

## COMMITTEE REPORT

**Committee:** East Area  
**Date:** 7 July 2010

**Ward:** Haxby And Wigginton  
**Parish:** Wigginton Parish Council

**Reference:** 10/00750/OUT  
**Application at:** Sunnyside Farm Shop 22 Mill Lane Wigginton York YO32 2PX  
**For:** Erection of 9no dwellings with associated access and parking (amended scheme)  
**By:** Mr John Gates And Mrs Dawn Mills  
**Application Type:** Outline Application  
**Target Date:** 15 July 2010  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 This is an outline planning application for nine houses with all matters reserved except access, which is via a private drive from Mill Lane. An indicative layout has been submitted showing four detached houses, a pair of semi-detached houses and a terrace of three houses. Whilst scale and appearance are reserved the dwellinghouses are intended to have two storeys. The semi-detached houses would face Mill Lane (despite the plan showing these houses facing into the site). The remaining seven houses would face the private drive. All dwellings would have off-street parking, cycle storage and refuse/recycling facilities.

1.2 Outline consent for residential development on the site was granted on 3 March 1989 and renewed in 1991, 1994 and 1997. The number of units was not specified. The consent was never implemented and subsequently lapsed. The original 1989 consent was the subject of a condition limiting the height of development on the site to single-storey. This condition was deleted following a successful appeal as the Inspector considered that these matters could be properly considered at reserved matters stage. In 2004 a new outline application was granted consent (04/00548/OUT). All matters were reserved except access. Whilst the number of units was not specified the illustrative proposals showed five detached dwellings all served by a private drive through the site. The permission was not implemented and has since lapsed.

1.3 In 2009 a further outline application was submitted, for six dwellings (09/02247/OUT). All matters were reserved except access and layout. The submitted plans showed that access to five of the units would be via a private drive and the sixth unit would be accessed direct from Mill Lane. The density of the scheme was approximately 21 dwellings per hectare (dph). Officers advised the applicant that the density was well below the target density of 40dph in policy H5a. The applicant therefore withdrew the application and submitted the current scheme for nine dwellings.

### 2.0 POLICY CONTEXT

## 2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

## 2.2 Policies:

CYGP1  
Design

CYGP4A  
Sustainability

CGP15A  
Development and Flood Risk

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYNE1  
Trees, woodlands, hedgerows

CYL1C  
Provision of New Open Space in Development

## 3.0 CONSULTATIONS

### 3.1 Internal

Environment, Conservation, Sustainable Development (Landscape) - The four mature Beech trees along the frontage Mill Lane are owned by the local authority and are subject to TPO 1970/68. If the proposal requires the driveway to be built to adoptable standards I would object. If the private highway arrangement is acceptable in this instance (in order to protect the mature trees along Mill Lane and because of the need to provide higher density housing) it would be acceptable subject to the access being as narrow as possible and the adjacent pavement being of no-dig, porous construction.

Highway Network Management - There are no objections in principle. It is council policy that a maximum of five dwellings can be served off a private drive. Access to developments of more than five dwellings should be constructed to an adoptable

standard. The layout as proposed does not meet adoptable criteria in the following respects: The entrance from Mill Lane should have a 6m radius and a carriageway width of 5.5m with at least a footpath on the left-hand side up to the position of the first drive. Achieving this standard could affect a mature tree so consideration should be given to providing a replacement, if its removal is necessary. The vehicle accesses for plots 8 and 9 do not contradict policy regarding private/adopted roads, as the dwelling would have a direct frontage to Mill Lane, but a 0.9m pedestrian access should be provided onto Mill Lane. If the road remains private the public utilities should be consulted, as it could produce a multitude of separate private connections. An agreement will also need to be made with Neighbourhood Services regarding refuse collections and recycling. Turning within the parking court for plots 5, 6 and 7 is tight. The distance between adjacent parking bays 5.3m whereas the required dimensions for reversing and turning is 6m. Details are required of cycle parking for plots 5, 6 and 7. This could be secured by condition. Details of surface water drainage and street lighting should be submitted for consideration. If planning permission is granted a condition should require details of the access, parking arrangements, turning areas and cycle storage to be submitted for approval.

