

## COMMITTEE REPORT

**Committee:** East Area  
**Date:** 13 May 2010

**Ward:** Fishergate  
**Parish:** Fishergate Planning Panel

**Reference:** 10/00287/FUL  
**Application at:** 4 Derwent Road York YO10 4HQ  
**For:** One pair of semi-detached dwellings following demolition of existing dormer bungalow (amended scheme)  
**By:** Mr Warren Breeze  
**Application Type:** Full Application  
**Target Date:** 19 April 2010  
**Recommendation:** Approve

### 1.0 PROPOSAL

#### SITE

1.1 The application site lies on south side of Derwent Road, off Fulford Road. It comprises the second housing plot along the road and is currently occupied by a detached dormer bungalow with attached side garage. The street is residential and lies outside the Fulford Road Conservation Area. The site falls within Flood Zone 1 (low probability of flooding).

#### PROPOSAL

1.2 The application proposes the erection of a pair of semi-detached houses following demolition of the existing dormer bungalow. The properties would be one and a half storeys above ground with a below ground basement. The pair have been designed to appear as one property, with a front door accessing the right hand dwelling and a side door accessing the left hand dwelling. The dwellings would have a dining/kitchen and lounge on the ground floor and three bedrooms on the first floor. Each basement would contain a home office with an external access from the rear garden, media room, electrical plant room and mechanical plant room. There would also be an internal staircase to the ground floor.

1.3 The replacement building would be set further back into the garden than the existing dwelling and, whilst the front walls would be in line with the existing dwelling, two bays would project forward of the front wall. The total width of the replacement building would be the same as the existing bungalow. The front area would provide one parking space per dwelling and areas of soft landscaping. The materials are proposed to be Disempel Mozart Blend bricks and Sandtoft Gaelic clay pantile.

#### APPLICANT'S CASE

1.4 The application is supported by a Design and Access Statement, which includes transport and flood risk assessments, a sustainability statement and daylight/sunlight assessment. The site is indicated to be in Flood Zone 1 (low risk). The sustainability statement confirms that the scheme is to be constructed using the best available mix

of renewable and conventionally sourced materials and that future residents would benefit from connectivity to key local destinations by public transport.

1.5 In addition, the applicant has submitted three letters in response to comments made by local residents. These confirm that the additional areas created by the proposal have not been designated as habitable space - the home office is intended to allow a resident to work from home, the media room to be ancillary space for the occupants (potentially a gym, home cinema or storage) and the plant rooms required in relation to the operation of systems within the dwellings. He confirms that surface water drainage would be attenuated to 70% of the existing rate with water storage on site and that structural engineers will be appointed to design the construction of the basements with Building Regulations approval sought.

## HISTORY

1.5 An application for the erection of a pair of semi-detached houses was withdrawn in 2008, following concerns expressed by the case officer (ref: 08/01709/FUL). These related to the height and depth of the houses and issues regarding access and parking. The houses proposed in this application were to be full two storey with a fourth bedroom being accommodated in the roof space.

1.6 Following withdrawal, the applicant entered into pre-application correspondence with various CYC Planning Officers. As a result, a subsequent planning application (09/01202/FUL) was submitted for a semi-detached pair of dwellings with accommodation over two floors, but contained within a one and a half storey building. This Committee approved the application in October 2009, subject to conditions including requirements to meet Code for Sustainable Homes Level 3, 5% on-site renewable energy generation and surface water run-off attenuation.

1.7 This application has been submitted following an approach to the authority to create a sub floor to accommodate plant in connection with the proposed rainwater harvesting systems and solar panels. Whilst it was considered that these could be provided as part of the discharge of the relevant planning conditions, the applicant subsequently proposed to extend the basement to incorporate a home office and additional storage space. The applicant was advised that this additional floor space required planning permission.

## MEMBER INTEREST

1.8 Councillor D'Agorne has been called the application to Committee due to the concerns expressed about drainage, subsidence and multi occupation, and the possible precedents that it may set.

