



**Report Reference Number:** 2018/0852/FUL

**To:** Planning Committee  
**Date:** 7 November 2018  
**Author:** Jenny Tyreman (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0852/FUL	PARISH:	Burton Salmon Parish Council
APPLICANT:	Mr Nick Smith	VALID DATE: EXPIRY DATE:	3 August 2018 28 September 2018
PROPOSAL:	Retrospective application for the demolition of a two storey end of terrace dwelling and the construction of two storey end of terrace dwelling on the footprint of existing dwelling, as extended by planning permission ref 2018/0205/HPA		
LOCATION:	1 Railway Cottages Hillam Lane Burton Salmon Leeds West Yorkshire LS25 5JQ		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the application is a departure from the Development Plan, but there are material considerations which Officers consider 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 any settlements and is located within the Green Belt.
- 1.2 The application site formerly comprised an end of terrace dwelling known as 1 Railway Cottages, which was demolished in July 2018.

- 1.3 Attached to the application site is a terrace of three residential properties, known as 2 - 4 Railway Cottages; to the north east of the application site is a detached dwelling known as The Sycamores; to the south east and south west of the application site is Hillam Lane, beyond which are open fields.

### **The Proposal**

- 1.4 The application seeks retrospective planning permission for the demolition of a two storey end of terrace dwelling and its replacement with a two storey end of terrace dwelling on the footprint of existing dwelling, as extended by planning permission reference 2018/0205/HPA.

### **Relevant Planning History**

- 1.5 The following historical application is considered to be relevant to the determination of this application.
- 1.6 An application (reference: 2018/0205/HPA) for the erection of a two storey side and rear extension was permitted on 23.05.2018.

## **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 to the proposed development on the grounds that it is contrary to the following policies within the adopted Core Strategy (2013): SP2 (Spatial development Strategy); SP3 (Green Belt); SP18 (Protecting and Enhancing the Environment); and SP19 Design Quality. The development proposed is for a new dwelling in the Green Belt and is not considered to be a replacement dwelling. Policy SP3 states that "...planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted". No information has been provided in respect of 'very special circumstances'. The proposed development is located adjacent to the village's only listed asset (War Memorial). We have seen no information submitted as part of the planning application which specifies how the historical asset will be conserved as part of this new development. Having viewed the building which is now being built, we have concerns that the brick being used has not been suitably considered and consulted upon. We advise considering the re-use of the bricks from the house that was demolished. Our principal concern is that a proposal of this nature in this location will set precedence for other new forms of inappropriate development in the open countryside within the parish.
- 2.2 **NYCC Highways** – No objections, subject to a condition requiring a construction management plan.
- 2.3 **Selby Area Internal Drainage Board** – No objections, subject to recommendations.

- 2.4 **Yorkshire Water** – No objections, subject to a condition that there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which are to be submitted to and approved by the Local Planning Authority.
- 2.5 **Environmental Health** – No objections, subject to a condition requiring a noise assessment to be submitted and approved in writing by the Local Planning Authority.
- 2.6 **Conservation Officer** – No objections. Requests brickwork matches neighbouring properties.
- 2.7 **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 any settlements and is located within the Green Belt.
- 3.2 The application site is located adjacent to a Grade II listed building, namely, Burton Salmon War Memorial.
- 3.3 The application site is located within Flood Zone 1, which has a low probability of flooding.

#### **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.

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

- 3.5 The relevant Core Strategy Policies are:
  - SP1 – Presumption in Favour of Sustainable Development
  - SP2 – Spatial Development Strategy
  - SP3 – Green Belt
  - 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**

3.6 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraphs 212 and 213 of the NPPF noting that the NPPF should be taken into account in determining applications, and that existing policies should not be considered out of date simply because they were adopted prior to the publication of the NPPF and that due weight should be given to them according to their degree of consistency with the Framework, so the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

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 the Highway Network
- T2 – Access to Roads.

## **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
- Impact on Heritage Assets
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Determining Whether Very Special Circumstances Exist.

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

4.2 The comments of the Parish Council are noted regarding the principle of the development.

4.3 The application site is located outside the defined development limits of any settlements and is located within the Green Belt.

4.4.1 Policy SP2 (d) of the Core Strategy states "...in Green Belt, including villages washed over by the Green Belt, development must conform with Policy SP3 and national Green Belt policies".

4.5 Policy SP3B of the Core Strategy states "...In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted".

- 4.6 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 appropriate or inappropriate development in the Green Belt.
  - b) If the development is appropriate, the application should be determined on its own merits.
  - 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 clearly outweigh the presumption against it.
- 4.7 The guidance within the NPPF paragraph 145 states "...A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt". Exceptions to this are [amongst other things] the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; or the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
- 4.8 The proposal would not fall into any of the exceptions set out within paragraph 145 of the NPPF, and would not comprise any of the other forms of development which are not inappropriate in the Green Belt.
- 4.9 Therefore, the proposal is considered to be inappropriate development in the Green Belt.
- 4.10 Paragraph 143 of the NPPF sets out "Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".
- 4.11 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations" (paragraph 144 of the NPPF).

