



**Report Reference Number:** 2016/1254/FUL (8/56/10D/PA)

**Agenda Item No:** 6.1

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**To:** Planning Committee  
**Date:** 7 March 2018  
**Author:** Mr Keith Thompson (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

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APPLICATION NUMBER:	2016/1254/FUL	PARISH:	Monk Fryston Parish Council
APPLICANT:	Ms Helen Ripley	VALID DATE: EXPIRY DATE:	25 October 2016 20 December 2016
PROPOSAL:	Partial demolition of existing bungalow and erection of 4 No 3 bedroom semi-detached and 1 No 4 bedroom detached houses		
LOCATION:	The Bungalow, 31 Lumby Hill, Monk Fryston, Leeds, West Yorkshire LS25 5EB		
RECOMMENDATION:	REFUSE		

## **1. Introduction and background**

### **1.1 The Site**

1.1.1 The application site includes no. 31 Lumby Hill, a detached dwelling and its rear garden. The development site lies to the east of the dwelling on land that slopes from the roadside to the east. The northern perimeter of the site is enclosed by a quarry wall with houses situated to the north on Hillcrest. The southern perimeter has a hedge that separates the site with no. 33. The eastern part of the site lies within the Green Belt and the quarry edge forms the perimeter of the eastern part of the site.

### **1.2 The proposal**

1.2.1 The application seeks planning permission for the erection of 5no. dwellings within the garden of the host dwelling and the creation of a smaller garden for this dwelling.

1.2.2 The proposed dwellings would include 2 no. pairs of three bedroom semis and a 4no. bedroom detached house at plot 5.

1.2.3 An estate road would be constructed from Lumby Hill to serve each of the dwellings with a turning are refuge vehicles to the front of plot 5.

### **1.3 Planning History**

The following historical applications are considered to be relevant to the determination of this application.

1.3.1 CO/1992/0910 was permitted on 29 September 1992 for the proposed construction of a pitched roof to replace existing flat roof at no. 31 Lumby Hill.

### **2.0 Consultation and Publicity**

The application has been publicised by site and press notice and neighbour notification letter with 5 objections received (including a Councillor objection) citing the following concerns:

- Houses with chimneys burning fuel would be on the same level as our rear garden,
- Privacy between windows on houses on Hillcrest and new dwellings,
- Will the road be private or adopted by the Council,
- Who will be responsible for the quarry wall should there be any damage and the hedge,
- Who will be responsible for the flower bushes, trees,
- Will the existing property still have ownership of the Green Belt land and its maintenance,
- Distant views of shrubs and trees would change to roofs an chimneys,
- Drainage concerns,
- Monk Fryston school is over prescribed,
- Traffic will be increased,
- Overdevelopment,
- Adequate on-site parking should be provided,
- Reassurances on any subsidence issues with quarry wall,
- Noise from traffic from the houses.
- Contrary to the Development Plan being located in the Green Belt,
- Views from the Green Belt into the site have to be appraised,
- Sequentially PDL is preferred over greenfield land,
- Creates back land development.

On 11 January additional and amended plans which include levels survey plan and house 5 proposed plans were consulted on with no comments received as a result of this publicity.

### **2.1 NYCC Highways**

No objection subject to conditions.

## 2.2 **Yorkshire Water**

Clarification on a public sewer recorded to cross the site sought. No objection in principle to the proposed building position near to public sewer subject to control under Part H4 Building Regulations 2000.

## 2.3 **Selby Area Internal Drainage Board**

No comment.

## 2.4 **Monk Fryston Parish Council**

Objection on grounds of density and adequacy of the arrangement of the proposed vehicular access and lack of provision for visitor parking within the development.

## 2.5 **Environmental Health**

No objections.

## 2.6 **Natural England**

No comment.

## 2.7 **North Yorkshire Bat Group**

No comments received on the application.

## 2.8 **Public Rights Of Way Officer**

No comments received on the application.

## 2.9 **Contaminated Land Consultants**

No objection subject to SDC standard contaminated land conditions being applied. This is in order to address the potential risks associated with historic quarrying within close proximity to the site.

## 3.0 **Site Constraints and Policy Context**

### **Constraints**

3.1 The application site is partly located within defined development limits with part of the site located within the Green Belt. The proposed development would all take place within the development limits and the area of land within the Green Belt would remain undeveloped.

3.2 The application site is located within Flood Zone 1.

**National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

- 3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.4 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. 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.

