



Report Reference Number: 2020/0073/COU

To: Planning Committee
Date: 26 August 2020
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APPLICATION NUMBER:	2020/0073/COU	PARISH:	Riccall Parish Council
APPLICANT:	Mr William Hand	VALID DATE:	5th February 2020
		EXPIRY DATE:	1st April 2020
PROPOSAL:	Change of use of land for siting of a caravan for use as granny flat/annexe to the existing property (Retrospective)		
LOCATION:	North Newlands Farm Selby Road Riccall York North Yorkshire YO19 6QW		
RECOMMENDATION:	Grant		

This application has been brought before Planning Committee as the proposal is contrary to the requirements of the Development Plan (namely SP1 and SP2 of the Core Strategy) but it is considered there are material considerations which would justify approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is known as North Newlands Farm, Selby Road, Riccall. The property is south west of the main Riccall settlement and east of the A19 in a small cluster of dwellings. The farm is now redundant and sits to the southernmost edge of the residential grouping with open views to the south. The site lies to the west of Selby Road and consists of a farmhouse, outbuildings some of which are used as a salon and some portal framed for agricultural buildings. To the north are residential dwellings to the south east and west are agricultural fields. The mobile home sought for retention is positioned west of the farmhouse in between the salon, garage and agricultural buildings.

The Proposal

- 1.2 The proposal is for the change of use of land for the siting of a residential mobile home being used as an annex to the existing property. Mobile caravans can be used in connection with the host dwelling providing they are within the curtilage of the dwelling and ancillary i.e. used as additional bedrooms and not self-contained.
- 1.3 This mobile home is situated outside the lawful residential curtilage of the main farmhouse, but within the wider curtilage of the former farmstead. The mobile home is 2-bed, self-contained and has its own formalised curtilage that is outlined in red as the planning unit, thus requires planning permission. The mobile home is occupied by the applicant's elderly family member who is dependent on her daughter who lives in the farmhouse as her carer.

Relevant Planning History

- 1.4 PREAPP/2015/0395 - Possibility of caravan/outbuilding in curtilage for family member. Decision - planning not required if ancillary and within curtilage.
- 1.5 2012/0450/COU - Change of use of existing store room to beauty salon. Granted 25.06.2012

2. CONSULTATION AND PUBLICITY

2.1 National Grid

National Grid has No Objection to the above proposal which is in close proximity to a High-Pressure Gas Pipeline.

2.2 Parish Council

Riccall Parish Council has no objection to this proposal as submitted.

2.3 NYCC Highways Canal Road

There are no local highway authority objections to the retrospective change of use.

2.4 Pland Use Planning Yorkshire Water Services Ltd

No response received.

2.5 The Ouse & Derwent Internal Drainage Board

No objection. The proposals will have minimal impact on drainage issues within the Drainage Board's district.

2.6 Neighbour summary

The application has been advertised by site notice and neighbour letter resulting in no representations being received. Councillor John Duggan has expressed his support for a temporary/personal consent to be issued due to the personal circumstances involved.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located outside development limits, and is therefore, within the open countryside.
- 3.2 The application site is located within Flood Zone 1, which has a low probability of flooding.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

"213...existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

Selby District Core Strategy Local Plan

4.6 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy

SP5 – The Scale and Distribution of Housing
SP9 – Affordable Housing

SP15 - Sustainable Development and Climate Change
SP18 – Protecting and Enhancing the Environment

SP19 - Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
T1 - Development in Relation to Highway

5 APPRAISAL

5.1 The main issues to be taken into account when assessing this application are:

- The principle of the development
- Design and impact on the character and appearance of the countryside
- Impact on residential amenity
- Impact on highway safety
- Flood risk and drainage
- Contaminated Land

The Principle of the Development

- 5.2 Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.3 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside. The application has been submitted retrospectively and seeks planning permission for the siting of a residential mobile home and small curtilage for use by an elderly person. The elderly person is the mother in law of the applicant and is cared for by his wife, hence the need for the location of the mobile home.
- 5.4 Policy SP2A(c) of the Core Strategy states that *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."*
- 5.5 When considered as a new dwelling within the open countryside, the development would not be for rural affordable housing need therefore the proposal would not meet any of the criteria set out in Policy SP2A (c) of the Core Strategy, which sets

out the Spatial Development Strategy for the District. The development is therefore unacceptable in principal contrary to Policies SP1 and SP2 of the Core Strategy.

- 5.6 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development. The NPPF is particularly relevant as it states that “To promote sustainable development in rural areas, housing should be located where it will maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby”.
- 5.7 Paragraph 79 of the NPPF states “Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- (a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - (b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - (c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - (d) the development would involve the subdivision of an existing residential dwelling; or
 - (e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.”
- 5.8 The Local Planning Authority does not consider that any of the above circumstances apply and no case has been made within the submissions to justify compliance with the above.
- 5.9 Given the proposal is contrary to the development plan it is necessary to consider if there are any other material considerations demonstrated in order to overcome the policy conflict as detailed in Section 70 of the Town and Country Planning Act 1990.
- 5.10 The applicant’s case is mainly justified on the basis that the mobile home was sited on the basis of inaccurate information being given in 2015 and has remained on site for over 5 years. The mobile home is occupied by a disabled elderly lady who relies on her daughter’s care in the adjoining dwelling. The mobile home was viewed as a short-term accommodation measure after she became homeless in 2015 after domestic abuse and breakdown in her marriage. The mobile is therefore necessary on a temporary basis whilst ever the care need exists, and the applicant is willing for the caravan to be conditioned for personal use and removed whenever the caravan ceases to be needed. The refusal of this application and enforcement action would make the occupant homeless.

