

COMMITTEE REPORT

Date: 7 June 2012 **Ward:** Heworth Without
Team: Major and **Parish:** Heworth Without Parish
 Commercial Team Council

Reference: 12/00076/OUT
Application at: 3 Whitby Drive York YO31 1EX
For: Residential development of 5no. dwellings with associated
 garages and access (resubmission)
By: Mrs Janet Wheldon
Application Type: Outline Application
Target Date: 30 March 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site comprises a brick built bungalow circa 1960 set within a substantial elevated backland site to the north east of the City Centre. It is accessed from a short cul-de-sac via a small parade of shops on Whitby Avenue. Outline planning permission is sought for redevelopment of the site, including demolition of the existing bungalow, for residential development. All matters other than access are reserved for further determination. The scheme represents a re-submission of an earlier scheme ref: - 10/02751/OUT previously refused by this Committee for the following reason:

"The application site consists of a well established garden forming a valuable green space within the local area. Residential gardens no longer fall within the definition of previously developed land as defined by Planning Policy Statement 3 "Housing"(Revised June 2010), and are therefore no longer considered as a priority for development. It is considered that the development of the site would result in an unacceptable loss of a residential garden ("garden grabbing"), which would be detrimental to the character of the immediate residential environment, contrary to Policies GP1 and GP10 of the City of York Draft Local Plan."

A subsequent appeal to the Secretary of State was not determined as the Inspector considered that insufficient information had been submitted in relation to the proposed scale of the development. This has now been rectified (see below).

1.2 In March 2012 the previously extant Planning Policy Guidance Notes and Planning Policy Statements were replaced by a single document, the National Planning Policy Framework. There has been no change to the definition of previously developed land since the previous refusal, which still excludes residential gardens.

1.4 The applicant has submitted an indicative scheme on the basis of five plots as the maximum allowable in highway terms with access from a private drive. The applicant has furthermore indicated an intention to develop the site with two storey properties. Subsequent to the application being received the applicant has submitted a detailed drainage scheme to address concerns in respect of the surface water drainage of the site. The applicant has also provided an indication of the upper and lower limits for height, width and length of each dwelling. In terms of scale, the dwellings would be two stories in height. No rooms in the roof space are proposed at this time. Typically, all garages would be single storey in height. The eaves heights of the dwellings would be between 5.0 and 5.25 metres, and the ridge heights between 8.5 and 9.0 metres.

1.5 Councillor Nigel Ayre has called in the application for Members of the East Area Planning Sub-Committee to determine on the grounds that it does not comply with Policy GP1 of the York Development Control Local Plan, specifically that it does not allow for a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, does not avoid the loss of open spaces, vegetation, water and other features, which contribute to the quality of the local environment and does not ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking or being dominated by overbearing structures. It furthermore does not comply with Policy GP10 of the York Development Control Local Plan on the grounds that the proposed development would lead to over-development which would be detrimental to the character and amenity of the local environment. He also expresses concern in respect of the sustainability and landscape impacts of the proposal and conflict with Policies NE1, NE8, GP9, GP4a) and H4a) in terms of the loss of mature landscaping within the site. A site visit is required as the application is recommended for approval and there are a large number of objections. In addition, there have been changes to the membership of the East Area Planning sub-Committee since the application was last considered.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

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

2.2 Policies:

CGP15A

Development and Flood Risk

CYGP1
Design

CYGP4A
Sustainability

CYGP9
Landscaping

CYGP10
Subdivision of gardens and infill devt

CYH4A
Housing Windfalls

CYNE1
Trees, woodlands, hedgerows

CYNE8
Green corridors

3.0 CONSULTATIONS

INTERNAL:-

3.1 Highway Network Management raise no objection to the proposal subject to any permission being conditioned to require details of access, parking and turning arrangements be reserved for further approval.