## 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:

CYGP4A  
Sustainability

CYGP10  
Subdivision of gardens and infill devt

CGP15A  
Development and Flood Risk

CYH3C  
Mix of Dwellings on Housing Site

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYT4  
Cycle parking standards

CYSP6  
Location strategy

CYGP1  
Design

## 3.0 CONSULTATIONS

### PUBLICITY

3.1 The application was publicised by consultation letters to neighbours immediately adjacent to the site and to those local residents who had commented on the original application for the erection of a pair of semi-detached houses. The consultation period expired on 8.4.2010.

### INTERNAL

3.2 Highway Network Management - No objections.

In terms of highway considerations this application only differs from the previously approved application by the inclusion of a basement level and as there are no bedrooms proposed for the basement then it is considered that there is no requirement to increase the extent of proposed on-site car or cycle storage. It is considered, however, that the excavation of the basement could increase the

amount of construction traffic in the short term and therefore it is requested that additional conditions be attached to any permission granted to limit the likelihood of mud being deposited on the highway and localised damage occurring to the highway. Request conditions.

### 3.3 Environmental Protection Unit - No objections.

As the site is near to residential dwellings, it is requested that an informative be attached to remind the applicant of their environmental responsibilities.

## EXTERNAL

3.4 Fifteen letters from the owner/occupiers of nine properties on Derwent Road, objecting to the scheme on the following grounds:

- Queries over actual or potential use of basement for business or separate residential uses;
- Harm to residential amenity from increase in noise and dust associated with basement excavation;
- Inconvenience for motorists and pedestrians from additional and larger vehicles related to soil removal;
- Conditions requested restricting external access, number of occupants, size of construction vehicles, working hours, working conditions;
- Previous application was over-development and this adds a basement;
- Excavation of substantial basement not wise course of action given drainage issues in road;
- Potential surface water run-off problems from substantially increased built-on footprint;
- Affect on water table, flow of water below ground level and flooding;
- Basement out of character with rest of houses on street;
- Concerned that the houses will be turned into multiple occupancy residence, which will affect this quiet residential street;
- Increase in floor space and potential for additional bedroom in home office would result in more vehicles parked on street, exacerbating existing parking problems;
- Damage to foundations/structure of adjoining properties from excavation of large basements;
- One bungalow to two substantial houses with considerable impact on street environment should require reconsideration of whole scheme;
- Engineer's report, party wall agreements with neighbours and Building Regulations approval should be submitted with application;
- Previous objections to scheme for erection of semi-detached pair reiterated.

3.5 Two letters from a potential occupier of one of the proposed properties, commenting on the representations by neighbours, and confirming the following:

- the homes will not be houses of multiple occupation;
- the home offices are intended to permit working from home for the residents of the properties.

## 4.0 APPRAISAL

## KEY ISSUES

4.1 This application seeks planning permission for an extended form of development to that permitted in 2009 with the main difference being the inclusion of a sub ground floor level basement to serve each dwelling. As a result, the key issues to be considered as part of this application are:

- principle of development;
- design and sustainability;
- character and amenity;
- affect on living conditions of neighbours;
- flood risk and drainage;
- access, parking and highway safety;
- impact on local facilities and services.

## POLICY CONTEXT

### 4.2 National Planning Policy

Central Government planning policy is set out in Planning Policy Statement 1: Delivering Sustainable Development (PPS1), Planning Policy Statement 3: Housing (PPS3), Planning Policy Guidance Note 13: Transport (PPG13) and Planning Policy Statement 25: Development and Flood Risk (PPS25):

PPS1 confirms sustainable development as a core principle of the planning system, with the promotion of sustainable and inclusive patterns of development and encouraging good design. It seeks the provision of sufficient, good quality new homes in suitable locations and promotes high quality and inclusive design, which avoid segregation and provide opportunities for physical activity and recreation. It states that design, which fails to take the opportunities to improve the character and quality of an area, should not be accepted.

