



**Report Reference Number: 2018/0263/FUL**

**Agenda Item No: 6.2**

**To: Planning Committee**  
**Date: 11 July 2018**  
**Author: Jenny Tyreman (Senior Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2018/0263/FUL	PARISH:	Riccall Parish Council
APPLICANT:	Miss Leeman	VALID DATE:	15 March 2018
		EXPIRY DATE:	10 May 2018
PROPOSAL:	Proposed erection of 1 no. dwelling		
LOCATION:	Jackadory 37 York Road Riccall York North Yorkshire YO19 6QG		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as the application is a departure from the Development Plan, but there are material considerations which would justify approval of the application.

## **1. INTRODUCTION AND BACKGROUND**

### **Site and Context**

- 1.1 The application site is located outside the defined development limits of Riccall, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 1.2 The application site comprises an area of land which was formerly garden land associated with the residential property to the south, Jackadory, 37 York Road, Riccall.

- 1.3 To the north of the application site are a cluster of trees, with open fields beyond; to the east of the application site is the A19; to the south of the application site is a residential property fronting York Road, known as Jackadory; while to the west of the application site is Riccall Millennium Green and residential properties fronting Wheatfield's Walk.

### **The Proposal**

- 1.4 The application seeks planning permission for the erection of a detached dwelling.

### **Relevant Planning History**

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
- An outline application, reference 2015/0687/OUT, for the erection of 1No. dwelling (all matters reserved) was approved on 01.03.2016. This is an extant planning permission.

## **2. CONSULTATION AND PUBLICITY**

*(All immediate neighbours were informed by letter, a site notice was erected, an advert placed in the local press and statutory consultees notified)*

- 2.1 **Parish Council** – Object for the following reasons:

- Layout - the dwelling is too close to the boundary hedge to allow access during construction for scaffolding and for maintenance of the building in future.
- Scale - the dwelling is considered to be too big for the size of the plot.
- Access - the access road is very narrow and concern is raised that this may be an issue during construction and for deliveries.
- Appearance and landscaping - the proposed additional hedging is not considered to be sufficient to disguise the building from the A19.
- Although the Design Statement appears to have considered road noise in the design, there is no mention regarding vibration from the A19 which is also a known problem for existing properties in close proximity to the A19.

No objections to the amendments.

- 2.2 **NYCC Highways** – No objections, subject to a condition relating to a construction management plan.

- 2.3 **The Ouse & Derwent Internal Drainage Board** – No objections.

- 2.4 **Yorkshire Water** – No objections.

- 2.5 **Neighbour Summary** – All immediate neighbours have been informed by letter, a site notice has been erected and an advert placed in the local press. No letters of representation have been received as a result of this advertisement.

## **3. SITE CONSTRAINTS AND POLICY CONTEXT**

### **Constraints**

- 3.1 The application site is located outside the defined development limits of Riccall, which is a Designated Service Village as identified in the Core Strategy, and is located within the open countryside.
- 3.2 The application site is located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 3.3 The application site comprises potentially contaminated land arising from a dismantled railway.

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

- 3.4 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

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

- 3.6 The relevant Core Strategy Policies are:
  - SP1 – Presumption in Favour of Sustainable Development
  - SP2 – Spatial Development Strategy
  - SP5 – The Scale and Distribution of Housing
  - SP9 – Affordable Housing
  - SP15 – Sustainable Development and Climate Change
  - SP18 – Protecting and Enhancing the Environment
  - SP19 – Design Quality

### **Selby District Local Plan**

- 3.7 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance

with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

3.8 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads

### **Other Policies and Guidance**

3.9 Affordable Housing Supplementary Planning Document

## **4. APPRAISAL**

4.1 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 and Protected Species
- Land Contamination
- Affordable Housing
- Other Issues

### **The Principle of the Development**

4.2 The application site is located outside the defined development limits of Riccall, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.

4.3 Policy SP2A(c) of the Core Strategy states that "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."

4.4 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing needs and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.

4.5 One such material consideration is that there is an extant outline planning permission for the erection of 1No. dwelling (all matters reserved) at the application

site, under reference 2015/0687/OUT. The applicants could submit a reserved matters application following on from the extant outline permission up until 1 March 2019. This represents a fall-back position of significant weight.

- 4.6 Having regard to the aforementioned fall-back position, it is considered that although the proposal is a departure from the Development Plan, the fall-back position represents a material consideration which would justify approval of the application.

