



Report Reference Number: 2019/0639/COU

To: Planning Committee
Date: 11 November 2020
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0639/COU	PARISH:	North Duffield Parish Council
APPLICANT:	Mr Andrew Ward	VALID DATE: EXPIRY DATE:	27th June 2019 22nd August 2019
PROPOSAL:	Retrospective change of use of land from agricultural to garden for land adjoining the rear		
LOCATION:	Holmewood York Road North Duffield Selby North Yorkshire YO8 5RU		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as 14 letters of representation have been received which raise material planning considerations and Officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the northern part of North Duffield village. The application site includes the existing bungalow with its existing curtilage and a parcel of land along the eastern boundary which is subject to this application. There is agricultural land to the north, east and south of the parcel of land in question, and the host property with its curtilage to the west of it.

- 1.2 It is noted that there are no detailed plans provided to show the proposed boundary treatments and given that the development already occurred without planning permission, the boundary treatments as proposed have therefore been identified by the Case Officer during site visit as retrospectively erected composite panels with concrete posts and base along north, east and south of the land in question, with arched timber trellis on top of composite panels along eastern boundary which has an overall height of approximately 1.8 metres. The application has therefore been assessed on this basis.
- 1.3 The Case Officer noted from a site visit that a summer house is being erected within the parcel of land which is subject to this application. However, this feature does not form part of this application.
- 1.4 It should be noted that an alternative solution attempted to be negotiated with the applicants, however they did not wish to amend the scheme and as such, the application is determined on the basis of the information as originally submitted.

The Proposal

- 1.5 The application is for a change of use of a parcel of agricultural land adjacent to the east boundary of the curtilage of this dwelling to use as a private garden area.

Relevant Planning History

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

- 1.6 Application Number CO/1982/01859 for the proposed extension to existing bungalow at Holmewood Bungalow, York Road, North Duffield was approved in May 1982.
- 1.7 Application Number CO/1993/0271 for the demolition of existing outbuildings and erection of side extension to bungalow with double and single garage to the rear of Holmewood, York Road, North Duffield was approved in May 1993.
- 1.8 Application Number: CO/2002/0540 for the proposed erection of a block of two stables and a store to the rear of Holmewood, York Road, North Duffield was refused in July 2002.
- 1.9 Application Number CO/2002/1251 for the proposed erection of stables and haystore at Holmewood, York Road, North Duffield was approved in February 2003.
- 1.10 Application Number 2019/1272/COU for the change of use of agricultural land to garden land to rear of Appletree Cottage, 2 York Road and Corner Cottage (part retrospective) was refused on 2 April 2020.
- 1.11 Application Number 2019/1038/COU - Retrospective change of use of agricultural land to garden land adjoining the rear at Plum Tree Cottage, York Road, North Duffield is pending consideration.
- 1.12 Application Number 2015/1025/OUT - Outline planning application for up to 65 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) on land off York Road was refused in November 2015.

1.13 Application Number 2016/0644/OUT - Outline planning application for up to 57 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) at land off York Road was refused in March 2017 due to the following reasons:

01. The site lies outside the established development limits of North Duffield and due to its excessive size and position would not represent a natural rounding off or provide a new defensible boundaries. It would expand the settlement outwards, increasing the depth of built form at the edge of the village creating an additional large block of development encroaching into the rural open countryside location at the northern end of the village. It would create a harsh urban edge abutting the existing field track when viewed from the east due to the solid amount of housing and the lack of landscaping. Furthermore, it would leave an area of undeveloped land between the northern edge of the development and the proposed football pitch which would be subject to future pressure for infill development. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to the aims of Policies SP1, SP18 and SP19 of the SDCSLP, ENV 1 of the SDLP and with the NPPF.

02. The proposal due to the scale, at approximately 57 dwellings, is not considered to be appropriate to the size and role of North Duffield, a settlement, which is designated a service Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 59 dwellings and capacity for significant growth already therefore exists in the village. Continued expansion of North Duffield would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. Therefore, the proposal would conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. The proposal therefore is contrary to Policies ENV1 of the SDLP and Policies SP1, SP2, SP4, SP18 and SP19 of the SDCSLP and the NPPF.

The application was subsequently refused at appeal on 26 February 2018 and Inspector assessed the impact on character and appearance of the area amongst other things as follows:

36. However, the proposal would create a protrusion of built development beyond the defined development limits of the village and into the open countryside. The current rural appearance of the site would be lost with resultant urbanisation of this part of the rural landscape.

