

## COMMITTEE REPORT

**Committee:** East Area  
**Date:** 8 May 2008

**Ward:** Haxby And Wigginton  
**Parish:** Haxby Town Council

**Reference:** 07/00808/FUL  
**Application at:** 21 The Avenue Haxby York YO32 3EH  
**For:** Erection of 2no. two storey detached dwellings with detached garages after demolition of existing workshop  
**By:** Mr B Beckett  
**Application Type:** Full Application  
**Target Date:** 5 June 2007

### 1.0 PROPOSAL

1.1 The property is located on a corner within The Avenue in Haxby, this is a low-density residential estate of mainly detached houses with long rear gardens. The application site is a semi-detached house with a large almost triangular shaped rear garden. Within the garden are a small number of domestic outbuildings including a large single storey workshop and a store which it is intended to remove. The Avenue is a private road.

1.2 It is proposed to erect two 4-bedroom detached houses with detached garages within the rear garden of the property. It is also proposed to erect a detached garage for the existing property. The houses are two-storey in height and of traditional construction. Access is proposed to be via the existing drive of 21 The Avenue which runs adjacent to the side garden of number 19.

1.3 This application was submitted in April 2007. In June 2007 revised plans were submitted which reduced the height of both houses from 9.1m to 8.5m and moved plot 'B' 1m further from the boundary with 26 Calf Close. Following the submission much time has been spent considering the drainage implications of the development. The application was brought to committee at the request of a local member.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (2) 0005

2.2 Policies:

CGP15A  
Development and Flood Risk

CYGB1  
Development within the Green Belt

CYGP10

Subdivision of gardens and infill devt

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYNE1  
Trees, woodlands, hedgerows

CYNE8  
Green corridors

CYNE1  
Trees, woodlands, hedgerows

### **3.0 CONSULTATIONS**

#### **3.1 Internal**

Highway Network Management - No objections. Adequate provision for parking and manoeuvring and the development will have no appreciable impact on the local network.

Housing - The site is below the threshold for an affordable housing requirement. The site's position adjacent to the recent larger Lady Kell development is not considered to justify an affordable housing contribution.

Environmental Protection Unit - No objections subject to conditions requiring a contaminated land assessment and remedial works as appropriate.

York Consultancy - Following negotiations with the applicant's drainage consultants no objections subject to full details of the storage tank and flow control device.

#### **3.2 External**

Town Council - No objections, however local concerns regarding flooding raised. Would request a site visit.

Foss Internal Drainage Board - If the applicant can prove that there is no discharge to a local watercourse the Board has no objection.

Yorkshire Water - No objections to final scheme.

#### **Neighbours**

Thirty seven letters of objection have been received regarding the proposal. A petition from May 2007 signed by the occupiers of 43 properties addressed to Haxby Town Council and seeking the protection of gardens in The Avenue was copied to the Local Planning Authority.

The following issues have been raised by residents in response to the application:

Gardens and some houses in the area suffer from surface water flooding problems and foul drainage problems. The development including any rise in ground levels will make this worse. The situation has been harmed by the development of 11 houses on the adjoining site in 2007.

The development will further damage the estate's attractive unique and cherished parkland setting.

There will be the loss of wildlife and the loss of a wildlife corridor.

The development will result in the loss of vegetation - some trees have already been cut back or removed.

The development is too large and too tall and will dominate surrounding gardens.

The development will lead to the loss of privacy in surrounding gardens.

Traffic noise from vehicles accessing the development will detract from the host property and adjoining neighbours - particularly 19 The Avenue.

The development will form a precedent.

York does not need additional housing.

The vehicle access is unsafe and additional traffic including construction vehicles will damage the private access road without compensation to other residents who pay to maintain it.

The Avenue and adjoining traffic network is over capacity.

The Avenue has poor lighting and no footpaths - the access should have been via the Lady Kell development.

Poor provision for refuse collection and inadequate access for emergency vehicles.

The new access will increase opportunities for crime to surrounding properties.

It is unsustainable to demolish the workshop and build a house in its place.

Question whether the occupier has a legal right to erect the house and make greater use of the road access.

#### **4.0 APPRAISAL**

4.1 Planning Policy Statement 3 (Housing) encourages Local Planning Authorities to ensure that housing provision is of an appropriate location, size and quality to meet housing needs. It encourages Local Planning Authorities to make more efficient use of previously developed sites.

4.2 The curtilage of a house is included within the definition of previously developed land. However, Annex B of Planning Policy Statement 3 makes it clear that 'there is no presumption that land that is previously-developed is necessarily suitable for housing development nor the whole of the curtilage should be developed'. The key Draft Local Plan policies in assessing the suitability of the site for housing are considered to be Policy GB1 (Design), GP10 (Subdivision of Gardens and Infill Development) H4a (Housing Windfalls), H5a (Residential Density) GP15a (Development and Flood Risk), NE1 (Trees, Woodlands and Hedgerows) and NE8 (Green Corridors).

