



Report Reference Number: 2021/0668/FUL

To: Planning Committee
Date: 18 August 2021
Author: Diane Holgate, Principal Planning Officer
Lead Officer: Ruth Hardingham Planning Development Manager

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| APPLICATION NUMBER: | 2021/0668/FUL | PARISH: | Hensall |
| APPLICANT: | Mr & Mrs C Welsh | VALID DATE: | 27.05.2021 |
| | | EXPIRY DATE: | EOT agreed to 23.08.2021 |
| PROPOSAL: | Erection of a detached bungalow following demolition of former showroom previously approved for the change of use to a dwelling under application 2018/1220/FUL | | |
| LOCATION: | Hazel Grove Farm Weeland Road Hensall Selby North Yorkshire DN14 0RL | | |
| RECOMMENDATION: | Planning permission be GRANTED subject to conditions. | | |

This application has been brought before Planning Committee as the site is located outside of development limits, in the open countryside, as defined by the Selby District Local Plan 2005. Technically, the proposal is contrary to policies SP2 of the Core Strategy H13 of the Local Plan which permits replacement dwellings subject to certain exceptions. The application does not fall within the exceptions as it does not replace an existing dwelling, but replaces a building approved to be converted to a dwelling. As such the determination of the application falls outside the remit of the delegation agreement (c ii).

1. INTRODUCTION AND BACKGROUND

1.1 This application is for the erection of a single storey dwelling following the demolition of the existing former showroom. Planning permission was approved (24.4.2019) under application 2018/1200/FUL for the change of use of the showroom to a dwelling along with the construction of a pitched roof. The approval secured a further residential use on site and therefore provides a fallback position for the replacement of this building with a purpose-built bungalow.

1.2 The application is supported by the following plans and reports:

Application Form – certificate A signed by agent confirming ownership
 Location Plan Loc1
 Existing Floor Plan 02
 Existing north and south elevations 03
 Existing east and west elevations 04
 Existing Plans Title Box 211048.1
 Proposed floor plan 05
 Proposed east and west elevations 06
 Proposed north and south elevations 07
 Proposed sections 211048.2
 Proposed layout plan 211048.3
 Supporting Statement 2rbplanning March 2021
 Contaminated Land Screening Assessment Form
 Bat and GCN Survey MAB Environment and Ecology Ltd May 2021

- 1.3 The site is located on the A645 Weeland Road to the southwest of Hensall and to the southeast of Eggborough. The site consists of an existing dwelling and caravan storage business.

There are a variety of commercial uses to the east along the A645. There is an ornamental pond to the front of the site which is bound by hedgerows and trees.

The site benefits from two existing accesses allowing an in/out arrangement for vehicles entering and leaving the site.

Relevant Planning History

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|-----|---------------|--|
| 1.4 | 2021/0360/FUL | Erection of bungalow following demolition of former showroom approved under 2018/1220/FUL for change of use to residential. Subject to ongoing appeal. AP/2021/0017/8WEEK. |
| | 2018/1220/FUL | Proposed construction of pitched roof and conversion of former showroom to create a dormer bungalow. Granted 24.04.2019. |
| | CO/1993/0767 | Proposed erection of two industrial starter units on land adjacent to Hazel Grove Farm. Refused 15.04.1993. |
| | CO/1992/0769 | Erection of a showroom, office and toilets with car park. Permitted 21 Jan 1993 |

2. CONSULTATION AND PUBLICITY

Consultation Responses

- 2.1 Consultations were undertaken on the 03.06.2021 with the following:

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|--------------------------|---------------|
| Parish Council (PC) | No comments |
| NYCC Highways (Highways) | No objections |
| Yorkshire Water (YW) | No comments |

| | |
|--|---|
| Ainsty IDB (IDB) | Wrong IDB consult with Danum IDB |
| SDC Environmental Health (EHO) | Surrounded by commercial uses which may affect residential amenity, however, is the site is in the same ownership there are no objections. If to be sold off noise impact assessment would be required. |
| Natural England | No comments |
| NY Bat Group (NYBG) | No comments |
| Yorkshire Wildlife Trust (YWT) | No comments |
| City of York Public Protection (Contamination) | No significant potential contaminant sources identified through the screening assessment. Conditions recommended. |
| Ecology | No objections |

Representations

- 2.2 The application has been advertised by posting a site notice outside the site on the 11.06.2021 expiring on the 02.07.2021 and press notice in the Pontefract and Castleford Express expiring on the 08.07.2021.

No letters of representation have been received.

3 SITE CONSTRAINTS

- 3.1 The site is located in the open countryside off the A645 Weeland Road to the southwest of Hensall and to the southeast of Eggborough. The site consists of an existing dwelling and caravan storage business.