37. In views from York Road the proposal would appear as a substantial and prominent spur of development that would extend beyond the present, clearly delineated settlement pattern of the village and which would erode the open character of this part of the landscape and the access to views beyond. The appearance and rural character of the area in both views from the road and the wider countryside would be unacceptably changed and a more suburban character would prevail.

38. Overall, I consider that the proposed development would fail to conserve the open rural character of the landscape and would cause significant harm to the character and appearance of the surrounding area. As such, the proposed development would be contrary to Policies SP1, SP18 and SP19 of the Core Strategy and Saved Policy ENV1 of the Local Plan. These policies, amongst other things, seek to ensure that new

development does not compromise local distinctiveness, character or form and that a good quality of development is achieved that does not have an adverse effect on the character of an area. Furthermore, the proposals would also be contrary to one of the core principles of the Framework, as set out in paragraph 17, in terms of the protection of the intrinsic character and beauty of the countryside.

2. CONSULTATION AND PUBLICITY

All immediate neighbours were informed by letter, a site notice has been erected, an advert placed in the local press and statutory consultees notified.

- 2.1 **Parish Council** - Made comments in support of the Planning Application.
- 2.2 **Neighbour Summary** - All immediate neighbours were informed by letter and a site notice was posted on 9 July 2019. 14 letters of support have been received as a result of this advertisement.

3 SITE CONSTRAINTS

Constraints

- 3.1 The site is located partly within and partly outside the defined development limits of North Duffield. The dwelling with its curtilage is located within the development limits and the parcel of land which is subject to this application is located outside the defined development and is therefore defined as open countryside. The site does not contain any protected trees and there are no statutory or local landscape designations.

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
SP15 - Sustainable Development and Climate Change
SP19 - Design Quality

Selby District Local Plan

- 4.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
H15 - Extensions to Curtilages in the Countryside

5 APPRAISAL

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

- 1) The Principle of the Development
- 2) Design and Impact on the Character and Appearance of the Open Countryside
- 3) Impact on Residential Amenity

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", to secure development that improves the economic, social and environmental conditions in the area, and sets out how this will be undertaken. The proposed development, due to the nature, scale, design and location, it is not considered that the development would improve the economic, social and environmental conditions in this area.
- 5.3 Core Strategy Local Plan Policy SP2(c) states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the reuse 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." The change of use of agricultural land to garden land doesn't fall within these exceptions.

- 5.4 Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. 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. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.4 The application is seeking consent for the retrospective change of use of land from agricultural to residential garden area, which lies to the rear of the existing dwelling, namely Holmewood, York Road, North Duffield. In the light of the above policy context, the proposals to develop this land do not fall within any of the exception to and are therefore contrary to Policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material circumstances exist that would indicate otherwise. One such material consideration is the National Planning Policy Framework and the Policies of the Selby District Plan.
- 5.5 Selby Local Plan Policy H15 allows garden extensions subject to criteria which are considered in the next section of this report. Although Selby District Local Plan precedes the NPPF, it should be afforded substantial weight as it is consistent with the NPPF, particularly paragraphs 127 & 170.

Design and Impact on the Character and Appearance of the Open Countryside

- 5.5 The property is a detached bungalow in a row of residential properties to the east of York Road in North Duffield. The property is set within the Development Limits of North Duffield as defined by the Selby District Council Local Plan however the agricultural land, which is subject to this planning application, is outside the Development Limits and is therefore within the open countryside. Boundary treatments consist of those as described in the introduction section. The development is therefore subject to Policies H15 and ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.
- 5.6 Policy SP19 requires that "Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:
- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form;
 - b) Positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.7 Selby District Local Plan Policy ENV1 (1) requires development to take account of the effect upon the character of the area, with ENV1 (4) requiring the standard of

layout, design and materials to respect the site and its surroundings. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.

