

## COMMITTEE REPORT

**Date:** 14 October 2010                      **Ward:** Haxby And Wigginton  
**Team:** Major and Commercial      **Parish:** Haxby Town Council  
Team

**Reference:** 10/01397/FUL  
**Application at:** 57 York Road Haxby York YO32 3EE  
**For:** Erection of 1no. four-bedroom detached house to rear of 57 York Road (resubmission)  
**By:** Mr And Mrs Jeremy Hansbro  
**Application Type:** Full Application  
**Target Date:** 6 October 2010  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application relates to the erection of a detached, 4-bedroom, pitch-roofed, single dwellinghouse with linked single garage. Access to the house would be via an existing access, shared with No.57, from York Road. The existing detached garage on the site would be demolished.

1.2 The application is a resubmission of a scheme that was refused by members in October 2009 (09/01215/FUL). The reason for refusal was as follows:

"The proposed development would result in a poor level of amenity for the occupiers of the existing dwelling at 57 York Road due to noise, disturbance and loss of privacy caused by the shared use of the access and driveway to the side of the existing dwelling. The application is therefore contrary to policies GP1 (Design) and GP10 (Sub-division of Gardens and Infill Development) of the City of York Deposit Draft Local Plan and Central Government advice at paragraph 29 of 'The Planning System: General Principles' (2005) and paragraphs 34 & 35 of Planning Policy Statement 1: 'Delivering Sustainable Development' (2005)."

1.3 The subsequent appeal decision concluded that:

- (1) A suitable layout for the access drive could be achieved by a detailed landscaping design (subject to conditions) to preserve the privacy and living conditions of the two households adjoining the drive;
- (ii) The new house would not have an unacceptable impact on the living conditions of neighbours due to noise, disturbance or loss of privacy; but that
- (iii) The proposed dwelling would have a much smaller private garden than other properties in the vicinity (including the existing house at No.57) and be largely in shadow for much of the day. The new property would, as a result, be out of character with its surroundings and be unsatisfactory in itself.

The matters raised in paragraph (iii) were not a concern of the Council when it refused the application.

1.4 The appeal was therefore dismissed. This resubmission intends to address the shortcomings of the previous scheme as identified by the Inspector. The only material differences from the previous scheme are that:

- (i) The proposed house has been moved 3.5m nearer to the front (highway end) of the site in order to increase the size of the rear garden;
- (ii) The proposed boundary between the existing and the new house has been moved approximately 2.5m towards the public highway in order to increase the curtilage of the new dwelling, particularly in relation to the garden area to be retained by the existing dwelling; and
- (iii) The previously proposed double garage has been reduced to a single garage.

1.5 The application has been called in by Cllr Hogg on the grounds of the number of objections received to this and the earlier application.

## **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

CYGP10  
Subdivision of gardens and infill devt

CGP15A  
Development and Flood Risk

CYL1C  
Provision of New Open Space in Development

CYT4  
Cycle parking standards

CYH4A  
Housing Windfalls

### **3.0 CONSULTATIONS**

#### **3.1 Internal**

Highway Network Management - No objections. Add standard conditions regarding details of surfacing and provision of parking/manoeuvring areas.

Structures & Drainage - The development is in Flood Zone 1 and should not suffer from river flooding. Drainage details should be submitted as a condition of approval.

#### **3.2 External**

Haxby Town Council - Objection. The site is backland development. The close proximity of the driveway would disturb the neighbouring property. The development would spoil the unique character of this part of Haxby.

Public Consultation - The consultation period expired on 14 September 2010. 14 letters of objections have been received raising the following planning issues:

- Out of character with the area;
- Loss of privacy;
- Loss of trees;
- Impact on wildlife;
- Loss of pleasant open outlook;
- Noise and disturbance;
- General loss of amenity;
- Sufficient local housing already exists;
- Flood risk;
- Highway safety;
- Construction damage;
- Precedent for other properties in the area;
- Garden grabbing.

### **4.0 APPRAISAL**

#### **4.1 KEY ISSUES**

Most of the issues applicable to this application (and most of the matters raised by objectors) are the same as for the previous scheme. The inspector took them into account in reaching his decision. The only issues that remain for consideration are:

- (a) Changes to the design of the building and its infrastructure;
- (b) The impacts of the revised location within the site; and
- (c) Any policy or other considerations that did not apply at the time of the appeal decision.

#### **4.2 POLICY FRAMEWORK**

Planning Policy Statement 1 (PPS1) (Delivering Sustainable Development") sets out the government's overarching planning policies. It sets out the importance of good design in making places better for people and emphasises that development that is inappropriate in context or fails to take the opportunities available for improving an area should not be accepted.

The Planning System: General Principles - Planning authorities should consider whether a proposal would unacceptably affect amenities and the existing use of land and buildings, which ought to be protected in the public interest.

Planning Policy Statement 3 ("Housing") states that the planning system should deliver high quality housing that is well designed and built to a high standard. Development should be distinctive, maintain character, be developed in suitable locations and make effective use of land. Priority development sites are previously developed land, in particular vacant and derelict sites and buildings. Design that is inappropriate in its context or which fails to take opportunities to improve the character and quality of an area should not be accepted.

