

## COMMITTEE REPORT

**Date:** 21 April 2011                      **Ward:** Heworth Without  
**Team:** Householder and Small Scale Team    **Parish:** Heworth Without Parish Council

**Reference:** 10/02751/OUT  
**Application at:** 3 Whitby Drive York YO31 1EX  
**For:** Residential development  
**By:** Mrs Janet Wheldon  
**Application Type:** Outline Application  
**Target Date:** 15 April 2011  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 3 Whitby Drive comprises a brick built bungalow circa 1960 set within a substantial elevated backland site to the north east of the City Centre. It is accessed from a short cul-de-sac via a small parade of shops on Whitby Avenue. Outline planning permission is sought for redevelopment of the site including demolition of the existing bungalow for residential development. All matters other than access are reserved for further determination. The applicant has submitted an indicative scheme on the basis of five plots as the maximum allowable in highway terms with access from a private drive. The applicant has furthermore indicated an intention to develop the site with two storey properties.

1.2 Councillor Ayre has called in the application for Members of the East Area Planning Sub-Committee to determine the grounds that it does not comply with Policy GP1 of the City of York Development Control Local Plan on the grounds that it does not allow for a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, does not avoid the loss of open spaces, vegetation, water and other features which contribute to the quality of the local environment and does not ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking or being dominated by overbearing structures. It furthermore does not comply with Policy GP10 of the York Development Control Local Plan on the grounds that the proposed development would lead to over-development which would be detrimental to the character and amenity of the local environment.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

## 2.2 Policies:

CYGP1  
Design

CYH4A  
Housing Windfalls

CYGP10  
Subdivision of gardens and infill devt

CYGP4A  
Sustainability

CGP15A  
Development and Flood Risk

## 3.0 CONSULTATIONS

### INTERNAL:-

3.1 Highway Network Management raise no objection to the proposal subject to any permission being conditioned to require details of access, parking and turning arrangements being reserved for further approval.

3.2 Environmental Protection Unit express concern with regard to the level of information relating to potential on-site contamination included with the application.

3.3 Structures and Drainage Design Consultancy object to the proposal on the grounds of insufficient information being submitted in respect of surface water drainage with the application.

3.4 Design, Conservation and Sustainable Development raise no objection to the proposal subject to any permission being conditioned to provide for bats foraging in the vicinity.

### EXTERNAL:-

3.5 Heworth Without Parish Council were consulted on 3rd March 2011. No response has been forthcoming.

3.6 17 letters of objection have been received in respect of the proposal. The following is a summary of their contents:-

- Concern at the impact of the proposal upon the local pattern of surface water drainage;
- Concern at the impact of additional traffic generation upon the local road network;

- Concern at the impact of the proposal upon the residential amenity of neighbouring properties by virtue of loss of privacy, overlooking and overbearing impact;
- Concern that the proposal would result in increases in anti-social behaviour in the locality;
- Concern that the proposal would result in a loss of open space of significant townscape value;
- Concern that the proposal by specifying two storey houses would result in a pattern of development alien to the local street scene;
- Concern at the adequacy of the site access for the numbers of additional vehicles that the site would generate;
- Concern at the loss of a number of mature trees and important local habitat;
- Concern at the impact of construction noise and traffic on nearby residential occupiers;
- Concern at the failure to comply with Central Government guidance in respect of usage of gardens as development land as outlined in PPS3"Housing"(revised);
- Concern at the possible health impacts arising from the location of bin stores for the new properties;
- Concern that additional housing in the area is not needed.

#### **4.0 APPRAISAL**

##### **4.1 KEY CONSIDERATIONS INCLUDE:-**

- Impact upon the residential amenity of neighbouring properties;
- Impact of the proposal upon the visual amenity of the street scene;
- Impact of the proposal upon the local surface water drainage pattern;
- Impact of additional traffic generated upon the site access and the local highway network;
- Impact of the proposal upon local biodiversity;
- Loss of an important open space of townscape value.
- Sustainability

##### **IMPACT UPON RESIDENTIAL AMENITY:-**

4.2 Policy GP1 of the York Development Control Local Plan sets a policy presumption in favour of new developments which respect or enhance the local environment , are of a density, layout, scale and massing that are compatible with neighbouring buildings, spaces and the character of the area and ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. The proposed development envisages the demolition of the existing bungalow and the redevelopment of the cleared site and its associated garden for housing. The garden as it stands is substantial and appears physically degraded. The relationship of the existing bungalow and its surroundings furthermore appears idiosyncratic relative to the adjoining area. To the south in Whitby Avenue the nature of development comprises bungalows fairly densely developed in narrow plots. To the north and north east however the nature of development consists of fairly substantial two storey properties set within large gardens.

