

COMMITTEE REPORT

Committee: East Area
Date: 7 July 2010

Ward: Huntington/New Earswick
Parish: Huntington Parish Council

Reference: 10/00943/FULM
Application at: 31 Lea Way Huntington York YO32 9PE
For: Erection of 14 no. dwellings after demolition of existing house (Application to extend time period for implementation of permission 07/01126/FULM)
By: Byre Developments
Application Type: Full Application
Target Date: 23 June 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 The application is for the erection of 14 dwellings comprising four 2-bedroom houses, five 3-bedroom houses, four 4-bedroom houses and one 4-bedroom dormer bungalow. The development would be served by a new access, to adoptable standards, from Lea Way. Each of the dwellings would have a private rear garden and off-street parking. The existing bungalow on the site would be demolished to enable the access to be provided. The new dwellings would be two storeys high except plots 8-10 (2.5 storeys) and plot 14 (the dormer bungalow). Level access would be provided to all dwellings.

1.2 The application is to extend the life of an unimplemented planning permission (07/01126/FULM), which was approved on 10 August 2007.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (2) 0005

2.2 Policies:

CYGP1
Design

CYGP3
Planning against crime

CYGP4A
Sustainability

CYGP9
Landscaping

CYGP10
Subdivision of gardens and infill devt

CYED4
Developer contributions towards Educational facilities

CGP15A
Development and Flood Risk

CYNE1
Trees, woodlands, hedgerows

CYNE6
Species protected by law

CYH2A
Affordable Housing

CYH5A
Residential Density

CYL1C
Provision of New Open Space in Development

CYT4
Cycle parking standards

3.0 CONSULTATIONS

3.1 Internal

City Development (Policy) - No policy objection to planning permission being extended.

Highway Network Management - The previous (2007) comments still apply. No objections. The proposed access meets the required criteria in terms of width and visibility and is designed to a standard appropriate with its expected usage. Experience of other sites and national survey data shows that the traffic generated would have a negligible impact on the surrounding highway network. Parking and turning for vehicles within the site, including refuse vehicles, are in accordance with relevant standards.

Environment, Conservation, Sustainable Development (Countryside) - The previous (2007) comments still apply. Great crested newts have been found in a pond approximately 320m away. Historical records also exist within a pond less than 200m away, although in 2007 this pond was seasonal. The site itself also provides good terrestrial habitat for foraging as well as providing suitable refuges and hibernacula, and as such an EPS (Protected Species) licence will be required along with a

suitable mitigation plan to ensure that any potential impact is minimised, and to offset the loss of habitat. The same conditions should be attached to any consent given to cover this.

The proposed dwellings would be a good opportunity to carry out habitat enhancement work for bats and other species known to use buildings. This could be covered by a standard condition.

Environment, Conservation, Sustainable Development (Landscape) - The previous (2007) comments still apply. The application respects the protected trees. Introducing windows into the side elevations of unit 14 would maximise natural light into the property without compromising privacy of neighbours. Tree planting proposals should ideally be presented at this stage but could be secured under condition LAND1. Include conditions to secure hedge planting (rather than, or as well as, fencing) and tree planting.

Education - A financial contribution of £37,935 would be needed to pay for 2 extra places required at Huntington Secondary School.

Environmental Protection Unit - No objections. As the site will be used for housing (a vulnerable use) a contamination assessment should be included with the application. But as the Environmental Protection Unit did not ask for such an assessment in 2007 they do not insist on it being submitted now. Add the standard contaminated land condition.

Housing Development - The principle of providing affordable housing was agreed by the previous applicant before the case went to committee. The agreed plan was for the provision of 50%(7) affordable dwellings specifically allocated and for specified tenure. There is no reason why such a S106 agreement cannot be concluded quickly for the current application as we have a template and the current applicant has agreed in principle to the provision of affordable housing.

3.2 External

Huntington Parish Council - Objection on the same grounds as previously: Overdevelopment. Houses are inappropriate in an area of bungalows. Impact on local infrastructure. Traffic congestion. Loss of trees and wildlife corridor. Unsafe access. Access road too narrow. Flooding. No confirmation of sewerage and drainage proposals.

York Natural Environment Panel (YNEP) - Regret the loss of wildlife garden habitat contrary to policy GP10. There should be a move against the loss of land, like this site, that acts as a natural soakaway as proposed by the RHS.

