

COMMITTEE REPORT

Date: 7 June 2018
Team: Major and Commercial Team
Ward: Fishergate
Parish: Fishergate Planning Panel

Reference: 18/00366/FUL
Application at: 115 Fulford Road York YO10 4ET
For: Erection of dormer bungalow with garage
By: Mr and Mrs Breene
Application Type: Full Application
Target Date: 12 June 2018
Recommendation: Approve

1.0 PROPOSAL

1.1 The application seeks permission for the erection of a three bedroom detached bungalow within the rear garden of 115 Fulford Road. The dwelling would sit to the rear of the site with its main aspect facing the rear of 115 Fulford Road. The dwelling would provide living accommodation to the ground floor with a third bedroom located within the roof space. Access would be from a narrow drive off Kilburn Road.

RELEVANT SITE HISTORY

- 00/02106/FUL Erection of detached bungalow with access from Kilburn Road Approved 09.10.2000
- 05/00500/FUL Renewal of planning permission 00/02106/FUL for erection of detached bungalow with access from Kilburn Road Approved 04.05.2005
- 10/00798/FUL Erection of dwelling (Application to extend time period for implementation of permission 05/00500/FUL) Approved 18.06.2010

CALL-IN

The application has been brought to committee at the request of Cllr A D'Agorne on the grounds that the site is of an insufficient size, the dwelling would dominate the outlook from neighbouring properties and that there is uncertainty about the ownership of the access.

2.0 POLICY CONTEXT

2.1 National Planning Policy Framework (2012)

2.2 Publication Draft Local Plan (2018)

Policy D2	Landscape and setting
Policy D1	Placemaking
Policy ENV5	Sustainable drainage

City of York Draft Local Plan (2005)

CYGP1	Design
CYGP10	Subdivision of gardens and infill devt
CYH4A	Housing Windfalls

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 The heat source pump should not adversely affect the amenity of nearby residents in either their gardens or dwellings. Conditions are sought.

Highway Network Management

3.2 The site has historical planning permissions for a similar dwelling, with similar parking arrangements including turning space and a garage located at the end of the drive. The access is served by an existing dropped crossing. No significant changes have arisen since these previous approval and no objections are raised.

Design, Conservation and Sustainable Development (Heritage Project Officer)

3.3 The development site lies within an area of archaeological interest. Roman funerary, Anglian occupational and Medieval deposits exist in the wider vicinity particularly to the north-west. It is possible that this range of archaeological deposits extends along Fulford Road.

Flood Risk Management Team

3.4 The drainage report states that foul water will discharge to public combined water sewer. In terms of surface water disposal, our knowledge of the sub-soil conditions would not support the use of soakaways and a watercourse is remote from the site. As stated in the report, surface water will discharge to public sewer via storage with restricted discharge of 1.5 (one point five) litres/second. This will include dwellings, associated garages and driveways.

EXTERNAL

Neighbours Notification and Publicity

3.5 Six objections received on the following grounds:

- Site too small for the bungalow
- Loss of light to neighbouring properties
- Loss of privacy
- The dwelling would be higher than neighbouring properties
- The proposed access is not owned by the applicant
- Would run the whole width of the garden at 7 Kilburn Road
- Land may be contaminated from its post office use
- Limited access for construction vehicles
- Trees on the site have been felled in order to allow development
- Water from the soakaway may drain into neighbours lower lying gardens
- Cars often park opposite the vehicular access making inward and outward movements difficult
- On street parking is an issue as there are no parking restrictions
- Contractors vehicles may find it difficult to park

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3.6 The scale and height of this building represents an overdevelopment of the site and will be detrimental to the immediate neighbours and the neighbourhood as a whole. Access both for building and for any subsequent use seems very poor

4.0 APPRAISAL

4.1 Key Issues

- Principle of the development
- Design and character
- Amenity issues
- Highways considerations
- Flood risk

4.2 The National Planning Policy Framework (March 2012) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. It also sets out 12 core planning principles that should underpin both plan-making and decision-taking. A principle 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. Paragraph 14 of the NPPF says that Local Planning Authorities should positively seek to meet the development needs of their area. Section 6 seeks to boost significantly the supply of housing. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development

4.3 Paragraph 186 states that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. Paragraph 187 states that when Local Planning Authorities are 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.

Publication Draft Local Plan (2018)

4.4 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. The emerging Draft Local Plan policies can be afforded limited weight at this stage of preparation, and subject to their conformity with the NPPF. The evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications.