3.2 Environmental Protection Unit raise no objection to the proposal.

3.3 Structures and Drainage Engineering Consultancy raise no objection to the proposal.

3.4 Design, Conservation and Sustainable Development raise no objection to the proposal subject to any permission being conditioned to provide for bats foraging in the vicinity.

EXTERNAL:-

3.5 Julian Sturdy MP for York Outer objects to the proposal on the grounds that the scale and height of the proposed properties would appear incongruous and intrusive in relation to the visual amenity of the wider street scene. He is concerned that the

proposal would amount to garden grabbing and would result in the loss of an open area of significant townscape importance.

3.6 Councillor Nigel Ayre objects to the proposal on the grounds that it would result in the loss of a landscaped area of very significant townscape importance with consequent harm to local biodiversity. It would result in an increase in traffic and on-street parking in the vicinity to the detriment of the residential amenity of neighbouring properties and it would result in a pattern of development totally alien to the locality and oppressive to the residential amenity of properties surrounding the site.

3.7 44 Letters of objection have been received. The following is a summary of their contents:-

- * Concern at the impact of the proposal upon the local pattern of surface water drainage;
- * Concern at the impact of additional traffic generation upon the local highway network;
- * Concern at the impact of the proposal upon the residential amenity of neighbouring properties by virtue of loss of privacy, overlooking and overbearing impact;
- * Concern that the proposal would result in increases in anti-social behaviour in the locality;
- * Concern that the proposal would result in a loss of open space of significant townscape value;
- * Concern that the proposal would result in a pattern of development entirely alien to the locality;
- * Concern at the adequacy of the site access for the numbers of vehicles that the site would generate;
- * Concern at the loss of a number of mature trees of townscape importance with associated wildlife habitat;
- * Concern at the impact of construction noise and traffic on nearby residential occupiers;
- * Concern at the failure to comply with Central Government guidance in respect of the use of gardens as development land;
- * Concern at the possible health impacts arising from the location of bin stores for the new properties;
- * Concern that additional housing in the area is not needed.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- * Impact upon the residential amenity of neighbouring properties;
- * Impact of the proposal upon the visual amenity of the street scene;
- * Impact of the proposal upon the local surface water drainage pattern;
- * Impact of additional traffic generated upon the site access and the local highway network;
- * Impact of the proposal upon local biodiversity;
- * Loss of an important open space of significant townscape value.

IMPACT UPON RESIDENTIAL AMENITY:-

4.2 Policy GP1 of the York Development Control Local Plan states that new developments will be expected to respect or enhance the local environment, be of a density, layout, scale and massing that are compatible with neighbouring buildings, spaces and the character of the area and ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. The proposed development envisages the demolition of the existing bungalow and the redevelopment of the cleared site and its associated garden for housing. The garden area as it stands is large but poorly maintained. The relationship of the existing bungalow and its surroundings furthermore does not sit easily with the adjoining area. To the south in Whitby Avenue the pattern of development comprises bungalows laid out in narrow plots. To the north and north east however the pattern of development consists of fairly substantial two storey properties set within large gardens. The proposal seeks outline planning permission for residential development with all matters other than access reserved. The indicative layout submitted with the proposal indicates a preference for a two storey form of construction, which it is considered would be acceptable for the northern section of the site. Rear gardens 10 metres in length are incorporated which are entirely consistent with the local pattern of development. There is a noticeable change in level to the properties to the south in Whitby Drive, however any impact would be reduced by properties in this area adopting an alternative form of construction be it as conventional or dormer bungalows. Bin stores can be located and the access configuration arranged without detrimental effect arising upon neighbouring properties. It is considered that any impact upon the residential amenity of neighbouring properties would be at an acceptable level and that the proposal would not conflict with Policy GP1 of the Draft Local Plan.