### **Selby District Core Strategy Local Plan**

- 3.5 The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP3	Green Belt
SP4	Management of Residential Development in Settlements
SP5	Scale and Distribution of Housing
SP8	Housing Mix
SP9	Affordable Housing
SP15	Sustainable Development and Climate Change
SP18	Protecting and Enhancing the Environment
SP19	Design Quality

### **Selby District Local Plan**

- 3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans 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)".
- 3.7 The relevant Selby District Local Plan Policies are:

ENV1	Control of Development
ENV2	Environmental Pollution and Contaminated Land
T1	Development in Relation to Highway
T2	Access to Roads
CS6	Development Contributions-Infrastructure

## **Supplementary Planning Documents**

3.8 Monk Fryston Village Design Statement Aug 2011.

### **4.0 APPRAISAL**

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

1. Principle of Development
2. Green Belt
3. Design and Impact on the Character and Appearance of the Area
4. Residential Amenity
5. Highway Safety
6. Flood Risk, Drainage and Climate Change
7. Nature Conservation and Protected Species
8. Land Contamination
9. Affordable Housing
10. Recreational Open Space

### **4.2 Principle of Development**

4.2.1 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.

4.2.2 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.

4.2.3 The application is located part inside the defined development limits of Monk Fryston and part outside on land within the Green Belt. The housing scheme, access road and associated garden space are all located within the development limits and thus the proposal would be subject to Policy SP2a which permits in Designated Service Villages scope for additional residential development.

4.2.4 Policy SP4A permits appropriate scale of development on greenfield land which includes garden land. The proposed development is considered to be out of scale and would not be in keeping with the character and appearance of the area and this is discussed further below. As such the proposal fails to accord with Policy SP4A of Selby District Core Strategy.

4.2.5 The Council has a five year housing land supply. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.

### 4.3 Green Belt

- 4.3.1 Relevant policies in respect to the principle of the development in the Green Belt are Policy SP3 of the Core Strategy and NPPF paragraphs 79 to 92. It is noted that no new development is proposed in the area of the site that is within the Green Belt. This area of land would remain as garden land for the host dwelling.
- 4.3.2 Part of the application site (land to the eastern area of the former quarry) is located outside defined development limits and is located within the Green Belt as such, national guidance contained within the NPPF and Policies SP2 (d) and SP3 of the Core Strategy are relevant.
- 4.3.3 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
- a) It must be determined whether the development is appropriate development in the Green Belt. The NPPF and Local Plan set out the categories of appropriate development.
  - b) If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
  - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.
- 4.3.4 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.3.5 The quarry wall provides a distinct and natural boundary to the edge of the site and intersects Green Belt land. A public footpath located to the south east of the site provides views toward the site and it is largely screened. Trees and planting is visible that lies on the perimeter of the quarry with only houses at Hillcrest and The Crescent visible in the distance. The eastern edge of the developed part of the site would have a new 2m high hedge planted, a detached garage and parking spaces introduced and situated along the Green Belt boundary.
- 4.3.6 The visual impact on the open characteristics of the Green Belt have been considered and the proposal would provide a distinct and clear visual boundary between the development site and the Green Belt. Despite the new built form being close to the Green Belt boundary, the new hedge and the tall quarry wall that arcs around the eastern perimeter of the existing garden, ensures that the visual quality of this area of Green Belt would not be adversely harmed.
- 4.3.7 Paragraphs 89 and 90 of the NPPF set out what does not constitute inappropriate development in the Green Belt. The proposal states that the land designated as Green Belt would be left as garden land for the host dwelling no. 31 Lumby Hall. There would be no new buildings erected on this land and there would be no change of use of land. Therefore in terms of principle of development the proposal

would not result in adverse impact upon the openness of this area of Green Belt land.

4.3.8 It is therefore considered that the proposal would accord with Policies SP2 (d) and SP3 of the Core Strategy and Section 9 of the NPPF.

#### **4.4 Impact on Character and Form of the Locality**

4.4.1 The proposed housing development would be laid out with two pairs of semi-detached dwellings and a detached dwelling in the eastern area of the site.

4.4.2 The separation distance between the semis would be circa 21.5m and the distance from the host dwelling to plots 1 and 2 would be circa 17.5m and 20.5m to rear elevation that has windows. The site slopes significantly from the roadside to the rear elevation of plots 1 and 2, some 17m from the rear elevation of the host dwelling.

4.4.3 The application site and housing plots to the south are characterised by dwellings fronting Lumby Hill and large rectangular gardens to the rear which measure circa 30m – 65m long, which shorten further south. The application site has one of the larger rear gardens which measures circa 100m long, and also wraps around the rear garden of no. 33 Lumby Hill. These existing plots have generous space about each dwelling, compared to the plots proposed on the application site which have rear gardens 9.5m long, parking to the front of the four semi-detached plots with no option of parking to the side of these plots.

