



Report Reference Number: 2017/1001/FUL (8/21/1N/PA)

Agenda Item No: 6.4

To: Planning Committee
Date: 7 March 2018
Author: Ann Rawlinson (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/1001/FUL	PARISH:	Burn Parish Council
APPLICANT:	Mr Fattorini	VALID DATE: EXPIRY DATE:	20 September 2017 15 November 2017 EOT to be agreed
PROPOSAL:	Proposed erection of new detached dwelling on plot 2, (previously plot 3)		
LOCATION:	Beech Tree House, Main Road, Burn, Selby, North Yorkshire, YO8 8LJ		
RECCOMENDATION:	Minded to approve subject to conditions and expiry of re-consultation period		

It is considered that this application is appropriate to be determined by Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations that would justify approving the application.

1.0 Introduction and Background

Site and Context

- 1.1 The application site is located to the front garden area of Beech Tree House in Burn. The site is within the defined settlement limit of Burn. It comprises of a lawned and driveway area (to the south of the site). There are existing residential properties surrounding the site. There is an established hedgerow to the west and east of the site, with a small number of trees to the east also. The boundary to the north of the site comprises a close board timber fence of approximately 1.8 metres in height.
- 1.2 Trees to the site frontage of Beech Tree House are protected by Tree Preservation Order 10/2004. The proposal does not impact on these trees.

The Proposal

- 1.3 Planning permission is sought to erect one dwelling with attached garage to the centre (approximately) of the front lawned garden area.
- 1.4 The proposed dwelling would be two and a half stories in height with three dormer windows to the front (south) elevation and two dormer windows to the rear (north) elevation, as well as four small roof lights. Dormer windows would have pitched roofs and the property would be gabled ended. Full height glazing would extend from the central dormer to the front elevation. There would be a Juliet balcony to the western gable elevation.
- 1.5 The proposed dwelling itself would be approximately 14 metres in width, 10.2 metres in depth, 9.2 metres in height, to ridge, and 5.5 metres in height to eaves.
- 1.6 Attached to south east corner of the dwelling would be a double garage, with room above. This would incorporate two dormer windows to the front, western elevation, with four roof lights to the rear. The proposed garage would be 10.6m in width, 6.6 metres in depth, 6.4 metres in height to ridge and 3.8m to eaves.
- 1.7 It is proposed that the dwelling and attached garage would be constructed with stone to ground floor level with rendered blockwork above. The roof would be constructed from artificial stone slate.
- 1.8 Access would be taken from the existing access to Beech Tree House, from Main Road and a driveway taken from the existing circular driveway to the front of Beech Tree House. This would extend into a parking area in front of the dwelling and garage.
- 1.9 It is noted that the plans have been amended from the initial submission to remove a timber ancillary building previously proposed to be sited to the north of the proposed dwelling. Minor amendments have also been made in relation to the footprint of the proposed garage. These amendments have been made in order to seek to address concerns raised during consideration of the proposal. The amended description and revised plans are noted in the description, as set out above, and are currently, at the time of writing this report, subject to a full consultee and neighbour re-consultation process.
- 1.10 The proposal is a re-submission of an application refused in April last year for the following reasons. The current application seeks to address these reasons for refusal:
 1. The proposed dwellings (plots 2 and 3) singularly and cumulatively are both considered to have a detrimental impact on the character and form of the area due to their, size, scale, massing, height, materials and design. The proposed scheme therefore fails to accord with Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the framework within the NPPF
 2. The proposed attached garage to plot 3 is considered to have an oppressive and overbearing impact of the amenity space and properties of Old Post Office

and Rainbow Cottage. The proposed scheme is therefore considered to have a detrimental impact on the residential amenity of the occupants of those properties and therefore fails to accord with Policy ENV1 (1) of the Local Plan and the NPPF.

3. The proposed balcony and external stair case are considered to be stark alien features which appear as stand-alone features which are considered not to be in keeping and have detrimental impact on the character and form of the area. The scheme proposes an external staircase and balcony on the west elevation which is considered to overlook the proposed dwelling on Plot 2. The proposed scheme is therefore considered to have a detrimental impact on the residential amenity of the future occupants of Plot 2 and the character and form of the area and therefore fails to accord with Policy ENV1(1) of the Local Plan and the NPPF
4. Plot 2 has an appearance of a log cabin which is the appearance of a building or structure which would be expected to be found on a Holiday Park and does not have an appearance of a permanent structure. All of the other dwellings in the area are permanent structures. Plot 2 is therefore considered to be not in keeping with the character and form of the area and inappropriate for permanent retention. The proposed scheme therefore fails to accord with Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the framework within the NPPF.