IMPACT OF THE PROPOSAL UPON THE VISUAL AMENITY OF THE WIDER STREET SCENE:-

4.3 Policy GP10 of the York Development Control Local Plan states that planning permission for the sub-division of existing garden areas to facilitate new development will only be forthcoming where it would not be detrimental to the character and amenity of the local environment. Similarly Policy H4a) of the York Development Control Local Plan states that planning permission for housing will be forthcoming on land within the urban area which is presently unallocated where it

involves infilling and the site has good accessibility to jobs and services by non-car modes, the development is of an appropriate scale and density to surrounding development and it would not have a detrimental impact upon existing landscape features. This is consistent with Central Government planning policy in respect of housing outlined in the recently issued National Planning Policy Framework (March 2012). The pattern of development surrounding the application site consists of substantial mainly detached and semi-detached houses in large gardens along Stockton Lane to the north and north east and bungalows set within comparatively small plots to the south and south east. The application site is poorly maintained and poorly related to the existing pattern of neighbouring development. The proposal is in outline with all matters reserved for further approval with the exception of access. No specific form of development is proposed, however a preference for a two storey pattern of development is expressed. Such a pattern would be more characteristic of the area to the north and it would enable the development to harmonise with the surrounding street scene if any development adjoining the properties in Whitby Avenue were single storey.

4.4 In terms of the loss of garden land the area is remote, relatively difficult to access and a recognisable garden function no longer exists. It is considered that to develop the site for five dwellings would not have a material impact upon the visual amenity of the wider street scene and that the terms of both Policies GP10 and H4a) can therefore be complied with.

IMPACT OF THE PROPOSAL UPON THE LOCAL PATTERN OF SURFACE WATER DRAINAGE:-

4.5 Policy GP15a) of the York Development Control Local Plan states that developers must satisfy the Local Planning Authority that any flood risk can be satisfactorily managed with the minimum environmental effect and that the site can be developed, serviced and occupied safely. The application site is within Flood Zone 1 and therefore at a minimal risk of flooding. Much of the eastern and southern sections of the site do however retain water for long periods on the ground surface. The applicant has submitted a detailed scheme which envisages the construction of a series of subterranean storage tanks that would release surface water at a controlled rate without giving rise to a flooding risk for the properties to be constructed or for the surrounding area. The proposal would, therefore, comply with Policy GP15a) of the Draft Local Plan would.

IMPACT OF ADDITIONAL TRAFFIC GENERATION:-

4.6 The application site is accessed via a cul-de-sac leading from a small parade of shops on the northern side of Whitby Avenue. Existing traffic levels in the vicinity are generally light and the illustrative scheme indicates five houses which would be the maximum capable of being accessed from a private drive. The proposal would not

lead to a materially significant increase in traffic in surrounding roads either during construction or when the development is completed and fully occupied.

IMPACT OF THE PROPOSAL UPON LOCAL BIODIVERSITY:-

4.7 Significant concern has been expressed in respect of the potential impact of the proposal upon local biodiversity. Policy NE1 of the York Development Control Local Plan states that trees, woodlands and hedgerows of landscape, amenity and nature conservation value will be protected by refusing development proposals which would result in their loss or damage and requiring trees or hedgerows which are retained on development sites to be adequately protected during site works. Similarly Policy NE7 of the Draft Local Plan states that development proposals will be required to retain important natural habitats and where possible include measures to enhance or supplement these and to promote public awareness and enjoyment of them. The application site consists of a disused garden area that includes a number of mature trees. The applicant has undertaken a detailed tree survey and has agreed to the retention of the significant belt of trees along the northern boundary of the site and to provide an area of additional planting to reinforce the eastern boundary of the site. There is some evidence of bats foraging in the vicinity but there is no indication of a roost within the application site. There is no evidence of other protected species being active within or adjacent to the application site. Subject to appropriate mitigation being incorporated within the development it is considered that it would not give rise to material harm to local biodiversity and that Policies NE1 and NE7 of the Draft Local Plan would be satisfied.