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

- 4.12 The comments of the Parish Council are noted regarding the impact of the proposal on the character and appearance of the area.
- 4.13 The application seeks retrospective planning permission for the demolition of a two storey end of terrace dwelling and the construction of two storey end of terrace dwelling on the footprint of existing dwelling, as extended by planning permission reference 2018/0205/HPA.
- 4.14 The proposed dwelling would have the same layout, scale and appearance as the dwelling which was previously located at the site and permitted to be extended by the previous planning permission (reference 2018/0205/HPA).

- 4.15 The dwelling previously located at the site was a two storey end of terrace dwelling with a pitched roof, which benefitted from a single storey flat roof projection to the south west corner of the dwelling. The earlier consent granted planning permission for a part two storey, part single storey side and rear extension. Under that application, it was considered that the extended dwelling would not have any adverse impact on the character and appearance of the area, subject to a condition requiring the materials to be used in the external construction of the extensions to match the existing dwelling. This proposed dwelling would have a similar layout, scale and appearance as the previously approved extended dwelling and as such the proposed dwelling is considered acceptable in respect of the impact on the character and appearance of the area.
- 4.16 It is noted from officer site photographs taken in relation to the earlier consent that the materials used in the original construction of the walls of 1 Railway Cottages were different to those used in the external construction of 2-4 Railway Cottages - being a smooth reddish brick as opposed to a rough brownish brick. The materials currently being used in the external construction of the walls of the development are a smooth reddish brick of similar appearance to the now demolished dwelling, which is considered to be acceptable. The submitted application form sets out those materials to be used in the external construction of the roof would be concrete tiles to match the now demolished dwelling, which is considered acceptable and further details of the roof materials can be secured by way of condition.
- 4.17 Subject to the aforementioned condition, 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**

- 4.18 Since the proposed dwelling would have the same layout, scale and appearance as the dwelling which was previously located at the site and permitted to be extended by the earlier consent, it is considered that the extended dwelling would not have any adverse impact on the residential amenity of any neighbouring properties.
- 4.19 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**

- 4.20 The proposed development would be served from an existing vehicular access and would benefit from car parking spaces within the application site.
- 4.21 NYCC Highways has been consulted on the proposals and have not raised any objections to the proposals subject to a condition requiring 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.

- 4.22 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.

### **Impact on Heritage Assets**

- 4.23 The comments of the Parish Council are noted regarding the impact of the proposal on heritage assets.
- 4.24 The application has been advertised as affecting the setting of a listed building, that being the Grade II listed Burton Salmon War Memorial located approximately 11 metres to the south east of the application site.
- 4.25 The Councils Conservation Officer has been consulted on the proposals and has not raised any objections in terms of the impact of the proposal on the setting of the nearby listed building.
- 4.26 Having regard to the above, it is considered that the proposal would not cause any harm to the setting of the nearby listed buildings in accordance with Policies SP18 and SP19 of the Core Strategy, S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and the advice contained within the NPPF.

### **Flood Risk and Drainage**

- 4.27 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.28 In terms of drainage, the submitted application form sets out that surface water would be disposed of via soakaway, while foul sewage would be disposed of via main sewer.
- 4.29 The Selby Internal Drainage Board have advised if the surface water is to be disposed of via a soakaway system, they would have no objection in principle, but would advise that the ground conditions in this area may not be suitable for soakaway drainage. The Board therefore advise that it is essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If soakaway testing proves unsuccessful, the applicant would need to consider another means of surface water disposal. A condition could be attached to any planning permission granted requiring drainage works to be agreed.
- 4.30 Yorkshire Water have advised that they have no objections to the proposals, subject to a condition that there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority prior to the commencement of development. This duplicates the requirements of the condition requested by the Internal Drainage Board and as such is not considered reasonable and necessary.
- 4.31 Subject to the aforementioned condition, it is considered the proposals are acceptable in respect of flood risk and drainage.

