

## COMMITTEE REPORT

**Date:** 6 November 2014      **Ward:** Wheldrake  
**Team:** Major and      **Parish:** Elvington Parish Council  
Commercial Team

**Reference:** 14/01720/FUL  
**Application at:** Brook House Main Street Elvington York YO41 4AA  
**For:** Erection of two storey dwelling with detached garage  
(resubmission)  
**By:** Mr And Mrs J Benson  
**Application Type:** Full Application  
**Target Date:** 26 September 2014  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 This is a full planning application to erect a four bedroom two-storey detached dwelling on land that was formerly part of the garden of Brook House. A single detached garage is also proposed. The application site is approximately 30m wide and 18m deep. It is immediately adjacent to the village hall. The site contains a number of trees - the ground is largely covered by long grass and brambles. It has a frontage to Main Street and is located within Elvington conservation area.

1.2 The proposed house is of traditional construction and the first floor contains half-dormers. The internal ground floor level of the house will be raised 600mm above the existing ground level. The ridge will be approximately 8m above the existing ground level. The dwelling is proposed to be 11.5m wide and is located towards the eastern side of the site. The rear elevation of the house would be around 5m from the top of the sloping bank that leads down to the Beck. The front of the property would be around 4m from the hedgerow that would form the front boundary.

1.3 The application is brought to Committee at the request of Cllr. Barton. The reason given relates to the support for the scheme from the Parish Council and the view that development would enhance a site that is very visible and has been unkempt and uncared for, for many years.

#### Relevant Property History

1.4 In February 2009 (07/01030/FUL) a similar application to erect a dwelling and detached garage on the site was refused by east area committee because of the conflict with established trees/harm to the conservation area and because of flood risk concerns. The two reasons for refusal are copied in full below:

- 1) The proposed dwelling would be located in very close proximity to the canopy of mature trees that surround the site. When in leaf, this would result in the occupiers of the proposed dwelling experiencing poor light conditions and having a poor outlook. It could also raise concerns amongst future occupiers in respect to danger caused by falling trees and subsidence. It is considered that this is an unsatisfactory relationship and may in the future lead to pressure for the trees to be removed. This would be unacceptable in that they are important to the setting of the conservation area and the environment generally. It is also considered that the application fails to demonstrate that the proposal would fulfil the aims and objectives of sustainable development. As such the proposal conflicts with Policies GP1 (criterion a), GP4a, H4a (criterion d) and NE1 (criterion a) of the City of York Draft Local Plan (Fourth Set of Changes) 2005 and Central Government advice relating to design quality and context contained within Planning Policy Statement 1 (Delivering Sustainable Development) and Planning Policy Statement 3 (Housing).
  
- 2) The proposed dwelling would be located within Flood Zone 3. The application fails to show that the development would reduce flood risk in the wider area. It also fails to show that the new dwelling would have an internal floor level that would provide it with suitable safeguards against flood risk. Accordingly, it is considered that the application conflicts with advice contained within Planning Policy Statement 25 'Development and Flood Risk', Policy GP15a of the City of York Draft Local Plan (Fourth Set of Changes) approved April 2005 and advice contained within the City Of York Strategic Flood Risk Assessment Approved September 2007.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

Conservation Area: Elvington  
 DC Area Teams: East Area  
 Floodzone : Floodzone 2

### 2.2 Policies:

CYGP1	Design
CYGP10	Subdivision of gardens and infill devt
CYH4A	Housing Windfalls
CYGP15	Protection from flooding
CYNE1	Trees, woodlands, hedgerows
CYHE2	Development in historic locations
CYHE3	Conservation Areas

## 3.0 CONSULTATIONS

### Internal

#### Network Management

3.1 No objections subject to conditions. The visibility splays are adequate and there is suitable clearance for cars to turn right into the site if a bus is drawn up alongside the bus stop.

#### Flood Risk Management Team

3.2 No objections subject to conditions relating to sustainable foul and surface water discharge.

#### Landscape Architect

3.3 Consider that the Willow tree, the trees to the frontage and the greenery as a whole contributes to the amenity of the Conservation Area. Considers that the scheme is too large to accommodate the dwelling and retain suitable vegetation around the site. Does not consider that the impressive willow tree that overhangs the site is compatible with the development.

