

## COMMITTEE REPORT

**Committee:** East Area                                      **Ward:** Heworth  
**Date:** 10 September 2009                                 **Parish:** Heworth Planning Panel

**Reference:** 09/01510/FUL  
**Application at:** 293 Fifth Avenue York YO31 0PP  
**For:** Detached bungalow with associated access and parking to the rear of 291 and 293 Fifth Avenue (resubmission)  
**By:** Mr M And N Malarkey  
**Application Type:** Full Application  
**Target Date:** 2 October 2009

### 1.0 PROPOSAL

#### 1.1 Proposed Development

The application seeks planning permission to erect a three-bedroom detached bungalow in what is currently part of the rear gardens of 291 and 293 Fifth Avenue. The bungalow would front Appleby Place. Two car parking spaces are proposed to serve the property.

#### 1.2 Application Site

The site is currently the end half of two rear gardens. It is square in shape - approximately 19m x 19m. The surrounding area is residential in character. Appleby Place is a short cul-de-sac containing 10 bungalows. Properties to the rear and sides are two-storey semi-detached houses.

#### 1.3 Planning History

In 2009 planning permission was refused (08/02764) to erect two, two-storey houses on the site. The application was refused for the following reasons:

- a. Overdevelopment.
- b. Impact on the living conditions of 295 Fifth Avenue.
- c. Inadequate provision for parking and storage.
- d. Lack of information in respect to surface water run-off.

#### 1.4 Land Use Allocations

There are no site-specific policies or proposals relating to the site.

1.5 The application has been brought to committee at the request of a local member and a site visit is recommended - this was because of the member's concerns in respect to overdevelopment.

1.6 The 8-week target date for the application is 2 October 2009. The application has been re-advertised and consulted on following the submission of revised drawings. This has meant that the consultation period expires after the 10 September Committee date therefore to meet the 2 October decision target, should members at committee

feel minded to approve the application it would be requested that delegated authority be given to officers to determine the application. A site visit will also take place.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

### 2.2 Policies:

CYGP1  
Design

CYH4A  
Housing Windfalls

CYGP10  
Subdivision of gardens and infill devt

CYGP15  
Protection from flooding

CYGP4  
Environmental sustainability

## **3.0 CONSULTATIONS**

### 3.1 Internal

Highway Network Management - Confirm that the existing residents parking area over which access will be taken is a lay-by shown for residents parking and as such did not require need a traffic order to be served. It remains part of the public highway for use at the highway authority's discretion. A lay-by does not allow for vehicles to be parked for any significant length of time, it is used to allow vehicles to pass or for short waiting periods. Also note that the carriageway within Appleby Place is 5m wide and therefore two vehicles can pass simultaneously with ease. Should vehicles be parked in the highway, vehicles will still be able to pass due to the carriageway width. Therefore the Highway Authority does not have any objections to the proposed dwelling creating access to the site from Appleby Place and over the lay-by.

It should however be noted that the applicant proposes to gravel surface the parking area to the proposed dwellings, which is not recommended. The surface should be bonded to prevent carry over of loose materials onto the highway. Conditions recommended to cover this, access details and car and cycle parking details to be laid out as shown in the submitted plans.

Leisure Services - Awaited

Drainage - Awaited

Environmental Services - Awaited.

### 3.2 External

Local Planning Panel - Awaited

Neighbours - At the time of writing this report objection letters had been received from two neighbours. These raised the following issues:

- i) It will increase problems of flooding.
- ii) Object to the loss of the tenants parking area and concerns about increased parking pressures and blocking emergency access.
- iii) Bungalows on Appleby Place are occupied by elderly people who would like the area to remain peaceful and undeveloped.
- iv) The large footprint of the bungalow will still overdevelop the site.

## 4.0 APPRAISAL

### 4.1 Key Issues

- impact on streetscene
- impact on neighbours
- quality of accommodation
- flood risk
- highway considerations
- Sustainability

4.2 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. The design of any extensions should ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.3 Planning Policy Statement 1 sets out the Government's overarching planning policies. It sets out the importance of good design in making places better for people and emphasises that development that is inappropriate in context or fails to take the opportunities available for improving an area should not be accepted.

4.4 Policies H4a and GP10 allow for the subdivision of gardens for new development providing it is of an appropriate scale, does not harm living conditions and otherwise accords with planning policy.

The key issues in assessing the proposal are considered to be:

#### 4.5 Impact on the streetscene

The proposed bungalow would front Appleby Place. The east side of the cul-de-sac currently has no frontage development and is bounded by the hedgerows and fences surrounding rear gardens on Ingleton Walk and Fifth Avenue. It is not considered that this creates a particularly attractive aspect in the position where the house is proposed. The addition of a new bungalow along a short section of the road would not appear out of place in the context of the bungalows opposite. The house would be set back around 6 metres from the road and has a relatively low profile. There is scope for landscaping to soften the impact of development.

#### 4.6 Impact on neighbours

The proposed dwelling has an eaves height of 2.7 metres and a ridge height of 5.2 metres. The elevations facing adjoining gardens are hipped.

In assessing the acceptability of the proposal, regard must be given to the impact on neighbouring houses and gardens, in particular taking account of adequate separation distances and the character of the area. Because the proposed dwelling is single storey with no windows proposed in the roof space its impact would be much less than a two-storey house and there would be little or no opportunity for overlooking. Typically minimum separation distances of 12 metres are sought between existing rear elevations and proposed two-storey gables walls. Because the proposed bungalow is single storey and has a hipped roof it would be generally expected that smaller separation distances would be acceptable. In this case the separation distances to 9 Ingleton Walk would be 18m and around 16 metres to the rear of properties on Fifth Avenue. There is a gap of around 22 metres to the front of the nearest Bungalow on Appleby Place. Officers consider these distances to be acceptable.

