an adjacent ash tree and also to allow further consideration to be given on how natural light could reach the play room and bedroom 3, both of which are located in the proposed basement. These issues are addressed in more detail in the main body of the report at paragraphs 4.2 and 4.3 below.

1.2 "Newlands" comprises a single storey timber panelled dwelling house erected circa 1920, located outside the built development limit of Wheldrake village within the York Green Belt. Planning permission is sought for demolition of the existing building and the erection of a replacement dwelling on an extended footprint including a substantial excavated basement area. The boundaries of the site have been maturely landscaped and the area to the east, west and south is in agricultural use. The area to the north on the opposite side of Back Lane comprises the built up area of Wheldrake village. The property is directly adjacent to the boundary of the Wheldrake Conservation Area.

1.3 Planning permission for a previous scheme for a replacement dwelling without a subterranean basement (ref: 08/02361/FUL) has been refused on the grounds of impact upon the Green Belt, a decision that was subsequently upheld at appeal. A further re-submitted application for a replacement dwelling (ref: 09/01272/FUL) was withdrawn in March 2009 following concerns in respect of its impact upon the Green Belt.

1.4 The application was amended to reduce the area of the proposed basement to an area equivalent to that covered by the existing above ground dwelling.

1.5 The application was called in for determination by the East Area Sub-Committee by former Councillor C Vassie, who considered that there are planning arguments in favour of the proposal which should be considered.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Wheldrake CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

### 2.2 Policies:

CYGB1  
Development within the Green Belt

CYGB5  
Replacement dwellings

CYGP1  
Design

CYGB4  
Extension to existing dwellings in GB

CGP15A  
Development and Flood Risk

CYT4  
Cycle parking standards

CYL1C  
Provision of New Open Space in Development

CYHE2  
Development in historic locations

### **3.0 CONSULTATIONS**

#### **INTERNAL:-**

3.1 Lifelong, Learning and Leisure raise no objection to the proposal subject to a commuted payment being made in lieu of on-site open space provision.

Officer response - this is not considered to be a reasonable request given that the application is for a replacement (albeit larger) dwelling. Policy L1c does not refer to an increase in bedrooms/bedspaces requiring the payment of a commuted sum.

3.2 Highway Network Management raise no objection in principle to the proposal as amended but raise concerns in respect of the level of information submitted with the application relating to onsite car and cycle parking.

3.3 Structures and Drainage Engineering Consultancy object to the proposal on the grounds that insufficient information has been submitted with the application to establish the impact of the proposal upon the local surface water drainage network. A full drainage scheme in respect of the development has subsequently been submitted.

3.4 Environmental Protection Unit raise no objection in principle to the proposal but express concern with respect to the lack of information submitted with the application in respect of potential land contamination. An assessment of potential land contamination has subsequently been submitted.

#### **EXTERNAL:-**

3.5 Wheldrake Parish Council supports the planning application in its amended format.

3.6 No comments have been received from local residents.

### **4.0 APPRAISAL**

#### **4.1 KEY ISSUES:**

- Impact on ash tree;
- Living conditions of future occupiers;
- Impact on the open character and purposes of the Green Belt;
- Impact on the visual amenity of the wider street scene;
- Impact on the local drainage pattern;
- Impact on the safety and convenience of highway users;
- Assessment of the potential fallback position;

## IMPACT ON ASH TREE:-

4.2 Since the deferral of the application in October 2011, a Tree Report has been prepared by Church Hill Trees and Landscapes to assess the impact of the proposed new dwelling on the adjacent ash tree located to the southwest of the application site. The summary of the report is that the ash tree is in good health (Category "A") and has a life expectancy of between 20 and 40 years. The radial root protection area is identified as being 6.6m. Given that the site adjoins agricultural land where further development is unlikely, that distance could be safely reduced by 20% (i.e. approx 5.3m). The report notes that should this distance be achieved, there should be no detrimental impact on the tree as a result of the erection of the dwelling. It goes on to say, however, that the siting of the dwelling further away than the recommended minimum distance could only be beneficial to the health of the tree and will resolve any practical difficulty on site when construction starts, as a result of the need to incorporate tree protection measures. Given that the applicant has no wish to prejudice the retention of the tree, a revised plan has been submitted which incorporates the full separation distance of 6.6m. This is considered sufficient to avoid any potential harm to the tree and avoid undue conflict during the construction process. The Council's Landscape Architect raises no objections subject to a condition requiring a method statement to be submitted and approved.