4.5 The following policies are relevant to consideration of this application:

- Policy D1 Placemaking. This policy supports development proposals where they improve poor existing urban and natural environments; enhance York's special qualities and better reveal the significances of the historic environment. Detailed design issues should be addressed by development proposals.
- Policy D2 Landscape and setting. Development proposals will be supported where they demonstrate an understanding of the local landscape character and its contribution to the setting and context of the city and surrounding villages. This landscape quality and character should be conserved and enhanced.
- Policy ENV5 Sustainable drainage. This policy includes detailed drainage requirements for site drainage and a preference for SUDS.

Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) (DCLP)

4.6 This plan is not adopted policy but was approved for Development Management purposes. Policies in the DCLP carry very little weight but are capable of being material considerations in the determination of planning applications where these are consistent with those in the NPPF. Policies GP1 Design, GP10 Subdivision of gardens and infill development and H4a Housing windfalls are all relevant.

PRINCIPLE OF DEVELOPMENT

4.7 Paragraph 14 of the NPPF establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In decision-taking this means approving development proposals without delay that accord with the development plan. Where the development plan is absent, silent or

relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, or specific policies in the Framework indicate development should be restricted.

4.8 The proposal is for a residential dwelling within a residential area. Para. 53 of the NPPF states that LPAs should consider setting out policies to resist inappropriate development of gardens, particularly where this would cause harm to the local area. The emerging Local Plan does not contain policies relating directly to this type of infill development. Policy GP10 of the DCLP allows for garden development where it would not be detrimental to the character and amenity of the local environment.

DESIGN AND CHARACTER

4.9 The application site forms the existing rear garden of 115 Fulford Road. It is bounded to the north by a 1.8m close boarded fence with mature hedges to the east and west boundaries. A long single storey extension also runs along part of the eastern boundary to a neighbouring property. An existing detached single storey dwelling lies immediately to the north which was erected within the rear garden of 113 Fulford Road which was erected in 2002. The area is a mixture of two storey and single storey dwellings.

4.10 Planning permission was originally granted for a detached dwelling on the site in 2000 and subsequently renewed. The last approval expired in June 2013. The current submission is similar in scale and design to the previously approved schemes, although the internal layout and orientation have altered. The dwelling would lie between the north and south boundary with the main aspect facing onto the rear elevation of 115 Fulford Road. The main bulk of the dwelling would lie immediately adjacent to the existing single storey dwelling at 113b Fulford Road and this would be constructed with a gable end facing 115 Fulford Road at a height of 5.2m, similar to the original permission. The rear section, along the northern boundary, would be constructed with a partial flat roof to reduce the impact upon the neighbours and would contain the garage. The southern extent of the dwelling would be constructed with a flat roof with an eaves of 2.4m before hipping into the site to meet the main gable.

4.11 The immediate vicinity of the site is relatively built up, primarily due to the neighbouring backland development and properties facing onto Maida Grove, Fulford Road and Kilburn Road. To the east of site long undeveloped gardens are characteristic. The development of this site would not push the built form into this open area and would infill an area which is developed to three sides and further enclosed by a long single storey extension to the eastern boundary. As such the scheme would not appear to have any detrimental impact upon the character of the area.

RESIDENTIAL AMENITY

4.12 One of the core principles of the planning system outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants. In terms of neighbouring residential amenity concerns were raised in connection with the original submission and its potential impact upon the amenities of the neighbouring residents at 113b Fulford Road and 7 Kilburn Road. The scheme has since been amended indicating a reduction in the height of the development adjacent to these properties.

4.13 Number 7 Kilburn Road lies immediately to the south of the proposed dwelling. It comprises of a dormer bungalow located on lower lying land and has a rear garden of approximately 5.4m. The boundary with the application site comprises of a mature hedge adjacent to the development. The revised scheme now proposes a flat roof element with a height of 2.4m set in from the boundary by approximately 1m. 7 Kilburn Avenue has a kitchen and dining room window present to the rear elevation which lies to the south of the development and as such there would be no loss of direct light. The reduced height of the scheme would now result in little impact upon the neighbours in terms of overdominance. Whilst the neighbouring site lies on lower lying ground the majority of the dwelling would be hidden from view by the existing hedge and any line of sight would be above the ridge of the dwelling. It is therefore considered that the development would not be overdominant or overbearing.

4.14 The dwelling to the north lies on higher lying land. Again the scheme has been amended to reduce the height of the rear element which lies immediately adjacent to the neighbouring conservatory. The increase land level of the neighbouring site means that there would be limited impact upon the amenities of this property in terms of overshadowing or overdominance.