There is a variety of commercial uses to the east along the A645. There is an ornamental pond to the front of the site which is bound by hedgerows and trees.

The site benefits from two existing accesses allowing an in/out arrangement for vehicles entering and leaving the site.

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 took place early in 2020. Consultation on preferred options took place in early 2021. 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 (July 2021) (NPPF) replaced the previous versions. 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 2021 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 Saved Policies are:
- SP1 Presumption in Favour of Sustainable Development
 - SP2 Spatial Development Strategy
 - 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 Saved Policies are:
- ENV1 Control of Development
 - ENV5 Flood Risk
 - ENV2 Environmental Pollution and Contaminated Land
 - T1 Development in Relation to the Highway Network
 - T2 Access to Roads

National Planning Policy Framework (July 2021)

- 4.8
2. Achieving sustainable development
 4. Decision Making
 5. Delivering a sufficient supply of homes
 8. Promoting healthy and safe communities
 9. Promoting sustainable transport
 11. Making effective use of land
 12. Achieving well designed places
 14. Meeting the challenge of climate change, flooding and coastal change
 15. Conserving and enhancing the natural environment

5 APPRAISAL

- 5.1 This report will consider the harms and benefits of the proposal and the main issues are considered to be:
- The Land Use and Principle of Development
 - Design and Visual Impact
 - Residential Amenity
 - Ecological Impact
 - Access and Transport

Land Use and Principle of Development

- 5.2 Paragraph 2 of the NPPF confirms the legal position that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 re-emphasises that an up-to-date development plan is the starting point for decision-making, adding that development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should not usually be granted, unless other material considerations indicate otherwise.
- 5.3 Hensall is defined as a Secondary Village with defined Development Limits. The site is located outside of the development limit of the settlement as defined by the Selby District Local Plan 2005. The site is therefore located in the open countryside.
- 5.4 The Selby District Local Plan Core Strategy 2013 sets out the overall settlement hierarchy directing growth sequentially to the principal town of Selby, the Local Service Centres, Designated Service Villages and Secondary Villages with defined development limits.
- 5.5 Policy SP1 of the SDCS aligns with the NPPF 2021 in considering a positive approach to development proposals that reflect the presumption in favour of sustainable development.
- 5.6 The Core Strategy makes it clear that development in the countryside will generally resisted unless it involves the replacement or extension of existing buildings as set out in policy SP2.

- 5.7 Paragraph 80 of the NPPF states that planning decisions should avoid the development of isolated homes in the countryside, unless certain circumstances apply. Paragraph c) provides an exception for the re-use of redundant or disused buildings and where development would enhance the immediate setting.
- 5.8 Planning permission was approved under application 2018/1220/FUL, for the conversion of the existing building on site, which was formerly used as a show room in connection with the business on site. This permission is capable of implementation and provides a fallback position for the principle of the residential development on site. The applicant has submitted an appeal against the Council for the non-validation of application 2021/0360/FUL which is running in tandem with this application. The proposals are the same. The Council requested ecological assessments as the proposal involves demolition of an existing building and there is a pond on site. The applicant refused to provide the information stating that it was not necessary. The appeal is ongoing. Saved policy H13 of the Selby District Council Local Plan 2005 supports replacement dwellings in the countryside subject to meeting the criteria set out regarding whether the dwelling has been abandoned, the original dwelling is not of architectural merit, the size and scale would be similar and the design and materials are appropriate for the character of the area.
- 5.9 Whilst the existing building is not a dwelling, planning permission has been approved to convert the building to a dwelling, the permission is extant and there is reasonable prospect that the building would be converted.
- 5.10 The proposed dwelling is very similar in size and scale and the proposed design and materials are similar to the existing building. The design is considered to be appropriate to the character of the area, which is surrounded by caravan storage and other commercial uses. Further assessment with regards to the design and visual impact is set out below.
- 5.11 The site could be considered as isolated away from local facilities within the settlement, the NPPF states that planning decisions should avoid isolated homes and whilst the proposal does not meet with the circumstances set out as it is not for the conversion of an existing building, significant weight is attached to the fact that there is an extant permission for residential use on the site which has secured the principle of residential use. Significant weight in favour of the proposal has been attached to this in considering the planning balance.
- 5.12 It is on this basis that the principle of development and the use of land is considered to be acceptable and in accordance with the relevant local and national planning policies set out above.