Lifelong Learning and Leisure - As there is no on-site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used to improve a local site within the Parish (b) play space - which would be used to improve a local site within the Parish and (c) sports pitches - which would be used to improve a facility within the North Zone of the Sport and Active Leisure Strategy.

Structures and Drainage - The applicant has demonstrated that drainage arrangements can be provided. No objections subject to details of foul and surface water drainage works (including attenuation) being submitted for approval. Ground levels should not be raised within the site and the applicant should consult with Yorkshire Water regarding their easement requirements in particular the location of plots 1 to 3.

Environment, Conservation, Sustainable Development (Countryside) - The site is in an area which provides good foraging habitat for local bats. The buildings have some potential for supporting roosting bats. Therefore a bat survey should be carried to determine the buildings' full potential for supporting a bat roost and to establish whether there is any evidence of occupancy or suitable habitat present. As bats are a protected species under the Wildlife and Countryside Act 1981 and the Habitat Regulations 1994, their presence or otherwise, as well as the extent to which they may be affected by the proposed development, needs to be established before any planning permission is granted. This is covered in PPS 9 and is referred to in the accompanying ODPM Circular 06/2005.

Education - There are enough school places in the area so a financial contribution towards education is not required.

Environmental Protection Unit - No objections, in principle, to the proposal. The site is located on a main road running through the village of Wigginton. My concern is that neighbours will experience some loss of amenity from construction noise and dust so the demolition and construction informative should be added.

### 3.2 External

Wigginton Parish Council - Objection due to: overdevelopment; inadequate access would affect highway safety; inadequate sewerage capacity; flood risk/drainage; loss of privacy if dwellings were 2-storeys high; loss of light to houses in Steeple Close to the rear; impact on protected trees; the rear-facing aspect of plots 8 and 9 would be out of keeping with the street scene of Mill Lane.

Cllr Firth - The application should be refused due to (1) gross overdevelopment, to the detriment of the site and the surrounding properties; (2) inadequate access for a development of this size and for the amount of traffic it would generate; and (3) the rear-facing aspect of plots 8 and 9 would have an impact on the street scene of Mill Lane.

Foss IDB - The site is in an area where drainage problems exist. The applicant should confirm how surface water is to be managed. A condition should be attached requiring the surface water drainage works to be agreed by the local planning authority in consultation with the IDB.

Environment Agency - No comments.

Public Consultation - The consultation period expired on 3 June 2010. 11 objections have been received raising the following planning issues:

- Overdevelopment
- Overlooking
- Overbearing; houses should be lower
- Traffic generation
- Traffic pollution
- Highway safety
- Inadequate parking
- Inadequate access
- Inadequate sewerage
- Flood risk and drainage
- Impact on bats
- Loss of historic buildings
- Impact on trees and hedges
- Design incompatible with the area
- No details of heights

12 objections were received against the previous application (09/02247/OUT) before it was withdrawn. They raised no issues that have not since been raised by the current objectors.

## 4.0 APPRAISAL

### 4.1 Planning Policy Context

Local plan policy GP1 - Development proposals should be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and local character; respect or enhance the local environment; provide/protect amenity space;

protect residential amenity; accord with sustainable design principles; include refuse facilities; and include, where appropriate, landscaping.

GP4a - All proposals should have regard to the principles of sustainable development.

H4a - Permission will be granted for new housing development on land within the urban area providing: it is vacant/derelict/underused or involves infilling, redevelopment or conversion; has good access to jobs, shops and services by non-car modes; and, is of an appropriate scale and density to surrounding development and would not have a detrimental impact on existing landscape features.

H5a - the scale and design of proposed residential developments should be compatible with the surrounding area and must not harm local amenity. Development densities should aim to achieve, 60 dwellings per hectare in city centre, 40 in urban areas and 30 elsewhere.