4.3 The proposal seeks outline planning permission for residential development with all matters other than access reserved. The indicative scheme submitted with the proposal indicates a preference for a two storey form of construction, which it is considered would be acceptable for the northern section of the site. Rear gardens 10 metres in length are illustrated which are entirely consistent with the local pattern of development. There is a significant change in level to the properties to the south in Whitby Avenue however any impact would be minimised by properties in this area adopting an alternative form of construction either as bungalows or as dormer bungalows. Bin stores can be located and the access configuration arranged without detrimental effect upon the neighbouring properties. It is broadly felt that any impact upon the residential amenity of neighbouring properties would be at an acceptable level and that the criteria contained within of Policy GP1 of the Draft Local Plan are satisfied.

#### IMPACT OF THE PROPOSAL UPON THE VISUAL AMENITY OF THE STREET SCENE:-

4.4 Policy GP10 of the York Development Control Local Plan states that planning permission for the sub-division of existing garden areas to provide new development will only be forthcoming where this would not be detrimental to the character and amenity of the local environment. Similarly Policy H4a) of the York Development Control Local Plan states that planning permission for housing would be forthcoming on land within the urban area which is presently unallocated where it involves infilling and the site has good accessibility to jobs and services by non-car modes, the development is of an appropriate scale and density to surrounding development and it would not have a detrimental impact upon existing landscape features. This is consistent with Central Government advice in relation to housing as outlined in PPS 3"Housing", as recently revised.

4.5 The pattern of development surrounding the application site consists of substantial mainly detached and semi-detached houses in large gardens along Stockton Lane to the north and north east and bungalows set within comparatively small plots to the south and south east. The application site appears degraded and the existing bungalow is idiosyncratic in its relationship with neighbouring development. The proposal is in outline with all matters reserved for further approval with the exception of access. No specific form of development is specified however a preference for a two storey pattern of development is expressed. Such a pattern would be more characteristic of the area to the north and it would enable the development to blend in better with the surrounding street scene if any development adjoining the properties in Whitby Avenue were single storey.

4.7 In terms of loss of garden land the area is physically remote and difficult to access and its recognisable garden function has long since been lost. It is felt that to develop the site for limited numbers of housing would not have a material impact upon the visual amenity of the street scene and that the terms of Policies GP10 and H4a) of the Draft Local Plan have therefore been satisfied.

#### IMPACT OF THE PROPOSAL UPON THE LOCAL SURFACE WATER DRAINAGE PATTERN:-

4.8 Policy GP15a) of the York Development Control Local Plan requires that developers must satisfy the Local Planning Authority that any flood risk can be satisfactorily managed with the minimum environmental effect and that the site can be developed, serviced and occupied safely. The application site is within the notified Flood Zone 1 and therefore at a relatively minimal risk of flooding. The eastern and south eastern section has however become poorly drained. The applicant is in the process of devising a full drainage scheme and subject to any permission being conditioned to require the submission of a detailed scheme for further approval then it is considered that the terms of Policy GP15a) of the York Development Control Local Plan would be satisfied.

#### IMPACT OF ADDITIONAL TRAFFIC GENERATION:-

4.9 The application site is accessed via a cul-de-sac leading from a small parade of shops on the northern side of Whitby Avenue. Existing traffic levels in the vicinity are light and the illustrative scheme indicates five houses which would be the minimum level accessible from a private drive. The proposal would not lead to a materially significant increase in traffic in surrounding roads either during construction or when eventually occupied.

#### IMPACT OF THE PROPOSAL UPON LOCAL BIODIVERSITY:-

4.10 Policy NE7 of the York Development Control Local Plan states that development proposals will be required to retain important natural habitats and where possible include measures to enhance or supplement these and to promote public awareness and enjoyment of them. The application site incorporates a disused garden area including a number of mature trees. The applicant has undertaken a detailed tree survey and has agreed to the retention of the significant belt of trees along the northern boundary of the site and to an area of additional planting to reinforce the eastern boundary of the site. There is evidence of bats foraging in the vicinity but the development if subject to appropriate mitigation would not result in any material harm to local biodiversity.

#### LOSS OF AN OPEN SPACE OF MAJOR TOWNSCAPE IMPORTANCE:-

4.11 The application site comprises a secluded disused garden area. It is not readily visible in public viewpoints from any direction and it does not contain any particular features of townscape merit. The development of the site for housing at a density and layout comparable with the adjoining with suitable additional landscaping would therefore be acceptable.

