



has a pronounced slope. The site falls away by significantly from the front to the rear by approximately 3.00m

## 1.2 HISTORY

- 07/02899/FUL - Conversion and first floor extension to existing garage to form 1 no. dwelling - Withdrawn - 31.01.2008
- 05/02157/FUL - Erection of detached dwelling (revised scheme) - Refused - 17.03.2006
- 05/01678/FUL - Erection of detached dwelling - Withdrawn 29.09.2005

1.2.1 Previously a planning application (05/02157/FUL) was refused in 2005. The refused application proposed that a new dwelling be erected within the rear garden area of no.20. The associated sub division of the garden would have resulted in the existing and proposed dwelling being left with only a relatively small garden area, which would have severely reduced the amenity enjoyed by current/future occupiers and resulted in a cramped form of development.

1.2.2 A further application (07/02899/FUL) was withdrawn prior to a formal decision being made by the planning department. The application sought permission for an ancillary 3 bedroom dwelling. The planning department advised that such a scheme could not be supported.

## 1.3 Councillor Request

This application has been called in by Councillor Healey due to concerns raised by Copmanthorpe Parish Council regarding overdevelopment of the site and access.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

Air safeguarding Air Field safeguarding 0175

DC Area Teams West Area 0004

### 2.2 Policies:

CYGP1  
Design

CYH7  
Residential extensions

## 3.0 CONSULTATIONS

### INTERNAL

### 3.1 Highway Network Management

3.1.1 The Highway engineer raised no objections to this proposal.

### 3.2 Urban Design and Conservation - Landscape Architect

3.2.1 If the proposal was for a separate dwelling the Council's Landscape Architect would recommend refusal on the grounds that such a scheme would conflict with the well being of the existing protected trees.

3.2.2 She comments that a dwelling in this position would most likely result in a demand for tree works to reduce shading, safety concerns, subsidence concerns, seasonal fall etc. She further comments that the property would also suffer from poor natural light levels.

3.2.3 However as this scheme utilises the exiting footprint, foundations and is also single storey in height, the officer considers that there is no immediate physical threat to the protected trees. Also as occupation of the building would not be on a permanent basis for residential accommodation, there should be less pressure for associated tree works.

### 3.3 Environmental Protection Unit

3.3.1 Advise the imposition of conditions relating to recommended hours for carrying out construction work, contaminated material and an informative relating to the carrying out of works on site.

### 3.4 Housing Strategy And Enabling Housing And Adult Social Services

3.4.1 The site exceeds the threshold of 0.03 ha for affordable in villages. An affordable house should therefore be provided as part of the scheme.

### 3.5 Drainage

3.5.1 The drainage engineer confirms that the site is located in low risk Flood Zone 1 and will not suffer from river flooding. He raises no objections to the proposal but notes that the development is close to a 600 mm diameter surface water sewer, which is at the rear of the garage. He notes that the applicant may require a building over agreement or moving of the foundations to give a suitable easement strip.

## EXTERNAL

### 3.6 Copmanthorpe Parish Council

3.6.1 Copmanthorpe Parish Council objected on the following grounds:-

- (i) The proposal would significantly reduce amenities of neighbouring properties;
- (ii) Access to the site is also a concern; and
- (iii) The P.C. also comment that they object on the grounds as the 2 previous planning applications 05/02157/FUL and 07/02899/FUL.

### 3.7 Neighbour and interested parties

3.7.1 Objections have been received from 7 neighbouring households. These comments related to the original submission which described the development as 'Conversion and alteration including addition of pitched roof to garage to form 1 bed dwelling':-

#### 3.7.2 Traffic nuisance

- An increase in vehicular traffic would cause an increased danger to pedestrians and road traffic and complicate manoeuvring for the existing residents of Horseman Avenue and also complicate access for emergency vehicles;
- An additional dwelling would also create undue noise pollution and parking congestion;
- Additional bin storage and collection of waste may cause undue congestion within the cul-de-sac;
- Additional traffic congestion will be created due to additional visitors to the new dwelling. Visitors may park within the turning head of the cul-de-sac creating additional congestion;
- The same objections were raised for previous developments to this scheme;
- Access to no.20 is very awkward and cramped;
- The main entrance to no.20 is through the side door. The access to the proposed new dwelling would be within 1 metre of this door.

#### 3.7.3 Amenity

- The proposal would diminish the existing level of privacy to adjacent neighbours, especially no.20, 21 Horesman Avenue and East Wing House and The Moat House, Orchard Garth;
- The garage foundations are unlikely to be adequate to support the alterations to the building;
- The garage faces north directly toward no.20. There would be privacy issues between each dwelling. The garage would also be very dark due to its orientation;
- The proposal would reduce the loss of view for the occupants of no.20.

#### 3.7.4 Drainage

- The local drainage system has a problem with capacity. Further development will only exacerbate this problem. There are also utility pipes very close to the plot and a culverted ditch exists to the rear of the building.

#### 3.7.5 Flooding

- The proposal would increase the risk of flooding due to the high water table and increase of hardstanding area and the low lying nature of the site.