Design and Visual Impact

- 5.13 Saved policy H13 (Replacement Dwellings in the Countryside) of the Local Plan 2005 and Policy SP19 (Design Quality) of the Core Strategy 2013 set out the key considerations with regards to design, along with Chapter 12 of the NPPF in achieving well designed places.
- 5.14 The proposed dwelling would be sited on the same footprint of the building approved for conversion, there would be small increase to the frontage of the building with the floor area and height less than the previously approved dormer bungalow conversion. The building for conversion measured around 14.15 metres

x 8.92 metres. Around 5 metres in height to the ridge and 2.2 metres to the eaves. The proposed dwelling is around 14.36 metres x 9.07 metres. The height is consistent with the existing building. The proposal is therefore considered to be of a similar size and scale to the building approved under application 2018/1220/FUL.

- 5.15 The existing building is no of particular architectural merit, it is single storey, flat roofed, rendered and painted white. The proposal puts forward a red brick dwelling with terracotta pantile pitched roof, which is in keeping with the existing residential development on site and considered appropriate for the character of the area.
- 5.16 Boundary treatment in the form of a timber panel fence, conifer screen hedge and existing trees on site will assist in defining the boundaries and softening the appearance of the caravan storage site to the rear.
- 5.17 The proposal will be seen in context with the existing buildings and caravans on site, which extend to the north beyond the site and as such there will be no detrimental visual impact on the character of the countryside.
- 5.18 Taking into account the above on balance it is considered that the proposal complies with the aforementioned policies and paragraph 130 b) of the NPPF which states that development should be visually attractive as a result of good architecture, layout and appropriately landscaping.

Residential Amenity

- 5.19 Saved policy ENV1 of the SDLP states that proposals take account of the effect upon the character of the area or the amenity of adjoining occupiers and paragraph 130 f of the NPPF states that development should create places with a high standard of amenity for existing and future users.
- 5.20 The proposed dwelling layout includes a shared kitchen living and dining area, two bedrooms- one with dressing room and en-suite, a separate bathroom and utility room along with a home office. An assessment has not been made with regards to the Nationally Described Space Standards, whilst they are a material planning consideration they do not form part of the adopted plan and as such the need is not considered to be justified in this instance and the layout appears to provide a good standard of residential accommodation and is well spaced. An area is identified on the plan for a private garden space and parking for at least two cars which is considered sufficient for one dwelling.
- 5.21 The Council's Environmental Health Officer (EHO) has provided advice with regards to residential amenity. The proposed dwelling is to be sited in the middle of a commercial enterprise site which will experience a variety of comings and goings and potential noise impact. However, as the proposal is to be occupied by family members that are part of the commercial enterprise the EHO is comfortable that there would be no unreasonable impacts given the circumstances.
- 5.22 The EHO has suggested that a condition should be imposed requiring a Noise Assessment if the property is to be occupied separately. This has been taken into account, however, it is not considered to be reasonable or necessary on the basis that other legislation is available to manage unreasonable noise impact and future occupiers would be well aware of the commercial enterprise.

- 5.23 Taking into account the above, the proposal is considered to be acceptable in terms of residential amenity.

Ecological Impact

- 5.24 Saved policies ENV1 (5) with regard to loss or adverse effect on wildlife habitats, SP18 (Protecting and Enhancing the Environment) of the Core Strategy and Chapter 15 of the NPPF set out the key considerations with regard to the impact of development on the environment, trees and ecology.
- 5.25 The site is located in a rural area, there are trees on site and a pond. A Bat and Great Crested Newt survey has been undertaken and the outcomes submitted for consideration. The survey outcomes conclude that eDNA results confirm that the pond is not suitable habitat for GCN's and the visual assessment has concluded that the building to be demolished is not suitable habitat for bats.
- 5.26 Public bodies have a duty under the Wildlife and Countryside Act 1981 and The Natural Environment and Rural Communities Act 2006 to have regard to biodiversity conservation when carrying out their functions. The NYCC Ecologist has been consulted and is happy with the outcomes of the survey.
- 5.27 The NYCC Ecologist advises that *'the survey reports that the building is of negligible potential for bats and as such no further survey work is required and no specific mitigation is necessary. It is recommended that an integral bat box is included in the new development and I would support this proposal, however it is not necessary to make the application acceptable and as such it could be included as an informative'*. The bat box would provide a net gain for biodiversity and whilst the NYCC Ecologist considers it is not necessary to make the development acceptable and the Council do not have an adopted up to date policy for delivery of biodiversity net gain, this would be supported by paragraph 174 d) of the NPPF 'minimising impacts on and providing net gains for biodiversity and as such it is considered reasonable to impose a condition requiring the installation of a bat box
- 5.28 Taking account of the above, it is considered that the proposal would not significantly harm the habitat and biodiversity and as such is considered to adhere to the principles set out in paragraph 180 of the NPPF which states that where significant harms cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused.