## **Nature Conservation and Protected Species**

- 4.32 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.
- 4.33 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.
- 4.34 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**

- 4.35 The application has been supported by a planning application form and a contaminated land screening assessment form. The planning application form sets out that the proposed use would not be particularly vulnerable to the presence of contamination, but as the proposed use of the site would be for residential, it is considered that the proposed use would be vulnerable to the presence of contamination.
- 4.36 The contaminated land screening assessment form sets out that the current use of the land is for domestic purposes and that the proposed use of the land is for domestic purposes. In terms of the past land use, the contaminated land screening assessment form sets out that the site has been used for domestic purposes over the past 150 years, while adjacent land is currently used for domestic purposes and has been used for these purposes over the past 150 years. A search of historic maps confirms the site has been used for domestic purposes for a significant number of years prior to which it was used for commercial purposes as a brewery. The adjacent land has been used for domestic, commercial agricultural purposes. The contaminated land screening assessment sets out that there have been no fuels or chemicals stored on the site, no waste disposal activities have been carried out on the site and there is no evidence of demolition at the site. Clearly there has been demolition at the site, which has resulted the current application. Taking into account all of the above, it is considered that there is limited potential contamination to be present at the site. 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.
- 4.37 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**

- 4.38 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.

- 4.39 However, in the context of the West Berkshire decision and following the publication of the revised NPPF (2018) it is considered that there are material considerations of substantial weight which outweigh the policy requirement for the commuted sum. It is therefore considered that having had regard to Policy SP9 and the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

### **Determining Whether Very Special Circumstances Exist**

- 4.40 It has been determined earlier in this report that the proposal is inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. No other harm resulting from the proposal has been identified. Therefore it is necessary to consider whether very special circumstances exist which outweigh the harm to the Green Belt by reason of its inappropriateness.
- 4.41 The application seeks retrospective planning permission for the demolition of a two storey end of terrace dwelling and the construction of a replacement two storey end of terrace dwelling which would have the same layout, scale and appearance as the dwelling which was previously located at the site and permitted to be extended by the earlier consent.
- 4.42 The applicant has advised, in the submitted Design and Access Statement, that the earlier consent for the demolition of the single storey projection to the south west corner of the existing dwelling, the demolition of the gable and rear walls of the existing dwelling and the rebuilding of the roof would have meant that only the front wall of the dwelling was to remain.
- 4.43 When the demolition of the gable and rear walls commenced, the applicant advises that it became apparent that the front wall was built without foundations, was unstable and in a dangerous condition. Therefore, on the advice of the builder, the applicant advises that the front wall of the dwelling was also demolished with a view to rebuilding to match existing. The applicant acknowledges that the planning permission granted under reference 2018/0205/HPA did not permit the full demolition of the dwelling but contends that planning permission did grant extensive works to the dwelling, which meant that only the front wall of the dwelling was to remain. In addition to this, the applicant notes that there were works proposed to alter the openings in the front elevation, so in effect, not even the full extent of the front elevation would have remained as part of the proposals.
- 4.44 Having reviewed the plans submitted as part of the earlier consent, officers note that the proposed works would have left little of the existing front elevation. The works permitted under planning permission 2018/0205/HPA, although assessed and permitted as extensions to an existing dwelling, were tantamount to the creation of a new dwelling in this location. It is therefore considered that through planning permission 2018/0205/HPA, the Local Planning Authority has effectively granted planning permission for the erection or 'replacement' of a new

dwelling, as per the current proposals and therefore it would be unreasonable for the Local Planning Authority not to allow the proposed development.

- 4.45 It is considered that the above situation amounts to very special circumstances which outweigh the harm to the Green Belt by reason of its inappropriateness.

## 5. CONCLUSION

- 5.1 The application seeks retrospective planning permission for the demolition of a two storey end of terrace dwelling and the replacement by a two storey end of terrace dwelling on the footprint of existing dwelling, as extended by planning permission reference 2018/0205/HPA.
- 5.2 Although this is by definition ‘inappropriate development’ the sequence of events described above is considered to constitute ‘very special circumstances’. These very special circumstances are such that the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.
- 5.3 No other harm resulting from the proposal has been identified. Therefore it is concluded very special circumstances exist which outweigh the harm to the Green Belt by reason of its inappropriateness.
- 5.4 The application should therefore be granted.

## 6. RECOMMENDATION

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

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

LOC01 – Location Plan  
18.01.01 B – Layout Plan  
18.01.02 – Existing Ground Floor Plan  
18.01.03 – Existing First Floor Plan  
18.01.04 – Existing Elevations  
18.01.05 D – Proposed Ground Floor Plan  
18.01.06 D – Proposed First Floor Plan  
18.01.07 E – Proposed Elevations  
18.01.08 A – Proposed Sections

Reason:

For the avoidance of doubt.

02. No external facing materials shall be applied to the roof(s) of the development hereby permitted, until details of the materials to be used in the construction of the exterior roof(s) of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. 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.

03. Within three months of the date of this permission, a Scheme for the provision of surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Internal Drainage Board. Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered:

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse. Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 20% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

**Reason:**

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.

04. 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 2018/0852/FUL and associated documents.

**Contact Officer:**

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**Appendices:**

None