#### Communities, Culture and Public Realm

3.4 A financial contribution towards open space improvements is justified/required.

#### Environmental Protection Unit

3.5 An acoustic report was required because of the close relationship with the village hall. The noise levels detailed within the report demonstrate that the expected noise levels impacting upon the house and garden are within acceptable parameters.

### External

#### Yorkshire Water

3.6 No objections subject to separate foul and surface water drainage.

#### Internal Drainage Board

3.7 No objections subject to controls on discharge rates and the relationship with the Beck.

#### Environment Agency

3.8 No objections

#### Parish Council

3.9 Support the proposal. A financial contribution should be provided for off-site improvements to open space.

## Neighbours/Publicity

3.10 Seven letters have been received, three of which state objections to the scheme.

The issues raised are as follows:

- The proposal will harm the character of an intact part of the Conservation Area dating from the nineteenth century.
- Concerns in respect to the loss of trees and the view that trees should only be lost if development is definitely to proceed.
- The road is busy and the adjacent bus stop where buses can wait for sometime will create a hazard to people entering and exiting the site.
- Care should be taken to ensure that construction vehicles do not create inconvenience and highway safety concerns.
- Loss of privacy to gardens to the rear, including the detached gardens on Church Lane.
- Object if the canopy of the large willow is cut back and the mature birch removed.

## **4.0 APPRAISAL**

4.1 The key issues in assessing the proposal are:

- impact on the streetscene and conservation area
- impact on amenity and living conditions of adjacent occupiers
- impact on trees
- highway issues
- drainage
- quality of accommodation provided
- sustainability
- section 106 contributions

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of 12 principles set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 In respect to the development of gardens it states (paragraph 53) that LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where it would harm the Local area.

4.4 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. The NPPF states that there are three dimensions to sustainable development - an economic role, a social role and an environmental role. In considering proposals for new or improved residential accommodation, the benefits from meeting peoples housing needs and promoting the economy will be balanced against any negative impacts on the environment and neighbours' living conditions.

4.5 The 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 content of the NPPF.

4.6 Local Plan Policy GP1 'Design' states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and vegetation.

4.7 Local Plan Policy GP10 'Subdivision of Gardens and Infill Development' states that infilling should not be detrimental to local character or amenity.

4.8 Local Plan Policy H4a 'Housing Windfalls' states that new development should be accessible to shops and services and of an appropriate scale.

4.9 Local Plan Policy GP15a relates to development and floodrisk. At the heart of the policy is the requirement that proposals are not at unacceptable risk of flooding and do not increase flood risk elsewhere.

4.10 Local Plan policy NE1 'Trees, Woodland and Hedgerows' states that trees of landscape, amenity, nature conservation or historical value will be protected by refusing development which will result in their loss or damage.

4.11 The site is within Elvington Conservation Area. The NPPF (chapter 12, paragraph 132) states that when considering the impact of a proposed development on the significance of a designated heritage asset (e.g. a conservation area), great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed by or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

4.12 Draft Local Plan Policy HE2 states that within or adjoining conservation areas, development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials. Proposals will be required to maintain or enhance existing urban spaces, views, landmarks, and other townscape elements, which contribute to the character or appearance of the area. Policy HE3 states that proposals in Conservation Areas will only be acceptable where there is no adverse impact on the character and appearance of the area.

#### IMPACT ON THE STREETSCENE AND CONSERVATION AREA.

4.13 It is considered that the style, scale and materials of the house would be sympathetic to the appearance of other housing in the area. In assessing the impact on the conservation area and compliance with national planning guidance and policies HE3 and HE4 of the Local Plan it is considered the key issue is whether the proposed dwelling can reasonably co-exist with planting within and particularly around the site. It is considered that the landscaped character of the site is important to the appearance of the conservation area. The plot was formerly part of the rear garden of Brook House which abutted the village hall which was built as the village school. The approach into Elvington from the Derwent is characterised on the left hand side by large dwellings set within landscape grounds. This is considered an important intact historic characteristic and one that helps to create a very attractive and distinct approach to the historic heart of the village. It is considered that the site is also very important when viewed from the direction of the village green. The view to the village hall is one of the most important and prominent vistas seen when travelling through the village from the west. The treed backdrop to the hall, is considered to be intrinsically attractive. It also creates a landscaped backdrop to this part of the village and erecting a house on the site would lead to the distinct outline of the village hall being diminished. Although individually many of the trees within the site are of limited value it is considered that as a group they serve an important local role in creating the appearance of a relatively dense wooded area.

