



To: Planning Committee
Date: 10 October 2018
Author: Paul Edwards (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

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| APPLICATION NUMBER: | 2018/0579/FUL | PARISH: | Beal Parish Council |
| APPLICANT: | Mr & Mrs Huscroft | VALID DATE: EXPIRY DATE: | 11 June 2018 6 August 2018 Extension of time agreed until 12 October 2018 |
| PROPOSAL: | Proposed redevelopment of site to form one 4-bedroom detached house | | |
| LOCATION: | 215 Weeland Road, Knottingley | | |
| RECOMMENDATION: | APPROVE | | |

This application is to be determined by the Planning Committee since the scheme of delegation requires Departure applications which are recommended to be approved to come to Committee.

1. Introduction and background

The Site

- 1.1 The application site is the building, outbuildings and extensive curtilage of a detached dwelling on the south side of the A645 Weeland Road, towards the western limits of Kellingley. The application area extends to 0.16 hectares and includes ranges of former animal sheds behind the frontage, vacant dwelling which is sited to the back of the footway with the dwelling at No.213 to the east. Access to the property is via an existing inclined vehicle crossover onto Weeland Road, to the west side and beyond are Northern Powergrid electricity substation and buildings, accessed both direct from Weeland Road and also from a rear loop road off Turver's Lane from the A645 further to the east.

- 1.2 To the rear of No.213 to the east, along the eastern application site boundary is a bungalow, 211A Weeland Road and there is a housing development behind extending to the same depth of this application site. There is then, further east, housing on Turver's Lane itself which is defined to the east by the Kellingley Colliery site.
- 1.3 In this location Weeland Road is subject to a 40mph speed limit, the derestricted national speed limit commences to the west, beyond the substation frontage and the carriageway here has a central crosshatched reservation for the right turn ghost lane for east bound traffic into Turver's Lane and a central pedestrian refuge. There are unlit footways on both sides of the road. The site is within Kellingley's settlement development limits, a secondary village– the western application site boundary to the substation is the development limit - and is washed over by the Green Belt. There is no Conservation Area, listed buildings or protected trees in the vicinity.

The proposal

- 1.4 The application seeks full planning permission for the clearance of the existing detached house and all of the curtilage buildings within the same site and ownership and their redevelopment with a detached four bedroom house. The new property would be sited behind the road frontage to allow for landscaping and parking; set back some 16m from the road frontage into the site and some 10m behind the rear elevation of the neighbour at No. 213. The existing access from Weeland Road would be reformed and two parking spaces and turning areas provided to the front of the proposal.
- 1.5 The application is supported by a design statement which includes analyses of the previous application and decision history.

Planning History

- 1.6 There have been a number of applications and pre-application enquiries for this site but the relevant planning history comes from the refusals in 2015 and 2017.
- 1.7 An application for a replacement dwelling was refused in November 2015 (2015/0998) on the grounds that the replacement dwelling was materially larger than the existing and thus it was inappropriate development and a case had not been made for very special circumstances. The appeal against this decision was dismissed by the Inspector's decision dated 8 July 2016. **Appendix A attached to this report.**
- 1.8 The 2017/0068 application was described as 'Proposed erection of replacement dwelling following demolition of existing dwelling and outbuildings' and was refused on 15 March 2017 for three reasons relating to that i) the replacement was materially larger than the existing and thus it was inappropriate development and a case had not been made for very special circumstances; ii) that there would be significant harm to the openness of the Green Belt by virtue of proposed hard standings, that the building would be on land occupied by agricultural buildings so it was not previously developed land and would sit outside the curtilage of the existing dwelling, and iii); that there would be an impact upon 211A Weeland Road due to the scale, siting and separation distance.

