

## COMMITTEE REPORT

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

**Reference:** 11/03175/FUL  
**Application at:** 238 Strensall Road York YO32 9SW  
**For:** Erection of two storey live/work annex (retrospective)  
(resubmission)  
**By:** Mr and Mrs R Binns  
**Application Type:** Full Application  
**Target Date:** 25 January 2012  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 The application is for the erection of a dwelling including a workshop. The development is described as an annex as this is how the development has been described by the agent. The application is retrospective.

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, sited 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 agent states the outbuilding had a larger footprint than the dwelling; 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 two storey building has a footprint of 6.8 by 10.8 metres (not including the external brick staircase) and a height to the roof ridge of 8 metres. The increase in footprint is approximately 76.7%. The dwelling/annex has all the facilities for independent living and a garden curtilage has been created with a post and wire fence, although a brick wall is proposed.

1.4 The application is a resubmission of a previous application (11/02102/FUL) that was refused on the grounds of being inappropriate development in the Green Belt and its visual impact. The difference in this application is that the applicant has offered to demolish the piggery and remove the caravan from the rear paddock. The piggery is partially collapsed. By virtue of the state of the building it is considered to

be unusable for any purpose. 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 siting of a caravan has been received.

1.5 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

##### 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

EARSWICK PARISH COUNCIL - No objections

- Request that there is a retrospective open space payment

APPLICANT SUBMITTED 3 LETTER OS SUPPORT FROM NEIGHBOURS

- No detriment to residential amenity

- Improvement on the previous building

### **4.0 APPRAISAL**

#### RELEVANT SITE HISTORY

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'.

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

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

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 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)

## KEY ISSUES

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

## ASSESSMENT

4.1 National planning policy contained within Planning Policy Statement (PPS) 1 'Delivering Sustainable Development', states that good design is indivisible from good planning. Design which is inappropriate within its context, or which fails to take opportunities for improving the character and quality of an area or the way it functions should not be accepted. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.2 PPS3 supports PPS1 with regards to high quality new housing and encourages sustainable and environmentally friendly new housing development. When well designed and built in the right location, new housing development can enhance the character and quality of an area.

4.3 PPS7 'Sustainable Development in Rural Areas' states that while the policies in PPG2 continue to apply in Green Belts, local planning authorities should ensure that planning policies in Local Development Documents address the particular land use issues and opportunities to be found in the countryside around all urban areas, recognising its importance to those who live or work there, and also in providing the nearest and most accessible countryside to urban residents. Planning authorities should aim to secure environmental improvements and maximise a range of

beneficial uses of this land, whilst reducing potential conflicts between neighbouring land uses.

4.4 PPG2 sets out that there are five purposes of including land in Green Belts:

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns from 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.

4.5 PPG2 states that the general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. Such development should not be approved, except in very special circumstances.

4.6 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 York Greenbelt is specified in PPG2 and the general extent of the Green Belt is detailed on the Proposals Map of the City of York Council Development Control Local Plan. This is further supported by Policy CS1 of the emerging CYC Core Strategy.

4.7 The relevant development plan is The City of York Council Draft Deposit Local Plan, which was placed on Deposit in 1998. Reflecting points made, two later sets of pre inquiry changes (PICs) were published in 1999. The Public Local Inquiry started in 1999 but was suspended by the Inspector for further work to be done on the Green Belt. A Third Set of Changes addressing this further work was placed on deposit in 2003. Subsequently a fourth set of changes have been drafted and approved by Full Council on 12th April 2005 for the purpose of making Development Control Decisions, on the advice of the GOYH.

4.8 The Core Strategy Submission (Publication) went out for consultation between 26th September - 7th November 2011. The Submission stage of the Core Strategy follows on from the Issues and Options stage which was consulted on in June 2006 (Core Strategy: Issues and Options 1 (2006) and again in August 2007 (Core Strategy: Issues and Options 2 (2007) and the Preferred Options stage (Core Strategy: Preferred Options (2009), which was consulted on from June until August 2009 (but with an extension to allow additional comments until October 2009). The emerging Core Strategy document draws from the responses that were received during the consultation events as well as feeding in the evidence base findings and higher level policy such as national planning policy. As such it is considered to be a material consideration.

4.9 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.

4.10 Planning Policy Guidance note 2 'Green Belts' sets out the purposes of including land within Green Belts and establishes specific categories of development that are appropriate within Green Belts. All other development is deemed inappropriate and therefore harmful to the Green Belt. For such development to be acceptable in Green Belts very special circumstances must be demonstrated to show that the harm is outweighed by other considerations. The boundaries of the Green Belt are detailed on the Proposals Map of the City of York Council Development Control Local Plan (CYCDCLP) and this site clearly falls within the Green Belt. Policy GB1'Development in the Green Belt' of the CYCDCLP follows the advice contained in 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.

4.11 The proposed dwelling does not comply with the type of development listed as appropriate within the Green Belt set out in Policy GB1, and PPG2. 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 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. In the previous application there was no specific evidence that the son had to live in close proximity to his parents. However, the information now submitted indicates that the applicants' son is required to live in close proximity for his continuing health and moving from the proposed dwelling may cause a relapse. This position is supported by two letters from the North Yorkshire and York Primary Care Trust, one from a Consultant Psychiatrist and one from the Assertive Outreach Team. Whilst there is sympathy for the applicants 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.

4.12 The applicant has offered to demolish the partially collapsed piggery. However, the piggery is in a poor state of repair: much of the roof has gone and the walls are in poor condition, and it does not appear that it would be economically viable to repair the building. Whilst the removal of the piggery would be beneficial by virtue of its reduced physical presence, its poor structural condition adds significantly less weight to this argument, and it is considered that its removal would not be sufficient to overcome/outweigh the appearance and impact of the dwelling on the openness of the Green Belt. The applicant has 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 and it is the subject of enforcement action. Again, 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.

4.13 The applicant has stated that they would accept a condition or legal agreement 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, and it has its own curtilage. Whilst it is noted that the accommodation provided includes a workshop etc, it would be easily convertible into a three bedroom dwelling. It is considered to be very likely that in the future the 'annex' could very easily be used as an independent dwelling unit.

4.14 The applicant is also willing to accept a personal condition. However, before imposing such a condition the full lifetime of the building has to be considered, not just the requirements of the present occupiers. 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. 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.

4.15 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.

4.16 The proposed dwelling, by virtue of its larger size clearly impacts on the openness of the Green Belt. The design of the building is particularly urban, and is jarring within its rural surroundings. In addition the proposed dwelling does not fit in with the prevailing character and pattern of development in the area, which is predominantly linear development. The proposed wall around the proposed garden would further compound the built up appearance and presence of the development within the Green Belt. As such it fails to comply with Policies GB1 and GP1 of the City of York Draft Local Plan. The granting of permission could also set a significant precedent 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.

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

## **5.0 CONCLUSION**

5.1 The proposed dwelling 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); 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'.

**Contact details:**

**Author:** Victoria Bell Development Management Officer

**Tel No:** 01904 551347