#### SUSTAINABILITY:-

4.12 The site is located within relatively close proximity to the city centre and all types of amenity. The application is accompanied by a statement which confirms that the development will achieve Code for Sustainable Homes Level 3 "star", and will seek to achieve 10% of the energy needs from renewable sources (the Council's Interim Policy Statement indicates a requirement of 5% for developments of this size). The achievement of these targets can be secured by condition.

## OTHER MATTERS:-

4.13 A financial contribution towards the provision or improvement of off-site open space is required by policy L1c of the Draft Local Plan. This can be secured by condition. Given that the indicative layout shows a development of 5 dwellings, a contribution towards the provision of additional education facilities may also be required and an update on this matter will be provided at Committee.

## 5.0 CONCLUSION

5.1 3 Whitby Drive comprises a brick built bungalow circa 1950 lying in a large disused garden to the north east of the City Centre. Outline Planning Permission is sought for the demolition of the existing house and the redevelopment of the entire site for housing. All matters other than access are reserved for further approval. The surrounding area comprises large brick built houses set within large gardens to the north and north east and more recent bungalows set within modest gardens to the south and south east. The application is accompanied by an illustrative scheme that demonstrates that five dwellings can safely be accommodated on the site without detrimental impact upon the wider street scene. Providing a lower form of development is adopted towards the southern boundary of the site then it is considered that the residential amenity of nearby properties can be adequately safeguarded and as the existing garden does not appear to have a recognisable function in townscape terms it is considered that the principal of the proposal is acceptable and approval is therefore recommended.

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

Details to include:

a. Calculations and invert levels to Ordnance Datum of the existing foul and surface water system together with details to include calculations and invert levels of the proposals for the new development. This will enable the impact of the proposals on the downstream watercourse to be assessed.

b. Surface water details. In accordance with PPS25 and in agreement with the Environment Agency/Foss IDB, peak run-off from the development shall be attenuated to 70% of the existing rate (based on 140 l/s/ha of 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 shall use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

c. Details of future management / maintenance of the proposed drainage system.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

4 VISQ8 Samples of exterior materials to be app

5 VISQ4 Boundary details to be supplied

6 The development hereby permitted shall not commence until full details of the proposed vehicular access, turning, parking arrangements 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 development.

7 No development shall take place until full details of what measures for bat mitigation and conservation are proposed and have been submitted to and approved in writing by the Local Planning Authority.

These measures should include:

- i) A plan of how demolition work to the bungalow is to be carried out to accommodate the possibility of bats being present;
- ii) Details of what provision is to be made within the new building to replace the features lost through the demolition of the original structure. Features suitable for incorporation for bats include the use of special tiles, bricks, soffit boards, bat boxes, and bat lofts and should substitute for what is existing;
- iii) The timing of all operations.

The works shall be implemented in accordance with the approved details and timing unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To secure the habitat of a protected species in accordance with Central Government advice in relation to Planning and Biodiversity outlined in Planning Policy Statement 9 "Biodiversity and Geological Conservation".

8 The dwellings to be erected on this site adjacent to Whitby Avenue shall be single storey in height . No external alterations to the dwellings to incorporate an additional floor shall be carried out following the completion or occupation of the buildings without the prior written consent of the Local Planning Authority.

Reason: In the interests of protecting the amenities of the adjoining residents and to assist the development being integrated into the area.

9 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.

10 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.

11 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. The obligation should provide for a financial contribution calculated in accordance with the schedule contained within the following document: "Commutated Sum Payments for Open Space in New developments - A Guide for Developers" (Approved April 2007). 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.

12 NOISE7 Restricted hours of construction

## 7.0 INFORMATIVES:

### Notes to Applicant

#### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact upon the residential amenity of neighbouring properties, impact upon the visual amenity of the wider street scene, impact upon the local surface water drainage pattern, impact of additional traffic generated upon the local highway network, impact of the proposal on local biodiversity and loss of important open space of townscape value. As such the proposal complies with Policies GP1,H4a),GP10,GP4a) and GP15a) of the City of York Development Control Local Plan.

#### 2. CONTAMINATED LAND:-

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

Part 11A of the Environmental Protection Act 1990.

3. DEMOLITION AND CONSTRUCTION:-

i) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

ii) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228:Part 1: 1997, a code of practise for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of Noise and Vibration".

iii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and /or fitted with effective and well maintained mufflers in accordance with the manufacturers instructions.

iv) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

v) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

vi) There shall be no bonfires on the site.

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