- 5.11 Therefore whilst being contrary to the Development Plan the combination of factors which include the housing need of the occupant, the circumstances regarding the advice given prior to its siting and the length of time the mobile home has already been sited mean that the Local Planning Authority consider it unreasonable to refuse the application. On this basis a temporary and personal permission is considered reasonable whilst ever the occupant is in need of care. The temporary nature of the use and care element will mean any harm to the countryside is limited to a specified period. Also, mobile homes can be used as annexes providing they are within the curtilage of dwellings, however this is outside the curtilage but the use and siting is well related to the main farm house. Therefore, whilst being contrary to policy the proposal is acceptable on grounds of personal circumstances for a limited period.

Impact on the Character and Appearance of the countryside

- 5.12 Relevant policies in respect to the impact of development on the character and appearance of the area include Policy ENV1 (1), (4) and (5) of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy. Further to this, relevant policies within the NPPF, include paragraphs 124, 127, 128, 130, 131.
- 5.13 The mobile home is particularly visible within the countryside when viewed across the fields to the south of the site and when entering the settlement. The white shiny surfaces of the mobile home make it particularly more visible than the more traditional buildings that surround it and its presence does have some harm to the openness of the countryside. The mobile home also does not benefit from any screening. The proposal therefore does cause some harm to the character and appearance of the countryside, contrary to SP19 of the Core Strategy and Local Plan Policy ENV 1 but this harm will be limited for the reasons and justification mentioned above.

Impact on Residential Amenity

- 5.14 Policy ENV1 (1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that Policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF.
- 5.15 The mobile home is located a significant distance from the nearest residential property, with the closest dwelling being the family members to the east i.e. North Newands Farmhouse. As such, it is considered that the proposal would not have any significant adverse impacts on the amenities of the occupiers of any neighbouring residential properties or vice versa. Adequate amenity space is provided within a small area of land around the mobile home to serve the occupier.
- 5.16 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Highway Safety

- 5.17 The mobile home is served from an existing access from Selby Road and any parking for the mobile home would occur alongside the garages where sufficient space exists for cars to be parked. The occupant of the mobile home due to her

age (89) doesn't have a car and has no intention of requiring one, therefore the retention of the mobile home has no impact on highway safety or the parking requirements for the site. North Yorkshire County Council Highways have been consulted on the application and raise no objections to the development in terms of highway safety. The proposal is therefore acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and national policy contained within the NPPF.

Flood Risk and Drainage

- 5.18 The application site is located in Flood Zone 1, which has a low probability of flooding, therefore no sequential or exception test is required. In terms of drainage, the foul connects to the mains sewer and the surface water to an existing soak away. Both elements seem to be functioning correctly given the mobile home has been on site for the last 5 years. Yorkshire Water have not provided comments on the application and the Internal drainage board suggests the mobile home surface water drainage will have minimal impact on drainage issues within the Drainage Board's district. It is therefore considered that the proposal is in accordance with Policies SP15 and SP19 of the Core Strategy Local Plan, and the NPPF.

Contaminated Land

- 5.19 Residential uses are known to be sensitive to contamination and as such a Stage 1: Desktop Study Report is normally submitted with applications or conditioned accordingly prior to development commencing. This is normally where actual built development occurs i.e. where the ground is being broken. No such report has been submitted with the application; however the mobile home is simply placed on the land, and therefore given the temporary nature of the use no further contamination assessment is considered proportionate. The proposal is therefore considered compliant with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.

6 CONCLUSION

- 6.1 The application site is located outside the defined development limits of Riccall and is therefore, located within the open countryside. The mobile home does not constitute any of the development types described as being appropriate in the Countryside by Policy SP2A(c) and is therefore contrary to Policy SP2A(c) of the Core Strategy and Paragraph 78 and 79 of the NPPF.
- 6.2 The personal circumstances explained by the applicant which relate to the housing need for an elderly person combined with circumstances involved in the advice given regarding the siting mean that there are material circumstances which can be considered to outweigh the policy harm on this occasion. A personal consent will ensure any harm to the countryside in both policy and visual terms is contained to a limited period. The proposal is considered to be acceptable in respect of matters of acknowledged importance such as residential amenity, highway safety, flood risk and drainage, and contaminated land.

7 RECOMMENDATION

This application is recommended to be Granted subject to the following condition.

01. The occupation of the mobile home hereby permitted shall be limited to (*name to be inserted into the Decision Notice*) only and the mobile home shall be removed from the land when that person is no longer occupying the mobile home.

Reason;

Permission was granted on a personal basis due to the material considerations explained within the submission, where it would otherwise be contrary to SP 1 and SP 2 of the Core Strategy. The personal consent will ensure the mobile home is removed from the land when no longer required and the harm to the countryside removed.

8 Legal Issues

8.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

8.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

9 Financial Issues

Financial issues are not material to the determination of this application.

10 Background Documents

Planning Application file reference 2020/0073/COU and associated documents.

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Appendices: None