NE1- Trees, woodlands and hedgerows, which are of landscape, amenity, nature conservation, or historic value will be protected by: refusing proposals which will result in their loss or damage. When trees are to be removed, appropriate replacement planting should be proposed to mitigate any loss.

GP15a - Discharges from new development should not exceed the capacity of existing and proposed receiving sewers and watercourses and long-term run-off from development sites should always be less than the level of pre-development rainfall run-off.

L1c - Requires that all housing sites make provision for the open space needs of future occupiers. For sites of less than 10 dwellings a commuted payment will be required towards off site provision.

## 4.2 Key Issues

Principle of Development for Housing

Impact on Protected Trees

Access and Highway Safety

Density of Development

Design and Street Scene

Neighbour Amenity

Flood Risk and Drainage

Bio-Diversity

Sustainability

Public Open Space

## Application Site

4.3 Part of the site is occupied by a group of single-storey buildings comprising a former slaughterhouse/butchery which was abandoned in the 1980s. Some of the buildings are now occupied by an unauthorised retail shop which is being investigated by the council's enforcement officers. The remainder of the site is open grassland. It is bounded to the north, east and west by rear gardens of 2-storey

estate houses. To the south is Mill Lane, which is accessed via a private drive. The highway verge has a line of mature Beech trees that are protected by a tree preservation order (TPO).

#### Principle of Development for Housing

4.4 The site is in a sustainable location with good access to shops, public transport and local services. The principle of the use of the site for housing has been established since 1989.

#### Impact on Protected Trees

4.5 The four mature Beech trees along the Mill Lane frontage are owned by the local authority and are protected by a TPO. They are old mature specimens that would not readily recover from root damage and would be susceptible to stress and disease from a change in conditions or any damage. Essentially the whole of this frontage is a root protection area so there should be as little intervention as possible. To this end it would be inappropriate to allow the full widths and depths of construction required for an adopted road. This is why the access is not being built to adoptable standards. The proposed private drive would not have a material impact on the trees subject to the adjacent footpath into the site being built using porous materials and with a no-dig method of construction. There is no potential to create a new access anywhere else along this frontage.

4.6 The existing hedges along the boundaries are not protected. They are shown as being retained on the indicative layout. Boundary treatment would be dealt with as part of the reserved matters.

#### Access and Highway Safety

4.7 The council policy that allows no more than five dwellings to be accessed from a private drive does not include dwellings that face the public highway, even if the vehicle access to such dwellings is to the rear and is taken from the private drive. The current application is for nine dwellings, two of which face the public highway at Mill Lane. Therefore the council's standard would allow the proposed private drive to serve a total of seven dwellings (the two facing Mill Lane plus five to the rear). So the application exceeds the number of dwellings normally allowed by two. The council's highways officers are recommending refusal of the application because it is contrary to policy. The Department for Transport's Manual for Streets says:

11.7.15 'Highway authorities have .. tended to only adopt streets that serve more than a particular number of individual dwellings or more than one commercial premises. Five dwellings is often set as the lower limit, but some authorities have set figures above or below this.

11.7.16 There is no statutory basis for the lower limit on the number of dwellings justifying adoption. The use of five dwellings as a criterion may have come from the notional capacity of private service supplies (gas, water, etc.) but it is now more commonplace for utilities to lay mains in private streets.

11.7.17 It is not desirable for this number to be set too high, as this would deny residents of small infill developments the benefit of being served by an adopted street.

11.7.18 It is recommended that highway authorities set a clear local policy on this issue.'

4.8 Notwithstanding that the council does have a clear policy, each case must be judged on its merits. In this case Highways officers are not arguing that this degree of non-compliance (nine dwellings instead of seven) would affect highway safety. Therefore your officers consider that non-compliance with the council's standard is not, in itself, sufficient reason to justify refusal of the application.

4.9 Highways' officers are concerned to ensure that a private drive would be adequately maintained and repaired. In response the applicant has submitted a draft unilateral undertaking to this effect. Members will be updated at the meeting.