PPS3 supports PPS1 with regard to high quality new housing and encourages sustainable and environmentally friendly new housing development through the reuse of previously developed land, more efficient use of land through appropriate densities, reducing dependency on the private car and provision of affordable housing. It states that careful attention to design is particularly important where the chosen local strategy involves intensification of the existing urban fabric. More intensive development is not always appropriate. However, it also states that the density of an existing development should not dictate that of new housing by stifling change or requiring replication of existing styles and form. When well designed and built in the right location, new housing development can enhance the character and quality of an area.

The objectives of PPG13 are to promote sustainable transport choices, accessibility to facilities by public transport and reduce the need to travel, especially by car.

PPS25 sets out the approach to be taken in applying the Government's policy on flood risk management in planning decisions.

### 4.3 Local Planning Policy

Local planning policies contained in the City of York's Draft development Control Local Plan (incorporating 4th set of changes) are material to the consideration of the application. These are summarised in section 2.2 above. In particular, Policy GP1 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.

### ASSESSMENT

4.4 The principle of developing the site for two dwellings has been established through the granting of planning permission in 2009 (ref: 09/01202/FUL). This planning permission is extant and is, therefore, still able to be implemented subject to the discharge of conditions of approval. The current application makes no change to the upper floors of the dwellings or the external appearance of the development above ground level. Therefore, the issues relating to this element of the development, need not be revisited and the assessment of this application should focus upon the additional implications that would result from the provision of a basement to each house and external access to them.

4.5 As set out in paragraph 1.7, the creation of a basement was initially intended to accommodate plant and equipment relating to the sustainable measures proposed to meet conditions of the original approval. The applicant proposed to house these below ground level due to the lack of roof void or other space within the dwelling and to avoid further outbuildings within the rear garden area.

4.6 The basements now proposed as part of this application seeks to accommodate a home office and additional storage space/media room as well as the plant rooms. They would be able to be accessed from within the properties, but also via rear external staircases from the rear gardens of the dwellings. Daylight/sunlight would only enter the basements from these staircases into the home offices as no light wells are proposed, so it is unlikely that the basement would be suitable for living accommodation or non-ancillary purposes. The applicant has confirmed that the areas are not intended as habitable space and has confirmed in writing the purposes of the electrical and mechanical plant rooms, home office and media room. In addition, the Council's Highway Engineer has not raised an objection to the development on the basis that no additional bedrooms are proposed.

4.7 Therefore, in light of the above, it is considered that the use of the basement could be reasonably restricted through a condition. Furthermore, the creation of light wells does not fall within permitted development rights, though it is recommended

that permitted development rights for the dwellings be removed if approved as was the case with the previously approved application.

4.8 The creation of the basements would have a negligible impact on amenity of the street scene and area, as it is below ground level with no light wells proposed and the external access at the rear. Their affect on the residential amenity of neighbours would likely be limited, given the ancillary accommodation proposed. Local residents have raised concern about the impact on their properties and their amenity from the excavation works to create the basements. The construction design of the basements would need to be investigated by a structural engineer and would require Building Regulations approval as well as compliance with the Health and Safety Executives Construction (Design and Management) Regulations (2007). The applicant may also need to comply with the requirements of the Party Wall Act. There is no doubt that the construction works themselves, as with all development works, would impact on the amenity of local residents. The Council's Environmental Protection Unit has requested that an informative be added to any approval to bring the applicant's attention to the requirement of the Control of Pollution Act 1974, regarding air pollution and noise. It is recommended that a standard hours of construction condition be attached to any approval.

4.9 The basements would need to be designed and constructed in such a way as to avoid water seepage into them. As the site is within Flood Zone 1, there is a low probability of river flooding of the site. It is unlikely that the addition of basements to the development would increase surface water runoff as there is no additional hard surfacing or built form beyond the extent of the building already granted consent. However, as with the recent planning approval, a condition should be attached to seek the attenuation of surface water run-off from the site.

