

COMMITTEE REPORT

Date: 5 May 2016
Team: Major and Commercial Team
Ward: Osbaldwick and Derwent
Parish: Dunnington Parish Council

Reference: 15/02813/FUL
Application at: 8 Petercroft Lane Dunnington York YO19 5NQ
For: Erection of dwelling to rear and replacement garage
By: Mr Peter Hodgson
Application Type: Full Application
Target Date: 24 March 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 Erection of a detached 3-bedroom dormer bungalow with a height of 3m to the eaves and 5.8m to the ridge. Off-street parking would be provided for two cars served by a new access from Petercroft Close. A pitch-roofed single garage on the site would be demolished to make way for the new dwelling. The garage would be replaced by a new garage (6m x 4.5m x 3.9m) between the host house and No.8a Petercroft Lane. The application has been amended since submission to reduce the impact on neighbouring occupiers.

1.2 The application has been called in by Councillor Brooks on the grounds that it would be overdevelopment of the plot, there would be insufficient room for the enjoyment of either property, it would have an adverse effect on neighbouring properties in Petercroft Close due to the loss of parking space and that sub-division of gardens is contrary to Dunnington Village Design Statement.

2.0 POLICY CONTEXT

2.1 Policies:

CYGP1 Design
CYGP4A Sustainability
CYGP10 Subdivision of gardens and infill devt
CGP15A Development and Flood Risk
CYH4A Housing Windfalls

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections. The new access and two parking spaces would accord with CYC standards. The access would provide adequate width and visibility. Additional traffic movements would be negligible. Add conditions regarding provision of cycle storage and car parking.

Public Protection Unit

3.2 Environmental Protection Unit - No objections. Add low emission and contamination conditions and the council's standard construction informative.

Flood Risk Management

3.3 No objection in principle. If planning permission is to be granted add a condition requiring details of foul and surface water drainage, including any balancing works and off-site works, to be approved by the local planning authority.

EXTERNAL

Dunnington Parish Council

3.4 Objection to the proposed dwelling due to: absence of surface water attenuation; garden grabbing, which is contrary to the Dunnington Village Design Statement; and overdevelopment as evidenced by the proposed dwelling's small garden and both dwellings being out of proportion to their respective plots. No objection to the replacement garage subject to the provision of surface water runoff measures that fully attenuate the additional surface water runoff. If planning permission is granted this should be made a condition of approval.

Ouse & Derwent Internal Drainage Board

3.5 The site is in an area where drainage problems exist. Development should not start until the council as local flood risk authority is satisfied that surface water drainage has been appropriately considered. Surface water discharge should be restricted to no more than 1.4 l/s/ha, so as to avoid increasing the risk of flooding. The applicant has stated their intention to use a hydrobrake and attenuator but no details have been provided of how the required discharge rate would be achieved. The Board therefore objects to the proposal.

Public Consultation

3.6 Four objections have been received raising the following planning issues:

- Loss of parking would exacerbate existing parking problems.
- Vehicular access should be taken from Petercroft Lane as existing.
- The dormers and double-width driveway would be out of keeping with the area.
- Highway safety - Risk to pedestrians in Petercroft Close.

4.0 APPRAISAL

4.1 KEY ISSUES

- Use for housing
- Design and appearance
- Highway safety, access and parking
- Flood risk and drainage
- 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, as at York, 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 rear garden of a 2-storey detached house at the corner of Petercroft Lane and Petercroft Close. The character of the area is suburban residential. The host house has a pitch-roofed garage accessed from Petercroft Lane. The rear garden abuts a bungalow at No.8 Petercroft Close.

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 Dunnington 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.

4.7 Dunnington Parish Council says in its objection that building in back gardens is contrary to the Dunnington Village Design Statement (VDS). In response, although the VDS states that new buildings should '... respect the form, layout and density of development in the locality' there is no specific mention of opposing, in principle, development in back gardens. The application site has a street frontage. The proposed dwelling would face the street, in keeping with the general character and layout of dwellings in the area.

DESIGN AND APPEARANCE

4.8 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).

4.9 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.

4.10 The application site is in a residential area. Petercroft Close is characterised by bungalows without dormers but the host dwelling (which faces Petercroft Lane) is a 2-storey house. Petercroft Lane and neighbouring roads have a variety of dwelling types notably bungalows and 2-storey houses with or without dormer windows or dormer extensions. In this overall context the scale, design and materials (brick and tile) and the density of development would be in keeping with the character of the area. Samples of the materials should be made a condition of planning permission. The application complies with section 7 of the NPPF and policies GP1 and GP10 of the 2005 local plan.