4.14 The description of the Elvington Conservation Area contained within the Local Plan makes reference to a number of the elements that would be impacted upon. For example, it states that, 'east of Church lane, development mainly consists of individual houses set in their own grounds'. Furthermore, it states that 'as Main Street descends to Church Lane, the rural well-treed setting continues along the south right up to the former Schoolhouse (1858).' The description lists 5 main elements of its appearance and character. It is considered that two are relevant. These are copied below

4)The well wooded setting of the village and its strongly rural character, with houses often set behind hedges.

5) The attractive sequence of views constantly unfolding within and around the village.

4.15 Brook House is a grade II listed building, it is not considered that the development would detract from its setting.

### IMPACT ON NEIGHBOURS' LIVING CONDITIONS

4.16 Policy GP1 of the Local Plan requires proposals to avoid causing undue harm to neighbouring living conditions.

4.17 The proposed dwelling would be located approximately 21 metres from the properties on the opposite side of Main Street. In the context of facing two-storey development this is considered sufficient to avoid undue harm in respect to the loss of outlook, light and privacy. It is not considered that the slight increase in the house floor level above existing site levels would be such to cause harm given the relatively low eaves levels

4.18 The rear garden of 'The Willows' on Church Lane runs along the opposite side of Elvington Beck. The separation distance between the rear of the proposed house and the side of the rear garden of The Willows would be around 10 metres.

4.19 It is not considered that the proposal will cause undue harm to living conditions within the house. This is because the development is sufficiently oblique and far enough away not to have a large impact in respect to privacy and outlook. During the winter when trees are not in leaf there will be some additional overlooking to parts of the rear garden, particularly from a first floor rear bedroom window. It is the case however that the rear garden of Willow House is large in scale and that many areas of the garden will remain private - particularly those closest to the existing dwelling.

4.20 It is considered that there is adequate separation to the detached gardens to the rear of Church Lane to avoid undue harm.

4.21 It is not considered that the modest loss of light or outlook to the village hall would be unacceptable.

### IMPACT ON TREES

4.22 The Council's Landscape Architect has concerns in respect to conflict between the proposed dwelling and existing and proposed trees. A detailed tree survey has been submitted with the application and has indicated that many trees within the site are in poor condition. From visiting the site it is clear that the house would be located in very close proximity to the canopy of several existing or proposed trees. Because of the small size of the garden, trees located within 'The Willows' and Brook House would impact on light levels. The large and well proportioned willow

tree in 'The Willows' overhangs the rear garden and would impact significantly on light in the house and garden. It is proposed to plant some trees along the front garden boundary to help soften the impact of development, however, the very short length of the front garden (approximately 4.5m) makes it difficult to see how a significant screen could be created without causing unreasonable harm to light and outlook within the property.

4.23 It is considered that the most significant tree within the vicinity is the large willow that overhangs the site. If the application were approved there could be pressure to cut back part of the canopy. It is considered that although the individual trees are often of limited individual value, cumulatively the vegetation in and around the former rear garden is of importance when viewed as a whole. It is the case that the site would benefit from having some of the trees that are in poor health removed, however, their removal would not change the character of the site in the way that developing a house on it would. It is not considered that the dwelling is compatible with the retention of sufficient vegetation or a planting scheme that would retain the treed backdrop to the hall or largely screen the home from Main Street.

### HIGHWAYS ISSUES

4.24 It is considered that visibility out of the site for vehicles is acceptable. The property would have car parking for two vehicles and the design of the drive would ensure that vehicles could turn in the site and exit in a forward gear. A Council Highway officer has assessed the proposal and does not consider that there would not be an unacceptable conflict with buses waiting at the nearby bus stop.

