

COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Acomb
Date: 13 May 2010 **Parish:** Acomb Planning Panel

Reference: 10/00422/FUL
Application at: 106 Albion Avenue York YO26 5QY
For: Erection of dormer bungalow and garage (retrospective)
By: Mr JM Armitage
Application Type: Full Application
Target Date: 7 May 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 Sub-committee may recall that reserved matters approval was granted for the erection of a detached dormer bungalow to the rear of 106 Albion Avenue on 17 July 2009 (09/00722/REM). Prior to the approval of reserved matters, outline planning permission was granted at appeal by the Planning Inspectorate. The Council had originally refused this scheme due to impact upon neighbours amenity.

1.2 The dwelling has been erected in the wrong position within the site and is therefore unauthorised. This application seeks to regularise the situation.

1.3 The applicants seek approval for a detached dormer bungalow, which is approximately 9.80 m in length x 8.60 m in width x 2.60 m to eaves level and 7.00 m to ridge level. As originally submitted it was proposed to form 1 no. dormer window to the front elevation of the property and 2 dormers to the rear. The scheme has been amended. The rear dormer which was to serve the main bedroom has been removed has been substituted with 2 high level rooflights. The other rear dormer window will now be obscurely glazed. This is because the bathroom (which was to be at the front) has now been swapped with the rear bedroom which the dormer served.

1.4 The proposal also includes the erection of a single attached garage, a drive and turning arrangements for the proposed dwelling.

1.5 The applicant states that the error in siting the new dwelling occurred, when the applicant set out the rear boundary to subdivide his property from the newly approved development. The original survey of the site did not show the single storey rear extension to 106 (which is approximately 4.7 m in length). As a consequence, all following site measurements were taken from the rear extension, which didn't take into account the rear extension, thus adding the additional 4.7 m onto the separation distance between the new dormer bungalow and 106 Albion Avenue.

1.6 The approved plot area was 0.0714 hectares in size, the size of the plot now is 0.0683 ha. The plot is irregular in shape and measures approximately 35m in

length x 20m in width. However it tapers in width as it extends towards Boroughbridge Road from Albion Avenue, to approximately 3m in width.

COUNCILLOR REQUEST

1.7 The application is being presented to sub-committee at the request of Councillor Healey, due to the number of objections received from adjacent neighbours from the incorrect siting of the building.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

DC Area Teams GMS Constraints: West Area 0004

2.2 Policies:

CYGP1
Design

CYGP10
Subdivision of gardens and infill devt

CYH4A
Housing Windfalls

CYL1C
Provision of New Open Space in Development

3.0 CONSULTATIONS

INTERNAL

Highway Network Management (HNM)

3.1 The HNM officer commented that the access and layout has already been agreed at appeal and therefore did not object.

EXTERNAL

Acomb Planning Panel

3.2 The Panel did not object to this scheme.

Neighbours

3.3 Five objections were received from the occupants of a neighbouring properties, at the time of writing this report. The objections related to;

- Residents always opposed this development;
- The scheme was approved at appeal and the developer has not built it in accordance with the appeal decision;
- The appeal decision would have been different if the Inspector had assessed this scheme;
- Residents should have been informed of the error in setting out the building;
- A stop notice should be issued on the site;
- The property is now closer to some residents houses and invades their privacy, prevents outdoor activity, causes additional shading ;
- Someone should check to make sure the building is being built in the correct position;
- The applicants Design & Access in statement is factually incorrect;
- Property values will be affected,
- The height of the building should be reduced;
- The building is very large and can be seen from the A59;
- Noise will be more noticeable as it is closer;
- The agent described the area as 'close knit', it is only like this because of this development;
- The scheme will just be rubber stamped as its mostly built;
- The building is now to large for the site;
- The design of the building bears no resemblance to existing buildings in the area;
- The application should be referred back to the Planning Inspectorate; and
- Trees that were protected by TPO's have been removed;
- Precedent.

3.4 All relevant parties were given further opportunity to comment upon the revised scheme. To date 2 letters have been received objecting on the following grounds:

- The deletion of one dormer and obscurely glazing the remaining dormer do not tackle the main issues of position, footprint size, height, roof appearance and windows of this development.

4.0 APPRAISAL

POLICY

4.1 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 Planning Policy Statement 3 'Housing' (PPS3) sets out Government policy on housing development and encourages more sustainable patterns of development through the reuse of previously developed land, more efficient use of land, reducing dependency on the private car and provision of affordable housing. PPS3 also advises that car parking standards that require more than 1.5 spaces per dwelling are unlikely to secure sustainable development

4.3 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.

4.4 Policy H4a 'Housing Windfalls' which suggests that a proposals for residential development on land within the urban area would be a acceptable, where "the site is within the urban area and is vacant, derelict or underused or it involves infilling, redevelopment or conversion of existing buildings." However, any development must be of an appropriate design and must be sustainable e.g. good links to jobs, shops and services.

4.5 Policy GP10 'Subdivision of Gardens and Infill Development' encourages the protection of wildlife and setting, suggesting that existing landscape features are incorporated into the scheme or compensated for elsewhere should their removal be required.