HIGHWAY SAFETY, ACCESS AND PARKING

4.11 The proposed dwelling would require the demolition of the existing garage on the site. It would be replaced by a new garage between nos 8 and 8a Petercroft Lane. Access to the garage would remain as existing, from Petercroft Lane. The new dwelling would not have a garage but would have two parking spaces, side by side, accessed via a new 6m-wide crossover from Petercroft Close. The council's highway officers have no objection to the location or width of the access, nor to the minor loss of on-street parking that would result. Cycle storage for the host house would be provided in the new garage. Cycle storage for the new dwelling would be in a cycle store within the curtilage. Details should be made a condition of approval. The new dwelling would have no material impact on traffic levels or highway safety.

FLOOD RISK AND DRAINAGE

4.12 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

Where development is necessary it should be made safe without increasing flood risk elsewhere (paragraph 100). The application site lies within low-risk flood zone 1 and is unlikely to suffer from river flooding. The applicant proposes to reduce the post-development surface water run-off rate, from the existing run-off rate. However, for such a small site as this a run-off rate of 1.4 l/s/ha. as sought by the IDB would not be practicable. Nevertheless, some reduction in run-off is achievable that would conform to the Council's SFRA. The Council's flood risk engineers are not objecting to the application but require drainage details, including attenuation, to be submitted for approval.

NEIGHBOUR AMENITY

4.13 The NPPF seeks to improve the conditions in which people live (paragraph 9). 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.

4.14 The nearest neighbouring dwelling is a bungalow at No.8 Petercroft Close. The proposed dwelling would have no openings in the elevation (a gable) facing No.8 so there would be no overlooking. The minimum separation distance would be 3.3m but this part of No.8 has no windows so there would be no overbearing impact. A combined front door/window of No.8 faces the proposed dwelling but the separation distance at this point would be 4.5m. This distance is acceptable bearing in mind that the main windows of No.8 face north-east and south-west, i.e. away from the proposed dwelling.

4.15 Three of the four proposed dormers would face the public highway at Petercroft Close. They would not significantly affect any neighbouring occupiers. The fourth dormer would face the rear (north east) but this window would be to a bathroom. A condition should be attached requiring the window to be obscure-glazed. The rear elevation would face the rear garden of a 2-storey house at 8a Petercroft Lane. The minimum distance from the boundary would be 4.8m. This distance is acceptable bearing in mind the modest size of the proposed dwelling (2.8m to the eaves at this point) and the closer proximity, 4m, of the existing garage which would be demolished. Permitted development rights for dormers should be removed in order to protect the neighbouring occupiers from overlooking.

4.16 The host house, No.8 Petercroft Lane, is occupied by the applicant and lies to the south east of the proposed dwelling. No.8 has a single-storey rear extension that faces the application site at an oblique angle. The separation distance between the window of the extension and the proposed dwelling would be approximately 10m. This separation distance is acceptable bearing in mind the modest size/height of the proposed dwelling and the oblique aspect from No.8.

Nevertheless, householder permitted development rights should be removed in order to protect the amenity of neighbouring occupiers from overbearing impact of future extensions/outbuildings.

4.17 The replacement garage would sit between the host dwelling at No.8 Petercroft Lane and the neighbouring house at No.8a Petercroft Lane. The garage is unlikely to have any significant impact on the amenity of either occupier. In summary, the development (dormer bungalow and replacement garage) is unlikely to have any significant impact on the occupiers of any neighbouring property. It accords with paragraph 9 of the NPPF and policy GP1 of the 2005 local plan.

PUBLIC OPEN SPACE

4.18 For small housing developments an open space contribution for the provision of off-site open space is normally required in accordance with policy L1c of the draft local plan. Such requirements are subject to the pooling restrictions introduced under regulation 123 of the CIL Regulations whereby no contribution can be sought in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010. In the current case a planning obligation cannot be lawfully entered into because the cap set by regulation 123 has already been reached.

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 H/131-PL-02C, H/131-PL-03C, H/131-PL-04C, H/131-PL-05C, H/131-PL-06 and H/131-PL-07A.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local

Planning Authority within one month of commencement of the construction of the development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

4 The dwelling shall not be occupied until secure covered cycle storage for two cycles has been provided in accordance with approved plans H/131-PL-02C and H/131-PL-04B. The facilities shall be retained thereafter and shall not be used for any purpose other than the parking of cycles.

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

5 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.

6 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.

7 Prior to first occupation of the development the applicant shall install within (a) the curtilage of the proposed dwelling and (b) the proposed garage of the existing dwelling 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 for the proposed dwelling should be suitable for outdoor use and have an internal switch within the property to enable the socket to be turned off.

8 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.

9 The upper floor window on the north-east elevation of the dwelling hereby approved shall be (i) obscure-glazed and (ii) non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Reason: In the interests of the amenities of occupiers of the adjacent residential dwelling at No. 8a Petercroft Lane.

10 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 or 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 amenities of the adjoining residents 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) Order 2015.

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 amendments to the footprint, fenestration and separation from the adjacent dwelling at No.8 Petercroft Close.

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) 55136.

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 manufacturer's 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. 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 30% 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.

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