

COMMITTEE REPORT

Date: 3 December 2015 **Ward:** [Osabaldwick and Derwent Ward]
Team: Major and Commercial Team **Parish:** Dunnington Parish Council

Reference: 15/00442/OUT
Application at: 25 Garden Flats Lane Dunnington York YO19 5NB
For: Variation of condition 3 of planning permission 13/01960/OUT to increase the size on plan of the proposed dwelling and garage and relocate the proposed garage.
By: Ms Anna Craven
Application Type: Outline Application
Target Date: 18 June 2015
Recommendation: Approve

1.0 PROPOSAL

1.1 The application is to vary condition 3 of planning permission 13/01960/OUT for the erection of an L-shaped detached dwelling with detached double garage. The permission is in outline with all matters reserved except access and layout. Consent has not been sought for any of the reserved matters, which are scale, appearance and landscaping.

1.2 Condition 3 lists the approved plans, which show the site layout only. The applicant wishes to revise the approved site layout by (a) increasing the size, on plan, of the approved house and (b) relocating the approved garage further from the boundary with No.23 Garden Flats Lane. All other aspects of the application would remain as approved.

1.3 The application has been called in by Cllr Brooks on the grounds of: incongruous development; poor level of amenity for the occupiers of the existing dwelling and neighbouring properties; and conflict with policies in the 2005 local plan

1.4 The application has also been called in by Cllr Warters on the grounds of: major variation to a planning approval that was previously determined by the planning committee; neighbour concerns about the mass and scale of the proposals; and changes to the access arrangements.

CHANGES TO THE APPLICATION SINCE SUBMISSION

1.5 The application has been revised significantly since being submitted. The applicant initially sought to:

- Increase substantially the size, on plan, of the house and garage;
- Increase the height of the house and garage (currently restricted by condition 5 of the outline consent to a maximum height of 4.5m);
- Relocate the garage further from the side boundary; and
- Realign the proposed access from the public highway and through the site.

1.6 The proposals were accompanied by a series of plans for approval, including the design of the proposed house and garage. Officers advised the applicant that as the design was a reserved matter - for which consent was not being sought - the local planning authority could only consider revisions to the site layout (condition 3) and the maximum height of the buildings (condition 5). This was accepted by the applicant, who asked that the building plans and elevations be treated as illustrative only. The opinion of officers was that the proposed changes to the approved scheme were substantial and would have an unacceptable impact on the character of the area and the amenity of neighbours. However, the NPPF requires local planning authorities to look for solutions and to seek to approve applications for sustainable development wherever possible. With this in mind - and the applicant's desire to achieve an acceptable development - both parties entered into negotiations, which have been lengthy. During these negotiations the applicant sought officers' opinion about the height and scale of the design shown on the illustrative plans. This included sinking the lower storey (of the dwelling) into the ground, excavating large areas of terracing around the dwelling and giving it a very low (12%) pitched roof. The purpose of these works was to be able to provide a 5.7m-high, 2-storey house to be constructed without exceeding the 4.5m maximum height (above 'existing ground level') stipulated by condition 5. Officers' opinion is that the appearance of such a large house, set within a large excavation would, despite terracing and landscaping, appear as an incongruous feature out of keeping with the character of the area. The applicant was advised that if he were to seek consent for such a house it would not be supported by officers. So the applicant:

- is no longer seeking to increase the height of the buildings beyond the 4.5m maximum height stipulated in condition 3;
- is no longer seeking to realign the access through the site;
- has reduced the scale of the proposed house and garage as viewed on plan;
- has deleted the illustrative plans showing the design of the proposed house in its excavated setting.

1.7 The proposals are now confined to increasing the size, on plan, of the approved house and relocating the approved garage further from the boundary with No.23 Garden Flats Lane. All other aspects of the application are as approved in 2013.

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:
CYGP1 - Design

3.0 CONSULTATIONS

Dunnington Parish Council

3.1 Objection: Garden grabbing. Overdevelopment. Out of character with the pattern of residential development in Dunnington. Building in back gardens is out of character with the existing pattern of residential development throughout Dunnington and goes against the principles of the adopted VDS. A new house dominating the rear of the streetscape is unacceptable.

Councillor Brooks

3.2 Objection. Loss of amenity to neighbouring properties. Adverse impact on the surrounding area. The garage doors would face the boundary with no.23, and so maximising the risk of nuisance to the occupiers.