### DRAINAGE ISSUES

4.25 One of the reasons for refusing the previous application was that the applicant failed to prove that the property would not be at risk of flooding or increase flood risk elsewhere. The beck that runs through the village has previously flooded. Flood works in Elvington were completed in the summer of 2007. At the time the previous application was determined the site was classified as in Zone 3 (High Risk). The site is now classified as a medium risk area (Zone 2).

4.26 The Council's Flood Risk team are satisfied that in accordance with policy GP15a of the Local Plan, the proposed dwelling will not be at undue risk of flooding. In addition, subject to conditions dealing with the on-site storage of surface water, run-off rates can be suitably managed.

### QUALITY OF ACCOMMODATION CREATED

4.27 The property would be relatively large and if sited in most locations would give occupiers a good standard of accommodation. However, concerns exist in respect to the relationship to existing trees around the edge of the site and those proposed to the front.



The trees immediately to the south and east are outside the occupier's control. The trees will typically be in leaf for approximately five or six months of the year and at such times limited sunlight would reach the inside of the house. Much of the garden would also be in shade. Given the proximity of the house and small garden to the trees to the east and south it is questionable whether it would be reasonable to seek any significant new replacement tree planting to the north (front).

This is of concern given the importance of the treed approach to the appearance of the conservation area.

4.28 The proposed dwelling is located within close proximity to Elvington village hall. The hall is used for a variety of different functions some of which have amplified music. The main hall has two windows bounding the application site. The proposed dwelling would be around 17m from the nearest windows. An acoustic survey has been submitted and the Council's Environmental Protection Officer is satisfied that the house can reasonably co-exist with the hall.

## SUSTAINABILITY

4.29 The property is located in an accessible location at the heart of the village. Cycle parking can be accommodated within the proposed garage. The property would have relatively poor natural light levels, however, it is not considered that this in itself would indicate that the building could not be reasonably sustainable in terms of energy use. Sustainability is defined in the NPPF as having an economic role, a social role and an environmental role. The proposal would create immediate economic benefits, however, it could reasonably be argued that it would detract from the historic environment.

## S106 CONTRIBUTIONS

4.30 If the proposal were approved a contribution of £3,034 would be required for improvements to open space and play provision in line with the council's planning guidance on such matters.

## **5.0 CONCLUSION**

5.1 The application site is prominent within the conservation area. One of the most attractive intact characteristics of the village is the landscaped approach from the direction of the river Derwent and the treed backdrop to the village hall when seen from the village green. It is considered that erecting a dwelling on the site will detract from this by a significant degree. The small depth of the site is such that it is not considered practical to accommodate the proposed dwelling and retain or provide significant planting. This would mean that the dwelling would become prominent in the street and behind the hall.

5.2 The description of the Conservation area contained in the Local Plan makes reference to the well treed approach to the village and the wooded setting generally. The former School House (1858), now the village hall is described in the statement as an important building. It is considered that the proposal would lead to substantial harm to a heritage asset. It is not considered that the benefits from creating a new dwelling or tidying up an overgrown area of garden would outweigh this permanent harm.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Refuse

1 The landscaped and treed character of the application site and its immediate surroundings is important in providing an attractive natural backdrop to the village hall and also in terms of forming part of the intact landscaped approach to the heart of the village. It is not considered that the proposed dwelling could reasonably co-exist with significant planting within and around the site and as such the introduction of the building would detract from the appearance of Elvington Conservation area. The proposal therefore conflicts with Policies GP1 (criterion a and e), H4a (criterion d), HE2, HE3 and NE1 (criterion a) of the City of York Draft Local Plan (Fourth Set of Changes) 2005 and advice in chapter 12 of the National Planning Policy Framework.

### **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 took the following steps in order to achieve an acceptable outcome:

Concerns in respect to the negative impact on the Conservation Area were raised at an early stage in the process.

#### **Contact details:**

**Author:** Neil Massey Development Management Officer (Mon/Wed/Fri)

**Tel No:** 01904 551352