

COMMITTEE REPORT

Date: 3 December 2015 **Ward:** Rural West York
Team: Major and **Parish:** Skelton Parish Council
Commercial Team

Reference: 15/01473/FUL
Application at: 3 The Dell Skelton York YO30 1XP
For: Erection of 1no. dwelling with associated access and parking
By: Mrs Ray Leadley-Yoward
Application Type: Full Application
Target Date: 2 October 2015
Recommendation: Approve

1.0 PROPOSAL

1.1 Erection of a detached 3-bedroom, split-level house with a new dedicated access from The Vale and off-street parking for two cars. A domestic greenhouse would be demolished and a summerhouse would be relocated within the site.

1.2 The application has been called in by Cllr Steward due to concerns raised by local resident about proximity of blind bends, instability of the land, drainage problems and potential damage to a main sewerage pipe across the site.

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:

CYGP1 - Design
CYGP4A – Sustainability
CYGP6 – Contaminated Land
CYGP10 – Subdivision of Gardens and Infill Development
CGP15A – Development and Flood Risk
CYH4A – Housing Windfalls
CYNE6 – Species Protected by Law

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections. A new access is to be created to serve two parking spaces, which accord with CYC standards. The access is on the inside of a bend so visibility will be good for vehicles leaving the site. Cycle parking is not detailed but may be conditioned. The concerns [by local objectors] about parking alongside the property will in part be remedied by the addition of the new access as it will deter parking on and opposite the proposed drive. Add conditions regarding cycle storage and car parking.

Design Conservation and Sustainable Development (Ecology)

3.2 There is a pond in the garden of the adjacent property but its suitability for great crested newts is poor. On the application site the main habitat to be lost is amenity grassland which provides sub-optimal terrestrial habitat for amphibians. It is unlikely that the proposed development would impact on protected species. Add an informative reminding the applicant that it is an offence to harm nesting birds.

Design Conservation and Sustainable Development (Archaeology)

3.3 The Dell is situated just outside the historic core of the village of Skelton so groundworks associated with this application may disturb archaeological features related to the medieval village. It will be necessary to record any revealed features and deposits through an archaeological watching brief on all groundworks (condition ARCH2).

Environmental Protection Unit

3.4 No objections. No objections in principle. The council's records show that the site is on land that in 1952 was used for the quarrying of sand, clay and gravel and in 1992 had a filled-in pit. As residential use is vulnerable to contamination standard contaminated land conditions be attached to any approval. Also, in accordance with the council's low emission strategy, add a condition requiring the provision of recharging facilities for electric vehicles.

Flood Risk Management

3.5 No objections in principle. If planning permission is to be granted add conditions to protect the local aquatic environment and public sewer network.

EXTERNAL

Skelton Parish Council

3.6 Objection. Garden grabbing. Harm to the rural environment. Would increase the local housing density in a manner that would destroy the local ambience and the unique nature of this estate. Large gardens are a principle feature of this and the adjacent house.

Public Consultation

3.7 The consultation period expired on 10 September 2015. 17 objections have been received raising the following planning issues:

- Unsafe access due to bends, rat running and parked cars
- Traffic congestion and obstruction of refuse/emergency vehicles
- Density, layout, materials and distinctive appearance
- Potential contamination due to filled-in gravel pit
- Flood risk
- Would exacerbate drainage problems
- Conflict with existing foul drains
- Subsidence/damage to homes/site is unsuitable for development
- Garden grabbing
- Absence of affordable housing
- Impact on Skelton conservation area
- There may be great crested newts in a nearby pond.

4.0 APPRAISAL

4.1 KEY ISSUES

- Use for housing
- Design and appearance
- Highway safety, access and parking
- Flood risk and drainage
- Neighbour amenity
- Biodiversity

PLANNING POLICY CONTEXT

4.2 Section 38 of the 1990 Act requires local planning authorities to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. There is no development plan in York other than the saved policies of the Regional Spatial Strategy relating to the general extent of the Green Belt. (The application site is not within the Green Belt). Although there is no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. Whilst it does not form part of the statutory development plan its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are consistent with those in the NPPF. Local plan policies that remain relevant to the current application are listed at paragraph 2.2 of this report.

4.3 The NPPF is the most up-to date representation of key relevant policy issues and it is against this Framework that the proposal should principally be addressed. The essence of the Framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14).