Public Consultation - The consultation period ended on 9 June 2010. Seven objections have been received raising the following planning issues:

Traffic and Access;
Highway safety;
Parking;
Overdevelopment
Loss of open space;
Impact on wildlife;

Impact on trees;
Density and scale;
Visual appearance;
Impact on local services/amenities;
Privacy/overlooking;
Overshadowing;
Inadequate drainage and sewerage;
Impact on character of the area;
School waiting lists have increased since 2007.

4.0 APPRAISAL

4.1 Key Issues:

Principle of development for housing;
Density;
Visual appearance; including landscaping;
Sustainability;
Impact on trees;
Impact on wildlife;
Neighbour amenity;
Access, parking and highway safety;
Drainage;
Affordable housing;
Impact on local services;
Crime prevention;
Construction impact.

The Application Site

4.2 The site consists of an extended dormer bungalow and its unusually large, partly-overgrown, rear garden, which extends behind neighbouring dwellings. The site covers approximately 0.5ha. To the front and sides are the gardens of residential dwellings in Lea Way. To the rear is open countryside.

4.3 The site lies within the development limits of York but is otherwise unallocated in the Draft Local Plan. Certain trees within the site and along the southern boundary are protected by a Tree Preservation Order (reference CYC 242). The area is known for having poor drainage.

4.4 The strip of land immediately to the rear (east) of the site is designated open space (where Policy GP7 applies) and a recreational opportunity area (Policy L1d). Beyond this strip the land is allocated for future employment use.

Appraisal

4.5 The application is made under the provisions of the Town and Country Planning (General Development Procedure) (Amendment No.3) Order 2009. These provisions have been introduced in order to make it easier for developers and local planning authorities to keep planning permissions alive for longer during the current economic downturn so that they can more quickly be implemented when economic conditions improve. On this basis the process for renewing planning permissions

that are about to expire has been streamlined. National planning guidance states that extension of time applications are to be considered against the development plan and material considerations but should focus on policies and material considerations that have changed significantly since the original grant of planning permission. The procedure should not be used, for example, to impose more onerous requirements than were imposed previously, unless they are justified by changes in policy or national planning guidance.

4.6 In this case the most significant change in planning policy is that in June 2010 Planning Policy Statement 3 (Housing) (PPS3) was revised in two ways and reissued. The changes are:

- The definition of previously developed land now excludes private residential gardens. The purpose is to give local authorities the freedom to prevent overdevelopment of neighbourhoods and 'garden grabbing'; and
- The national indicative minimum density of 30 dwellings per hectare (dph) is deleted. The purpose is to give local authorities the flexibility to set density ranges that suit the local needs in their areas, particularly for family housing.

There has also been an increased emphasis on sustainable design and construction, following the approval of the Interim Planning Statement (IPS) on Sustainable Design and Construction on 22 November 2007.

4.7 National guidance within PPS3 that prioritises previously developed land for new development still remains, however, private residential garden have now been removed from that definition. The new guidance does not prevent development taking place on such sites, and the fundamental principles of making efficient and effective use of land in sustainable locations still remain. Whilst the application site is considered to be a private garden it is unusually large. Much of it extends behind other gardens and is overgrown. It is considered to have the character of a large infill site rather than a residential garden. Thus it is not considered that the acceptability of the site for housing has been adversely affected by the removal of residential gardens from the definition of previously developed.

4.8 The proposed density of the development is 28dph. It includes a range of house types and sizes. The amount and type of development is considered to be acceptable bearing in mind the character of the area and the constraints that exist, particularly mature trees. Officers do not consider that the proposal would constitute overdevelopment of the site. Nor is it the case that the target figure of 30dph had, in 2007, persuaded the council to accept a density that would otherwise be unacceptable. The removal of the 30dph target from PPS3 has not, therefore, affected officers' assessment of the proposal.

4.9 In the context of the legislation under which the application is being considered, there are considered to be no other material considerations. No new issues have been raised that would justify the refusal of the application. In particular, the drainage of the site was resolved to the satisfaction of the Council's Drainage Engineers (York Consultancy) prior to planning permission being granted in August 2007. The application is therefore recommended for approval subject to the same conditions as previously. The wording of some conditions has been changed to bring them up to date, e.g. regarding sustainable design and the size of financial

contributions. A condition is also recommended requiring the provision of 10% of the development's predicted energy requirements from on-site renewable energy requirements, in accordance with the Council's IPS on sustainable development. Whilst housing officers would prefer planning permission to be deferred until a s.106 agreement (for the provision of affordable housing) has been signed this is considered to be adequately covered by the previous affordable housing condition. The Council's Countryside Officer has requested that the standard bat condition be added to provide for bat roosting in the new development, but as this was not advocated in 2007, and as circumstances have not materially changed since that time, it is not recommended on this renewal application.

