

Report Reference Number: 2020/1369/FUL

To: Planning Committee
Date: 9 February 2022
Author: Jenny Tyreman (Assistant Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/1369/FUL	PARISH:	Kellington Parish Council
APPLICANT:	Jones Homes (Yorkshire) Limited	VALID DATE: EXPIRY DATE: EXTENSION OF TIME:	21st December 2020 15th February 2021 11 th February 2022
PROPOSAL:	Installation of a Sustainable Drainage System (SuDS) basin in respect of the adjacent residential development for 30 dwellings		
LOCATION:	Land Adjacent Teasel Hall Weeland Road Eggborough Goole East Yorkshire		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as it relates to planning application reference 2019/1328/REMM, which has also been brought before Planning Committee for consideration and was the previous item on the agenda. Notwithstanding conditions attached to outline planning permission reference 2016/0124/OUT requiring surface water drainage details to be submitted to and agreed by the Local Planning Authority by way of a discharge of condition application, the applicant now proposes to provide an off-site attenuation basin as part of the surface water drainage proposals. This requires planning permission in its own right as opposed to a discharge of condition application, as the works are on land outside of the red line boundary.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises part of an undeveloped agricultural field to the west side of Eggborough village on the northern side of Weeland Road; to the north of a site which has outline planning permission for a residential development of up to 34

dwelling (under planning application reference 2016/0124/OUT) and which is the subject of a current reserved matters application for the erection of 30 dwellings (under planning application reference 2019/1328/REMM). There is an undeveloped agricultural field between the application site and the existing built development within Eggborough village on the northern side of Weeland Road, however, the application site does not extend beyond the application site for residential development to the northern side of Weeland Road (subject to 2016/0124/OUT and 2019/1328/REMM) or the existing development limit bounded by Kellington Lane on the southern side of Weeland Road. The application site does not extend as far back from Weeland Road as the recent development off Sycamore Avenue. The site's northern boundary extends beyond that of The Bungalow to the east but does not extend beyond the northern boundary of Teasel Hall to the west.

- 1.2 To the east and south of the application site is predominantly made up of built development forming part of Eggborough Village (with the exception of the undeveloped agricultural field to the immediate east of the application site). The south-eastern boundary is made up of field hedgerows with a large tree to the south-east corner of the site. To the north of the application site are undeveloped agricultural fields. To the west of the application site is Teasel Hall, set within and surrounded by undeveloped agricultural fields, beyond which are undeveloped agricultural fields.

The Proposal

- 1.3 The application proposes the installation of a Sustainable Drainage System (SuDS) basin to drain the adjacent residential development, which has outline planning permission for up to 34 dwellings (under reference 2016/0124/OUT) and is currently subject to a reserved matters application for the erection of 30 dwellings (under reference 2019/1328/REMM).
- 1.4 This application has been submitted for planning permission in its own right as opposed to a discharge of condition application, as the works are on land outside the red line boundary of the outline permission.
- 1.5 The SuDS basin would be accessed from Weeland Road through the residential development site to the south, with a small section of existing hedge to the northern boundary of the residential site needing to be removed to allow access. A 3-metre-wide access track would be provided to the perimeter of the SUDS basin, which would itself be grass seeded to the sides and provide approximately 665 cubic metres of storage. The SuDS basin would have a maximum depth of approximately 1.6 metres below existing ground level, with shallow sloped sides.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
- 2016/0124/OUT - Outline planning application for up to 34 residential dwellings with all matters reserved except for access – Refused - Decision Date 09-MAY-16. Subsequent appeal allowed 28-DEC-2016.
 - 2018/1074/DOV - Request for a Deed of Variation to Section 106 agreement seeking a reduction in the proportion of affordable housing to be provided within scheme approved under reference 2016/0124/OUT for up to 34 residential

dwellings with all matters reserved except for access – Granted – Decision Date 09-MAR-2020.

- 2019/1328/REMM - Reserved matters application (appearance, landscaping, layout, and scale) for the erection of 30 residential dwellings, pursuant to outline planning permission reference 2016/0124/OUT – Pending Consideration.

2. CONSULTATION AND PUBLICITY

2.1 **Kellington Parish Council** – No response.