- 5.8 Policy H15 of the Selby District Local Plan specifies that proposals to extend the curtilage of properties outside defined Development Limits will only be permitted if there is no significant adverse effect on the character and appearance of the surrounding countryside, and the proposed means of enclosure would be appropriate to the adjoining countryside.
- 5.9 In summary, all letters of support express that the development would not cause harm to the open countryside of the character and appearance of the village, and that it would provide privacy and safety to the applicants.
- 5.10 It is noted that a number of other dwellings have also extended curtilage without planning permission. One of them, namely 2019/1272/COU was a collective application related to three properties which was refused. Another application for a garden extension within the locality is currently considered under application reference 2019/1038/COU. However, in determining this application, no favourable weight should be attributed to the fact that these other unauthorised developments have occurred. Moreover, this application must also be assessed as if it had not occurred already.
- 5.11 There is a clear delineated settlement boundary to this part of North Duffield. The existing rear garden boundaries of properties on York Road form a consistent clearly defined straight boundary edge between the built development at the northern edge of the village and large open field and wider open countryside to the east running. The development limits for the village follow this defined boundary line with existing gardens being within the development limits and extended curtilages being outside development limits.
- 5.12 The opportunity has been given for the applicants to amend the boundary details. Officers have tried to negotiate a more sympathetic approach to this edge of settlement location. Post and rail fencing with indigenous mixed field hedgerow planting would be more appropriate and form a softer edge to this prominent edge of settlement position. However, the applicants wish to retain the existing fencing).
- 5.13 The development which has already occurred significantly alters the clearly delineated north eastern boundary to the settlement and results in a small but visually harmful urban spur projecting into the wider open field adversely altering its rural character. The boundary fencing of concrete base, concrete posts, slatted boarding and trellis is urban in character and an obtrusive and alien design inappropriate for this edge of settlement rural location. Furthermore, the enclosure of part of the open countryside by urban style fencing doesn't respect the intrinsic character and quality of the countryside. The development therefore is considered to have a suburbanising effect on the natural landscape and would unacceptably alter the character and appearance of the open countryside and it therefore conflicts with the aims of Policy H15.
- 5.14 Having regard to the above, it is considered that the proposals are of an appropriate design and given their size and siting would not have a significant impact on the character and appearance of the area. The proposals are therefore in compliance with policy and SP19 of the Core Strategy and Policies ENV1 and H15 of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Residential Amenity

- 5.15 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to this Policy as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 5.16 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.
- 5.17 Comments in support of this proposal made by the public are noted. As such and given the nature of the proposal to extend residential curtilage of Holmewood, North Duffield, and the boundary treatments, it is considered that the proposal would not have any significant adverse impact on the amenities of the occupiers of any neighbouring residential properties. The amenities of the adjacent residents would therefore be preserved in accordance with Policy ENV1 (1) of the Selby District Local Plan.

6 CONCLUSION

- 6.1 The application seeks planning permission for the change of use of land from agricultural to garden for land adjoining the rear with associated works.
- 6.2 The development, which has already occurred, due to the nature, scale, design and location and boundary treatment, is not considered to improve the economic, social and environmental conditions in this area and the change of use of agricultural land to garden land doesn't fall within the exceptions to the forms of development allowed in the open countryside set out in Policy SP2 of the Core Strategy. As such, the proposal is contrary to Policies SP1 and SP2 of the Core Strategy and the NPPF.
- 6.3 The development due to the projection in to the rural field bounded by visually prominent bright urban style boundary fencing significantly alters the clearly delineated north eastern boundary to the settlement and results in a visually harmful urban spur projecting into the wider open field adversely altering its open rural character and the character and setting of this part of the edge of the village. The boundary treatments as currently installed are urban in character and are of a harsh obtrusive design which is considered inappropriate for this edge of settlement and rural location. The development therefore is considered to have a suburbanising effect on the natural landscape and would unacceptably alter the character and appearance of the open countryside and the setting of the village it therefore conflicts with the aims of Policy H15 of the Selby District Local Plan, Policies SP1, SP2 and SP19 of the Core Strategy and with the NPPF.

7 RECOMMENDATION

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

- 7.1 The development, which has already occurred, due to the nature, scale, design and location and boundary treatment, is not considered to improve the economic, social and environmental conditions in this area and the change of use of agricultural land to garden land doesn't fall within the exceptions to the forms of development

allowed in the open countryside set out in Policy SP2 of the Core Strategy. As such, the proposal is contrary to Policy SP1 and SP2 of the Core Strategy and the NPPF.

- 7.2 The development due to its position and the boundary fencing significantly alters the clearly delineated north eastern boundary to the settlement and results in a visually harmful urban spur projecting into the wider open field adversely altering its open rural character and the character and setting of this part of the edge of the village. The boundary treatments as currently installed are urban in character and are of a harsh obtrusive design which is considered inappropriate for this edge of settlement and rural location. The development therefore is considered to have a suburbanising effect on the natural landscape and would unacceptably alter the character and appearance of the open countryside and the setting of the village it therefore conflicts with the aims of Policy H15 of the Selby District Local Plan, Policies SP1, SP2 & SP19 of the Core Strategy and with the NPPF.

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 2019/0639/COU and associated documents.

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Appendices: None