APPLICATION SITE

4.4 Part of the mature rear garden of a detached dormer bungalow in a residential area. The garden includes some trees (none protected) and a mature hedge along the highway frontages. The southern part of the garden is neglected and overgrown. Immediately to the south of the site is a small electricity substation. Although the property address is 3 The Dell the bungalow faces St Giles Road and the proposed house would be accessed from The Vale. The predominant building types in the area are bungalows and 2-storey houses.

USE FOR HOUSING

4.5 The NPPF requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (section 6). The site is in a sustainable location, within the settlement limit of Skelton and with good access to shops and public transport.

4.6 The NPPF excludes private residential gardens from the definition of previously-developed land. However it has not introduced a general presumption

against the development of gardens, it merely removes this as a positive factor in determining such applications. Local planning authorities are still expected to seek the efficient use of land, which focuses new residential development on sites in sustainable locations, such as the application site. Any scheme still has to be judged against the impact on the character of an area, the impact on adjacent residents and any other material considerations. Policy GP10 'Subdivision of Gardens and Infill Development' states that planning permission will only be granted for the sub-division of garden areas or infilling to provide new development where this would not be detrimental to the character and amenity of the local environment.

DESIGN AND APPEARANCE

4.7 Section 7 of the NPPF requires good design. Paragraph 56 says good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64).

4.8 Policy GP1 'Design' of the 2005 local plan includes the expectation that development proposals will, among other things: respect or enhance the local environment; use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape and incorporate appropriate landscaping. Policy GP10 'Subdivision of Gardens and Infill Development' states that planning permission will only be granted for the sub-division of garden areas or infilling to provide new development where this would not be detrimental to the character and amenity of the local environment.

4.9 The rear garden of No.3 slopes down from the host bungalow. The low-lying section is itself at different levels as a consequence of the site's historic use as a quarry. The split-level design of the proposed dwelling reflects the variations in the topography of the site and would help to minimise the dwelling's prominence. The higher of the two ridges of the proposed dwelling would be no higher than the ridge of the existing dormer bungalow at No.3. The applicant has agreed to this being made a condition of planning permission. The density of development, the height and design of the building and the main materials (stone cladding and render) would not appear out of keeping with the character of the area, which has a range of house styles and materials, including brick, stone, render and timber cladding. Materials should be made a condition of planning permission. In summary the application complies with section 7 of the NPPF and policies GP1 and GP10 of the 2005 local plan.

HIGHWAY SAFETY, ACCESS AND PARKING

4.10 A new access would be created to serve two new parking spaces, which accords with CYC standards. Some objectors are concerned that the proposal is unacceptable because the additional traffic movements, the location of the access, proximity of road junctions and emerging vehicles would, in combination, be a danger to highway safety. In response, the proposed access would be on the inside of a bend so visibility would be good for vehicles leaving the site. The number of additional traffic movements would be very low. Although The Vale follows a winding route it is not part of the strategic highway network, nor is it a rat-run. It is not on a bus route, nor is it normally used by heavy goods vehicles. The road serves the residential streets through which it passes. Drivers who use it are highly likely to know that the road is narrow and winding and, as a result, it requires particular care and attention. Any additional risk to drivers or pedestrians as a result of the proposed house would be negligible. The council's highway officers have no objection to the application.

DRAINAGE

4.11 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere (NPPF, paragraph 100). The site lies within low-risk flood zone 1 and is unlikely to suffer from river flooding. The applicant proposes to reduce the increased surface water run-off rate 70% of existing. This would conform to the council's SFRA, which states that surface water flows from all sites should, 'where practicable', be restricted to 70% of the existing runoff rate i.e. a 30% reduction. The council's flood risk officers are not objecting to the application but require drainage details to be submitted for approval.

BIODIVERSITY

4.12 Section 11 of the NPPF requires local planning authorities to aim to conserve and enhance biodiversity. Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats. Policy NE6 of the 2005 local plan requires that planning permission will only be granted that would not cause demonstrable harm to protected species. Objectors have raised the possibility of great crested newts (GCN) occupying a small pond in the garden of the adjacent house at No.1 The Dell. Whilst GCN are known to occur in garden ponds such as this the suitability for a significant population is much reduced by the presence of barriers to dispersal such as roads. The council's ecologist has examined the pond and (using the accepted methodology) has assessed the likelihood of GCN being present. She found that the suitability of the pond for GCN is poor. The main habitat to be lost on the application site is amenity grassland which provides sub-optimal terrestrial habitat for amphibians. In summary, it is considered unlikely that the proposed development would impact on protected

species, including great crested newts. The application therefore complies with section 11 of the NPPF and policy NE6 of the 2005 local plan.