2.2 **Landscape Consultant** – Latest written comments dated 04.03.2021:

- The drainage attenuation basin has been moved outside the application boundary to the north side. This is an engineered part of the development, impacting on use of the existing agricultural field.
- The attenuation basin would not be considered part of the site's recreational open space in its current form.
- If the attenuation basin is to be considered part of recreational open space, then it should be sympathetically designed and contribute as an attractive meaningful landscape area, not a steep-sided engineered structure.

Verbal comments provided in December 2021 following confirmation that the SuDS basin was not intended to form part of the recreational open space for the adjacent residential development. No objections, subject to conditions relating to: (1) submission and implementation of landscaping scheme; (2) tree/hedge protection measures and arboricultural method statement; (3) removal of permitted development rights for means of enclosure.

2.3 **Urban Designer** – The proposed basin design appears to be purely functional and would appear to be a missed design opportunity. Water, or the potential for water, is an immensely attractive element which adds value to places and could do here as well with a bit of further thought and consideration in conjunction with the layout of the adjacent residential development.

2.4 **NYCC Highways** – No objection.

2.5 **SuDS and Development Control Officer** – No objection, subject to conditions.

2.6 **Yorkshire & Humber Drainage Boards** – No objection.

2.7 **Yorkshire Water Services Ltd** – No comment.

2.8 **Neighbour Summary** - The application was advertised by site notice and press notice. No letters of representation have been received as a result of the advertisement of this application.

3 SITE CONSTRAINTS

Constraints

3.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside for planning policy purposes.

- 3.2 The application site is located within Flood Zone 1, which has a low probability of flooding. A watercourse runs along the eastern boundary of the application 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 February 2019 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 2021 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

"219...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
SP18 – Protecting and Enhancing the Environment
SP19 – Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development

T1 – Development in Relation to the Highway Network

T2 – Access to Roads

National Planning Policy Framework

4.8 Chapter 2 – Achieving sustainable development

Chapter 4 – Decision making

Chapter 12 - Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

5 APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Nature Conservation

The Principle of the Development

5.2 Policy SP1 of the Core Strategy outlines that “*when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework*” and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.

5.3 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside for planning policy purposes.

5.4 Policy SP2 of the Core Strategy sets out the spatial development strategy for the District with SP2A (c) stating:

“Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”.

5.5 The purpose of Policy SP2(c) is to give a strategic stance and not to give an exhaustive list of all types of development that would be acceptable in principle in the countryside. It is also noted that many forms of development do not constitute

buildings, but it is clear that a SuDS basin, which would remain unenclosed and agricultural in appearance, would be an appropriate form of development in the open countryside.

- 5.6 The proposal is therefore considered to be acceptable in principle in accordance with Policies SP1 and SP2 of the Core Strategy. The following sections of this report will go on to consider the impacts of the development.

Design and Impact on the Character and Appearance of the Area

- 5.7 Saved Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and paragraph 130 of the NPPF set out the considerations with regards to design quality and the impact on the character and appearance of the area.
- 5.8 The SuDS basin would be accessed from Weeland Road through the approved residential development site to the south, with a small section of existing field hedgerow to the northern boundary of the residential site needing to be removed to allow access. A 3-metre-wide access track would be provided to the perimeter of the SuDS basin, the surface of which has not been confirmed but which appears to have a natural appearance. Details could be secured by way of condition. The SuDS basin itself would be grass seeded to the sides and provide approximately 665 cubic metres of storage. The SuDS basin would have a maximum depth of approximately 1.6 metres below existing ground level, with shallow sloped sides. No means of enclosure are proposed.
- 5.9 The Council's Landscape Architect has been consulted on the proposals and following confirmation that the SuDS basin is not intended to form part of the recreational open space for the adjacent residential development, no objections have been raised to the proposed development subject to conditions relating to: (1) the submission and implementation of landscaping scheme; (2) tree/hedge protection measures and an arboricultural method statement; (3) removal of permitted development rights for means of enclosure.
- 5.10 The proposed development would be separated from the adjacent residential development site by an existing hedge and would essentially be read as part of the existing agricultural field which it currently forms a part of. Given the nature and extent of the works proposed, the proposed SuDS basin would remain agricultural in appearance and would be read in and could function as part of the existing agricultural field. As such, and subject to the aforementioned conditions, it is considered the proposed development would have an acceptable design and would not have any undue adverse impact on the character and appearance of the area. The proposals are therefore considered to be acceptable in accordance with saved Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and national planning policy contained within the NPPF.