2 Consultation and Publicity

- 2.1 The application has been advertised as a Departure through press and site notices and all adjoining neighbours have been notified directly.
- 2.2 **NYCC Highways** – has no objections subject to the imposition of conditions relating to formation of the new/ improved access to a standard detail; provision of parking, turning areas and a Construction Management Plan.
- 2.3 **The Shire Group of Internal Drainage Boards**- comments that the application will increase impermeable areas so the applicant should ensure that any surface water system has adequate capacity to accommodate any increase in surface water from the site.
- 2.4 **Environmental Health** – requests a noise assessment to demonstrate how noise will be attenuated to specified levels as a result of traffic and industrial uses in the area.
- 2.5 The resident of 211A Weeland Road has concerns that the plans do not display dimensions and objects to the application on the grounds that they cannot ascertain the full scale of the proposal. The concerns may be summarised as:
- The house in close proximity will have a detrimental effect upon the amount of light that their property and garden receives;
 - Previous proposals have been for dormer bungalows so they are even more concerned (with this house);
 - The proximity of this house – presently at the roadside - will be in line with and within 5m of their property and are concerned about levels of privacy looking down into the property;
 - Previously welcomed the construction and demolition of existing buildings but do not understand why it has to be in line with theirs.

3. Site Constraints and Policy Context

Green Belt

- 3.1 The entire application site is within defined development limits and washed over by the Green Belt. The site history shows that there have been previous refusals for a dwelling on this site, an unsuccessful appeal in July 2016 and a further Council refusal in March 2017. The issues regarding those decisions related to whether the replacement was materially larger than that which it replaced and, in 2017, that the site was not within the existing residential curtilage, was not 'previously developed land' (pdl) and would have an impact upon the neighbour at 211A.
- 3.2 Relevant policies in respect of the principle of development in the Green Belt are Policy SP3 of the Core Strategy and NPPF (2018) paragraphs 133 to 147. The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:

- a. It must be determined whether the development is inappropriate development in the Green Belt. The NPPF and Local Plan set out the categories of inappropriate development.
- b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
- c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.

3.3 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

3.4 Exceptions to new buildings being inappropriate include, of relevance here, from the NPPF para 145:

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages; and

g) limited infilling or the partial or complete redevelopment of previously developed land...

3.5 The applicants' case is that the application site has only ever been used as the same unit and that the application site combined is previously developed land.

3.6 The definition of 'previously developed land' from the new Framework is:

"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." Exclusions to this definition include, of relevance here, "land that is or was last occupied for agricultural or forestry buildings;" and "land in built up areas such as residential gardens..."

(NPPF p.70)

3.7 The applicant's statement that the site includes an existing house and agricultural buildings does not demonstrate that the land is previously developed and thus there is no support to the application not being inappropriate from subsection g) to the Framework's para 145 above.

3.8 The site is wholly within settlement development limits and has residential development on most sides, albeit on the edge of the settlement and the substation land and buildings to the west provide further development and containment. Neither 'limited' nor 'infilling' are defined in the Framework, the Planning Practice Guidance or the local plan but the site is between and surrounded by existing built development and thus will not result in any additional encroachment outside the existing confines of development. Therefore the application can justifiably be

regarded as 'limited infilling' to accord with subsection e) of para 145 of the NPPF highlighted above.

- 3.9 The final possible exception to inappropriate development is whether the replacement is not materially larger. The applicants say that the proposed dwelling is 203 square meters of floorspace compared to the combined floorspace of the existing house and all of the outhouses and agricultural buildings at 309 square meters. There is no doubt that the combined floorspace or volume of all of the buildings to be demolished is greater than the new building, but this becomes academic since the proposal has already been found to be 'not inappropriate' by virtue of it being 'limited infilling' (para 3.8 above).
- 3.10 Once the application has been found to be 'not inappropriate', there is no requirement in para 145 of the new Framework to consider openness or the purpose of including land within it. Thus the application complies with Policies SP2 and SP3 and with the Framework and can continue to be assessed on its own merit against the development plan.

Development Plan

- 3.11 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.

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

- 3.12 The National Planning Policy Framework (July 2018) replaces the first NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (paragraph 12). This application has been considered against the 2018 NPPF.