## LIVING CONDITIONS OF FUTURE OCCUPIERS:-

4.3 So far as the provision of natural light to the basement area is concerned, the applicant proposes to use toughened glass covers to the light wells, which obviates the need for an external safety enclosure, thus increasing light levels within the rooms concerned. Details have been submitted of how this system would be achieved. A further change is the replacement of the external ladder entrance/exit from the basement level with a staircase. A glass balustrade would be incorporated in order to maintain light levels. This would supplement the internal stair and provide an alternative means of exit from the building.

## IMPACT ON THE GREEN BELT:-

4.4 Policy GB1 of the City of York Draft Local Plan sets a firm policy presumption against new development in the Green Belt unless the scale, location and design of such development 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 is for one of a limited number of purposes felt to be appropriate in the Green Belt including the limited extension, alteration or replacement of existing buildings. This reflects Central Government Policy Guidance in respect of Green Belts outlined in Planning Policy Guidance Note 2 "Green Belts" (PPG2), the broad thrust of which is repeated in the Government's Draft National Planning Policy Framework. Policy GB5 of the Draft Local Plan further clarifies the position indicating that permission

would be forthcoming for a replacement dwelling in the Green Belt (or open countryside) on a one for one basis providing the new dwelling would be located as close as possible to the site of the original dwelling or located on a site which better relates to other existing development in the area and is of a matching size and scale to that being replaced.

4.5 The original proposal envisaged the erection of a bungalow some 13.3 x 9.2 metres in area with a 17 x 9.2 metre basement. This would be a very substantial increase over and above the existing built footprint of 11.3 x 5.2 metres. Whilst it is acknowledged that the existing property is modest in size Green Belt Policy does not allow for significant increases in living space. The proposed house when complete would be some 474% bigger than that existing. Even though the basement will be below ground it still forms part of the living accommodation of the new dwelling and must be included within this comparison. The test in PPG2 is a simple one in that it relates to disproportionate additions over and above the size of the original dwelling and this would include basements. This is an approach that has been endorsed through several recent court judgements in respect of proposals for replacement dwellings within Green Belt areas.

4.6 With the associated excavation and surrounding domestic paraphernalia the property would become highly visible in the surrounding landscape. The existing building is the only property along the south side of Back Lane and it clearly relates more readily in visual terms to the surrounding open countryside than to the built development to the north. In the resubmitted design the ridge height of the proposed property has been significantly reduced from 6.1 to 4.6 metres however this does not in any way out-weigh the significant damage to the openness of the Green Belt caused by the significant increase in built footprint. By being so substantially larger in scale, it is considered that the proposed dwelling would harm the openness and visual amenity of the Green Belt, and would thus result in inappropriate development which is, by definition, harmful to the Green Belt. Thus the proposal would conflict with Central Government Planning Guidance in respect of Green Belts outlined in PPG2, and Policies GB1 and GB5 of the Draft Local Plan.

4.7 The proposed amendments to the submitted scheme incorporate a reduction in size of the basement area so that it more closely reflects the built footprint of the existing above ground structure. It should be noted that the amended footprint at 9.4 x 13.7 metres represents a slight but significant increase on that applied for previously. Notwithstanding the reduction in the size of the proposed basement the issue of the disproportional increase in the area of living accommodation remains. The proposal as amended envisages the construction of a bungalow some 9.4 x 13.7 metres with a slightly larger basement allowing for the construction of suitable light wells. This would result in the construction of a building some 10.5 sq metres smaller in terms of floor area than previously envisaged. It is not considered that this modest reduction would not make a material difference to the unacceptability of the proposal in Green Belt terms. The dwelling would still be some 456% larger in terms

of its floor area. In submitting the revised proposal the applicant has highlighted a number of appeal cases where significantly larger replacement dwellings have been allowed in Green Belt areas elsewhere, however in each case special circumstances relating to the site were advanced by the appellant and in no case was the disparity between the existing and proposed site area as great as that proposed in this case.

#### IMPACT ON VISUAL AMENITY OF THE WIDER STREET SCENE:-

4.8 Policy GP1 of the Draft Local Plan sets a firm policy presumption in favour of new development which respect or enhance the local environment, are of a layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area. The existing dwelling by virtue of its scale, massing and use of materials set within a mature landscaped boundary sits well within the surrounding street scene. The proposed dwelling by contrast with its substantially increased surface area would have a significant detrimental impact upon the wider street scene by virtue of the level of excavation required and the resulting greatly increased footprint. Indeed the level of excavation required to create the proposed basement for the property would seriously compromise the health of the mature landscaping surrounding its boundaries further eroding its townscape value. Thus the proposal would conflict with Policy GP1 of the Draft Local Plan.

