

## COMMITTEE REPORT

**Date:** 6 March 2014                      **Ward:** Derwent  
**Team:** Major and                      **Parish:** Dunnington Parish  
                    Commercial Team                      Council

**Reference:** 13/01960/OUT  
**Application at:** 25 Garden Flats Lane Dunnington York YO19 5NB  
**For:** Erection of detached dwelling and garage with room in roof to rear  
**By:** Ms Anna Craven  
**Application Type:** Outline Application  
**Target Date:** 4 September 2013  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1 Outline application for the erection of an L-shaped detached dwelling with detached double garage. A new access would be created from Garden Flats Lane. The application is for layout and access only; scale, appearance and landscaping are reserved. The main part of the building would be approximately 13m x 8m. A perpendicular projection would be approximately 7m x 5m. Since submission the application has been amended to include a maximum height of 4.5m (typical bungalow height) for the dwelling and the detached garage.

1.2 In 2006 an application for a detached house on the site was refused due to (1) being incongruous with the character of the area and the quality of the garden spaces in this part of Garden Flats Lane and (2) poor level of amenity for the occupiers of the existing dwelling and neighbouring properties. The subsequent appeal was dismissed.

1.3 The main differences between the refused scheme and the current proposal are:

- The maximum height has been reduced from 5.5m to 4.5m;
- The total footprint of the development (including the double garage) has increased from 112sqm to 186sqm;
- The orientation within the site has been changed from parallel (to the side boundary) to oblique;
- The attached garage is now detached and closer to the public highway;
- The access drive between the existing houses is 1m further from the boundary with No.23.

1.4 The application has been called-in by Cllr Brooks on the following grounds: incongruous backland development; noise and disturbance due to the proposed access, driveway and car parking; the development would be contrary to policies H4, GP1 and GP10 of the 2005 Draft Local Plan.

## **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

CYGP9 Landscaping

CYGP10 Subdivision of gardens and infill devt

CGP15A Development and Flood Risk

CYGP4A Sustainability

CYL1C Provision of New Open Space in Development

## **3.0 CONSULTATIONS**

### INTERNAL

#### Flood Risk Management

3.1 No objections. The submitted information is sufficient to satisfy our outline application requirements. Add a condition requiring drainage details to be submitted for approval.

#### Communities, Culture and Public Realm

3.2 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 East Zone of the Sport and Active Leisure Strategy. The contribution to off site provision is to be based on the latest York formula through a Section 106 Agreement.

#### Environmental Protection Unit

3.3 No objections. Add low emission condition and contamination/construction informatives.

### Highway Network Management

3.4 No objections. The revised driveway width of 3.2m is acceptable. The first 5m of the drive (from the public verge) should be sealed to prevent gravel etc ending up on the public highway. The proposed garage is big enough to accommodate stored cycles.

### EXTERNAL

#### Dunnington Parish Council

3.5 Objection: Garden grabbing; Planning permissions quoted by the applicant for schemes in Dunnington are not comparable; The proposal is contrary to the Dunnington Village Design Statement; Does not respect the form layout, density and materials of the local area; Impact on privacy and amenity of adjacent occupiers; Would exacerbate existing surface water flooding.

#### Ouse & Derwent Internal Drainage Board

3.6 Request a condition requiring either the site's suitability for soakaways to be ascertained or for drainage details, including attenuation, to be submitted for approval.

#### Public Consultation

3.7 Eleven responses have been received raising the following planning issues:

- No different to previous application
- Loss of open character
- Out of keeping with character of the area
- Garden grabbing
- Impact on setting of the conservation area
- Loss of privacy
- Visual impact on adjacent occupiers
- Disturbance due to vehicle lights/noise
- Increase in traffic
- Inadequate access
- Reduces availability of houses with large gardens
- Will do little to alleviate housing need
- Retained trees would be put at risk
- Precedent for other backland development.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Principle of development for housing
- Street Scene.
- Neighbour amenity

- Highway issues
- Open space
- Flood risk and drainage

## THE APPLICATION SITE

4.2 Part of the substantial landscaped rear garden of a detached dormer bungalow in a residential area within Dunnington village. The site is not in the green belt or in a conservation area. To each side are bungalows. To the rear are 2-storey detached houses in Gorse Hill. Site boundaries are defined by substantial hedges and/or close-boarded fencing. There are a number of trees on the site, mainly at the north-eastern end.