HIGHWAY SAFETY

4.15 Access to the site would be off a private drive from Kilburn Road. The access is approximately 3m wide and runs between the boundaries of numbers 7 and 9 and is separated by a high fence. Concerns have been expressed that the land is not within the ownership of the applicant. Whilst Land Registry indicates that the access is unregistered the applicant has supplied information which indicates that they have a long standing right of way over the land as outlined in deeds dating back to 1931 dating back to the previous sites use as a post office.

4.16 The previous approvals also indicated access to the site along this route. The site indicates space for one vehicle within the garage and one on the drive along with space for cycles within the garage. Adequate space is available to allow for vehicles to turn within the site and leave in a forward gear.

4.17 The NPPF encourages sustainable travel and the location of development in sustainable and accessible locations. The site lies within the urban area, close to an existing public transport route and within short distance of York city centre. It is not envisaged that one additional three bedroom property would materially increase

traffic generation or adversely impact safety on the highway network. As such, the proposal is considered to comply with the general thrust of the NPPF.

FLOOD RISK

4.18 Paragraph 103 of the NPPF states that development should be directed to the areas of low flood risk and that development should not result in an increase of flood risk within the site or elsewhere. Policy GP15a of the Draft Local Plan supports this approach to flood risk.

4.19 The site lies within Flood Zone 1. A drainage statement has been submitted with the application. If soakaways are deemed to be acceptable due to ground conditions this is the preferred option with permeable paving for all hard surfaced areas. However, if ground conditions are unsuitable for infiltration, the surface water is proposed to connect to the combined public sewer. The proposal to discharge to the public sewer would be at a reduced rate of 1.5 l/s, using a hydrobrake, with geo-cellular surface water attenuation storage of 5.8m³ under the driveway or garden. It is considered that details can be secured by condition.

5.0 CONCLUSION

5.1 It is considered that the development of this site for a dwelling is acceptable. No objections to highway safety are raised and the impact upon residential amenity is considered to be acceptable. The erection of a dwelling within this location would not have any detrimental impact upon the character and appearance of the area. As such the application accords with policies contained within the Draft Local Plan, Publication Draft Local Plan (2018) and advice contained within the NPPF.

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 and other submitted details:-

Drawing numbers F172.01.01 Rev A, F172.01.02 Rev D and F172.01.03 Rev A received 28th March 2018

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

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4 Prior to the first occupation details of the cycle parking areas, including 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.

5 HWAY19 Car and cycle parking laid out

6 No groundwork shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological evaluation and, if necessary, excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification approved by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Interest and the development may affect important archaeological deposits including Roman funerary, Anglian occupational and Medieval deposits which must be recorded prior to destruction.

7 EPU1 Electricity socket for vehicles

8 LC4 Land contamination - unexpected contam

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

Reason: In the interest of satisfactory and sustainable drainage.

10 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. The information shall include site specific details of:

- i) the means by which the surface water discharge rate shall be restricted to a maximum rate of 1.5 (one point five) litres per second, and
- ii) the means by which the surface water attenuation up to the 1 in 100 year event with a 20% climate change allowance shall be achieved

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

11 VISQ4 Boundary details to be supplied

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 B and C of Schedule 2 Part 1 of that Order (alterations to the roof including dormer windows and roof lights) shall not be erected or constructed.

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.

13 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

7.0 INFORMATIVES:

Notes to Applicant

1. 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 a positive outcome:

Sought revised plans to amend the design to reduce the impact upon neighbours amenity

2. AVOIDING DAMAGE TO THE HIGHWAY GRASS VERGE

Applicants/Developers are reminded that great care should be taken to ensure that no damage to the surface or structure of the public highway is caused, by activities relating directly to the approved development (e.g. delivery of building materials via HGV's). The Council is particularly concerned at the increasing impacts and damage occurring to grass verges. This is detrimental to residential amenity, can present safety issues and places an unreasonable financial burden on the Council, if repairs are subsequently deemed necessary. Therefore, applicants/developers are strongly advised to work proactively with their appointed contractors and delivery companies

to ensure that their vehicles avoid both parking and manoeuvring on areas of the public highway (grass verges) which are susceptible to damage. The council wishes to remind applicants that legislation (Highways Act 1980) is available to the authority to recover any costs (incurred in making good damage) from persons who can be shown to have damaged the highway, including verges. If the development is likely to require the temporary storage of building materials on the highway, then it is necessary to apply for a licence to do so. In the first instance please email highway.regulation@york.gov.uk, with details of the site location, planning application reference, anticipated materials, timelines and volume. Please refer to the Council website for further details, associated fees and the application form.

3 CONTROL OF POLLUTION ACT

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 THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available at:

<https://www.gov.uk/party-wall-etc-act-1996-guidance>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

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