



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

APPLICATION NUMBER:	2018/0642/FUL	PARISH:	Monk Fryston Parish Council
APPLICANT:	Ms Helen Ripley	VALID DATE: EXPIRY DATE:	11 June 2018 6 August 2018
PROPOSAL:	Partial demolition of existing bungalow and erection of 3 No detached dwellings		
LOCATION:	The Bungalow 31 Lumby Hill Monk Fryston		
RECOMMENDATION:	APPROVE		

This application is to be determined by the Planning Committee since it is a revision of a scheme that was refused by Committee in March 2018 and since the negotiated changes have led to an officer recommendation for approval, it is right that this comes before Committee.

1. Introduction and background

The Site

- 1.1 The application site includes the detached dwelling at No.31 and its rear garden. The site is the entire existing curtilage which lies to the east of the dwelling on land that slopes from the roadside to the east. The northern perimeter of the site is enclosed by a quarry wall with houses situated to the north on Hillcrest. The southern perimeter has a hedge that separates the site with No. 33. The eastern part of the site lies within the Green Belt and the quarry edge here forms the eastern application site boundary.
- 1.2 The application site is on the east side of Lumby Hill, to the south of Hillcrest, in the 30mph speed limit. The site is not in Monk Fryston's Conservation Area and there

are no protected trees or listed buildings in the vicinity. The eastern settlement development limits, beyond the rear curtilages of development facing Lumby Hill and Main Street (Hillam) also defines the Green Belt Boundary.

The proposal

- 1.3 The application seeks full planning permission for the erection of three detached houses with detached garages within the garden of the host dwelling including modifications to the side (north elevation) of this host property and the creation of a smaller garden for this dwelling.
- 1.4 An access road would be constructed from Lumby Hill to serve each of the dwellings with a turning area for refuse vehicles to the front of plot 3.
- 1.5 The application is accompanied by
 - Planning Statement
 - Design & Access statement
 - Contaminated Land Information
 - Bat Survey & Report
 - Phase 1 Habitat Survey Report
 - Highways Statement
 - SuDS assessment

Planning History

- 1.6 The Committee will recall its consideration of an application on this site for five properties (2016/1254) which was refused in line with recommendation at your March 2018 Committee. The reasons for refusal related to:
 - Inappropriate scale of development on a greenfield site contrary to Policy SP4A
 - Harm to the character and appearance of the village due to layout, design and inadequate provision of garden space, contrary to Policies ENV1 and SP19
 - The effects of Plot 5 upon the neighbour at No.35 which would be overlooked.
- 1.7 A series of without prejudice negotiations have taken place since that refusal that has led to this resubmission that has reduced the proposal down to three dwellings. In the meantime the March 2018 refusal has gone to appeal.

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

The Authority has replied with no objections subject to standard conditions relating to formation of the access before any other works take place; no access into the site until visibility splays of 45m x 2.4m are provided and no development until a Construction Management Plan has been submitted to and approved by the planning authority.

2.3 **Yorkshire Water**

No objections have been received subject to standard surface water conditions.

2.4 **Shire Group of Internal Drainage Boards**

The Group has replied with a standard response that the application will increase the impermeable area and the applicant will need to ensure that surface water systems have capacity to accommodate surface water discharge.

2.5 **Environmental Health**

SDC Environmental Health has replied that it has no objections.

2.6 The occupier of 10 Hillcrest has replied to say it doesn't fully address the concerns raised last time and still objects on grounds of:

- The existing rock face adjacent to Hillcrest is not 30m H as stated in the DAS
- Disagrees there will be no impact on Hillcrest if the access road results in land movement
- Thought that a quarry next door would reduce chances of houses being built nearby
- Roofs would still be visible, pollution and noise during construction, vehicles from family sized houses would create noise
- Air pollution if solid fuel heating is available

3. **Site Constraints and Policy Context**

Constraints

- 3.1 The majority of the application site is within defined development limits with that part of the site located within the Green Belt outside of development limits. The proposed development would all take place within the development limits and the area of land within the Green Belt would remain undeveloped but for a possible underground infiltration basin, separated from the proposal by a planted hedge that could be controlled by condition on any approval. The precise drainage solution will depend upon further on-site investigation but presently the applicant is intending a SuDS based design. The application site is located within Flood Zone 1.
- 3.2 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.
- 3.3 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)

- 3.4 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.
- 3.5 In addition, given that this application has been resubmitted following an earlier refusal; the extent to which those previous reasons for refusal are addressed in whole or in part is a relevant part of the planning history and a material consideration in terms of consistent decision making.

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
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

- 3.7 The relevant Selby District Local Plan Policies are:

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

Supplementary Planning Documents

- 3.8 Monk Fryston Village Design Statement Aug 2011.

