

This application is referred to Committee following a request from Councillor Brooks on the following grounds; impact on Conservation Area, impact on neighbours and contrary to Village Design Statement. A site visit is also recommended.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area : Dunnington Conservation Area

City Boundary : York City Boundary 0001

DC Area Teams : East Area (1) 0003

2.2 Policies:

CYGP1
Design

CYGP10
Subdivision of gardens and infill devt

CYHE2
Development in historic locations

CYH4A
Housing Windfalls

CYH5
Residential densities over 25 per ha

3.0 CONSULTATIONS

3.1 Internal

Highway Network Management - No objections. The proposed dwelling would be served by an existing access from Eastfield Lane. Visibility at the access is to be improved to accord with government guidelines. Car parking, turning and cycle storage are provided in accordance with CYC standards for both dwellings. Several conditions are suggested to be included with any approval.

Environmental Protection Unit - Concerns over potential land contamination. Looking at historical mapping of the area there is nothing to suggest that the site has been used formally for activities that could have resulted in contaminated land. The concerns are the result of a site visit of the proposed development area. Articles of concern on this

site included, abandoned vehicles, oil drums, abandoned workshops with machinery inside, tyres, open paint tins, petrol canisters, engine parts and waste motor oil. There were also a lot of building materials, old radiators and metal car parts. All the materials suggest that the site has been used recently for activities that could have resulted in soil contamination from a variety of activities the most obvious being soil contamination from hydrocarbons. The application is for a residential dwelling incorporating a garden/amenity area. This type of application introduces sensitive receptors (people) to a site. PPS23 states that if applications introduce residential properties to an area where there is evidence of activities that could have resulted in land contamination, it must first be investigated to ensure any contamination that is present can be remediated. It is recommended that a 5 point contamination condition be placed onto this application if approved.

Conservation - In principle, the development of a two storey house within the rear garden of Westholme is likely to alter the distinctive character of this former garth situated within Dunnington Conservation Area. The setting of the former garth has been compromised in the past by the modern dwelling houses that surround the site. The proposed dwelling house is unlikely to have a negative impact on the appearance of the conservation area, as the development will not be open to public view from Church Street. With regard to the proposed design, the scale and massing of the two storey dwelling house generally respects the original house, Westholme. The orientation of the dwelling house follows the pattern of existing buildings within the plot. With regard to the revised design of the dwelling house, the first floor windows appear to have been repositioned further away from the eaves to the front and rear elevations and the revised design of the principal entrance to the side is elevation is acceptable.

Trees - Objects to application due to proximity of proposed dwelling to a eucalyptus tree and hedge along the southern boundary of the site. Construction of the dwelling could sever the roots and result in damage to the tree and hedge.

Housing - The site is over the threshold for providing affordable housing in rural areas.

Lifelong Learning and Leisure - As there is no on-site public open space a commuted sum should be paid to the Council for amenity space, play space and sports pitches.

Drainage - Object to the application due to lack of information.

3.2 External

- Dunnington Parish Council / Dunnington Parish Councillor Maggs - Object to proposal on the following grounds; residential amenity; character of conservation area, loss of open space; pollution and noise; subdivision of garden is detrimental to character and amenity of area; impact on eucalyptus tree; archaeology; contrary to village design statement.

- Conservation Advisory Panel - Felt that the application was contrary to Local Plan Policy GP10 and detrimental to the Conservation Area. The panel felt that this would set a precedent in the village and asked officers to refer to the Village Design Statement for Dunnington.

- Neighbour Consultation - Nine letters of objection were received from eight local residents. The following points were raised:
- house is too high, scale and design is out of keeping with neighbouring houses and character of the Conservation Area, detrimental to rural nature of the area / loss of green space, loss of trees.
- proposal could set a precedent for future development.
- site previously used for industrial/storage purposes and may be contaminated (including asbestos).
- what is the width of access track required? Concerns regarding large vehicles using access track and damaging hedges/boundary fences.
- access would result in cars causing noise and pollution.
- detrimental to residential amenity; overlooking from windows; detract from outlook / views, overbearing / over dominant.
- contrary to the Village Design Statement which opposes garden infill / backland development.
- outdoor lighting

4.0 APPRAISAL

Key Issues

- impact on residential amenity
- impact on conservation area
- impact on trees
- highway safety
- drainage
- affordable housing
- land contamination
- noise and pollution
- precedent

4.1 Local Plan Policy GP1 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. 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. Developments should avoid the loss of important gaps within development and other features that contribute to the quality of the local environment.

4.2 Local Plan Policy GP10 states that planning permission will only be granted for the sub-division of existing garden areas to provide new development where this would not be detrimental to the character and amenity of the local environment.

4.3 Local Plan Policy HE2 states that within conservation areas development proposals must respect adjacent buildings and open spaces and have regard to local scale, proportion, detail and materials.

4.4 Local Plan Policy H4a proposals for residential development on land not already allocated on the Proposals Map will be granted planning permission where: a) the site is within the urban area and involves infilling; b) the site has good accessibility to jobs, shops and services by non-car modes AND c) it is of an appropriate scale and density to surrounding development, and d) it would not have a detrimental impact on existing landscape features.