2.0 Planning History

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

- 2007/1073/OUT (PER - 15.11.2007) Renewal of outline Permission 8/21/1F/PA (CO/2004/1044) for the erection of 3 dwellings including means of access.
- 2008/1135/REM (PER - 10.12.2008) Reserved Matters application for the erection of 3no detached dwellings with associated garages on land adjacent to Beech Tree House, Main Road, Burn.
- 2012/01111/FUL (PER - 11.10.2012). Erection of 3No. detached dwellings.
- 2014/0122/FUL (PER - 07.04.2014) Proposed conversion/extension to existing garage and workshop to create an Annex for single occupancy.
- 2015/0524/DPC (COND - 10.07.2015) Discharge of conditions 2 (materials), 3 (boundary treatment), 4 (landscaping) & 11, 13, 14 (drainage) of approval 2012/01111/FUL (8/21/1J/PA) for the erection of 3 No. detached dwellings.
- 2017/0144/FUL (REF - 07.04.2017). Proposed erection of new detached dwelling on plot 3 and erection of timber cabin on plot 2.
- 2017/1238/HPA (PER - 02.01.2018) Proposed single storey home office/study extension.

- CO/2004/1044 (PER - 21.10.2004) Outline application for the erection of three dwellings (re-submission), including means of access.
- CO/2004/0306 (WDN - 30.04.2004) Outline application for the erection of three dwellings on land.

3.0 Consultation Responses

Highway Authority – No objections subject to the imposition of conditions.

Yorkshire Water Services Ltd – No comments received.

Selby Area Internal Drainage Board - No objections. Guidance provided for surface water disposing to a watercourse.

Burn Gliding Club Ltd - Consider that this application will be of low risk to flying operations at Burn Airfield, provided that no tall masts or other devices other than a TV aerial are attached to the property.

Parish Council - Wishes to make the following observations:

1. The Parish Council has grave concerns about the increase in the number of vehicles likely to access, and leave, the proposed development form and onto the already busy A19.
2. The provided plans do not make it clear as to where plot 3 is planned to be sited.
3. The Parish Council is concerned that the proposed development is resulting in over-development of the existing site.
4. The Parish Council is also concerned about the proposal to erect a residential log cabin in the garden of the proposed dwelling because such a structure does not match the surrounding buildings.

4.0 Publicity

The application has been advertised by site notice and neighbour notification letter resulting in no letters of representation having been received, at the present time.

5.0 Policy Context

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

- 5.1 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.

5.2 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

5.3 The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP4	Management of Residential Development in Settlements
SP5	The Scale and Distribution of Housing
SP9	Affordable Housing
SP15	Sustainable Development and Climate Change
SP16	Improving Resource Efficiency
SP18	Protecting and Enhancing the Environment
SP19	Design Quality

Selby District Local Plan

5.4 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)".

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

6.0 Appraisal

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

- Principle of Development
- Design and Impact on the Character of the Area
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Impact on Highway Safety, Access and Car Parking

- Residential Amenity
- Impact on Nature Conservation and Protected Species
- Affordable Housing
- Land Contamination.

Principle of Development

- 6.2 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 14 of the NPPF and should be afforded significant weight.
- 6.3 Policy SP1 of the Selby District Core Strategy Local Plan (2013) 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 14 of the NPPF and should be afforded significant weight.
- 6.4 The application is for the erection of one detached dwelling and the site is situated within the defined development limits of Burn which is a designated Secondary Village as defined by Policy SP2 A of the Core Strategy.
- 6.5 Policy SP2 (A) allows for limited amounts of residential development inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities. The policy then goes on to require that development on non-allocated sites must meet the requirements of policy SP4 of the Core Strategy.
- 6.6 Policy SP4 of the Core Strategy defines the type of development that would be acceptable within the defined development limits of Secondary Villages and this includes: conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion/redevelopment of farmsteads.
- 6.7 The scheme proposes the siting of one dwelling to the front of the existing dwelling of Beech Tree House. The site is located behind the main frontage dwellings lining Main Street in Burn.
- 6.8 Therefore the proposal is not considered not to be the filling of small linear gaps in otherwise built up residential frontages. The proposed scheme does not meet any of these forms of development and therefore fails to accord with Policy SP4 (A) of the Core Strategy.
- 6.9 Notwithstanding the above, it is established case law that if an applicant can demonstrate a fallback position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is a partially implemented planning permission for the erection of 3 dwellings under application number 2012/0111/FUL and this remains valid for the current application site. It is clear that a garage approved as part of this planning permission has been

constructed on the wider site. The implemented Planning Permission is considered as a clear fallback position that is a material consideration of sufficient weight to outweigh the provisions of SP2 and SP4 of the Core Strategy.