4.10 There is no requirement for an increase in payments over and above those requested through the conditions attached to the original permission, as no additional bedroom accommodation is proposed.

## **5.0 CONCLUSION**

5.1 The application proposes the erection of a semi-detached pair of dwellings at the site, with accommodation over three floors including within a sub ground floor level basement. As a result, and subject to conditions, it would be unlikely to cause undue harm to visual or residential amenity, highway safety on the surrounding network, flood risk and the provision of local facilities. It would represent the construction of two dwellings in a sustainable location that, it is indicated, would meet Level 3 of Code for Sustainable Homes. Therefore, the application is recommended for approval subject to conditions.

5.2 The granting of any planning permission does not guarantee building regulations approval or any other required consent for the development.

**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:-

Drawing nos. 09/06/102B, 103, 104B, 105A, 108A and 109 received on 17 February 2010;

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

Reason: To protect the amenities of adjacent residents.

5 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.

6 Unless otherwise agreed in writing by the Local Planning Authority, a minimum of 5% of the expected energy demand for the development hereby approved shall be provided through on site renewable generation for heat and/or electricity. Prior to the commencement of development a statement outlining how this is achieved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved statement unless otherwise agreed in writing by the Local Planning



Authority.

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

7 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the proper drainage of the site, and to comply with guidance contained within Planning Policy Statement 25 (Development and Flood Risk).

INFORMATIVE:

With respect to surface water drainage, the submitted details should incorporate the following:

Peak surface water run-off from the development shall be attenuated to 70% of the existing rate, in accordance with a scheme to reduce run off to be submitted to and agreed in writing by the Local Planning Authority (based on 140 l/s/ha of connected impermeable areas). The scheme submitted shall include storage volume calculations, using computer modelling, allowing for a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model shall also include an additional 20% allowance for climate change. The modelling shall use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. Details of run off rates including calculations of both the existing and proposed rates shall also be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

8 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 in the garden areas of the two properties hereby approved. The scheme shall include the provision of soft landscaping or turf within the front garden area. 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 and in the interests of visual amenity of the area.

9 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 the approved plans.

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

10 HWAY19 Car and cycle parking laid out

11 HWAY29 IN No gate etc to open in highway

12 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 £2,124.

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.

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, 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.

14 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, windows or other openings additional to those shown on the approved plans shall at any time be inserted in the side or front elevations or any roof slope of the dwellings hereby approved.

Reason: In the interests of the amenity and privacy of occupants of adjacent residential properties.

## **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 visual amenity, residential amenity, sustainability, flood risk, highway safety and impact on local services. As such the proposal complies with Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 3: Housing, Planning Policy Guidance Note 13: Transport and Planning Policy Statement 25: Development and Flood Risk and policies SP6, GP1, GP4A, GP15A, H3C, H4A, H5A and T4 of the City of York Development Control Local Plan.

### **2. INFORMATIVE**

Please be aware of the following environmental responsibilities relating to demolition and construction works:

If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the Council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a scheme of remediation for approval by the Local Planning Authority. If the City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

Your attention is also drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. Failure to comply could result in formal action being taken. As well as control over hours of construction, the work shall be carried out in such a manner so as to comply with the general recommendations of British Standards 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'.

### **3. 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). A survey of the state of repair of the public highway in the vicinity of the site should be carried out with the Local Highway Authority prior to development commencing. Upon completion of the development or at any intervening point in the development decided with the authority, the affected areas of highway shall be jointly re-surveyed and assessed and if required a program of remedial works shall be determined and embarked upon. Your attention is also drawn to your responsibilities to ensure that measures are put in place on site during the development works to limit the

likelihood of mud being deposited on the highway.

For further information please contact Darren Hobson (01904 551367) - Recovery of expenses due to extraordinary traffic (Section 59)

**Contact details:**

**Author:** Hannah Blackburn Development Control Officer

**Tel No:** 01904 551477