Selby District Core Strategy Local Plan

- 3.13 The relevant Core Strategy Policies are:

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| SP1 | Presumption in Favour of Sustainable Development |
| SP2 | Spatial Development Strategy |
| SP3 | Green Belt |
| SP4 | Management of Residential Development in Settlements |
| SP15 | Sustainable Development and Climate Change |
| SP18 | Protecting and Enhancing the Environment |
| SP19 | Design Quality |

- 3.14 The relevant Selby District Local Plan Policies are:

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| ENV1 | Control of Development |
| ENV2 | Environmental Pollution and Contaminated Land |
| T1 | Development in Relation to Highway |

4. APPRAISAL

- 4.1 The main issues to be taken into account when assessing this application, having established that the development is not inappropriate in the Green Belt, are:
1. Principle of Development
 2. Local amenity and preserve and enhance local character (from Policy SP4)
 3. Impact upon residential amenity

Principle of Development

- 4.2 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 new NPPF.
- 4.3 Kellingley is a Secondary Village and Policy SP2 would support limited amounts of residential development inside development limits where it will enhance or maintain the rural community and conform to Policies SP3 (Green Belt), SP4 and SP10.
- 4.4 It is considered, above, that Policy SP3 is complied with and Policy SP4A permits replacement dwellings and, in all cases, development is to protect local amenity and preserve and enhance local character. Policy SP10 is not relevant since it relates to rural exception sites.
- 4.5 Thus subject to compliance with the specific requirements below, the development of one replacement dwelling is acceptable in principle.

Local amenity, preserve and enhance local character

- 4.6 The character of this part of Kellingley is of development on this south side of Weeland Road at the settlement edge with open agricultural land around buildings and businesses to the north side. Although the initial impression is of ribbon residential development, in fact the grain of development on this south side extends to some depth with Turver's Lane serving properties behind the main road frontage to the east. Between the application site, Turver's Lane and the former colliery, are further cul de sacs of development including 211A adjoining to the east and then a court of three large detached properties nearing completion further south.
- 4.7 The length of the application site is thus not out of character with the depth of development elsewhere on this south side. The location of the footprint is not dissimilar to the neighbour to the east at 211A. Thus and bearing in mind that this is at the settlement edge, the siting of the building within the plot will better assimilate with this edge of settlement character since the set back from the road frontage assists in giving a softer, graduated edge to the settlement being partway between the neighbour, No 213 and the electrical substation compound which is set further back from the road frontage.

- 4.8 As a vacant, near derelict dwelling which is not contributing to character or vitality at the moment and which has basic amenities only accessible from outside of the main house in the single storey lean-to extensions; the opportunity to clear both the vacant house and the deteriorating buildings to the rear will be of benefit to the settlement character to comply with Policies SP2 and SP4.

Impact upon Residential Amenity

- 4.9 The new property would be set behind the rear face of 213 to the east such that there would be an oblique ~10m separation. There is an existing two storey rear extension to this side of the rear of No 213 such that any effects in that direction are limited. There is also a gated access between the curtilages of Nos 215 and 213 here and the proposed layout will provide for this. It is understood that this is since there is vehicular access and private right of way from the application site through the rear garden of No 213. This is a private arrangement and not controlled by planning legislation but its existence allows, due to this access and taking account of the extension, lesser separation distances.
- 4.10 The other neighbour is the detached bungalow (211A) off the private access to the east such that its side flank wall is against and parallel to the application site boundary. The proposed two storey blank flank wall of the application house would be sited some 1.5m off this boundary, overlapping with rear wall of the attached garage at No. 211 which has a window in it. The remainder of the bungalow will have no new development against this flank wall or its boundary and will benefit from the removal of the present pig shed along this boundary which is presently some 17m long.
- 4.11 Having assessed the relationship to No 211A from inside this property's rear garden, the rear elevation of the proposal is some 9m forward of the rear elevation of the neighbouring bungalow such that any views from rear upper floor windows will be both oblique and limited.
- 4.12 Bearing in mind the locations of the existing outbuildings to be cleared, your officers believe that this proposed siting on the plot is the best in order to protect the amenities of both neighbours and Policy ENV1 will be satisfied.