4.4.4. The housing estate located to the north at Hillcrest have spacious rear gardens which measure circa 10m – 20m and front gardens with off street parking mainly located to the side of houses. The housing plots on this estate also have generally more space about each dwelling compared to the plots on the application site.

4.4.5 The agent has been rigid in the approach to the housing layout and this has limited the opportunities to design a scheme that takes influence from the characteristics of housing plots in close proximity to the site at Hillcrest and also at plots further south of the site. For example, reducing the scheme to four dwellings could provide significantly improved space on each plot, which would appear in character to the local area. However, the proposal would result in the layout of the scheme appearing out of character, due to the alien layout proposed. Furthermore, the proposal would also significantly reduce the space about the host dwelling at no. 31 by reducing the rear garden to 6m and would be partly occupied by two off street parking spaces.

4.4.6 The agent considers that the proposal is not dissimilar in layout to Hillcrest located to the north. Officers disagree insofar that dwellings on Hillcrest have a much more generous layout with driveways located to the side of houses and space about dwellings being more generous in the main, with gardens to the front and rear of dwellings. The contrived layout of the proposal does not relate to the character and layout of housing situated on Lumby Hill which it's acknowledged varies with different lengths of gardens, but nevertheless this scheme is negatively at odds with the neighbouring plots layout character which are more spacious. The site would not integrate with the character of development in this part of the village, effectively appearing as a development that looks inward on itself.

- 4.4.7 The layout of plot 5 located in the eastern area of the site would be sited close to a quarry wall which has foliage growing over it. The height of the wall is circa 2-3m high and this would appear as an oppressive form of enclosure. This is not considered a good form of layout and raises issues of outlook for future occupier(s) of the plot.
- 4.4.8 Policy ENV1 (1) and (4) of Selby District Local Plan states that when considering proposals the standard of layout and design in relation to the site and its surroundings shall be taken into account. This proposal would result in a housing development that does not ameliorate with its surroundings in terms of layout and design and thus would appear out of keeping and character with its surroundings.
- 4.4.9 A submitted cross section levels plan indicates that roughly the middle area of the rear garden would be excavated to develop plots 1 and 2. No levels are provided for plot 5. The excavation works that would be required would change the topography of the site, but this is considered to have a neutral effect on the immediate setting of the site.
- 4.4.10 There would be adequate space for waste and recycling provision within each plot and this could be secured by condition.
- 4.4.11 To conclude, it is considered that the character and appearance of the village would be adversely harmed by this proposed layout which does not relate to or ameliorate with its surroundings. The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 a and b of the Core Strategy and the advice contained within the NPPF, in particular Chapter 7 (requiring Good Design) at paragraphs 60 relating to promotion or reinforcement of local distinctiveness, and paragraph 66 requiring applicants to work closely with those directly affected to evolve designs that take account of the views of the community.

## **4.5 Impact on Residential Amenity**

- 4.5.1 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 4.5.2 Objections received from neighbours include concerns with privacy and overlooking from the new houses. The application site has a sloping ground level that extends from Lumby Hill toward the middle area of the garden. The houses on Hillcrest are on significantly higher ground level. The adjacent houses that lie to the south of the site have a similar ground level with their gardens falling to the east. The northern and eastern edge of the site is formed by the remains of a quarry edge and this provides a physical barrier between the site and neighbour's. When constructed the houses would have a roof line that peaks above the ground level of Hillcrest, but would not likely to be higher to raise issues of privacy or appear overbearing on these neighbour's outlook.
- 4.5.3 Plots 1 and 3 would have gable windows that face the rear garden of no 33 but these are noted as being obscured glazing and can be controlled by condition.



- 4.5.4 Plot 5 would be set off the shared boundary with no. 35 rear garden by circa 5m and there are two first floor bedroom windows that face this garden and would overlook the quarry wall as the windows are circa 3.5m to cill level from the ground. It is acknowledged that the neighbour's garden is circa 90m long and there are trees located in this area of the garden, but nevertheless it is not good design to introduce this unavoidable overlooking aspect of the proposal.
- 4.5.5 As such it is considered that the proposed development would raise concern in terms of impact on residential amenity of no. 35 and thus fails to accord with Policy ENV1 (1) of the Local Plan in this regard and the advice contained within the NPPF which requires a good standard of design in new development.

#### **4.6 Impact on Highway Safety**

- 4.6.1 The proposed dwellings would benefit from a vehicular access onto Lumby Hill. Each dwelling would have off street parking and an estate road would serve each dwelling. North Yorkshire County Council Highways raise no objections to the proposal subject to conditions.
- 4.6.2 Objections have been raised by the Parish Council regarding access from the site onto Lumby Hill. It is noted that the development would be more intense than the current single dwellinghouse access but there are no known capacity issues on Lumby Hill that would lead to the view that this scale of development would pose a highway safety risk or lead to adverse highway capacity issues.
- 4.6.3 Having regard to the above, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and the advice contained within the NPPF.