4. APPRAISAL

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

1. Principle of Development
2. Green Belt
3. Design and impact on the character and appearance of the area
4. Impact upon residential amenity
5. Extent to which previous reasons for refusal are addressed

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 Monk Fryston/Hillam is a Designated Service Village (DSV) which has some scope for additional residential (Policy SP2) subject to Policy SP4.
- 4.4 Policy SP4A permits appropriate scale of development on greenfield land which includes garden land. The previous scheme for five was considered to be out of scale and the March Committee report opined that a reduction to four units would give more space around dwellings. Scale is to be assessed in relation to density, character and form of the local area and although this is development of length it is influenced by the length of this existing curtilage and the similar length of the Hillcrest development to the north. There is also development of depth further to the south on this eastside of Lumby Hill/Main Street at, for example Hillside Close.
- 4.5 It is considered that this revised scale of development down to three units is now appropriate in principle and can comply with Policy SP4.

Green Belt

- 4.6 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 application site includes land within the Green Belt but the area for development would be separated from the Green Belt by a planted hedge. Inside of the Green Belt and beyond settlement development limits would be the probable engineering works to provide an underground infiltration basin based upon the desire to adopt sustainable drainage principles, subject to further survey.
- 4.7 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.
- 4.8 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.9 Engineering operations are defined as not inappropriate (NPPF para 146) provided they preserve openness and do not conflict with the purposes of Green Belt. Thus the works are not inappropriate by definition and the quarry wall to the east provides a distinct natural boundary and change of slope to the edge of the site and intersects Green Belt land. A public footpath located to the south east of the site provides views toward the site and it is largely screened. Trees and planting are visible on the

perimeters of the quarry with only houses at Hillcrest and The Crescent visible in the distance. The eastern edge of the developed part of the site has a proposed new hedge to be planted, that may be controlled by condition.

- 4.10 The limited works within the Green Belt are not inappropriate and will have no impacts upon the character or amenities of the area. It is thus considered that the proposal would accord with Policies SP2 and SP3 of the Core Strategy and Section 13 of the NPPF.

Design and impact on the character and appearance of the area

- 4.11 The layout is one of alteration and part demolition to the existing frontage property (No.31) to make way for a new access road along the northern site boundary. Although this is a new application to be dealt with on its merits, it is reasonable to assess the application against the previous reason for refusal to determine to what extent those reasons have been addressed. The new access road now would serve three rather than the previous five. Plots 1 and 2 are then in line behind No.31 on the south side of this access with Plot 3 in the south east corner of the site where the applicant's land wraps around behind the end of the neighbour's garden (No 33) to the south and thus abuts the curtilage boundary of No 35.
- 4.12 The separation distances between Plots 1 and 2, each other and the retained property (No 31) are all in excess of general standards and the plots are spacious. There is a significant hedge along the southern boundary and although No.33 is elevated higher than No.31, the overall layout of this part of the site is not considered to be at odds with the wider character and appearance of this east side of Lumby Hill/Main Street. Adequate garden spaces are being provided to address that part of the second reason for refusal on the unsuccessful scheme earlier this year.
- 4.13 Plot 3 is within that area where the application site expands in width to run behind the bottom of the garden of No.33. The third reason for refusal referred to concern in respect of the former Plot 5 which had been proposed in this same general area. Specifically it referred to rear first floor windows overlooking No.35's garden to the south. In terms of siting as a function of layout and character, the reduction from five properties down to three has seen a reorientation of the third plot such that it is angled with respect to the neighbour's southern boundaries. This is not dissimilar to aspects of the layout of Hillcrest development to the north and where there are limited rear garden lengths.
- 4.14 The overall layout is now significantly more spacious than the layout for five plots and it is considered that this is a more appropriate scale with better separation. The principle of backland development cannot be resisted as a matter of principle since this would be contrary to the NPPF and this layout would, it is considered, not harm the character or appearance of the area.

Impact upon Residential Amenity

- 4.15 The previous scheme attracted four neighbour objections and whilst that is no real measure, it is considered that the revision might be more acceptable to near neighbours. There are no effects upon existing properties on Hillcrest to the north due to separation distances, intervening boundaries, planting and changes in levels.

- 4.16 Although the host property will experience some impact; separation distances between it and Plot 1, and likewise Plot 1 and 2 to neighbours are all acceptable and there are adequate parking provisions within plots for both existing and proposed.
- 4.17 The particular residential amenity issue to be addressed was that impact of former Plot 5 upon the neighbour to the south, No.35. Previously the gabled rear elevation of that plot was parallel to the boundary, some 5m away, with four first floor bedroom windows facing towards that boundary. Plot 3 in this location has been angled so it is not parallel with the southern boundary and the first floor elevation now only has a single bedroom window. Other bedroom windows have been relocated to the flank elevations. This boundary has significant planting on the neighbouring property's side of the boundary and it is thus considered that there are no longer significant neighbour amenity concerns in respect of No.35.
- 4.18 Any planning approval will need a removal of permitted development rights condition on Plot 3 to prevent any new openings being inserted into this rear elevation in the future without the need for permission. However, subject to this, it is concluded that any impacts upon neighbour amenity are acceptable to comply with SDLP Policy ENV1.