### **Design and Impact on the Character and Appearance of the Area**

- 4.7 The application site is located outside the defined development limits of Riccall, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 4.8 The application site comprises an area of land which was formerly garden land associated with the residential property to the south, Jackadory. To the north of the application site are a cluster of trees, with open fields beyond; to the east of the application site is the A19; to the south of the application site is a residential property fronting York Road, known as Jackadory; while to the west of the application site is Riccall Millennium Green and residential properties fronting Wheatfield's Walk.
- 4.8 The comments of the Parish Council are noted regarding the layout, appearance and landscaping of the proposed dwelling.
- 4.9 The application is a full application for the erection of a detached dwelling. The proposed dwelling would be sited towards the western side of the plot and would have a U-shape, with its rear elevation facing the A19 to the west and its front elevation facing Riccall Millennium Green and residential properties fronting Wheatfield's Walk to the east. The proposed dwelling would have a pitched roof, with two gable projections with pitched roof forms to the front (west elevation). The height of the dwelling would be stepped down from north to south, with the proposed dwelling having a ridge to a maximum height of 7.6 metres above ground floor level and eaves to a maximum height of 4.1 metres above ground floor level to the northern end; and a ridge to a maximum height of 6.7 metres above ground floor level and eaves to a maximum height of 2.9 metres aboveground floor level to the southern end. The submitted proposed elevations (drawing no. 006) show the proposed dwelling would be constructed using various external materials, including red multi facing brickwork, smooth off white render and accoya timber cladding for the walls and grey slates and grey GRP for the roof. Further details of these materials could be secured by way of condition. To the front (west) of the proposed dwelling would be an amenity area and an area of hard standing for car parking. Given the size, siting and design of the proposed dwelling and having regard to the context of the application site, it is considered the proposal would not have any significant adverse impact on the character and appearance of the area.
- 4.10 In terms of landscaping, the submitted proposed site plan (drawing no. 008) shows the provision of new native heading (comprising a mix of Blackthorn, Hawthorn, Wild Cherry, Field Maple, Dog Rose, Hazel and Ivy) to 1.2 metres high to the eastern boundary of the application site adjacent to the A19; the provision of new native heading (comprising a mix of Blackthorn, Hawthorn, Wild Cherry, Field

Maple, Dog Rose, Hazel and Ivy) to 1.2 metres high to part of the northern boundary of the application site; and the provision of new native hedging (comprising a mix of Blackthorn, Hawthorn, Wild Cherry, Field Maple, Dog Rose, Hazel and Ivy) to 1.8 metres high to the western boundary of the application site. A grassed area to the front (west) of the dwelling to be retained, with an existing corkscrew tree to be retained and cut back as required. Furthermore, an area of hardstanding would be created towards the south of the application site with a planting bed adjacent to the southern boundary. The proposed landscaping scheme is considered acceptable and implementation in accordance with the submitted details can be secured by way of condition.

- 4.11 Having regard to the above, it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. The proposal is therefore considered acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

### **Impact on Residential Amenity**

- 4.12 The application site comprises an area of land which was formerly garden land associated with the residential property to the south, Jackadory. To the north of the application site are a cluster of trees, with open fields beyond; to the east of the application site is the A19; to the south of the application site is a residential property fronting York Road, known as Jackadory; while to the west of the application site is Riccall Millennium Green and residential properties fronting Wheatfield's Walk.
- 4.13 In terms of the impact of the proposed dwelling on the residential amenity of neighbouring properties, it is noted that the closest neighbouring property is Jackadory to the south. The layout of the proposed dwelling is such that its front elevation would face west and therefore would not overlook Jackadory to the south. There are no windows proposed in the south side elevation facing Jackadory, and a condition could be attached to any planning permission granted to remove permitted development rights for the insertion of any additional windows in the south side elevation of the proposed dwelling in the interests of the residential amenity of the neighbouring property. As noted earlier in the report, the height of the proposed dwelling would be stepped down from north to south, and having regard to the size, siting and design of the proposed dwelling and its relationship to the neighbouring property to the south, Jackadory, it is not considered that it would result in any significant adverse effects of overshadowing or oppression when viewed from the neighbouring property to the south. A 1.8 metre high close boarded fence would be erected along the common boundary between the application site and the neighbouring property to the south, which would provide privacy between the respective amenity areas.
- 4.14 In terms of the impact of the proposed dwelling on the residential amenity of other neighbouring properties, given the size, siting and design of the proposed dwelling and its relationship and separation distance to other neighbouring properties, including those fronting Wheatfield's Walk to the west, it is considered that the proposal would not have any significant adverse impact on the residential amenities of any other neighbouring properties.

- 4.15 In terms of the residential amenity of the proposed dwelling, it is noted that the proposed dwelling would be served by an amenity area to the front (west) of the dwelling, which would provide an adequate amount of useable external amenity space. This would be separated from amenity space associated with the residential property to the south, Jackadory, by a 1.8 metre high close boarded fence along the common boundary, which would provide privacy between the respective amenity areas. The proposed amenity area would be sited a sufficient distance from the rear elevation of the neighbouring property to the south, Jackadory, to ensure no significant adverse effects of overlooking from the neighbouring property.
- 4.16 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and the advice contained within the NPPF.