## POLICY CONTEXT

4.3 National planning policy is set out in the National Planning Policy Framework (NPPF). The essence of the framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

4.4 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework. Relevant local plan policies are listed in section 2.2 of the report.

## PRINCIPLE OF DEVELOPMENT FOR HOUSING

4.5 The National Planning Policy Framework requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Policy GP4a states that all proposals should have regard to the principles of sustainable development. The application site is in a sustainable location within the settlement limit of Dunnington, which has local services and is served by public transport.

4.6 The National Planning Policy Framework also states that local authorities should consider policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Policy GP10 of the 2005 draft local plan specifically refers to development in rear gardens. It states that 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. The Dunnington Village Design Statement 2006 (VDS) states that new housing developments should provide housing types suitable to meet the needs of all sections of the population. Applying these policies to the application site, the principle of development of the site for housing is acceptable subject to the proposal not having a detrimental impact on the character and amenity of the area.

## STREET SCENE

4.7 The NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56). Permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64).

4.8 Policy GP1 of the local plan sets out the design requirements for development, which include: respecting the local environment; and having a scale and design compatible with neighbouring buildings and the character of the area. The Dunnington VDS states that new buildings should: respect and enhance adjacent properties and the areas in which they are sited; and respect the form, layout and density of development in the locality. Furthermore, that ideally they should not exceed the existing rooflines in height, though variety of style should be encouraged.

4.9 The proposed bungalow would be built in the rear garden of No.25. The rear gardens of most of the houses in Garden Flats Lane and surrounding streets vary in length from about 7m to 28m, which is a typical range for a suburban residential area. The application property however is one of a group of six houses with gardens ranging from about 50m to 75m. The application site is one of the longest. Furthermore it is significantly wider than any other property in Garden Flats Lane. For example the garden is 26m wide on average compared with 16m for the neighbouring house at No.23 and 13m for No.27. The combination of length and width make the application site uniquely large in comparison to the other gardens in Garden Flats Lane. Whilst the design is reserved, the height and footprint are typical for a 3-bedroom bungalow without habitable rooms in the roof space. The proposed bungalow would be approximately 1.2m lower than the existing dwelling at No.25 which, in addition, occupies a higher position within the site. The bungalow would also be significantly lower than the 2-storey houses in Gorse Hill to the rear and lower than the adjacent bungalows at 23 and 27 Garden Flats Lane.

Bearing in mind the large size of the site and the height of adjacent buildings, the scale of the proposed development would not appear overly large, cramped or out of keeping with the character of the area.

4.10 The double garage would be visible from the public highway, as a background feature between the existing dwellings at 23 and 25 Garden Flats Lane. The distance between the public verge and the garage would be 43m. At this distance the garage would appear as the garage to one of the two adjacent houses. It would not be prominent, nor would its appearance be out of keeping with the character of the area.

4.11 The proposed bungalow would be 65m from the public highway at Garden Flats Lane. Whilst the house would be visible from the public highway, it would only be seen as a distant feature, glimpsed between the proposed garage and the existing house at No.25. In summary, neither the house nor the garage would have a significant impact on the street scene as seen from any public viewpoint.

4.12 In order to create the new access part of a mature boundary hedge along the highway boundary would have to be removed. Neither the hedge nor the bushes and shrubs are protected. Part of a line of shrubs and bushes along the boundary with No.23 would also have to be removed. These shrubs and bushes would be replaced, post construction, by a new line of planting approximately 1.5m wide between the access drive and the side boundary. Details should be made a condition of approval.