#### 3.7.6 Design statement

- The Design and Access statement is inaccurate in terms of site levels;
- The proposal does not satisfy the requirements of the Copmanthorpe Village Design Statement.
- Loss of natural screening and impact upon wildlife and trees

- The proposal would have a detrimental impact upon wildlife, trees and plants and might necessitate future works to trees to allow for adequate amenity.
- Trees at the rear of the site are covered by a tree preservation order and could be damaged if the building is altered.
- The applicants submission does not accurately indicate the location of the TPO'd trees;
- The TPO'd trees and density of the nearby woodland give the area a unique character in a largely urban setting;
- There will be pressure, at some point in the future, to carry out tree works to prevent shading etc. to the new dwelling;
- The existing garage is already too close to the TPO'd trees, further extension and alteration to the building would exacerbate existing problems and possibly damage the building requiring their removal;
- If permission were granted it would have an impact upon the character of the village, the wellbeing of the trees, existing wildlife and the amenity they add to the area as a whole; and
- The TPO'd trees could be damaged during construction works;
- If remedial works are required to strengthen the garage, these could affect the root structures of the TPO'd trees.

#### 3.7.7 Precedent

- The erection of a detached dwelling within the rear garden of no.20 Horseman Avenue has been refused a number of times. An appeal has also been dismissed for this development. Permission has also been refused for development within no.19's garden. If permission is granted, a precedent will be set for other similar infill development.
- The Appeal Inspector, when commenting upon the dismissal of no.20's appeal, stated that 'this proposal is unacceptable because of the harm it would cause to the character and appearance of the surrounding area and the living conditions of nearby residents, contrary to emerging policies GP1, GP10 and H4a, and to the SPG',
- This proposal appears to be an underhand way of gaining approval for a new dwelling within the no.19's garden. This has been resisted by the planning department in the past.

#### 3.7.8 Out of character

- The proposed dwelling is a cramped over-development of the site and would detract from the appearance and character of the area.
- By increasing the density of housing in a well planned, mature and existing neighbourhood we believe this development would upset the balance of the area.
- Filling in the gap between 2 existing properties, any building would appear to be an afterthought and not part of the community.
- If the garage is within the village Conservation Area more detailed consideration of the design should be undertaken.

3.7.9 As previously mentioned, the applicant amended the scheme. The description of development has been altered from a dwelling to ancillary accommodation. The internal layout has also been amended to reflect the amended

description of development. All neighbours were re-consulted and the following comments were received:-

- The previous objections still stand;
- Any building on this site will change the environment and cause great loss of amenity to existing residents; and
- The proposed pitched roof will significantly raise the height of the existing building.

## **4.0 APPRAISAL**

4.1 The main considerations are:

Principle of development;  
Impact on visual amenity of area;  
Impact on residential amenity;  
Affect on highway safety;  
Protected trees;  
Drainage.

## **4.2 POLICY**

4.2.1 PPS1: Planning for Sustainable Development aims to protect the quality of the natural and historic environment. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.2.2 Local Plan Policy GP1 'Design' of the City of York Local Plan Deposit Draft includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

4.2.3 Draft Local Plan Policy GP1 'Design' of the City of York Local Plan includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

4.2.4 Draft Local Plan Policy H7 states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours.

4.2.5 Supplementary Planning Guidance 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 states that (1.12) Good design and a scale of development that respects the original dwelling and established pattern of development are essential to making a quality extension. An extension in the style of the existing dwelling is likely to be the most acceptable.

4.2.6 Copmanthorpe Village Design Statement - aims to guide and influence the design of development in a way that preserves and enhances the character and distinctiveness of Copmanthorpe. All developments should retain and enhance site features and should be carried out with great sensitivity, to respect its historic buildings and their settings.

### 4.3 PRINCIPLE OF DEVELOPMENT

4.3.1 The site lies within the defined settlement boundary of Copmanthorpe. There are no other relevant statutory constraints i.e. Conservation Area, etc. The proposed ancillary residential use conforms with the immediate locale. The majority of the structure already exists. It should also be noted that the applicant is allowed to use the garage for ancillary accommodation without planning consent, i.e. guest accommodation, games room or home office, etc. Consequently excluding the roof, the applicant could alter the garage to the proposed plans without requiring planning consent. In addition the applicant could form additional window openings without the need for planning permission. This could have a more detrimental impact upon adjacent neighbours privacy than the proposed scheme, especially in terms of privacy issues.

4.3.2 As a consequence, the proposed development of the land for ancillary residential use is acceptable in principle as it is compatible with the surrounding land uses.

### 4.4 IMPACT ON VISUAL AMENITY OF AREA

4.4.1 The existing property is a semi detached single storey family dwelling with a comparatively large rear garden to other dwellings within the Horseman Avenue. The garage is well screened from Horseman Avenue. It is set within the rear garden of no.20. Due to the topography of the site the proposed pitched roof would not be visible from public points of view.