Julian Sturdy MP

3.3 Shares concerns raised by certain constituents.

Neighbour Notification and Publicity

3.4 Eleven objections have been received raising the following planning issues.

- Changes are too great to be treated as a variation
- Size out of keeping with character of the area
- Design and materials out of keeping with the area

- Overbearing/loss of outlook
- Loss of sunlight/daylight
- Overlooking
- Visual impact on adjacent occupiers
- Disturbance due to vehicle lights/noise
- Inadequate access
- Local need is for small houses not large ones
- The large garage is an attempt to build another dwelling
- Contrary to Dunnington Village Design Statement
- Large garden plots should be retained
- Drainage not practicable
- Boundary treatment inadequate.

3.5 Many of these issues relate to matters that have already been addressed by changes to the application (notably the reduction in the size of the proposed buildings and the withdrawal of the building plans/elevations).

4.0 APPRAISAL

4.1 KEY ISSUES

- Impact on the character of the area;
- Neighbour amenity.

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).

THE APPLICATION SITE

4.4 Part of the substantial, landscaped rear garden of a detached, dormer bungalow in a residential area within Dunnington village. The site is not in the green belt or in a conservation area. To each side is a bungalow. To the rear are 2-storey detached houses in Gorse Hill. Site boundaries are defined by substantial hedges and/or close-boarded fencing. There are a number of trees on the site, mainly at the north-eastern end.

IMPACT ON THE CHARACTER OF THE AREA

4.5 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. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment (Para 61). 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).

4.6 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.

4.7 The Dunnington VDS states that new buildings should: respect and enhance adjacent properties and the areas in which they are sited; and respect the form, layout and density of development in the locality. Furthermore, that ideally they should not exceed the existing rooflines in height, though variety of style should be encouraged.

4.8 The area of the proposed dwelling as viewed on plan would increase from approximately 140sqm to 158sqm (12.9%). The description 'on plan' is applicable here rather than the more usual 'building footprint' because the site layout approved

in 2013 showed the proposed roof area not the footprint. Only by using the same method can an increase in size be properly compared. The applicant has confirmed that the latest submitted plans show the extremities of the building (excluding guttering), not the footprint.

4.9 The proposed bungalow would be built in the rear garden of No.25. The rear gardens of most of the houses in Garden Flats Lane and surrounding streets vary in length from about 7m to 28m, which is a typical range for a suburban residential area. The application property however is one of a group of six houses with gardens ranging from about 50m to 75m. The application site is one of the longest. Furthermore it is significantly wider than any other property in Garden Flats Lane. For example the garden is 26m wide on average compared with 16m for the neighbouring house at No.23 and 13m for No.27. The combination of length and width make the application site uniquely large in comparison to the other gardens in Garden Flats Lane. Whilst the design is reserved, the size of the dwelling as approved would be typical for a 3-bedroom bungalow without habitable rooms in the roof space. The dwelling as now proposed would be approximately 13% larger on plan but its overall scale and character would not be substantially different. The dwelling would still be approximately 1.2m lower than the existing dwelling at No.25 which, in addition, occupies a higher position within the site. The proposed dwelling would also be significantly lower than the 2-storey houses in Gorse Hill to the rear and lower than the adjacent bungalows at 23 and 27 Garden Flats Lane. Bearing in mind the large size of the site and the size of adjacent buildings, the scale of the development now proposed would not appear overly large, cramped or out of keeping with the character of the area.

4.10 The double garage as approved would be visible from the public highway as a background feature between the existing dwellings at 23 and 25 Garden Flats Lane. The distance between the public verge and the garage would be 43m. At this distance the garage would appear as the garage to one of the two adjacent houses. It would not be prominent, nor would its appearance be out of keeping with the character of the area. The current proposal to relocate the proposed garage would remove it almost entirely from public view. Whilst the relocation of the garage would increase the visibility of the new dwelling from the public highway at Garden Flats Lane the dwelling would be seen at a distance of almost 65m. This separation distance, together with the low height of the building, would prevent it having any significant visual impact from the public highway, which would be the only public viewpoint. In summary the application complies with section 7 of the NPPF and policy GP1 of the 2005 local plan.

NEIGHBOUR AMENITY

4.11 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 bungalow would be 35m from the existing house at No.25 and 29m from the nearest houses at the rear, i.e. nos 6 and 7 Gorse Hill. These separation distances well exceed the council's minimum standards for preventing overlooking and overbearing. Furthermore, the house would be partially screened from the adjacent properties by specimen trees, mature hedging and outbuildings outside the application site. The occupation of the proposed larger bungalow is unlikely to have any material impact on the neighbouring occupiers in terms of noise, lighting or general disturbance. Although the doors of the relocated garage would face the garden of No.23 rather than away from it, as approved, any increase in noise nuisance caused by the re-orientation would be compensated for by the garage being further from the shared boundary.