### **Impact on Highway Safety**

- 4.17 The proposed dwelling would benefit from a vehicular access onto York Road to the south and would benefit from an integral garage and area of hardstanding for parking and turning to the front of the dwelling.
- 4.18 NYCC Highways have been consulted on the proposals and have not raised any objections subject to a condition relating to a construction management plan. However, given the nature and scale of the proposal, for one dwelling, it is not considered reasonable or necessary to attach a condition requiring a construction management plan.
- 4.19 Having regard to the above, it is considered that the proposal would be acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

### **Flood Risk and Drainage**

- 4.20 According to the Environment Agency Flood Maps, the application site is formally located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 4.21 It is noted however, that during consideration of the extant outline planning permission, reference 2015/0687/OUT, consultation with the Environment Agency was undertaken regarding flood risk. The Environment Agency confirmed that the site "lies within flood zone 2 insofar as our flood map is concerned. The pre-application enquiry, however, suggested that this site's actual flood risk is less than that stated on our flood map (which is not intended to be accurate to a site specific level). In light of this, it would seem reasonable to undertake the sequential test according to the site's actual flood risk, rather than that shown on our flood map".
- 4.22 Having regard to the above advice from the Environment Agency, the extant outline planning permission, reference 2015/0687/OUT, was assessed on the basis that the site is considered to be de facto in flood zone 1 and therefore at the lowest risk of flooding. It would therefore be reasonable to apply the same approach to flood

risk with the current application. As the application site is considered to be de facto in flood zone 1, a sequential test would not be required to be undertaken.

- 4.23 In terms of drainage, the submitted application form sets out that surface water would be disposed of via mains sewer and foul sewage would be disposed of via mains sewer. The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals and have not raised any objections to the proposals.
- 4.24 Having regard to the above, it is considered the proposals are acceptable in respect of flood risk and drainage.

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

- 4.25 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.26 The application site is not a protected site for nature conservation and is not known to support, or be in close proximity to, any site supporting protected species or any other species or habitat of conservation interest.
- 4.27 Given the above, it is considered that the proposal would not harm any acknowledged nature conservation interests or protected species and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

### **Land Contamination**

- 4.28 The application has been supported by a planning application form and a contaminated land screening assessment form. It is noted that the Councils Contaminated Land Consultant previously assessed the site in respect of contaminated land under the extant outline planning permission, reference 2015/0687/OUT, where no objections were raised in relation to contaminated land. As the site circumstances have not altered significantly since that previous permission it is considered that the proposals would not result in any adverse impacts in relation to contaminated land. However, it would be considered reasonable and necessary to attach a condition relating to the discovery of unexpected contamination during development works to any planning permission granted.
- 4.29 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

### **Affordable Housing**

- 4.30 Policy SP9 of the Core Strategy 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.

- 4.31 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. It is therefore considered that having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

### **Other Issues**

- 4.32 It is noted that the Parish Council have raised concerns regarding access to the site for construction and delivery vehicles, and access to the west side of the proposed dwelling, adjacent to the A19, for scaffolding during construction and future maintenance. These are not material planning considerations which can be taken into account in the determination of this application.

## **5. CONCLUSION**

- 5.1 The application seeks planning permission for the erection of a detached dwelling with integral double garage.
- 5.2 The application is contrary to Policy SP2A(c) of the Core Strategy. However, there is an extant outline planning permission for the erection of 1No. dwelling (all matters reserved) at the application site, under reference 2015/0687/OUT. The applicants could submit a reserved matters application following on from the extant outline permission up until 1 March 2019. This represents a fall-back position of significant weight. Having regard to the aforementioned fall-back position, it is considered that although the proposal is a departure from the Development Plan, the fall-back position represents a material consideration which would justify approval of the application in principle.
- 5.3 The proposed development would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety, flood risk and drainage, nature conservation and protected species, land contamination or affordable housing.

## **6. RECOMMENDATION**

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

01. 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.

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

001B – Location Plan  
002 – Existing Site Plan  
008 – Proposed Site Plan  
003 – Proposed Ground Floor Plan  
004 – Proposed First Floor Plan  
005 – Proposed Roof Plan  
006 – Proposed Elevations  
009 – Contextual Elevations  
007 – Proposed Sectional Elevations  
C-51 – Existing Drainage  
C-50 A – Drainage Strategy

Reason:

For the avoidance of doubt.

03. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roof(s) of the proposed development have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

04. The landscaping and tree planting scheme as submitted on drawing no: 008 shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. 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 during that period all losses shall be made good as and when necessary.

Reason:

In order to ensure that the proposals integrate with the character and appearance of the area to comply with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

05. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, 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.

## **7. Legal Issues**

### **7.01 Planning Acts**

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

### **7.02 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.

### **7.03 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.

## **8. Financial Issues**

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

## **9. Background Documents**

Planning Application file reference 2018/0263/FUL and associated documents.

### **Contact Officer:**

Jenny Tyreman  
Senior Planning Officer

**Appendices:** None