Planning Policy Statement 25 ("Development and Flood Risk") aims to: ensure that flood risk is taken into account in the planning process; avoid inappropriate development in areas at risk of flooding; and direct development away from areas at highest risk.

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.

GP10 - Planning permission will only be granted for the sub-division of garden areas or infilling to provide new development where this would not be detrimental to the character and amenity of the local environment.

GP15a - Developers should ensure that the site can be developed, serviced and occupied safely and that discharges from new development should not exceed the capacity of existing/proposed sewers and watercourses.

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.

T4 - Seeks to promote cycling and states that all new development should provide storage for cycles in accordance with the standards in the local plan.

L1c - All housing sites shall 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.

## THE APPLICATION SITE

4.3 The site comprises a two-storey, detached single dwellinghouse in a suburban, predominantly residential area with access onto a classified road. The house has a large rear garden. The area of the house and garden is approximately 0.08ha. The proposed house would occupy part of the rear garden. The plot is bounded on three sides by gardens of residential dwellings.

## CHANGES TO THE DESIGN OF THE DWELLING AND ITS INFRASTRUCTURE

4.4 The only material change to the new dwelling itself is the reduction in size of the garage. The amendment is in keeping with the character of the proposed house and marginally reduces the visual impact of the building on adjacent occupiers.

4.5 The previous application included revised drainage details, which were acceptable subject to details of ground levels, surfacing and run-off attenuation. These details have not been included with the resubmission. Nevertheless they have demonstrated that an acceptable drainage solution can be achieved. Therefore the submission of drainage details can be addressed as a condition of approval.

## REVISED LOCATION WITHIN THE SITE

4.6 Officers consider that moving the house 3.5m towards the front of the site would adequately address the Inspector's concerns regarding the amount of amenity space available to the proposed occupiers and the impact on the visual character of the area. It is pointed out that these matters were not a concern of the Council when it refused the application.

## POLICY AND OTHER CHANGES SINCE THE APPEAL DECISION

4.7 The only material change relates to the exclusion in Planning Policy Statement 3 of private residential gardens from the definition of previously developed (brownfield) land, introduced in June 2010. The appeal decision relating to the previous application was made in April 2010 and therefore pre-dates this change in Government guidance. The purpose of the change is to prevent Local Planning Authorities feeling obliged to grant planning permission for otherwise unwanted development on garden land ("garden grabbing"), simply to maintain targets for building on previously developed land. So far as the changes to PPS 3 are concerned, the removal of residential gardens from the definition of previously developed land does not introduce a general presumption against the development of gardens, it merely removes this as a positive factor in determining such applications. Any scheme still has to be judged against the impact on the character of an area, the impact on adjacent residents and any other material considerations. In this particular case, the change in the definition of previously developed land does not change officers' opinion that the principle of the use of the site for housing is acceptable. In making planning decisions, Local Planning Authorities are still expected to seek the efficient use of land which focus new residential development on sites in sustainable locations, and there are no specific policies in the Draft Local Plan that protect sites such as this from development.

## 5.0 CONCLUSION

5.1 It is considered that the revised application addresses the concerns raised in the previous appeal decision and is acceptable in all other respects.

## 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with drawings numbered SCHEME 1a and SCHEME 2a received 30 June 2010.

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

3 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.

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).

INFORMATIVE: In accordance with Planning Policy Statement 25 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

4 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.

5 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 5% 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

6 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 varying the planning obligation submitted in respect of planning application 09/01215/FUL, 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 £3006.

7 HWAY10 Vehicular areas surfaced, details reqd

8 HWAY19 Car and cycle parking laid out

9 VISQ8 Samples of exterior materials to be app

10 Before the commencement of development, including felling operations, the importing of materials, or any excavations, a method statement regarding protection measures for the existing trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include a schedule of tree works; details and locations of protective fencing to be shown on a plan; phasing of works; site access during development operations; arrangements for loading/off-loading; parking arrangements for site vehicles; locations for stored materials; location of site cabin. The protective fencing line shall be adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, parking or manoeuvring of vehicles et al.

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.

11 The landscaping scheme shown on the approved plans, including retained trees, replacement trees, screening (including between the existing dwelling at 57 York Road and the shared drive) and boundary treatment shall be implemented within 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 the Local Planning Authority agrees alternatives in writing.

Reason: In the interests of visual amenity of the area and to protect the amenities of the occupiers of the existing dwelling at 57 York Road.

12 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 8.7 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

13 No development shall take place until details (including location, dimensions and materials) of refuse/recycling enclosures for the dwelling hereby approved shall have been submitted to and approved in writing by the local planning authority and implemented in accordance with the approved details. The refuse/recycling enclosures shall thereafter be retained and used for no other purpose except with the written consent of the local planning authority.

Reason: In the interests of sustainability and visual amenity.

## **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 the development;
- visual appearance;
- impact on the character and appearance of the area;
- the amenity of adjacent occupiers;
- highway safety;
- sustainability;
- drainage;



As such the proposal complies with national planning advice contained within Planning Policy Statements 1 ("Delivering Sustainable Development") and 3 ("Housing"), and policies GP1, GP4a, GP10, GP15a, H4a, L1c and T4 of the City of York Council Draft Local Plan.

**Contact details:**

**Author:** Kevin O'Connell Development Management Officer

**Tel No:** 01904 552830