5.0 CONCLUSION

5.1 This application is to extend the life of an unimplemented planning permission. The proposal is considered to accord with relevant policies of the Draft Local Plan and with national planning advice and is recommended for approval subject to conditions.

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 No. 012.01.02 received 14 May 2007

Drawing No. 012.01.03 rev E received 7 August 2007

Drawing No. 012.01.04 received 14 May 2007

Drawing No. 012.01.05 received 14 May 2007

Drawing No. 012.01.06 received 14 May 2007

Drawing No. 012.01.07 received 14 May 2007

Drawing No. Y157/D/2 received 6 August 2007

Drawing No. Y157/D/1D received 6 August 2007

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 Details of all means of enclosure to the site boundaries and all boundary treatments within the site shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

5 The development hereby approved shall be constructed to at least Level 3* of Code for Sustainable Homes (CSH) standard. A formal Post Construction stage

assessment, by a licensed CSH assessor, shall be carried out and a formal Post Construction stage certificate shall be submitted to the Local Planning Authority (LPA) prior to occupation of the building. Should the development fail to achieve level 3* of the Code a report shall be submitted for the written approval of the LPA demonstrating what remedial measures shall be undertaken to achieve Level 3 of the code. The remedial measures shall then be undertaken within a timescale to be approved in writing by the LPA.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction'

6 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 the predicted energy requirements from on-site renewable resources. 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.

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 The site shall be developed with separate systems of foul and surface water drainage on and off site.

Reason: In the interest of satisfactory and sustainable drainage.

8 Development shall not begin until details surface water drainage works, including the storage and pumping of surface water, 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 for the proper drainage of the site.

9 The discharge rate of surface water from the site to the adopted sewer shall not exceed 4 litres per second and shall be limited to this maximum level by vortex control chamber and the pipe from the vortex control chamber to the existing adopted sewer shall be 150 mm diameter and laid at minimum falls unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the proper drainage of the site and to prevent flooding.

10 The site shall not be occupied and no piped discharge of water from the development site shall take place until works to provide surface and foul water drainage have been completed in accordance with the approved details.

Reason: To protect the environment and in the interests of the proper drainage of the site.

11 Foul water drainage of the site shall be in accordance with the approved plans.

Reason: For the proper drainage of the site.

12 Foul water drainage of the site shall be in accordance with the approved plans.

Reason: For the proper drainage of the site.

13 All drainage routes through the Site shall be maintained both during the works on site and after completion of the works.

INFORMATIVE:

Provisions shall be made to ensure that upstream and downstream riparian owners and those areas that are presently served by any drainage routes passing through or adjacent to the Site are not adversely affected by the development.

Drainage routes shall include all methods by which water may be transferred through the Site and shall include such systems as 'ridge and furrow' and 'overland flows'. The affect of raising Site levels on adjacent property must be carefully considered and appropriate measures taken to negate influences.

Reason: To protect the area from flooding

14 There shall be no raising of ground levels on the site.

Reason: To prevent flooding of adjacent properties.

15 No development shall commence on site until a scheme for the provision of affordable housing (Affordable Housing Plan) as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with Policy H2a of the Draft City of York Local Plan and the Affordable Housing Advice note adopted April 2005. The scheme shall include:-

i) The numbers, type and location on the site of the affordable housing provision to be made

ii) The timing of the provision of the affordable housing

iii) The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing

iv) The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and means by which such occupancy shall be enforced.

Reason: To comply with Policy H2a of the Council's Draft Local Plan (4th Set of Changes April 2005) and the aims of PPS1 and PPS3.

16 No development shall commence unless and until a scheme to ensure the provision of adequate additional secondary school places within the local catchment area has been submitted to and approved by the local planning authority.

Reason: The education provision within the catchment area of the development has insufficient capacity to take more pupils, such that additional places are required in the interests of the sustainable development of the city in accordance with Policy C6 of the Development Control Local Plan and the Council's Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

INFORMATIVE:

The provisions 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, The obligation should provide for a financial contribution calculated at £37,935. The basis for this calculation is contained within the Council's Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

No development can take place on this site until the condition has been has been discharged and you are reminded of the Local Planning Authority's enforcement powers in this regard.

17 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 including details of new hedging to the front boundary of the site. 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.