Design and Impact on the Character and Form of the area

- 6.10 In refusal of the previous planning application concerns were raised regarding an external stair case and large balcony which were considered as stark alien features and were not considered in keeping with the character of the area. These elements and a previous proposal for a timber ancillary out building which was considered to be out of keeping with the locality has now been removed from the proposals. A Juliet balcony is proposed to the west gable. This is considered an appropriate scale in relation to the property and would not be highly visible.
- 6.11 Concern was also raised regarding the size of the property, being three storeys. In this respect it is the view of the case officer that given the siting of the proposed dwelling to the rear of the building fronting onto Main Road, that the property would not be highly visible from the main road and would not be seen as being out of context from public vantage points.
- 6.12 In respect of the proposed materials, being a mix of stone and render, concern was previously raised that surrounding properties are either red brick or render, rather than a mix of materials. It is noted by the case officer that there are some properties in the village that are a mix of materials. Stone is proposed at ground floor level only which again would not be highly visible in the wider context.
- 6.13 It is acknowledged that the proposal is relatively large. Never the less it is considered in the context of the size of the garden area and set against the context of Beech Tree House itself, which is a large detached property that the dwelling would sit comfortably within the site. Regard is also had to the fall back position in that three dwellings are able to be constructed on this particular site.
- 6.14 Having regard to the above considerations it is considered that the proposal respects Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and advice contained within the NPPF.

Flood Risk and Climate Change

- 6.15 The application site is within Flood Zone 1. The proposal would dispose of surface water via a soakaway and foul sewerage via the mains sewerage. The IDB have not objected to the proposal and no response has been received from Yorkshire Water. The proposed scheme is considered to be acceptable in terms of flood risk and drainage and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.
- 6.16 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 must be acknowledged that the proposal is for the creation of a dwelling on a site that is in close proximity to the services of designated service village. The proposed development therefore complies with parts (a), (f) and (g). The proposal's ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is therefore

limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of SP15 (B) (b), (c) (d), and (e) of the Core Strategy Local Plan.

- 6.17 Part (h) of Policy SP15 (B) refers specifically to the requirement to fulfil part (a) of Policy SP16 of the Core Strategy Local Plan. The proposed development is below the threshold of 10 dwellings and this part of the policy is therefore not applicable in this case. Policy SP16(c) requires development schemes to employ the most up to date national regulatory standard for code for sustainable homes which the proposed development would do through the current Building Regulations regime. Therefore having had regard to policies SP15 (B) and SP16 (a) & (c) of the Core Strategy Local Plan it is considered that the proposal is acceptable.

Highway Safety, Access and Car Parking

- 6.18 The Highways Authority have assessed the application with respect to the impacts on the highway and on users of the network and have confirmed that the proposals are acceptable and should not give rise to highway safety issues. Proposed access, car parking and manoeuvring provision is considered appropriate.
- 6.19 It is therefore considered that the scheme would be acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

Impact on Residential Amenity

- 6.20 The proposed attached garage (rear elevation) is located the following distances (approximate) from the following properties:
- 9.5 metres away from the rear elevation of the Old Post Office and 4 metres away from the boundary of the Old Post Office.
 - 17.5 metres away from the rear elevation of Rainbow Cottage and 9 metres away from the boundary of Rainbow Cottage.
- 6.21 The proposed attached garage has been moved further away from the above mentioned properties than as set out within the previously refused application, of which concerns were raised in respect of the potential impact on surrounding residential amenity. It is noted that the proposed garage would be sited at a more oblique angle from the rear of The Old Post Office and not located directly in front of it at this distance. There are no windows proposed to the rear of the proposed garage, only roof lights to the roof slope. Furthermore the proposed garage is akin to a building of 1 ½ stories in height, as opposed to two stories and therefore is smaller in scale.
- 6.22 The scheme proposes windows to the south (rear) elevation which faces toward the property of Birchwood. The proposed windows have a separation distance of 12 metres to the boundary of Birchwood and 16 metres to the side elevation of the property of Birchwood itself. Due to the combination of the separation distances and the relatively high hedge screening on this boundary, as well as the fact that the proposed dwelling is sited at an angle to the rear elevation of Birchwood and