Access and Transportation

- 5.29 Saved policies T1 and T2 of the SDLP set out the key considerations with regards to access and transportation. Development should be well related to existing highways network and will only be permitted where existing roads have capacity. Development proposals that involve new accesses or intensification of the use of an existing access will only be permitted if there would be no detriment to highway safety. Paragraph 111 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
- 5.30 The site has an existing in and out access, two parking spaces can be provided and turning within the site, the proposal is for a two-bedroom property and as such the

proposal is not considered to significantly increase the comings and goings to site. NYCC Highway Officers have been consulted and raise no objections.

- 5.31 On this basis it is considered there are no concerns with regards to the access and highways matters and the proposal meets with saved policies T1 and T2 of the SDLP and paragraph 111 of the NPPF.

Sustainability and access to local facilities

- 5.32 Paragraph 80 c) of the NPPF (2019) states that the development of isolated homes should be avoided in the countryside unless the development would re-use redundant or disused buildings.
- 5.33 The nearest bus stop is around 10 minute walk in Hensall which also has a train station. The A645 is subject to a 40 mph speed limit but is well used and without any footpaths.
- 5.34 Whilst the site is not ideally located to access local facilities and public transport options, the previous application approved the conversion of the existing building to residential use and as such secures a fallback position as discussed above in consideration of the principle of the development.
- 5.35 The balance here lies with the fallback position despite the isolated location of the site and as such significant weight is attached in favour of the proposal.

Previously Developed Land

- 5.36 The proposal is considered to make effective use of Previously Developed Land. (PDL) as defined in the NPPF (2021) Annex 2, '*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.*' The application is for the replacement of an existing building of permanent construction and is therefore defined as Previously Developed Land. The NPPF attaches substantial weight to the value of using suitable brownfield land within settlements for homes. The site is not within an existing settlement, however, it does make use of PDL for the delivery of a home which weighs in favour of the of application.

Other Matters

Flood Risk and Drainage

- 5.37 The site is located within flood zone 1 as identified by the Flood Maps for Planning website. Paragraph 159 of the NPPF states that inappropriate development should be avoided by directing development away from areas of highest risk of flooding. Given the flood zone 1 status, no sequential or exception test is required.
- 5.38 The application states that foul sewerage will be disposed of via the existing mains sewer, Yorkshire Water have been consulted and raise no objections.

- 5.39 Surface water is to be disposed of via soakaways. There is no evidence available to suggest that there are any critical drainage issues in the locality. It is therefore considered that a condition requiring drainage details is not necessary due to the scale of the development and drainage will be approved under the Building Regulations.
- 5.40 The proposal is therefore considered to be acceptable with regards to flooding and drainage.

Contaminated Land

- 5.41 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. Paragraph 183 of the NPPF states that planning decisions should ensure that the site is suitable for its proposed use taking account of the ground conditions. The proposal is for a sensitive end use and as such the application is supported by a contaminated land screening assessment form. Advice has been sought from the Council's contaminated land consultant, who raised no objections subject to the imposition of a condition requiring investigation and remediation should unexpected contamination be found.
- 5.42 Paragraph 184 of the NPPF states that 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.0 Conclusion

- 6.1 The proposal puts forward a replacement dwelling in the countryside for which a previous approval for conversion has enabled a fallback position. No concerns have been raised with regards to environmental impact, residential amenity or highway safety. The proposal is considered to comply with both local and national planning policies. No representations have been made from interested parties.
- 6.2 It is on this basis that it is recommended that planning permission be granted subject the reasonable and necessary conditions set out below.

7.0 RECOMMENDATION

- 7.1 It is recommended that the application is **GRANTED** subject to the following conditions:

- 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 plans/documents listed below:

Location Plan Loc1
Proposed floor plan 05

Proposed east and west elevations 06
Proposed north and south elevations 07
Proposed sections 211048.2
Proposed layout plan 211048.3
Supporting Statement 2rbplanning March 2021
Contaminated Land Screening Assessment Form
Bat and GCN Survey MAB Environment and Ecology Ltd May 2021

REASON:

To define the permission and for the avoidance of doubt.

- 3 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 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.

4. Bat boxes

Prior to the first occupation of the dwelling an integral bat box shall be fitted to the dwelling and retained for the lifetime of the development.

REASON:

In the interest of providing a net gain for biodiversity in accordance with paragraph 174 d) of the NPPF.

- 1 INFORMATIVE

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

- 2 INFORMATIVE

The safe development of the site rests with the applicant and/or developer, as outlined in paragraph 184 of the NPPF. During the development of the site any contamination found must be notified to the Local Planning Authority and work must cease until the extent of the contamination has been investigated and remedial action, which has been agreed in writing with the Local Planning Authority, has been completed.

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 2021/0668/FUL and associated documents.

Contact Officer: Diane Holgate Principal Planning Officer

Appendices: None