4.4.2 The proposed pitched roof would however be seen from the rear outlook of properties in Orchard Garth, namely 'The Stables' 'East Wing House' and 'The Manor' and 19 and 21 Horseman Avenue. The roof would also be more noticeable during autumn/winter when the deciduous trees have shed their leaves. However due to the size of neighbouring gardens, the siting of the TPO'd trees and associated hedging and the fact the additional built development consists of 2.20 m of additional

roof (which is pitched), it is not considered that the proposed roof would have a detrimental impact upon the character and appearance of the area.

4.4.3 The proposal is not considered to be an overdevelopment of the plot as adequate levels of garden space are maintained. The proposal cannot therefore be considered to be out of character with the general pattern of development in the street or overdevelopment.

#### 4.5 IMPACT ON RESIDENTIAL AMENITY

4.4.1 It is considered that the proposed development would not have such a detrimental impact upon adjacent neighbours amenity as to justify refusal of planning permission. Explanation of the impact of this scheme has been considered in section 4.3.

#### 4.6 PROTECTED TREES

4.6.1 The proposed built development principally involves the formation of a pitched roof. Other development includes the alteration of existing openings and the alteration of the internal arrangement of the building. The applicants state that no additional works are required. Due to the nature of the proposed use, which is ancillary and the fact that the built development proposed is fairly minor. It is considered that the proposed scheme is acceptable and would not have a detrimental impact upon the TPO'd trees. It is however proposed to impose a condition requiring a structural survey to be submitted to the Council, prior to development commencing. This should ensure that if strengthening are required for the foundations they would not affect the roots of the protected trees.

#### 4.7 HIGHWAYS

4.7.1 No highway objection has been raised regarding the access arrangements. However it is suggested a condition requiring full details regarding access, parking and turning arrangements and cycle storage facilities should be submitted and approved by the LPA prior to development commencing and also standard highway condition relating to details to be submitted regarding vehicular areas surfaced.

#### 4.8 DRAINAGE

4.8.1 Foul water drainage to public sewers can be provided. Responses from neighbours indicate that there may be some difficulties in surface water drainage and the proposals would result in an increase in impermeable area and hence increased run-off. There is no evidence to suggest that suitable soakaways and permeable hard standings could not be designed to provide a sustainable drainage solution. Details of the surface water drainage works could be secured to be approved before development commences through imposition of appropriate conditions.

### 5.0 CONCLUSION

5.0.1 At present the scheme is modest in scale and impact upon adjacent neighbours and the neighbouring environment, particularly the protected trees. It



should also be borne in mind that the applicant is entitled to carry out all the proposed works, except the formation of the pitched roof, without planning permission. As a consequence, should permission be refused, he is entitled to undertake all works except the formation of the roof. The applicant would also be entitled to extend the garage, within the rules of permitted development rights, if permission is not granted. Objections on the grounds of loss of amenity and impact upon the character of the area are unfounded.

5.0.2 The proposed conversion and alteration to the existing garage is acceptable in terms of design, scale and appearance and would not detrimentally impact upon the amenity of the neighbouring residents, the character of the area (Horseman Avenue and Orchard Garth) and the adjacent protected trees. As a consequence the proposed works are considered acceptable and are recommended for approval, in accordance with policies GP1 and H7 of the City of York Development Control Draft Local Plan and The Copmanthorpe Design Statement - 2003.

## **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:-

(a) Plans & Elevations as Proposed - B152.02.06 - Date stamped 25/02/08

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 VISQ8 Samples of exterior materials to be app

4 DRAIN1 Drainage details to be agreed

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order re-enacting that order with or without modification), no new window openings shall be created in the south, east or west elevations of the proposed dwelling other than those shown on the submitted plan.

Reason: To protect the privacy of neighbours.

6 Notwithstanding the hereby approved details, the bathroom window indicated in the south elevation, shall be obscurely glazed and permanently fixed shut and shall thereafter be so retained.

Reason: To protect the residential amenity of adjacent neighbours.

7 Prior to work commencing a structural survey shall be submitted in writing to the Planning Department. The pitched roof shall not be constructed until it has been proven that the existing building does not require any form of ground works to strengthen the existing building. If the structural survey indicates that ground works are required to strengthen the existing structure, written details of the works required should be submitted in writing to the planning department and development shall not be carried out without the prior written approval from the Planning department. If additional ground works are approved by the Planning Authority, such works shall be carried out in strict accordance with the approved details.

Reason: To protect the adjacent trees which are subject of tree preservation orders.

8 The ancillary accommodation and the garage area shall be used for private domestic purposes incidental to the enjoyment of the dwelling only (20 Horseman Avenue) and not for any form of business or commercial use.

Reason: To safeguard the amenities of local residents.

## **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 the residential amenity of the neighbours, the visual amenity of the locality, highway safety. As such, the proposal complies with Policies GP1 and H7 of the City of York Local Plan Deposit Draft; national planning guidance contained in Planning Policy Statement 1 " Delivering Sustainable Development " and Planning Policy Statement 3 " Housing.

2. 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 attached to any planning approval, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

i. 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.	

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.

vi. There shall be no bonfires on the site

3. The development is close to a 600 mm diameter surface water sewer. A building over agreement may be required prior to development commencing. I would advise you to contact Yorkshire Water to discuss this matter prior to the commencement of any works.

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