LOSS OF AN OPEN SPACE OF MAJOR TOWNSCAPE IMPORTANCE:-

4.8 Clear and significant concern has also been expressed in respect of the loss of an area of open space of major townscape importance. Policy NE8 of the York Development Control Local Plan states that planning permission will not be forthcoming for development which would destroy or impair the integrity of green corridors and "stepping stones". The application site comprises a secluded garden area in a poor state of repair and maintenance. It is not clearly visible in public viewpoints and it does not contain any particular features of townscape merit. The development of the site for housing at a density and layout comparable with the adjoining area with suitable landscaping is considered, therefore, to be appropriate.

5.0 CONCLUSION

5.1 The application site comprises a brick built bungalow circa 1950 lying in a large disused garden to the north east of the City Centre. Outline Planning Permission is sought for the demolition of the existing house and the redevelopment of the site for housing. All matters other than access are reserved for further approval. The surrounding area comprises large brick built houses set within large gardens to the north and north east and more recent bungalows set within modest gardens to the

south and south east. The application is accompanied by an illustrative scheme that demonstrates that five dwellings can be accommodated on the site without detrimental impact upon the wider street scene. Provided a lower form of development is adopted towards the southern boundary of the site then it is considered that the residential amenity of nearby properties can be adequately safeguarded, and as the existing garden does not have a clearly defined role in townscape terms, the development proposed is considered to be acceptable and approval is therefore recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 OUT1 Approval of Reserved Matters -

2 Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works, and the development shall be carried out in accordance with such details:

Details to be submitted: appearance, landscaping, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

3 VISQ8 Samples of exterior materials to be app -

4 VISQ4 Boundary details to be supplied -

5 The development hereby permitted shall not commence until full details of the proposed vehicular access, turning, parking arrangements and cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be constructed in accordance with the specification so approved prior to the development being first brought into use and thereafter shall be maintained clear of any obstruction which would preclude their intended use.

Reason: - To ensure appropriate on-site vehicle parking facilities, access and manoeuvring areas are provided in the interest of highway safety and the general amenity of the development.

6 No development shall take place until full details of measures for bat mitigation and conservation have been submitted to and approved in writing by the Local Planning Authority.

These measures shall include:-

- i) A plan of how demolition work to the bungalow is to be carried out to accommodate the possibility of bats being present;
- ii) Details of what provision is to be made within the new buildings to replace the features lost through the demolition of the original structure. Features suitable for incorporation for bats include the use of special tiles, bricks, soffit boards, bat boxes, and bat lofts and should substitute for what is existing;
- iii) The timing of all operations.

The works shall be implemented in accordance with the approved details and timing unless otherwise agreed in writing by the Local Planning Authority.

Reason: - To secure the habitat of a protected species in accordance with Central Government Policy in relation to Planning and Biodiversity outlined in the National Planning Policy Framework paragraph 118.

7 The dwellings to be erected on this site adjacent to properties in Whitby Drive shall be single storey in height. No external alterations to the dwellings to incorporate an additional floor shall be carried out following completion or occupation of the buildings without the prior written consent of the Local Planning Authority.

Reason: - To protect the amenities of adjoining residents and to ensure that the development integrates successfully into the area.

8 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the local planning authority. The open space shall thereafter be provided in accordance with the approved scheme or the alternative arrangements agreed in writing by the local planning authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1 of the City of York Draft Local Plan.

INFORMATIVE:

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated in accordance with the schedule contained within the following document: "Commuted Sum Payments for Open Space in New developments - A Guide for Developers" (Approved April 2007). No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

9 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.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the residential amenity of neighbouring properties, impact upon the visual amenity of the wider street scene, impact upon the local surface water drainage pattern, impact of additional traffic generated upon the local highway network, impact of the proposal on local biodiversity and loss of an important open space of townscape value. As such the proposal complies with Policies GP15a), GP1, GP4a), GP9, GP10, H4a), NE1, NE7 and NE8 of the City of York Development Control Local Plan.

2. UNEXPECTED 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.

3. CONTROL OF POLLUTION ACT 1974:-

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

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