4.13 The vegetation to be removed offers some potential habitat for nesting birds. If this application is approved an informative should be added drawing the applicant's attention to the requirements of the Wildlife and Countryside Act.

NEIGHBOUR AMENITY

4.14 The NPPF seeks to improve the conditions in which people live (paragraph 9). Also, policy GP1 of the 2005 local plan states that development proposals will be expected to ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. The separation distance between the proposed dwelling and the dormer bungalow at No.3 is 24m. This is sufficient to prevent overlooking of either property. The boundary with the adjacent house (No.1) has a dense screen of planting. The development is unlikely to have any material impact on the occupiers of No.1 or the occupiers of any other neighbouring property and therefore accords with paragraph 9 of the NPPF and policy GP1 of the 2005 local plan.

LANDSCAPE

4.15 The site has an attractive mixed-species hedge along the highway boundary. This is shown as being retained except where the new access would be created. Two of the trees on the site would be lost as a result of the development. Neither tree is the subject of a TPO or worthy of protection.

CONTAMINATION

4.16 The composition of the filled-in gravel pit on the site is not known but the council's environmental protection officers are content that the health of occupiers of the development could be properly protected by the council's standard contamination conditions of approval.

OTHER MATTERS

4.17 The site is not in Skelton Conservation Area nor does it abut it. The proposal would have no conservation impact. The development is too small to require affordable housing. It would be for the developer to identify existing services on the site and to take appropriate action to divert, protect or avoid them. Any subsidence caused by the development would be a private matter between the developer and

respective owners of the affected land. Disturbance of any archaeological deposits can be dealt with by condition.

5.0 CONCLUSION

5.1 The application accords with the national planning policy in the NPPF and relevant policies of the 2005 City of York Draft Local Plan. The application is acceptable subject to the recommended conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with approved plans numbered L/71-PL-01, L/71-PL-02, L/71-PL-04, L/71-PL-05, L/71-PL-06A and L/71-PL-07.

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 The maximum height of the dwelling hereby approved shall be no higher above ordnance datum than the ridge of the existing dormer bungalow at No.3 The Dell.

Reason: In the interests of the amenity of the occupiers of No.3 The Dell and the character of the surrounding area.

5 Prior to the commencement of the construction of the dwelling details of cycle parking, including a means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

6 The building shall not be occupied until the areas shown on the approved

plans for parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

7 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced, submitted to the local planning authority and approved in writing. The report of the findings shall include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

The investigation and risk assessment shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination during the whole of the construction period and to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared and submitted in writing to the Local Planning Authority and approved. The scheme shall include all works to be undertaken, proposed remediation

objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination during the whole of the construction period and to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9 Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

10 In the event that previously unidentified contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11 Prior to first occupation of the development the applicant shall install within the curtilage of the site, a three pin 13 amp electrical socket in a suitable position to enable the recharging of an electric vehicle within the curtilage using a 3m length cable.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles

NOTE: Any socket provided must comply with BS1363, or an equivalent standard, Building Regulations, and be suitable for charging electric vehicles. The socket should be suitable for outdoor use and have an internal switch within the property to enable the socket to be turned off.

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

Reason: In the interest of satisfactory and sustainable drainage.

13 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.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site and to ensure that these details are acceptable prior to any alterations to ground conditions that may adversely affect the ability to adequately drain the site.

14 ARCH2 Watching brief required.

7.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the local planning authority implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) by seeking solutions to problems identified during the processing of the application. In order to achieve an acceptable outcome the local planning sought further details of the proposed heights of the building and investigated the adjacent pond for evidence of protected species.

2. HIGHWAYS ACT

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361.

3. CONTROL OF POLLUTION

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. WILDLIFE AND COUNTRYSIDE ACT

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive.

There are opportunities for the development to provide enhancement for birds without detriment to the building by the addition of bird boxes, examples of which can be found on the RSPB website

http://www.rspb.org.uk/makeahomeforwildlife/advice/helpingbirds/roofs/internal_box

[es.aspx](#).

5. FOUL AND SURFACE WATER DRAINAGE

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then in accordance with City of York Council's Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha shall be used for the above.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

The public sewer network does not have any capacity available to accept any discharge of surface water from the site. Sustainable development requires appropriate surface water disposal. The developer must provide evidence to demonstrate surface water disposal via infiltration or watercourse are not reasonably practical.

The applicant should contact all the relevant statutory undertakers to ascertain the position of their apparatus.

Contact details:

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