#### Density of Development

4.10 Until Planning Policy Statement 3 (Housing) was revised recently (June 2010) it included a national indicative minimum density for new housing of 30dph. This has now been removed. Notwithstanding that there is now no national minimum density, PPS1 (Delivering Sustainable Development) and PPS3 still expect planning authorities to set their housing policies to achieve the efficient use of land. Policy H5a accords with this guidance by requiring housing schemes in the York urban area (including Wigginton) to aim to achieve a residential density of 40dph, subject to the scheme being compatible with the surrounding area and not harming local amenity. The current proposal has a density of 31dph which, although greater than the withdrawn scheme, is still well below the density specified in policy H5a.

#### Design and Street Scene

4.11 The reserved matters include layout, scale, appearance and landscaping so they are not for consideration at this outline stage. Nevertheless the application includes an indicative layout showing house footprints, gardens, vehicular areas and plot boundaries. In terms of the built footprint and distribution of buildings the layout is very similar to the 2004 layout (also indicative). The main difference is that the building blocks have been subdivided into generally-smaller housing units to increase the density on the site. Whilst the scale, layout and appearance of the current proposal are only indicative they show that a development of nine dwellings can be created on the site whilst respecting the scale, density, pattern and grain of the surrounding area.

#### Neighbour Amenity

4.12 The indicative layout also shows that a development of nine dwellings can be created without having an unacceptable impact on local residents. The rear elevations of most of the houses would face the rear elevations of existing houses in adjacent streets. Adequate separation distances can be achieved and impact on the neighbouring occupiers can be minimised by, for example, restricting the building heights and careful arrangement of buildings, habitable rooms and windows. These matters would be dealt with at the reserved matters stage.

4.13 Some local residents object to the increase in the number of houses from the previously approved (and subsequently renewed) outline scheme, which they understood would be bungalows. This is a misinterpretation of the previous approval. The number of units was not specified and whilst the planning authority

sought to restrict, by condition, the height to only one storey, a subsequent appeal against this restriction was allowed. Moreover, the consent has lapsed so is no longer capable of being implemented.

#### Flood Risk and Drainage

4.14 The area is known for localized flooding and many residents are concerned about inadequate drainage. In response the applicant intends to attenuate surface water by providing underground storage within the site and releasing the stored water at a controlled rate by means of a hydrobrake. The council's drainage officers are satisfied with this arrangement subject to full details being submitted and approved prior to construction.

#### Bio-Diversity

4.15 The site currently has a cluster of old (but not protected) farm outbuildings, garages and storage sheds, all of which are to be demolished as part of this scheme. The site is located within an area that provides good foraging habitat for local bats, particularly with the pond opposite, and mature trees, hedgerows and grassland all within close proximity. There are many roosting opportunities close by and records of bats roosting in the surrounding area. There have also been a number of reports of a colony possibly within the site itself, although this is unconfirmed and the precise location of the roost is unknown. The buildings on site have some potential for supporting roosting bats. The garage has broken ridge tiles and the timber sheds may have gaps which may be used by bats. Therefore a bat survey should be carried out to determine the buildings' full potential for supporting a bat roost and to establish whether there is any evidence of occupancy or suitable habitat present. As bats are a protected species under the Wildlife and Countryside Act and the Habitat Regulations their presence, or otherwise, as well as the extent to which they may be affected by the proposed development, needs to be established (in accordance with PPS9 and Circular 06/2005) before planning permission is granted. A survey has been requested and officers expect it to be carried out shortly. Members will be updated at the meeting.

#### Sustainability

4.16 The application includes a sustainable statement. Nevertheless standard conditions should be attached regarding renewable energy and Code for Sustainable Homes level 3 in accordance with the Council's Interim Statement on Sustainable design and Construction.

#### Public Open Space

4.17 An open space contribution would be required for the provision of public open space in accordance with policy L1 of the local plan. This has been accepted by the applicant who has submitted a draft unilateral undertaking to this effect. Members will be updated at the meeting.