Other Issues

- 4.13 A noise assessment has not been requested since this is not necessary for development that complies with the development plan in locational terms. It would be unusual to seek noise assessment for properties just because they are on a road frontage and where the commercial development proposed to the south is likely to have its own noise controls to protect amenity. Conditions that are necessary on any approval relate to formation of the access, provision of parking, landscaping and contaminated land and it would be reasonable to withdraw permitted development rights to preclude any new openings in the east facing flank wall to protect neighbours in that direction. A Construction Management Plan condition is not necessary since these would not normally be sought on schemes for one property due to the limited build period and, in this instance the site is so large there is adequate space off and away from the highway to make such a condition unnecessary. Materials are specified with the application so similarly, a materials condition is not necessary.

Legal Issues

4.14 Planning Acts:

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

4.15 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.

4.16 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.

Financial Issues

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

5. Conclusion

5.1 This is a replacement dwelling in the terms of Policy SP4 and 'limited infilling' within settlement development limits according to Green Belt guidance. The siting of the footprint has been carefully negotiated to seek a graduated edge-of-settlement feel, set back from the road frontage and to protect the amenities of residents. The neighbour to No 211A will experience some relief with the removal of adjacent sheds and the siting is such that there will be no direct views into its rear garden. The proposed infilling development within the Green Belt is not inappropriate and thus, subject to the conditions set out below, it is recommended that this application may be approved.

6. Recommendation

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission

Reason:

To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

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

Site Plan – Dwg No 1652.18032-P03
Demolition Drawings - Dwg No 1652.18032-P04
Elevations - Dwg No 1652.18032-P02
Floor Plans - Dwg No 1652.18032-P01
Drainage – Dwg No 1652.18032-P05

Reason:

For the avoidance of doubt.

3. No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site have been submitted to and approved by the local planning authority:
 - A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - The results of the site investigation and the detailed risk assessment referred to in and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The strategy shall be implemented as approved.

Reason:

This is a pre-commencement condition since the history of the site and the former uses result in there being a reasonable likelihood of land contamination and it is thus necessary to undertake an investigation before any other material works commence in order 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. The dwelling hereby approved shall not be first occupied until details of all proposed landscaping and planting, including the specie, stock size on planting, planting densities and proposals for management and maintenance have been submitted to and approved by the local planning authority.

Reason:

In accordance with the details of the application and in order to ensure for the preservation and planting of trees in accordance with s.197 of the Act and to

protect the residential amenities of existing and proposed residents and the Green Belt.

5. The approved planting shall be implemented during the first available planting season following the substantial completion of the property hereby approved.

Reason:

In accordance with the details of the application and in order to ensure for the preservation and planting of trees in accordance with s.197 of the Act and to protect the residential amenities of existing and proposed residents and the Green Belt.

6. The dwelling hereby permitted shall not be first occupied until surface water drainage works have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.

Reason:

In order to ensure for the provision of surface water drainage

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no new openings shall be inserted in the first floor north east facing flank wall of the approved dwelling.

Reason:

In order to enable the Local Planning Authority to retain control over future alterations to the property in the interests of safeguarding the residential amenities and privacy of neighbours, in accordance with local plan Policy ENV1.

8. The dwelling hereby approved shall not be occupied until the new crossing of the highway verge has been constructed in accordance with Standard Highway Authority Detail number E6.

Reason:

In order to ensure the provision of a satisfactory means of access to serve the site in the interests of vehicle and pedestrian safety and convenience to accord with local plan Policy T2.

9. The dwelling hereby approved shall not be first occupied until the parking, turning and manoeuvring areas have been constructed and made available for use in accordance with approved Dwg No 1652.18032-P03.

Reason:

In order to ensure the provision of a satisfactory parking and turning areas to serve the site in the interests of vehicle and pedestrian safety and convenience to accord with local plan Policy T2.

Informative: In respect of Condition 8, the standard detail is contained within the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council.

Case Officer: Paul Edwards, Principal Planning Officer

Appendices: Appendix A - Inspector's appeal decision 215 Weeland Rd (/3142755) dated 8 July 2016