18 Protective fencing to BS5837: 2005 shall be erected around all existing trees shown to be retained (and neighbouring trees where they may also be affected). Before the commencement of development including site clearance, demolition, building, or other operations, including the importing of materials and any excavations, 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; type of construction machinery/vehicles to be used; arrangements for loading/off-loading; parking arrangements for site vehicles; locations for storage of materials; location of site cabin and marketing cabin as appropriate. The protective fencing will also include the existing grassland shown to be retained around the trees that are subject to a TPO. 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; there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, pipe

runs for services or drains. The fencing shall remain secured in position throughout the construction process including the implementation of landscaping works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

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

19 No development shall commence on site until full details of a Great Crested Newt mitigation plan to offset the impact of the development has been submitted to and approved in writing by the local planning authority. This plan shall include the following:

- i. further survey if appropriate to determine the extent of the overall Great Crested Newt meta-population;
- ii. A Wildlife Protection Plan of how development work is to be carried out to take account of the presence of Great Crested Newt
- iii. Details of the mitigation/compensation provision is to be made to replace the habitat lost through development to ensure that there is no significant impact on the population overall
- iv. The measures to ensure that no Great Crested Newt are harmed by the development work
- v. The timing of all operations

The mitigation plan shall thereafter be implemented on site in accordance with an agreed timetable.

Reason: In the interest of protecting a protected species and its habitat.

20 A desk study should be undertaken in order to identify any potentially contaminative uses which have or are currently occurring on site, including the potential for the migration of landfill gas. This shall include a site description and a site walkover and shall be submitted to and approved by the local planning authority prior to development of the site.

b. A site investigation shall be undertaken based upon the findings of the desk study. The investigation shall be carried out in accordance with BS10175: Investigation of potentially contaminated land: code of practice. The results of the investigation shall be submitted to and approved by the local planning authority in writing prior to any development commencing on site.

c. A risk based remedial strategy shall be developed based upon the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing on site. The remedial strategy shall have due regard for UK adopted policy on risk assessment.

d. A validation report shall be submitted to and approved by the local planning authority, detailing sample locations and contaminant concentrations prior to any development commencing on site.

e. Any contamination detected during site works that has not been considered within the remedial strategy shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development on site.

Reason: To protect the health and the wider environment

21 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C, D and E of Schedule 2 Part 1 of that Order shall not be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the adjoining residents and the long term health of protected trees 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.

22 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

23 The hours of demolition, 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.

24 Fully detailed drawing illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the start of construction on site.

Reason: In the interests of highway safety.

25 No dwelling to which this planning permission relates shall be occupied unless or until the carriageway basecourse and kerb foundation to the new estate road and footpath to which it fronts, is adjacent to or gains access from, has been constructed. Road and footway wearing courses and street lighting shall be provided within three months of the date of commencement on the construction of the penultimate dwelling of the development.

Reason: To ensure appropriate access and egress to the properties, in the interests of highway safety and the convenience of prospective residents.

26 The development shall not come into use until the junction with the public highway has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

27 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

28 Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the LPA.

Reason: In the interests of the safety and good management of the public highway.

29 Prior to commencement of any works on site, a management plan identifying programming and management of construction works shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the provision for unloading of delivery vehicles and measures to prevent dirt from being transferred on to the highway.

Reason: In the interests of highway safety.

30 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 £30,618.

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.

31 Unless otherwise agreed in writing by the local planning authority a management plan for the on site drainage scheme (including details of maintenance and detailing responsibility for management of the works) shall be submitted to and

approved in writing by the local planning authority before the development hereby approved is first occupied.

Reason: To ensure the future maintenance and operation of the drainage works.

32 Details of a scheme for the collection and use of rainwater for domestic purposes (including grey water recycling for internal use and rain water storage for external use) shall be submitted to and agreed in writing by the local planning authority before development commences on site. The approved scheme shall be implemented on site before the dwellings hereby approved are first occupied.

Reason: In the interests of sustainable development.

7.0 INFORMATIVES: Notes to Applicant

1. In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to: the principle of development for housing; density; visual appearance; landscaping; sustainability; impact on trees; impact on wildlife; neighbour amenity; access, parking and highway safety; drainage; affordable housing; impact on local services; crime prevention and construction impact. As such the proposal complies with Policies GP1, GP3, GP4a, GP9, GP10, ED4, GP15a, NE1, NE6, H2a, H3c, H4a, H5a, L1c and T4 of the City of York Local Plan Deposit Draft.

Contact details:

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