4.6 Policy L1c 'Provision of New Open Space in Development' requires proposals for less than 10 dwellings to contribute towards the provision of open space (including sport, amenity and children's play provision) by way of a commuted sum.

PRINCIPLE OF DEVELOPMENT

4.7 The principle of the development of the site has been established by virtue of the previous appeal decision relating to the site and subsequent approval of reserved matters. In allowing new housing development on the basis of infilling, Policy H4a of the Draft local Plan states that development should be of an appropriate scale and density to surrounding development, and should not have a detrimental impact on existing landscape features. Policy GP10 states that planning permission for sub-division of existing garden areas, or infilling, to provide new development will only be granted where this would not be detrimental to the character and amenity of the local environment. Policy GP1 relates to design and 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 the character of the area, using appropriate building materials. The importance of design is referred to in Central Government

advice contained within Planning Policy Statement 1: "Delivering Sustainable development".

IMPACT ON NEIGHBOURING DWELLINGS

4.8 The proposed dwelling is a dormer bungalow, incorporating three bedrooms within the roof space. Originally the main bedroom and bedroom 3, were to be served by dormer windows and a window within the front gable end. However the applicant has recently amended the design of the dwelling. Due to its incorrect siting, the applicant was advised to amend the design of the rear of the building to protect adjacent neighbours privacy. The rear of the roof slope has now been amended to ameliorate this impact upon adjacent neighbours.

4.9 The bathroom has been swapped with bedroom 3 (rear of dormer bungalow, within roof). As a consequence, this dormer will now be obscurely glazed. A condition is also proposed that it should be either permanently fixed shut, or that the window design is amended to create a top light only, i.e. only the top part of the window could be opened, so as to protect neighbours privacy.

4.10 The applicant has also agreed to remove the other rear dormer window and replace it with 2 higher level rooflights. The applicant proposes to increase the size of the bedroom window, within the front gable end (facing the rear of 106 Albion Avenue) to compensate for this.

4.11 It is recognised that occupants of existing dwellings have a high expectation of the level of privacy, especially where proposed rooms may face towards rooms to the rear of their property, or rear garden. Adjacent residents have commented that they are concerned that the dormer bungalow will affect their privacy due to overlooking. As the rear roof of the bungalow has been amended, there will be no windows directly overlooking them at first floor level. Consequently it is not considered that the amended dormer bungalow will have a detrimental impact upon adjacent neighbours amenity.

4.12 In addition the separation distance between the dormer bungalow and windows to existing rear dwellings exceeds 21m. This distance is considered acceptable, when compared to the existing built form of the area and general standards applied for separation distances between dwellings.

4.13 The height of the dormer bungalow will remain as 7m. This was previously approved by sub-committee (09/00722/REM). The applicant proposes no other amendments to the scheme, nor have any others been made.

4.14 Adjacent neighbours also object to the new position of the dwelling. They feel it will overshadow more of their rear gardens. Whilst the dwelling would be closer to 238, 240, 242 and 243 Beckfield Lane, it is not considered that this would shade their rear gardens to such a degree as to warrant the refusal of planning permission. The rear of the dormer bungalow faces north east in direction and is positioned at an offset angle to neighbouring dwellings in Beckfield Lane. Consequently, whilst the building will shade parts of these gardens, due to its offset position and axis of the

sun, in all probability, it will not be significantly worse than the previously approved scheme.

DESIGN OF THE DORMER BUNGALOW

4.15 In allowing the appeal, the Inspector treated the appearance of the building as indicative. However he raised no objections to its appearance or style. Bearing in mind these comments and his general support for the scheme, it is considered difficult for the Council to object to the detailed appearance of the dwelling. The detailed design indicates a three bedroom dwelling of modern design. However, the site is not within a conservation area and it is considered that the design would be appropriate and would not appear out of keeping with its surroundings.

OTHER MATTERS

4.16 Other matters such as drainage, sustainability, etc. have been approved previously. These are still considered acceptable.

4.17 Effect of the development upon house prices cannot be considered as a material planning consideration.

4.18 The landscaping scheme is still considered acceptable. No trees within the site were protected by Tree Preservation Orders.

4.19 The appeal inspector did not require the payment of a contribution towards off-site open space as part of the original outline application approval. While this current application is for full permission it is not considered reasonable to impose a condition requiring a contribution in this case.

5.0 CONCLUSION

5.1 Despite the fact that the dwelling as constructed is unauthorised, the current planning application has to be determined on its own merits. For the local planning authority to reasonably refuse an application it would need to demonstrate material harm would be caused. In this case it is considered that no undue harm would be caused in respect of privacy, overshadowing or over-dominance and that the design of the dwelling would be appropriate to the area.

5.2 This dwelling is therefore recommended for approval, as the scheme satisfies policies GP1, GP4a, GP10, and H4a of the Local Plan.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 PLANS2 Apprvd plans and other submitted details

2 HT1 IN Height - 7.00

3 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.

7.0 INFORMATIVES:

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, GP4a, GP10, H4a of the Local Plan; national planning guidance contained in Planning Policy Statement 1 'Delivering Sustainable Development' and Planning Policy Statement 3 'Housing'.

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