## **5.0 CONCLUSION**

5.1 The site is in a sustainable location and the principle of using the site for housing is established. The proposal is acceptable in terms of the character of the area and the impact on neighbouring occupiers. The main issue is the conflict between different strands of national and local planning policy. That is, the inevitable



conflict between providing housing at an acceptably-high density (in order to contribute to housing supply and achieve the efficient use of land) while protecting high-amenity trees and providing an access that complies with Council's standards. Bearing in mind that a private drive would not, in this case, impair highway safety officers recommend that the application be approved due to the benefits of increasing the supply of housing whilst protecting the natural amenity of the area. Approval should be subject to conditions and a legal agreement to secure a financial contribution towards open space and a scheme for the maintenance and repair of the private road.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:**            Approve

1        Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission and the development hereby permitted shall be begun before:

the expiration of two years for the date of approval of the last of the reserved matters to be approved.

Reason: To ensure compliance with Section 92 and 93 of the Town and Country Planning Act 1990 as amended.

2        Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works, and the development shall be carried out in accordance with such details:

Details to be submitted: appearance, landscaping, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

3        The development hereby permitted shall be carried out in accordance with the highway access - including entrance details - shown on drawing no. 09:27:11/B.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

4        The 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, in consultation with the internal drainage board, and carried out in accordance with these approved details. In accordance with PPS25 and in agreement with the Environment Agency / City of York Council, peak run-off from

Brownfield developments shall be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven connected impermeable areas). Storage volume calculations, using computer modelling, shall accommodate 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 must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

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

5 The site shall be developed with separate systems of drainage for foul and surface water.

Reason : In the interest of satisfactory and sustainable drainage.

6 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-star 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.

7 No building work shall take place until details have been submitted and approved in writing by the Local Planning Authority to demonstrate how the development will provide 10% of its predicted energy requirements from on-site renewable sources. The development shall be carried out in accordance with the submitted details unless otherwise agreed in writing by the local planning authority. The approved scheme shall be implemented before first occupation of the development. The site shall thereafter be maintained to the required level of generation.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction

8 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 alternative 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 L1 of the City of York Draft Local Plan.

**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 in accordance with the council's advice note Commuted Sums for Open Space in New Developments - A Guide for Developers.

9 The development hereby permitted shall not commence until full details of the proposed vehicular access, parking arrangements, turning and cycle storage facilities have been submitted to and approved by the Local Planning Authority in consultation with the Local Highway Authority. These facilities shall be constructed in accordance with the specification so approved prior to the development being first brought into use and thereafter shall be maintained clear of any obstruction which would preclude their intended use.

Reason: to ensure appropriate on-site vehicle parking facilities, access and manoeuvring areas are provided in the interest of highway safety and general amenity of the development

10 HWAY1 Details roads,footpaths,open spaces req.

11 HWAY7 Const of Roads & Footways prior to occup

12 HWAY19 Car and cycle parking laid out

13 HWAY34 Completion of the highway

14 VISQ8 Samples of exterior materials to be app

15 Before the start of development, including demolition, building operations, excavations or the importing of materials a method statement of protection measures for the Beech trees on the public verge on the Mill Lane frontage to the site shall be submitted to and approved in writing by the local planning authority. The statement shall include details and locations (shown on a plan) of protective fencing, method of preparation/excavation/construction, type of machinery/vehicles to be used, extent of working areas, locations of storage of materials and location of site cabin(s).

Reason: To protect existing trees that are considered to make a significant contribution to the amenity of the area.

**7.0 INFORMATIVES:**

**Notes to Applicant**

1. It is considered that the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

The Principle of Development for Housing  
Impact on Protected Trees  
Access and Highway Safety  
Density of Development  
Design and Street Scene  
Neighbour Amenity  
Flood Risk and Drainage  
Bio-Diversity  
Sustainability  
Public Open Space

As such the proposal complies with policies GP1, GP4a, GP15a, H4a, H5a, NE1 and L1c of the City of York Local Plan Deposit Draft.

**Contact details:**

**Author:** Kevin O'Connell Development Control Officer  
**Tel No:** 01904 552830