## NEIGHBOUR AMENITY

4.13 Policy GP1 of the 2005 local plan states that development proposals will be expected to ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. The bungalow would be 35m from the existing house at No.25 and 29m from the nearest houses at the rear, i.e. nos 6 and 7 Gorse Hill. These separation distances well exceed the council's minimum standards for preventing overlooking and overbearing. Furthermore, the house would be partially screened from the adjacent properties by specimen trees, mature hedging and outbuildings outside the application site. The occupation of the bungalow is unlikely to have any material impact on the neighbouring occupiers in terms of noise, lighting or general disturbance.

4.14 The drive would pass close to the existing house at No.25. However, no windows or doors of No.25 abut the drive. The occupiers are therefore unlikely to be significantly affected by the comings and goings in connection with the bungalow.

4.15 The adjacent bungalow at No.23 has windows that face the proposed driveway.

However, the nearest of these windows would be 5.8m from the driveway, separated by a fence and boundary planting. No.23 has been extended to the rear, including more windows facing the driveway. These windows are almost 9m from the driveway, again separated by a fence and planting.

Irrespective of the submitted plans, this fencing should be increased to 1.8m or alternative fencing provided. Officers consider that the separation distances, together with the increased height of the fencing, would be sufficient to prevent vehicles in connection with the proposed bungalow having a significant impact on the adjacent occupiers in terms of noise, lighting and/or general disturbance.

4.16 The doors of the double garage would face north-west, away from the boundary with No.23. This would minimise the risk of any nuisance to the occupiers of No.23 caused by the opening/closing of the garage doors and of vehicles accessing the garage. The location of the doors should be made a condition of approval.

## TREES

4.17 The site has a number of mature trees, particularly at the north-eastern end of the site. The trees would not be affected by the development, although they would need to be protected during construction. This should be made a condition of approval.

## HIGHWAY ISSUES

4.18 Access, parking and cycle storage are all acceptable, subject to standard conditions being applied as appropriate. The development would have no material impact on traffic or highway safety.

## DRAINAGE

4.19 The site is in flood zone 1 and should not suffer from river flooding. The Council's flood risk engineer has witnessed a soakaway test at the site, which demonstrated that soakaways would be a suitable means of drainage and attenuation. A condition should be imposed requiring drainage details to be submitted for approval.

## OPEN SPACE

4.20 The development would require, under policy L1c of the 2005 local plan, a financial contribution towards the provision off-site of open space. The figure cannot be calculated until the number of bedrooms is known, i.e. at the reserved matters stage. Nevertheless the applicant has agreed to the principle of making the contribution and is preparing a section 106 unilateral undertaking to that effect.

Planning permission should not be formally granted until a satisfactory, signed, undertaking has been received by the council.

## OTHER MATTERS

4.21 The site is not in and does not abut a conservation area. Whilst the boundary of Dunnington Conservation Area lies to the south and west of the application site the conservation area will not be affected by the proposals. Approving the application would not set a precedent for other development in back gardens because of the large size and particular characteristics of this particular site.

## 5.0 CONCLUSION

5.1 Development of housing in back gardens can have a significant adverse impact on the character of residential areas and the amenity of neighbouring occupiers. Policy GP10 of the local plan recognizes this by only permitting backland development where it would not be detrimental to the character and amenity of the local environment. Since 2012 applications have to be judged against the National Planning Policy Framework, the essence of which is the presumption in favour of sustainable development. In cases such as the current application, where the development plan is absent or relevant policies are out of date, planning permission should be granted unless any adverse impacts would clearly outweigh the benefits. Despite the 2006 refusal and the inspector's dismissal at appeal it is difficult to argue that adverse impacts of the current application outweigh the benefits.