4.12 The garage, as now proposed, would lie immediately to the rear of No.25's (truncated) garden but the separation distance and 1.8m-high boundary fence would prevent the occupiers of No.25 experiencing any significant noise or other nuisance.

4.13 The changes to the approved scheme would not have any material impact on neighbouring occupiers in terms of overbearing, loss of outlook or loss of sunlight/daylight. The application as revised accords with paragraph 9 of the NPPF and policy GP1 of the 2005 local plan.

OTHER MATTERS

4.14 The parish council's argument that the application would result in garden grabbing does not apply in this case because planning permission for the erection of a dwelling on the site has already been approved by the 2013 planning permission.

5.0 CONCLUSION

5.1 Planning permission for a dwelling on the site has already been granted under planning permission 13/01960/OUT. The current application is solely to increase the size of the proposed dwelling on plan by almost 13% and to re-site the approved garage. Since 2012 applications have to be judged against the National Planning Policy Framework, the essence of which is the presumption in favour of sustainable development. Officers conclude that the proposal would not be detrimental to the character of the area and the amenity of neighbouring occupiers. On balance the application accords with the National Planning Policy Framework and policy GP1 of the 2005 local plan. Scale, appearance and landscaping remain to be approved prior to planning permission being granted.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 Application for approval of all reserved matters shall be made to the Local Planning Authority not later than 16 June 2017 and the development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To ensure compliance with Section 92 and 93 of the Town and Country Planning Act 1990 as amended.

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: Scale, appearance and landscaping 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 The development hereby permitted shall be carried out only in accordance with the proposed site plan numbered CRA-404-001 04 Rev.D received by the local planning authority on 19 November 2015 and the un-numbered site datum plan received by the local planning authority on 10 June 2015.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the local planning authority.

NOTE: The applicant is advised that for the purposes of this planning permission the building forms of the approved dwelling and garage shown on the approved site plan represent their extremities, excluding any guttering.

4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) development of the type described in Classes A, B, C D and E of Schedule 2, Part 1 of that Order shall not be erected or constructed unless permission has first been granted by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area and the amenity of adjacent occupiers the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development)

(England) Order 2015.

5 Notwithstanding the information contained on the approved plans, the height of the approved dwelling and garage shall not exceed 4.5m metres, as measured from existing ground level, which for the purposes of this condition shall be 18.27m AOD as shown the un-numbered site datum plan submitted to the local planning authority on 10 June 2015. Before any works commence on the site, a means of accurately marking the 18.27m AOD level on the site shall be agreed in writing. Any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: To establish existing ground level prior to any disturbance of the topography of the site and to ensure that the approved development does not have an adverse impact on the character of the surrounding area or the amenity of adjacent occupiers.

6 Notwithstanding the approved plan, within three months of commencement of the development details of boundary treatment shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the protecting the amenities of neighbouring occupiers and the character and appearance of the area.

7 Prior to the development coming into use, the vehicular access, driveway and manoeuvring areas shall be surfaced in resin bonded gravel and positively drained within the site.

Reason: To protect the neighbouring occupiers from road noise and to adequately drain the site whilst preventing loose material spilling onto the public highway.

8 The width of the driveway between nos 23 and 25 Garden Flats Lane shall not exceed 3.2m.

Reason: To enable adequate landscaping to be provide between the driveway and the boundary with 23 Garden Flats Lane in the interests of the amenity of adjacent occupiers and the character of the immediate area.

9 HWAY22 Internal turning areas, details reqd

10 DRAIN1 Drainage details to be agreed

11 Within three months of commencement of development, including the importing of materials, excavations, utility works, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing, phasing of works, site access during development operations, type of construction machinery/vehicles to be used including delivery and collection lorries and arrangements for loading/off-loading, parking arrangements for site vehicles, and locations for stored materials. It shall also include construction details and methodology for the driveway where it is located within the canopy spread and potential rooting zones of the trees.

Reason: To ensure that existing trees which are considered to make a significant contribution to the amenity of the area are protected throughout the construction period.

12 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.

7.0 INFORMATIVES: Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187). In seeking solutions to problems identified during the processing of the application the Local Planning Authority has negotiated changes to the scope of the application, the dimensions of the buildings and the location of driveway thus enabling a positive outcome to be achieved.

2. 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.

3. CONTAMINATED LAND

In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment shall be undertaken and where remediation (clean-up) is necessary a remediation scheme shall be prepared and approved in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and approved in writing 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 2A of the Environmental Protection Act 1990.

Contact details:

Application Reference Number: 15/00442/OUT

Item No: 4b

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