Extent to which previous reasons for refusal are addressed

- 4.19 It is good practice when an application is a 'resubmission' following a recent refusal (that is now at appeal) to not introduce issues that should have been addressed first time around. There have been no material changes in planning circumstances but for the new NPPF and this scheme that seeks to address the previous reasons for refusal is as a result of the duty to approach decisions in a positive and creative way in seeking solutions.
- 4.20 The scale of the development, with the reduction from five plots down to three has addressed the SP4 scale issue and the reduced density and repositioning of plots would create a development that is not out of character with other tandem or backland development elsewhere in the vicinity. Although this is a matter of judgment, it is considered that the first two reasons for refusal have been addressed with this revised scheme.
- 4.21 The nature of boundary treatments and the change to the design and orientation of proposed Plot 3, it is considered, addresses that third reason for refusal which was specific to that relationship.
- 4.22 The appeal that is underway is against the refusal for five and this will be defended by your officers based upon those reasons for refusal. Any approval here will establish the principle of development but will not undermine those previous reasons for refusal.

Other Issues

- 4.23 Those matters relating to, for example, contamination, surface water disposal, and options for bat roosting alternatives may be dealt with by standard conditions on any approval. This is reflected in the recommended conditions below.
- 4.24 The conditions requested by the highway authority to do with site access and visibility are recommended to be imposed subject to amended drafting. This is in order to

meet the six tests and as part of good practice in seeking to agree draft conditions with the applicant and for formal agreement of any pre-commencement conditions; revisions have been made to allow their imposition. On the requested Construction Management Plan condition, these would not normally be sought on small, less than ten schemes due to the more 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.

Legal Issues

- 4.25 Planning Acts: This application has been determined in accordance with the relevant planning acts.
- 4.26 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.
- 4.27 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

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

5. Conclusion

- 5.1 The scheme is in a sustainable location within a DSV where new housing development would be supported subject to appropriate scale. This scheme for three new dwellings is considered to be of an appropriate scale with no adverse effects upon neighbours and the character and appearance of the settlement is not harmed. The proposed limited engineering development within the Green Belt is not inappropriate and thus, subject to the conditions set out below, the approval of this application, which has overcome the previous reasons for refusal, is recommended.

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:

Red line site location plan LOCO1

Site Plan –Proposed 280318 A
House Detail Dwg No 25/10/17 – Rev B
Bungalow Elevations Existing Dwg No 30-06-16
Bungalow Elevations Proposed Dwg No 30-06-16-1
Existing Bungalow Floor plan Dwg No 05-05-16
Proposed Bungalow Floor Plan Dwg No 30-06-16-2
Existing and Proposed levels Dwg No 06-10-17
Existing and Proposed levels – Alternate Dwg No 30-05-18
Scale 1:100 Garage Designs

Reason:

For the avoidance of doubt.

3. No development shall take place in respect of Plot 3 and the roadway associated with it until a site investigation based upon the desk study to provide information for a detailed contaminated 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 options for appraisal and remediation giving full details of the remediation measures required and how they are to be undertaken have been submitted to and approved by the local planning authority. The strategy shall be implemented as approved.

Reason:

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 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. No dwelling hereby approved shall 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 through the planting and retention of the proposed hedging.

5. The approved hedge planting shall be implemented in accordance with the approved specifications during the first available planting season following the substantial completion of the plot to which it relates.

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 through the planting and retention of the proposed hedging.

6. None of the dwellings hereby permitted shall 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. None of the dwellings hereby permitted shall be first occupied until a scheme for the provision of bat boxes to provide bats roosting alternatives has been implemented in accordance with a scheme that has previously been submitted to and approved by the local planning authority.

Reason:

In accordance with the details of the application and to comply with the proposals in the approved Bat Survey and Report.

8. 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 south facing elevation of the approved dwelling on Plot 3.

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.

9. The first dwelling hereby approved to be occupied shall not be occupied until the site access has been formed with 6m radius kerbs and a minimum carriageway width of 4.5m and that part of the access road extending 6m into the site has been constructed to Standard Highway Authority Detail A1.

Reason:

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

10. The first dwelling hereby approved to be occupied shall not be occupied until visibility splays providing clear visibility of 45m measured along both channel lines of Lumby Hill from a point measured 2.4m down the centre line of the access have been provided.

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

Informative: In respect of Condition 9, 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: None