#### IMPACT ON LOCAL DRAINAGE PATTERN:-

4.9 Policy GP15a) of the York Development Control Local Plan states that developers must satisfy the Local Planning Authority that any flood risk arising from a proposal may be successfully managed with the minimum environmental effect and ensure that the site can be developed, serviced and occupied safely. The proposal envisages a substantial degree of excavation which presupposes a material degree of disruption to the local pattern of surface water drainage. A detailed drainage scheme for the proposal has been submitted to deal with earlier concerns and this is judged to be acceptable.

#### IMPACT ON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.10 The application site is accessed off a narrow single track country lane close to the junction with Low Well Park. No information has been forthcoming in relation to the nature of the access to the site or the location of car and cycle parking within the site. Policy T4 of the York Development Control Local Plan does furthermore specify that cycle parking should be provided within new developments in accordance with the adopted standards. The information has been requested but no information has been forthcoming and it has not proved possible to establish the impact of the proposal on the local road network. However given the proposal is for a replacement dwelling, albeit a larger one, it is unlikely that any increased traffic would have an adverse impact on highway safety.

## IMPACT OF THE POTENTIAL FALLBACK POSITION:-

4.11 As part of the supporting submission for the proposal the applicant draws attention to the potential impact of the "fallback position" which could be carried out in the event that the current application would be refused. This comprises the full utilisation of the domestic permitted development rights for erection of extensions. In order for the "fallback" position to be taken into account as a material consideration, there must be a reasonable prospect of the development being undertaken in that form. A development utilising the full range of permitted development rights for extensions would still be significantly smaller than the area of expansion currently proposed even with the post submission amendments in place. It also has to be borne in mind that any extension undertaken under permitted development rights should clearly reflect the design and palette of materials of the existing building. The issue of permitted development extensions was considered by the appeal inspector and discounted as a justification as it is 'by no means certain that such development would take place in the event of planning permission for the appeal scheme being withheld'. There is no change in circumstance with this application.

## 5.0 CONCLUSION

5.1 Further information has been submitted in relation to the impact of the development on the adjacent ash tree and a revised plan has been submitted which incorporates the recommendations of the submitted tree report. In addition, changes have been made to the light wells in order to increase levels of natural light to the basement area.

5.2 However, the replacement dwelling remains significantly larger in size and scale than the house it is intended to replace. This is considered to be inappropriate development in the Green Belt which would be both harmful to the openness of the Green Belt and to the visual amenity of the wider street scene. This is contrary to Central Government Planning Guidance in respect of Green Belts outlined in paragraphs 3.4 and 3.6 of PPG2 together with Policies GB1 and GB5 of the Draft Local Plan. A detailed drainage scheme has been submitted in respect of the development following the receipt of earlier concerns. This is felt to be broadly acceptable but it does not detract from the remaining serious concerns in respect of the impact of the proposal upon the openness of the Green Belt or the visual amenity of the local street scene. The applicant within the submitted scheme has drawn attention to the potential "fallback position" of extending the existing building under the residential permitted development rights attaching to the site. This issue was raised at the previous appeal and discounted on the basis that in order to benefit from the "fall back" position then there must be a reasonable prospect of that development being carried out. For these reasons, officers continue to recommend that the application be refused.

## **6.0 RECOMMENDATION: Refuse**

1 The replacement dwelling would be materially larger and disproportionate in size, scale and massing than the house being replaced. This is considered inappropriate development in the Green Belt. Furthermore the new dwelling, by virtue of its far larger size, scale and massing would harm the openness of the Green Belt and substantially alter the character of the site at this point. This is contrary to Central Government Planning Guidance in respect of Green Belt areas outlined in paragraphs 3.4 and 3.6 of Planning Policy Guidance Note 2 "Green Belts" and Policies GB1 and GB5 of the City of York Draft Local Plan.

2 The proposed development, by virtue of the re-profiling of the application site and the resultant substantial increase in built footprint together with the significantly closer proximity of the new dwelling to the street frontage, would have a significant adverse impact upon the visual amenity of the wider street scene and in close proximity to the Wheldrake Conservation Area contrary to Policy GP1 of the City of York Draft Local Plan.

### **Contact details:**

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