

## COMMITTEE REPORT

**Date:** 2 March 2017                      **Ward:** Huntington/New Earswick  
**Team:** Major and Commercial Team                      **Parish:** New Earswick Parish Council

**Reference:** 16/01871/FUL  
**Application at:** 39 Park Avenue New Earswick York YO32 4DB  
**For:** Erection of dwelling (resubmission)  
**By:** Mr Robert Littlefair  
**Application Type:** Full Application  
**Target Date:** 5 October 2016  
**Recommendation:** Approve

### 1.0 PROPOSAL

#### APPLICATION SITE

1.1 The application site is the side garden of 39 Park Avenue in New Earswick. Park Avenue is a long residential cul-de-sac located at the edge of the urban area of the city. The road is not adopted.

#### PROPOSALS

1.2 It is proposed to erect a detached 2 bedroom bungalow to the side of the host property. The proposed dwelling would be set back slightly behind the front building line of the host property and projects 5.5 metres past its rear most building line. The scheme has been reduced in width and height from that which was originally submitted.

1.3 The application is brought to committee at the request of Cllr Runciman. The reasons relate to concerns regarding over-development, the small size of the turning circle at the end of the road, difficulties that would be created in accessing the properties and the flooding of gardens.

#### PLANNING HISTORY

1.4 In May 2016 (15/01977/FUL) a planning application to erect a two-storey four bedroom dwelling on the site was refused because it was considered that it would appear unduly oppressive when viewed from 41 and 43 Park Avenue would appear out of character when viewed from Park Avenue and give the impression of overdevelopment of the site.

1.5 In 2015 planning permission (15/00249/FUL) was granted for number 39 to be significantly enlarged and extended including first floor accommodation and two storey side extension. Minor revisions to the design were recently approved (16/02927/FUL). The works are now nearing completion.

## **2.0 POLICY CONTEXT**

### Draft Local Plan Policies

2.1 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

CYGP1 Design.

CYGP10 Subdivision of gardens and infill development.

CYH4 Housing development in existing settlements.

CYGP15 Protection from flooding.

2.2 The emerging Local Plan (2014 draft) policies can only be afforded very limited weight at this stage of its preparation (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

## **3.0 CONSULTATIONS**

### INTERNAL

#### Highway Network Management

3.1 No objections subject to standard conditions regarding the provision of parking.

#### Public Protection

3.2 No objections subject to condition requiring the provision of car re-charging plug and consideration of contamination.

#### Flood Risk Management

3.3 No objections. Issues regarding drainage and flood risk can be dealt with by condition if necessary.

## EXTERNAL

### Yorkshire Water

3.4 Surface water must only be discharged to the foul drain if there is no alternative available and the discharge rate is reduced by 30% below peak discharge rate.

### Internal Drainage Board

3.5 Do not object providing water is discharged to Yorkshire Water sewer and run-off rates are attenuated to avoid increasing flood risk.

### New Earswick Parish Council

3.6 The Parish do not object, but seek safeguards regarding traffic, parking and the overdevelopment of the area which is subject to other applications for dwellings.

### Neighbour Notification and Publicity

3.7 Four residents have objected to the proposals. The issues raised are as follows:

- Feel unacceptable to obscure views and harm privacy of tenants of the properties at 41 and 43.
- Do not want to see the recently improved private road destroyed by heavy construction traffic.
- It is overdevelopment of the end of the street.
- It is difficult for vehicles to access the site and park.
- After heavy rain the area floods.

## **4.0 APPRAISAL**

4.1 The key issues in assessing the proposal are:

- impact on the streetscene/countryside
- impact on amenity and living conditions of adjacent occupiers
- highway issues
- drainage

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

One of 12 principles set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 In respect to the development of gardens it states (paragraph 53) that LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where it would harm the Local area.

4.4 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. In considering proposals for new or improved residential accommodation, the benefits from meeting peoples housing needs and promoting the economy will be balanced against any negative impacts on the environment and neighbours' living conditions.

4.5 The draft 2005 Local Plan Policy GP1 'Design' states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and vegetation. Policy H4a 'Housing Windfalls' states that infill residential development within the urban area will be granted permission if it has good accessibility to jobs, shops and services by non-car modes and is of an appropriate scale and density to surrounding development. Policy GP10 'Subdivision of gardens and infill development' states that permission for the sub-division of existing gardens will only be permitted where this would not be detrimental to the character and amenity of the local environment.

## IMPACT ON THE STREETSCENE/COUNTRYSIDE

4.6 The proposed dwelling is narrow in width and modest in height (5.4m to the ridge and 2.9m to the eaves). It is considered that there is adequate space between the proposed dwelling and the host to avoid the visual impression of overdevelopment. There is also a gap of around 12m between the side of the proposed bungalow and the front of 41 and 43. There is a mix of house styles and sizes in the vicinity and the proposed dwelling would sit comfortably within the varied streetscene. The existing width of the plot of the host dwelling (around 24 metres) is more than twice that of most other gardens in the street and in the context is considered capable of accommodating an additional dwelling without making development appear cramped.

4.7 The proposed bungalow has a 'dog leg' to the rear which projects partly across the rear of 39. As the dog leg is well back into the site it will not be prominent from the street, its height is also lower than the main part of the building. The property will project into the garden beyond the rear of the host; however, it will still be over 9m from the rear garden boundary.

There are several offshoots and outbuildings in rear gardens in the street and in the context the low profile projection is considered acceptable.

4.8 The front garden can comfortably accommodate space for car parking without overdeveloping the site or leading to the loss of a significant amount of the front hedgerow of the host property.