4.5 Local Plan Policy H5a states that the scale and design of residential developments should be compatible with the character of the surrounding area and must not harm local amenity. The residential density aim should be 30 dwellings per hectare within areas such as Dunnington.

4.6 The previous application was refused on three grounds, namely size and scale, loss of privacy through overlooking, and impact on the character of the Conservation Area.

Residential Amenity

4.7 The proposed dwelling would be approximately 3 metres from the north western boundary of the site, which is shared, with 3 and 4 Stockhill Close. In comparison the previously refused scheme, the proposed dwelling has been reduced from 13 m in length and 8.2 m in height, to 11 m in length and 6.8 m in height. The proposed dwelling would be sited opposite the gap between 3 and 4 Stockhill Close and given the orientation of these two properties, views from windows in their rear elevations would look beyond the front and rear elevations of the proposed dwelling. It is considered, therefore, that given the reduction in size and scale of the proposed dwelling and its revised siting, it would be difficult to sustain a refusal on the grounds that the proposal would result in a dominant structure significantly detrimental to the outlook from these two properties.

4.8 The six windows within the north western side elevation facing Stockhill Close, incorporated within the previous scheme, have been removed. Within this elevation there will now will be a secondary lounge window and doorway at ground floor and a landing window at first floor. The ground floor windows would be obscured by boundary treatment (a condition is suggested to deal with proposed boundary treatment) and the first floor window will be conditioned to be obscure glazed with permitted development rights removed to prevent any additional windows from being inserted. Given these alterations and suggested conditions it is not considered that the proposed dwelling would result in a significant loss of privacy for the residents of 3 and 4 Stockhill Close.

4.9 It is considered that the revised scheme has addressed the two previous reasons for refusal relating to residential amenity.

4.10 It is not considered that the use of the access road, which enters Eastfield Lane between numbers 15 and 17, would significantly harm neighbouring amenity. This access point is already in place and would only serve one dwelling.

4.11 The introduction of security lighting within a domestic curtilage does not normally require planning permission and is therefore outside of the Local Authority's control.

Impact on Conservation Area

4.12 When determining planning applications within conservation areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character and appearance of the conservation area. This duty is re-iterated in national planning advice contained within Planning Policy Guidance Note 15 ("Planning and the Historic Environment").

4.13 The development site is situated to the rear of Westholme, a detached two storey house facing Church Street, within Dunnington Conservation Area. The rear garden of Westholme consists of a narrow strip of land containing single storey outbuildings, sheds and a garage. The garden ground also contains a number of mature trees, shrubs and hedges. The former garths, or long rear gardens to the rear of Church Street remain largely undeveloped creating a rural character to this section of the Conservation Area.

4.14 The proposed house has been reduced in size and scale and its siting and design has been altered to take account of the traditional character of Westholme so as to appear as a subservient building to the main dwelling. The orientation of the dwelling house follows the pattern of existing buildings within the plot. With regard to the visual impact of the proposal on the character and appearance of the Conservation Area, although the house will be visible from the dwellings in Stockhill Close which are outside the Conservation Area it will be largely concealed from public view from Church Street, which is located within the Conservation Area.

4.15 Whilst the Village Design Statement advises that proposals should respect the form, layout and density of development in the locality, it does not specifically advise against garden infill or backland development. The proposed dwelling respects the form of Westholme, is sited to reflect the orientation of development along the garths to the rear of Church Street and reflects the density of surrounding residential development.

4.16 The following issues were not previous reasons for refusal, but have been raised during the consideration of the application.

Trees

4.17 The Council's tree officer objects to the proposal due to the proximity of the proposed dwelling to a eucalyptus tree. No such reason for refusal was included in relation to the previous application, and as the proposed dwelling has been moved further away from the tree (from being 1 m from the boundary and tree to 4.4 m from the boundary and tree), it is not considered that refusal of the application on these grounds would be reasonable. A number of conditions are suggested to protect this tree and others (including boundary hedging) during site preparation and construction works.

Highways

4.18 No objections are raised on highway safety grounds to the use of the existing access serving one dwelling. Highways advise that a minimum width of 3.7 m is required in order for the access road to be accessible by emergency vehicles. The

access road has been measured on site by the case officer and does measure 3.7 m in width.

Drainage

4.19 The site is located in Flood Zone 1 and is therefore at a low risk from flooding. A standard drainage condition is suggested which requires details of foul and surface water drainage details to be submitted for approval prior to development commencing.

Housing

4.20 Whilst the site may fall above the threshold for affordable housing provision, given the constraints of the site in terms of shape, access, Conservation Area status and location of surrounding dwellings, it is not considered suitable for more than 1 dwelling.

Land Contamination

4.21 The advice provided by the Council's Environmental Protection Unit is noted and conditions are suggested to deal with the potential contamination on the site.

Noise and Pollution

4.22 It is not considered that the introduction of one dwelling to the rear of properties on Stockhill Close would result in unacceptable levels of noise or pollution once constructed. In order to minimise potential nuisance during the construction phase, a condition restricting hours of construction is recommended.