4.3 The main planning issues are considered to be:

- the impact on the character of the area.
- the impact on neighbours living conditions.
- tree issues and wildlife.
- highways and parking.

- drainage and flooding

#### Impact on the character of the area

4.4 Policy H4 a of the Draft Local Plan requires development to be of an appropriate scale and density to the surrounding environment. The density of the 11 houses recently erected at Lady Kell (06/00027) is approximately 25 units to a hectare. The proposed development (including the host property) would equate to around 15 units per hectare. The density of The Avenue area as a whole is around 10 units per hectare. Policy H5a seeks residential densities in excess of 40 units a hectare within the urban areas of York. Given the backland nature of the site and the characteristics of the access and surroundings this target would be very difficult to reconcile with other aspects of planning importance.

4.5 It is considered that the proposal will have little impact on the public realm given that the new development is largely screened from the road by surrounding houses. The main consideration is the impact on the local environment when viewed from adjoining homes and gardens. The surrounding area is largely made up of two-storey dwellings. The revised ridge height of the two houses is 8.5 metres, which is not considered to be out of character with the scale of development locally.

4.6 It is the case that a main characteristic of the locality is mid to low density dwellings set within large gardens with significant tree planting, particularly along boundaries. The development will clearly change the character of the existing garden when viewed from the eight or so properties that back on to the site. It is not considered however, that the change is such to cause unacceptable harm. Both of the houses are set in from the boundaries of the site and the existing rear gardens in Calf Close and The Avenue are of a scale that occupiers will still enjoy a generally open aspect from their homes and gardens. It is also the case that there is adequate garden space remaining to allow a reasonable level of tree planting within the development site. Given the desire to retain an open character and to reduce any additional surface water run-off it is considered reasonable to remove permitted development rights for future new extensions and outbuildings.

4.8 The impact of the development will be greatest when viewed from the four new houses located at the end of the Lady Kell cul-de-sac, however, it is the case that the proposed houses will be set off the boundary and the space between the proposed houses and their hipped roof design will ensure that visually there is a reasonable balance between built and natural development. The density is below that of the adjoining Lady Kell development.

4.9 It is not considered that a planning approval to erect two homes in the garden of 21 the Avenue would form a direct precedent for approving other applications in the surrounding area given that the vast majority of homes have long relatively narrow gardens as opposed to the wedge shape of the application site.

#### Impact on neighbours living conditions

4.10 Within suburban locations separation distances of around 21 metres are typically sought between windows directly facing two-storey development and

around 10 - 12 metres between windows directly overlooking rear gardens. It is considered that the proposed dwellings are an adequate distance from properties on Calf Close and The Avenue for them not to appear oppressive or unduly dominant. The development will increase overlooking to existing gardens in The Avenue and Calf Close, however, these properties will retain large areas of garden capable of being free from significant overlooking.

4.11 The key consideration is the impact on the rear of the new dwellings on Lady Kell. These properties have relatively short gardens of between 6 and 12 metres in length and there is little significant screen planting between the houses and the application site other than a hedgerow approximately 2m in height. The new houses have been positioned so that they are at an angle to the properties on Lady Kell and views are generally past the houses. There are no habitable first floor windows proposed on the first floor side elevations of the houses and if approved it is considered that permitted development rights should be removed for such openings along with dormer windows.

4.12 The garages are relatively small in scale and would not be considered to cause significant harm to living conditions.

4.13 The proposed vehicle access will be close to windows within 21 The Avenue (the host property) and 19 The Avenue. It is considered that the most greatly affected property is 21 The Avenue. However, on balance it is considered that the resulting impact would not be so detrimental as to be considered unacceptable. It is the case that the owner has submitted the application and additional soundproofing or internal alterations could be undertaken if so desired. Number 19 has a secondary kitchen-diner window on the ground floor facing towards the access (albeit largely screened by a hedge) and a box room window on the first floor side elevation. It is not considered that the increased noise and disturbance caused by additional traffic movements (or general usage of the site) is such to create unreasonable living conditions. It also considered that the increased use of the access and two new homes would not create significant new opportunities for crime.

#### Tree Issues and Wildlife

4.14 The proposal will not lead to the loss of any significant trees currently located on the site. Although built development will be likely to decrease the opportunities for most forms of wildlife to flourish this is true of most housing development and it is not considered that there are particular site specific considerations to justify the refusal of the application on these grounds.

#### Highways and Parking

4.15 The site has adequate off-street car and cycle parking and manoeuvring space. Highways officers raise no concerns in respect to the traffic safety or highway capacity. Appropriate provision can be made for refuse collection. Matters relating to responsibility for the future maintenance and repair of The Avenue are not planning issues.

## Drainage

4.16 A large number of residents have raised concerns in respect to the flooding of gardens and some homes in the area. Concerns were also raised in respect of the capacity of the foul drainage system. The City Council expressed concerns that the development would increase the risk of flooding within the local area.