5.2 The site is in a sustainable location with good access to local services and public transport. The use would be in keeping with the residential area and would not be prominent from any public viewpoint. The site is unusually large and separation distances are generous. The low maximum height would preclude any habitable rooms (and therefore overlooking) at first-floor level and there is significant screening from adjacent properties. Noise from vehicles entering and leaving would be mitigated by a solid fence along the boundary. Furthermore, whilst the application is for only one house it would help to provide much-needed housing in the area. Officers conclude that the proposal would not be detrimental to the character of the local environment and the amenity of neighbouring occupiers. On balance the application accords with the National Planning Policy Framework and policy GP10 of the 2005 local plan.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement



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 from 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: Scale, appearance and landscaping 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 only in accordance with drawings numbered 13007-002/A and 13007-004/A received 27 January 2014

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

4 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 erected or constructed.

Reason: In the interests of the character and appearance of the area and the amenity of adjacent occupiers 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.

5 Notwithstanding the information contained on the approved plans, the height of the approved dwelling and garage shall not exceed 4.5 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 or the amenity of adjacent occupiers.

6 Notwithstanding the approved plans the development shall not commence until details of boundary treatment have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the protecting the amenities of neighbouring occupiers and the character and appearance of the area.

7 Prior to the development coming into use, the vehicular access, driveway and manoeuvring areas shall be surfaced in resin bonded gravel and positively drained within the site.

Reason: To protect the neighbouring occupiers from road noise and to adequately drain the site whilst preventing loose material spilling onto the public highway.

8 The width of the driveway between nos 23 and 25 Garden Flats Lane shall not exceed 3.2m.

Reason: To enable adequate landscaping to be provide between the driveway and the boundary with 23 Garden Flats Lane in the interests of the amenity of adjacent occupiers and the character of the immediate area.

9 HWAY22 Internal turning areas, details reqd -

10 Vehicular access to the interior of the garage hereby approved shall be provided from the north-west only.

Reason: In the interests of the amenity of the adjacent occupiers at No.23 Garden Flats Lane.

11 DRAIN1 Drainage details to be agreed -

12 Before the commencement of development, including the importing of materials, excavations, utility works, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority.

This statement shall include details and locations of protective fencing, phasing of works, site access during development operations, type of construction machinery/vehicles to be used including delivery and collection lorries and arrangements for loading/off-loading, parking arrangements for site vehicles, and locations for stored materials. It shall also include construction details and methodology for the driveway where it is located within the canopy spread and potential rooting zones of the trees.

Reason: To protect existing trees which are considered to make a significant contribution to the amenity of this area and the development.

13 The applicant shall install a standard domestic 13A electrical socket on an internal or external wall. This shall be capable of charging at a minimum of 3KWh for up to 8 hours without overheating the cabling or socket. A 32Amp socket shall be supplied which can offer up to 7KWh continuous charging with a control and protection function on a specific circuit (to avoid overload through use of other appliances on the circuit), using Mode 2 charging protocols. Where mounted on an external wall, a suitable weatherproof enclosure for the socket shall be provided.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles / bikes / scooters

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187). In seeking solutions to problems identified during the processing of the application the Local Planning Authority has negotiated changes to the ridge height, driveway width and surfacing and sought evidence of the suitability of soakaways, thus enabling a positive outcome to be achieved.

### **2. CONTROL OF POLLUTION**

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to; failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) 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.

(b) 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 practice 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".

(c) 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 manufacturers' instructions.

(d) 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.

(e) 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.

(f) There shall be no bonfires on the site.

### 3. CONTAMINATED LAND

In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment shall be undertaken and where remediation (clean-up) is necessary a remediation scheme shall be prepared and approved in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and approved in writing of the Local Planning Authority.

NOTE: 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 2A of the Environmental Protection Act 1990.

### 4. UNILATERAL UNDERTAKING

This planning permission includes a unilateral undertaking to make a financial contribution towards off-site public open space.

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