Impact on Residential Amenity

- 5.11 Saved Policies ENV1 and ENV2(A) of the Selby District Local Plan set out the considerations with regards to the impact on residential amenity. Paragraph 130 of the NPPF emphasises that planning policies and decisions should ensure that developments create a high standard of amenity for existing and future users.

- 5.12 Given the nature of the proposals and their relationship to neighbouring residential properties, it is considered that the proposals would not have any significant adverse impact on the residential amenities of any neighbouring properties.
- 5.13 Having regard to the above, it is considered the proposals are acceptable in accordance with saved Policies ENV1 and ENV2(A) of the Selby District Local Plan and national planning policy contained within the NPPF.

Impact on Highway Safety

- 5.14 Saved policies ENV1(2), T1 and T2 of the Selby District Local Plan and paragraphs 110 and 111 of the NPPF set out the considerations with regards to the impact on highway safety.
- 5.15 The SuDS basin would be accessed from Weeland Road through the proposed residential development site to the south, with a small section of existing hedge to the northern boundary of the residential site needing to be removed to allow access. Once constructed, the only vehicular movements associated with the proposed development would relate to maintenance and management.
- 5.16 North Yorkshire County Council Highways have been consulted on the proposals and have not raised any objections or suggested any conditions to be attached to any planning permission granted.
- 5.17 Having regard to the above, it is considered the proposals are acceptable respect of highway safety in accordance with saved policies ENV1(2), T1 and T2 of the Selby District Local Plan and national planning policy contained within the NPPF.

Flood Risk and Drainage

- 5.18 The most up-to-date policy in relation to flood risk and drainage is the overarching principles set out in the Core Strategy and national planning policy contained within Chapter 14 of the NPPF.
- 5.19 The application site is located within Flood Zone 1 which has a low probability of flooding.
- 5.20 As set out earlier in this report, the application proposes the installation of a SuDS basin to drain the adjacent residential development, which has outline planning permission for up to 34 dwellings (under reference 2016/0124/OUT) and is currently subject to a reserved matters application for the erection of 30 dwellings (under reference 2019/1328/REMM).
- 5.21 Flood risk and drainage were considered as part of outline planning permission (reference 2016/0124/OUT) and condition 7, relating to surface water drainage, was attached to the decision notice to ensure that the site is properly drained. Condition 7 of outline planning permission reference 2016/0124/OUT reads:

“No dwelling shall be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage

systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

ii) include a timetable for its implementation; and

iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.”

- 5.22 Notwithstanding the condition attached to the outline planning permission requiring surface water drainage details to be submitted to and agreed by the Local Planning Authority by way of a discharge of condition application, the applicant now proposes to provide an off-site SuDS basin as part of the surface water drainage proposals (subject of this application). This requires planning permission in its own right as opposed to a discharge of condition application, as the works are on land outside of the red line boundary, but within the same ownership as the residential development site.
- 5.23 The Local Lead Flood Authority have been consulted on the proposals and do not raise any objections to the proposed development, subject to a series of pre-commencement conditions being attached to any permission granted. These relate to: (1) surface water runoff rates being attenuated to 3.4 l/s as stated within the Drainage Design Summary (Fortem, Ref 1094-R002-V3) and confirmed by the Internal Drainage Board; (2) provision of surface water attenuation storage, sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 1% annual probability rainfall event including allowances for climate change. A minimum storage volume of 470m³ will be provided in line with Drainage Design Summary (Fortem, Ref 1094-R002-V3); (3) plans to be submitted showing the routes for the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1% annual probability rainfall event; and (4) a maintenance and management plan detailing the activities required and details of who will adopt and maintain all the surface water drainage features for the lifetime of the development. A timetable for its implementation would also be considered reasonable and necessary to condition.
- 5.24 The Yorkshire and Humber Internal Drainage Board have not raised any objections to the proposed development.
- 5.25 Having regard to the above, it is considered that the proposals are acceptable in respect of flood risk and drainage in accordance with the overarching principles set out in the Core Strategy and national planning policy contained within the NPPF.

Nature Conservation

- 5.26 Saved Policy ENV1 of the Selby District Local Plan and Policy SP18 of the Core Strategy set out the considerations with regards to nature conservation.