4.17 To address concerns the applicant's engineers propose to create underground storage that will allow the peak flows from the existing dwelling and two proposed dwellings to be less than the current rate. The consultants have agreed with Yorkshire Water that foul and surface water from the development can discharge into the combined foul and surface water system but that the maximum discharge from the site should be reduced from the current level of 3.5 litres per second to 2.0 litres per second. Yorkshire Water and York Consultancy have confirmed that this is acceptable subject to receiving full details of the storage tank and flow control device prior to commencement. It is the case that given the local ground conditions soakaways are likely to be ineffective.

4.18 It is understood that the combined drain does not run into a watercourse that would impact upon flooding problems within the Haxby area.

## 5.0 CONCLUSION

5.1 It is considered that the proposal makes more efficient use of the very large garden area without causing undue harm to interests of acknowledged importance. For the reasons outlined in this report it is recommended that the application be approved.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out only in accordance with the following plans:-

Plan Y81:603.02 Rev E  
Drawing Y81:603.20  
Drawing Y81:603.21 Rev A  
Drawing Y81:603.10  
Drawing Y81:603.11 Rev A  
Drawing Y81:603.30

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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 development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

4 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

5 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 8.5 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and 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 and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

6 No development shall take place 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.

7 Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

8 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) 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.

9 The ground level of the site shall not be raised above the level of the adjacent land.

Reason: To prevent run-off from the site affecting nearby properties.

10 At the soonest available opportunity, and in any event prior to the completion of the development, the developer shall submit a completed "Sustainable Design and Construction" statement for the development. The developer shall achieve an Ecohomes "Very Good" rating or the equivalent standard under the Code for Sustainable Homes, and if this is not achieved, the developer shall demonstrate the changes that will be made to the development in order to achieve this standard.

Reason: In the interests of sustainable development.

11 Full details of surface and foul drainage works for the existing dwelling and proposed dwellings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The works shall be completed in accordance with the approved details and timescales.

Reason: To ensure that the development does not increase flood risk and maximises sustainable drainage methods.

12 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A-E of Schedule 2 Part 1 of that Order shall not be carried out to either of the new dwellings or land within their curtilage without the prior written consent of 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 1995.

13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority no openings shall be created in the first floor external elevations of the two new dwellings other than those shown on the approved plans.

Reason: To protect neighbours' living conditions.



14 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1c of the Development Control Local Plan which requires that all new housing sites make provision for the open space needs of future occupiers.

**INFORMATIVE:**

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £6,980.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

15 A desk study shall be undertaken in order to identify any potentially contaminative uses which have or are currently occurring on the site. This shall include a site description and a site walkover and shall be submitted to and approved by the local planning authority prior to development of the site. This shall, where possible date back to 1800.

Reason: To protect the health of occupants of the proposed dwellings.

16 A site investigation shall be undertaken based upon the findings of the desk study. The investigation shall be carried out in accordance with BS10175: Investigation of potentially contaminated land: code of practice. The results of the investigation shall be submitted to and approved by the local planning authority in writing prior to any development commencing on the site.

Reason: To protect the health of occupants of the proposed dwellings.

17 A risk-based remedial strategy shall be developed based on the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing on site. The remedial strategy shall have due regard for UK adopted policy on risk assessment and shall be developed in full consultation with the appropriate regulator(s).

Reason: To protect the health of occupants of the proposed dwellings.

18 A validation report shall be submitted to and approved by the local planning authority, detailing sample locations and contaminant concentrations prior to any

development commencing on site.

Reason: To protect the health of occupants of the proposed dwellings.

19 Any contamination detected during site works that has not been considered within the remedial strategy shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development of the site.

Reason: To protect the health of occupants of the proposed dwellings.

20 A timetable of proposed remedial works shall be submitted to the local planning authority prior to any works being undertaken on the site.

Reason: To protect the health of occupants of the proposed dwellings.

21 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. |                |

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- the impact on the character of the area.
- the impact on neighbours living conditions.
- tree issues and wildlife.
- highways and parking.
- drainage and flooding

As such the proposal complies with Policies GB1, GP10, H4a, H5a, GP15 , NE1 and NE8 of the City of York Local Plan Deposit Draft and Central Government advice in Planning Policy Statement 1 ("Delivering Sustainable Development") and Planning Policy Statement 3 ("Housing")

#### 2. Demolition and Construction - Informative

The developer's attention should also be 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 noted and acted upon. Failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

- (i) There shall be no bonfires on the site
- (ii) 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".
- (iii) 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.
- (iv) 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.
- (v) 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.

3. Prior to the commencement of development it is recommended that consideration be given to any legal and financial consequences relating to the access to the site from a private road. Consideration should also be given to any possible concerns regarding damage to the road caused by construction vehicles.

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