Precedent

4.23 Concerns have been raised that this development, if allowed, could set a precedent and lead to similar developments being allowed in the area. Whilst it is important to be consistent in decision making, each proposal is considered on its own unique merits and assessed against relevant planning policy and all material planning considerations. If planning consent is granted for this proposal it does not mean that planning permission will automatically be forthcoming for any similar proposals.

5.0 CONCLUSION

It is considered that the revised scheme has addressed the previous three reasons for refusal. Since the previous application was refused it is not considered that there has been any changes in circumstances to warrant introducing any new reasons for refusal. It is not considered that the scheme is contrary to the policies or guidance contained within the City of York Draft Local Plan or the Dunnington Village Design Statement and is therefore recommended for approval, subject to conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approved

1 TIME2 Development start within three years

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

Location plan BHCL/01/A received on 06.04.09
Detached garage details BHCL/08 received on 11.03.09
Existing site plan BHCL/1/02 received on 11.03.09
Proposed site plan BHCL/1/03/A received on 13.07.09
Proposed site entrance details BHCL/1/04 received on 01.03.09
Proposed cross sections BHCL/1/12 received on 13.07.09
Proposed elevations BHCL/1/07/A received on 13.07.09
Proposed first floor plan BHCL/1/06/A received on 13.07.09
Proposed ground floor plan BHCL/1/05/A received on 13.07.09

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.

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| 3 | VISQ8 | Samples of exterior materials to be app |
| 4 | VISQ7 | Sample panel ext materials to be approv |
| 5 | VISQ4 | Boundary details to be supplied |

6 Before the commencement of development including building operations, installation of utilities, the importing of materials, any excavations, and any development-related tree works, a method statement regarding protection measures for the existing trees shown to be retained shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing to be shown on a plan; phasing of works; site access during construction; parking arrangements for site vehicles; arrangements for loading/off-loading; locations for storage of materials; location of site cabin. The protective fencing line shall be adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, parking or manoeuvring of vehicles. Within the exclusion zones there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new service runs et al.

Reason: To ensure protection of existing trees before, during and after development which make a significant contribution to the amenity of the area and/or development.

7 Development shall not commence until a scheme detailing the siting of the contractors storage and car parking areas within the site, including any means of enclosure, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and maintained throughout the construction period.

Reason: In order to protect the trees on the site which contribute to the visual

amenities of the area.

8 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 6.8 metres to the ridge or 7.5 metres to the chimney, 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.

9 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C, 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 residential amenities of neighbouring dwellings the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may be carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008.

10 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 the windows in the first floor north western and first floor south eastern elevations of the dwelling shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no door, window or other opening additional to those shown on the approved plans shall at any time be inserted in the first floor of the north western or south eastern side elevations of the property.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

12 Prior to the commencement of the development, the developer shall submit for

the written approval of the Local Planning Authority an initial Code for Sustainable Homes (CSH) Design Stage assessment for the development. Unless otherwise agreed in writing with the Local Planning Authority, this shall indicate that at least the minimum code level 3.*.* rating will be achieved. This shall be followed by the submission of a CSH Post Construction Stage assessment, and a CSH Final Certificate (issued at post construction stage). These documents shall be submitted to the Local Planning Authority after completion and before first occupation of the building. Both documents submitted shall confirm that the code rating agreed in the initial CSH Design Stage assessment has been achieved.

Reason: In the interests of sustainable development.

13 All demolition, 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 and not at all on Sundays and Bank Holidays.

Reason: In the interests of residential amenity.

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 £2124.

15 DRAIN1 Drainage details to be agreed

16 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts a to c of this condition have been complied with:

a. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by

competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases, where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
- archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing

immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the previous condition, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the previous condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18 Prior to the dwelling being brought into use, the driveway shall be constructed and thereafter maintained at a minimum width of 3.7 and with a minimum height clearance of 4.5 metres along its whole length.

Reason: To ensure that the dwelling is accessible by emergency vehicles.

19 Vehicular access shall be from the existing site access of Eastfield Lane and details of the design of this access, together with associated sightlines, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Reason: In the interests of highway safety.

20 HWAY12 Initial 10m surfaced, details reqd

21 HWAY19 Car and cycle parking laid out

22 HWAY21 Internal turning areas to be provided

23 HWAY23 Vehicular sight lines protected

24 No gates shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

25 HWAY31 No mud on highway during construction

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

- impact on residential amenity
- impact on character and appearance of conservation area
- impact on trees
- highway safety
- drainage
- affordable housing
- land contamination
- noise and pollution
- precedent

As such the proposal complies with Policies contained within the City of York Draft Local Plan.

2. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named: Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

3. INFORMATIVE:

The applicant is advised that if they would like the sightlines at the access point adopted, then they should contact in the first instance Mr M Kitchen - Section 38 Engineer on 01904 551336 to discuss the procedures.

4. INFORMATIVE - DEMOLITION AND CONSTRUCTION

(i)Construction 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".

(ii)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.

(iii)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.

(iv)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.

(v)There shall be no bonfires on the site.

Contact details:

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