directly facing a secondary on the gable elevation of Birchwood, the proposed dwelling is considered not to have a significantly detrimental impact in respect of overlooking, loss of privacy, outlook or overbearing impact, subject to the windows closest to the gable elevation being of frosted glass. It is considered that the relationship between the proposed garage and dwelling at distances of 16 metres and 21 metres respectively from the rear garage and side dwelling elevations to the rear of Fir Trees are appropriate.

- 6.23 It is now considered that an appropriate relationship would be retained between the proposal and surrounding residential properties in respect of outlook, light, privacy, and overlooking. It is not considered that the proposal would have a significantly overbearing impact on neighbouring properties. The proposed scheme is therefore considered not to have a significantly detrimental impact on the residential amenities and therefore would accord with Policy ENV1(1) of the Local Plan and the NPPF.

Impact on Nature Conservation and Protected Species

- 6.24 The site is not a protected site for nature conservation nor is it known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest. As such it is considered that the proposal would not harm any acknowledged nature conservation interests and therefore accords with ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the NPPF.

Affordable Housing

- 6.25 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 6.26 Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 6.27 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Contamination

- 6.28 The submitted Contamination Screening Form does not indicate that the presence of contamination is likely. In respect of the previously refused application on the site, the Council's Contaminated Land Consultant advised that he had no objections subject a condition requiring further investigation in the event of the discovery of unanticipated contamination during redevelopment works. The condition shall be imposed on any grant of planning permission.
- 6.29 The proposal is therefore considered to be acceptable in regards to contamination

on the site subject to an appropriate condition and is therefore in accordance with Policy ENV2 of the Local Plan and Part 11 of the National Planning Policy Framework.

7.0 Legal and Financial Issues

Planning Acts

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

Human Rights Act 1998

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

Equality Act 2010

7.3 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.

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

8.0 Conclusion

8.1 The proposed scheme proposes the siting of a dwelling to the front of Beach Tree House and the proposed scheme does not meet any of these forms of development and therefore fails to accord with Policy SP4 (A) of the Core Strategy.

8.2 Notwithstanding the above, it is established case law that if an applicant can demonstrate a fallback position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is an implemented planning permission for the erection of 3 dwellings under application number 2012/0111/FUL. The implemented Planning Permission is considered as a clear fallback position that is a material consideration of sufficient weight to outweigh the provisions SP2 of the Core Strategy, as the erection of 3 dwellings can be constructed in this location.

8.3 Matters of acknowledged importance such as energy efficiency, renewable considerations, flood risk, drainage, layout, scale, design, contamination, nature conservation, impact on residential amenity, impact on the highway network and affordable housing contributions are considered to be acceptable.

9.0 Recommendation

9.1 This planning application is recommended to be APPROVED subject to the imposition of the conditions set out below and subject to no new issues being raised within the re-consultation process which expires on the 23 of February 2018.

1. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Site Layout Plan	1635/110 Rev. D
Proposed Layouts	1635/112 Rev. B
Site Location Plan	1635/100
Proposed Elevations	1635/113 Rev. B
Proposed Site Drainage	1635/115 Rev. C

Reason: For the avoidance of doubt.

3. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 2:

- a. have been constructed in accordance with the submitted drawing (Reference «drawing number 1635/111 Rev A»)

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

Reason: In accordance with Policy T1 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

4. In the event that unexpected contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that any potential risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy ENV1 of Selby District Local Plan and part 11 of the National Planning Policy Framework.

5. The development hereby permitted shall be constructed entirely of the material details of which are shown on the approved plans and application form.

Reason: In the interests of visual amenity in accordance with Policy ENV1 of Selby District Local Plan.

6. The windows to the eastern side of the northern (rear elevation) at all levels shall be of opaque/frosted.

Reason: In the interests of privacy and to prevent overlooking of nearby residential properties having regard to Policy ENV1 of the Selby District Local and Part 11 of the National Planning Policy Framework.

9. Background Documents

- 9.1 Planning Application file reference 2017/1001/FUL, and associated documents.

Contact Officer:

Ann Rawlinson, Principal Planning Officer

Appendices:

None