#### **4.7 Flood Risk, Drainage and Climate Change**

- 4.7.1 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15 (B) and criterion (c) of Policy SP16 of the Core Strategy.
- 4.7.2 Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."
- 4.7.3 The NPPF, paragraph 94, states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. The NPPF, paragraph 95, states that to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions and which actively support energy efficiency improvements to existing buildings.
- 4.7.4 The application site is located within Flood Zone 1, which has a low probability of flooding.

4.7.5 Yorkshire Water and the IDB did not raise any objections to the proposal with Yorkshire Water seeking under Building Regulations safeguarding of a water pipe on the site. As such, the proposal would raise no adverse drainage issues.

#### **4.8 Nature Conservation and Protected Species**

4.8.1 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.

4.8.2 The application site is not a designated protected site for nature conservation.

4.8.3 It is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

#### **4.9 Land Contamination**

4.9.1 The application has been reviewed by the Councils contaminated land consultants who advise based on the information submitted by the agent in the form of Contaminated Land information, should control the development by attaching standardised conditions, which would be reasonable and necessary.

4.9.2 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect to land contamination and is therefore in accordance with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

#### **4.10 Affordable Housing**

4.10.1 In the context of the Court of Appeal Judgement in relation to the West Berkshire Case the Council is no longer able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD. The proposal is contrary to the provisions of the Development Plan but there are material considerations – the High Court decision on the West Berkshire case - which would justify approving the application without the need to secure an affordable housing contribution.

#### **4.11 Recreational Open Space**

4.11.1 In respect of contributions towards recreational open space, these policies should be afforded limited weight due to their conflict with CIL. It is considered that no direct contribution is required due to the adoption of the CIL.

#### **4.12 Other Issues**

4.12.1 Objections from a neighbour refer to matters that are not considered a material planning consideration with respect to a right to a view from a dwelling window.

4.12.2 Smoke emanating from the proposed dwellings and impacting on houses on Hillcrest would be a matter for environmental health legislation if found to be a nuisance.

4.12.3 The quarry wall, bushes and flowers would be subject to care and maintenance by the landowner whether that is the existing landowner no. 31 or new owners when land is sold.

### **Legal Issues**

5.1 Planning Acts: This application has been determined in accordance with the relevant planning acts.

5.2 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.

5.3 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.

### **Financial Issues**

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

## **6.0 Conclusion**

6.1 The scheme is considered to be located within a sustainable location within a Designated Service Village and new housing development would be supported in principle if the development was of appropriate scale on a greenfield site. It is considered that the proposal raises significant adverse concern with the design and layout of the scheme and thus would fail to accord with Policy SP4A of Selby District Core Strategy.

6.2 It is considered that the character and appearance of the village would be adversely harmed by this proposal due to its layout, which does not relate to or ameliorate with its surroundings.

6.3 The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 (a) and (b) of Core Strategy and the advice contained within the NPPF, in particular Chapter 7 (requiring Good Design) at paragraphs 60 relating to promotion or reinforcement of local distinctiveness, and paragraph 66 requiring applicants to work closely with those directly affected to evolve designs that take account of the views of the community.

6.4 The proposed layout of the scheme raises adverse concern with regards to plot 5, insofar, as the rear first floor windows would overlook into the private rear garden of no. 35 Lumby Hill, to the detriment of the neighbour's privacy.

## **7.0 Recommendation**

This application is recommended to be REFUSED for the following reasons:

01. Non-allocated sites located within Designated Service Villages are supported in principle, subject to an appropriate scale development on greenfield land. The proposed development is not considered to be an appropriate scale development on this greenfield site, and thus would fail to accord with Policy SP4A of Selby District Core Strategy.
02. The character and appearance of the village would be adversely harmed by this proposal due to its layout, which does not relate to or ameliorate with its surroundings. The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 (a) and (b) of Core Strategy and the advice contained within the NPPF, in particular Chapter 7 (requiring Good Design) at paragraphs 60 relating to promotion or reinforcement of local distinctiveness, and paragraph 66 requiring applicants to work closely with those directly affected to evolve designs that take account of the views of the community.
03. The proposed layout of the scheme raises adverse concern with regards to plot 5, insofar, as the rear first floor windows would overlook into the private rear garden of no. 35 Lumby Hill, to the detriment of the neighbour's privacy. As such the proposal would fail to accord with Policy ENV1 of Selby District Local Plan.

**Contact Officer:**

Keith Thompson, Senior Planning Officer

**Appendices:**

None.