- 5.27 The application site comprises grassland that is bounded by field hedgerows to the south and east with a large tree to the south-east corner, outside of the application site.
- 5.28 A small section of the existing hedgerow to the northern boundary of the residential site would need to be removed as part of the proposals to allow access to the SuDS basin. The SuDS basin itself would be grass seeded following excavation and surrounded by a 3-metre-wide access track of natural surface to be confirmed. Conditions would be attached to any planning permission granted requiring the submission and implementation of landscaping scheme, tree/hedge protection measures and an arboricultural method statement. These would ensure the proposals would not have any significant adverse impacts on nature conservation.
- 5.29 Having regard to the above, it is considered that the proposals are acceptable in respect of nature conservation in accordance with saved Policy ENV1 of the Selby District Local Plan and Policy SP18 of the Core Strategy.

6 CONCLUSION

- 6.1 The application proposes the installation of a Sustainable Drainage System (SuDS) basin to drain the adjacent residential development, which has outline planning permission for up to 34 dwellings (under reference 2016/0124/OUT) and is currently subject to a reserved matters application for the erection of 30 dwellings (under reference 2019/1328/REMM).
- 6.2 The proposed development would be acceptable in principle and would not result in detrimental impact on the character and appearance of the area, residential amenity, highway safety or flood risk and drainage.
- 6.3 The proposed development is therefore considered to be acceptable having had regard to Policies ENV1, T1 and T2 of the Selby District Local Plan, Policies SP1 SP2, SP15, SP18 and SP19 of the Core Strategy and the national planning policy contained within the NPPF.

7 RECOMMENDATION

This application is recommended to be GRANTED subject to the following conditions:

01. The development for which permission is hereby granted shall be completed and made operational for its purpose prior to the occupation of the dwellings granted planning permission under outline planning permission reference 2016/0124/OUT.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure satisfactory drainage of the adjacent residential development site.

02. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

3353-1-000 – Site Location Plan
3353-1-001-B – Proposed Site Layout

3353-1-002-A – Proposed Site Sections

Reason:

For the avoidance of doubt.

03. Prior to the commencement of development, an Arboricultural Method Statement and tree protection measures, to BS5837, shall be submitted to and approved in writing by the Local Planning Authority. This should demonstrate how all existing boundary trees and hedgerows to be retained will be protected during the construction period. The development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure protection during construction works of trees and hedgerows which are to be retained on or near the site in order to ensure that the character and amenity of the area are not impaired, having had regard Policies SP17, SP18 and SP19 of the Core Strategy and Policy ENV1 of the Selby District Local Plan.

04. Prior to the commencement of development, a detailed landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in its entirety within the first available planting season following the construction of the development hereby permitted. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and any trees, shrubs and bushes which die, are removed, or become seriously damaged or diseased shall be replaced within the next available planting and seeding seasons with ones of similar size and species.

Reason:

In the interests of visual amenity and in order to comply with saved Policy ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

05. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking or re-enacting that Order), no gates, fences, walls or other means of enclosure shall be erected within or around the application site without the appropriate grant of planning permission.

Reason:

In the interests of the visual amenity of the area, having had regard to saved Policy ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

06. The development hereby approved shall be carried out in accordance with the details contained within the submitted Drainage Design Summary (by Fortem, reference 1094-R002-V3) including the following requirements:

- Surface water run off rates shall be attenuated to 3.4 l/s as confirmed by the local Internal Drainage Board.
- Storage shall accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 1% annual probability rainfall event including allowances for climate change.
- A minimum storage volume of 470m³ shall be provided.

Reason:

To ensure satisfactory drainage of the adjacent residential development site, having regard to the overarching principles set out in the Core Strategy and national planning policy contained within Chapter 14 of the NPPF.

07. Prior to commencement of development, plans shall be submitted to and approved in writing by the Local Planning Authority, showing the routes for the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1% annual probability rainfall event. The development shall thereafter be carried out in accordance with the approved plans.

Reason:

To ensure satisfactory drainage of the adjacent residential development site, having regard to the overarching principles set out in the Core Strategy and national planning policy contained within Chapter 14 of the NPPF.

08. Prior to the commencement of development, a maintenance and management plan detailing the activities required and details of who will adopt and maintain all the surface water drainage features for the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved maintenance and management plan.

Reason:

To ensure satisfactory drainage of the adjacent residential development site, having regard to the overarching principles set out in the Core Strategy and national planning policy contained within Chapter 14 of 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 2020/1369/FUL and associated documents.

Contact Officer: Jenny Tyreman (Assistant Principal Planning Officer)

Appendices: None