The sub-division of the garden would leave 291 and 293 Fifth Avenue with rear gardens that are 10 metres long and 9 metres wide. This is suitable to meet the recreational and storage needs of the properties. Parking is available in the front gardens.

#### 4.7 Quality of the accommodation

The proposed bungalow has suitably sized internal space with habitable rooms orientated to provide an acceptable outlook. The garden is appropriate to meet the needs of the property, with the main garden area south facing and 17 metres by 5.5 metres in size. There is adequate space for storage and recycling.

#### 4.8 Flooding

The property would be located in low flood risk zone 1. The previous application was refused because issues relating to the attenuation of surface water had not been addressed. The applicant has now considered this aspect and proposes a number of measures including on site storage and permeable surfacing to avoid increasing flood risk to the immediate and wider area. The comments of the Council's drainage officers are awaited and will be reported at the Committee meeting.

#### 4.9 Highways

The proposed scheme provides two off-street car parking spaces to serve the property. It will be conditioned that an alternative surfacing to the proposed gravel shown on the plans is used.

Immediately in front of the proposed access is a car-parking lay-by for two cars that has been created for the residents of Appleby Place. The applicant proposes to bring the access through this area and as such it would not be suitable for long-term car parking. It is not considered that the existence of the parking area should block development of the dwelling. The area is created in the adopted highway; however, the highway has not been extinguished and remains capable of use at the highway authority's discretion. There is a sign adjacent to the space stating that the area is only for residents parking, however, because the spaces are within the adopted public highway there is no legal right to restrict parking. It is the case that the owner of number 291 Fifth Avenue could reasonably seek to create a rear access on to his/her garden irrespective of the outcome of this application.

Appleby Place is an adequate width to accommodate on-street parking. At the time of officer site visits there have been very few vehicles parked in the street.

#### 5.0 Sustainability

The proposed dwelling will make more efficient use of land. It is located within a built up area and as such has access to a range of shops and services. The applicant has submitted a sustainability report that suitably addresses key issues including re-cycling and energy efficiency.

### **5.0 CONCLUSION**

5.1 The previous planning application for two, two-storey dwellings was considered to be overdevelopment. The existing proposal for one bungalow better relates to the scale of other buildings on Appleby Place and retains adequate external space to meet the needs of future occupiers of the new home. It is not considered that it would cause unacceptable harm to neighbours' living conditions.

5.2 The proposal will lead to the existing lay-by in front of the proposed access being unsuitable for parking, however, this bay is part of the adopted highway and it is not reasonable to block access to the existing rear garden of number 291.

5.3 If members are minded to approve the application it is requested that delegated authority be given to officers to approve the application once the consultation period has expired. This is subject to there being no further responses received during the

consultation period that raise matters that officers would deem to be of sufficient concern to justify refusing the application.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:**            Delegated Authority to Approve

1        TIME2            Development start within three years

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

          Revised drawing NM/P/02 Rev A received by the Local Planning Authority on 25 August 2008.

          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        Prior to the occupation of the dwelling a suitable boundary treatment shall be erected along the boundaries of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The boundary shall be constructed as approved prior to the occupation of the dwelling and shall remain as such unless otherwise agreed in writing with the Local Planning Authority.

          Reason: To enhance the streetscene and protect neighbours' living conditions.

5        Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, details of the external materials to be used for the surfacing of the site (including an alternative to the gravel driveway shown on the plans) 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 and reduce surface water run-off.

6        Prior to the development coming into use, all areas used by vehicles shall be

surfaced, sealed and positively drained within the site, in accordance with details that have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the egress of water and loose material onto the public highway and reduce flood risk.

7 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.

8 The development shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

9 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is commenced.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity and ensure future maintenance of the surface water drainage system.

10 The developer shall aim to achieve a Building Research Establishment Environmental Assessment Method (BREEAM) assessment standard of at least "very good" for the development. Unless otherwise agreed in writing prior to the commencement of the development, the developer shall submit in writing for the approval of the Local Planning Authority a BREEAM design assessment demonstrating the progress of the BREEAM assessment, the percentage score expected to be achieved and the standard to which this relates. Where this does not meet at least a 'very good' standard then the developer shall demonstrate the changes that will be made to the development in order to achieve this standard.

Reason: To ensure that the development is sustainable and accords with Policy GP4a of the Draft City of York Local Plan and the Interim Planning Statement on Sustainable Design and Construction.

11 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 that 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 £2, 445.

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.

12 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.	

13 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, B, C, D and E of Schedule 2 Part 1 of that Order shall not be carried out 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.

## **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 appearance of the street and character of gardens, the light, outlook and privacy of adjoining properties, highway safety, the availability of parking and flood risk. As such the proposal complies with Policies CYGP1, CYH4a, CYGP10, CYGP15 and CYGP4 of the City of York Development Control Local Plan and advice contained within PPS1 and PPS3.



2. This application does not grant consent for the gravel driveway. A suitable, permeable hard surface should be installed with the decision notice.

**Contact details:**

**Author:** Neil Massey Development Control Officer (Wed/Thurs/Fri)

**Tel No:** 01904 551657