## IMPACT ON NEIGHBOURS' LIVING CONDITIONS

4.9 Policy GP1 of the Local Plan requires proposals to avoid causing undue harm to residents living conditions. There is adequate separation to the front and rear to avoid harm in respect to outlook, light and privacy. The dwelling will extend a significant distance beyond the rear of the host property however the nearest ground floor rear window of the host serves a utility area. The host dwelling is a wide property and has recently been extended and upgraded. It will still provide a high level of amenity for future occupiers.

4.10 A key issue to consider is the impact on 43 and 41 located to the side. These two properties have a garage and small kitchen diner on the ground floor with a lounge and separate bedroom above. Small balconies are located to the front. All clear glazed openings are on the front elevation of the properties and the occupants have no access to land to the rear. The separation distance between front windows in the homes and the side elevation of the proposed new dwelling would be 11.5m at the nearest point and on average around 12m away. Typically a minimum separation distance of around 12m is sought between a new two-storey gable wall and facing windows on neighbouring homes. The proposed dwelling is single storey rather than two storeys and because of the hipped roof form the ridge would be around 14m away. On balance the impact in terms of outlook and light is considered acceptable. As there are no rooms in the roof space of the proposed dwelling there will be no significant impact in respect to overlooking. A condition removing permitted development rights is recommended.

## HIGHWAYS ISSUES

4.11 Park Avenue is a private road. The applicant would need to ensure that they have a right to access the road, including for the construction process but this is not a material planning issue. Traffic volumes would appear to be low and although the road has no footpaths, it is not considered that the limited increase in usage resulting from the use of the proposed dwelling would be harmful.

4.12 Up to three cars can park within the curtilage of the proposed dwelling. The proposal would not impact upon the functionality of the adjacent turning circle. A minimum of two cars can park within the garden of the host dwelling whilst retaining significant landscaping.

## DRAINAGE, FLOOD RISK AND SEQUENTIAL TEST

4.13 The site is close to Westfield Beck. The environment agency flood risk map indicates that the home would be in Flood Zone 2 (medium risk). As the application is for a new dwelling, and the proposed house would be within the EA's Flood Zone 2, the applicant needs to be considered against the sequential test.

4.14 The Council do not have a NPPF compliant five year housing land supply. As much of the city is in low-medium or high flood risk zones, some housing development outside flood zone 1 is likely to be necessary to meet development needs. Historically, windfalls have been important contributors to the housing land supply and it is reasonable to assume that they will continue to be. Planning Practice Guidance advises that a pragmatic approach should be undertaken. It is considered that the use and location is such that it provides sustainability benefits. As the application is for windfall housing development in a sustainable location, the sequential test is considered to be passed providing (in accordance with advice in the NPPF and the York Strategic Flood Risk Assessment) a flood risk assessment indicates that the development will be safe for its lifetime and not increase flood risk elsewhere.

### The development will be safe for its lifetime

4.15 There are no records that suggest that the land has suffered from flooding from Westfield Beck. The applicant has confirmed that interior levels of the dwelling will be raised 300mm above current ground levels and that construction methods and materials will ensure it is resilient should a flood impact on the site.

### The development will not increase flood risk elsewhere.

4.16 It is unlikely that the ground conditions would allow soakaways to be used effectively to dispose of surface water. If soakways are not viable Yorkshire Water and the Council's Flood Risk Manager are satisfied that there is a technical solution to attenuate run off rates to avoid increasing flood risk elsewhere. This element can be covered by condition.

## **5.0 CONCLUSION**

5.1 The proposed dwelling is modest in scale and sits comfortably within the site whilst retaining reasonable space for the occupier's needs. The single storey form avoids unacceptable harm being caused to the outlook of number 41 and 43 that are located to the side. The proposed property would project beyond the existing rear building line in the street, however, the host dwelling would still retain excellent living conditions. The reduced height of the rear most projection is such that it would not have an impact unduly different from a pitched roof garden building.

The property would have adequate space for car parking and it is not considered that the location adjacent to the turning circle creates issues in respect to safety or convenience. Issues regarding flood risk have been properly addressed.

## **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 the following plans:

Revised proposed plans and elevations 864a/3D dated 6.2.2017.

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 prior to the commencement of the construction of the external walls. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

4 Notwithstanding the details shown on the approved drawings details of means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied and shall be provided on site in accordance with the approved details before the development is occupied.

Reason: So as to achieve a visually cohesive appearance and protect living conditions

5 The dwelling 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 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, details for the surfacing of the site shall be submitted to and approved in writing by the local planning authority prior to being constructed on the site. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance and reduce surface water run-off.

7 A three pin 13 amp external electrical socket shall be installed at the property which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable.

Note: Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations and be suitable for charging electric vehicles.

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

8 Details of secure covered cycle parking shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied and shall be provided on site in accordance with the approved details before the development is occupied.

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

9 The building shall be constructed using the flood resilient construction techniques set out in the Flood Risk Assessment dated 14 September 2015 received by the Local Planning Authority on 8 August 2016.

Reason: To ensure that the property is not at unacceptable risk of flooding/flood damage.

10 No development shall take place until details of the proposed means of surface water drainage, including details of necessary balancing works and off site works, have been submitted to and approved in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site and because building works may prejudice an acceptable drainage scheme.

11 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority.



An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must 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 must 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.

12 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C and D (extensions, roof alterations, porches) of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents and the appearance of the street scene 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.

13 The development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of the area.

## **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 took the following steps in order to achieve an acceptable outcome:

Revisions sought to address the impact on the streetscene and neighbours' living conditions.

### **2. INF11 - Control of Pollution Act 1974**

### **3. Condition 10 – Surface Water Drainage design considerations**

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 applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

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