



Report Reference Number: 2018/1141/OUT

To: Planning Committee
Date: 16 January 2019
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/1141/OUT	PARISH:	South Milford Parish Council
APPLICANT:	Mr C Georgiou	VALID DATE: EXPIRY DATE:	10th October 2018 5th December 2018
PROPOSAL:	Outline application (with all matters reserved) for demolition of existing buildings and erection of a residential development		
LOCATION:	25 Sand Lane South Milford Leeds		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as at least 10 letters of representation have been received which raise material planning considerations and Officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined development limits of South Milford, which is a Designated Service Village as identified in the Core Strategy.
- 1.2 The application site comprises an existing bungalow, known as 25 Sand Lane, along with its associated garden land, driveway and turning and parking area; plus an attached single storey shop (Use Class A1) along with its associated turning and parking area.

- 1.3 To the south, east and west of the application site are residential properties; while to the north of the application site is Sand Lane with South Milford Community Primary School beyond.

The Proposal

- 1.4 The application seeks outline planning permission (all matters reserved) for the demolition of existing buildings and erection of a residential development. Existing buildings at the site include a bungalow and a local shop.
- 1.5 An indicative site layout plan, floor plans and elevations have been submitted with the application, which demonstrate how the site could be laid out to accommodate six two storey semi-detached dwellings, with accommodation in the roof space facilitated by roof lights. The indicative site layout plan demonstrates how the proposed dwellings would each be served by their own vehicular access and parking areas to the front (north) of the dwellings, with private amenity areas to the rear (south) of the dwellings. The suitability of the indicative site layout plan, floor plans and elevations in respect of the main issues will be discussed later in this report.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
- 1.7 An application (reference: 2016/1176/FUL) for the change of use from garage to fish and chip shop to include external and internal alterations was refused on 11th January 2017.
- 1.8 An application (reference: 2017/0874/FUL) for the proposed conversion of existing convenience store into a Fish and Chip Shop (Use Class A1 to A5) was refused on 24th October 2017.

2. CONSULTATION AND PUBLICITY

All immediate neighbours were informed by letter, a site notice was erected and statutory consultees notified

- 2.1 **Parish Council** – Object due to over development of the site relative to the surrounding area and impact on highway safety due to access and limited parking.
- 2.2 **NYCC Highways** - Due to the location of the proposed site (near a school entrance and a route to school), there are major concerns regarding the lack of a vehicle turning area for each plot.
- 2.3 **Selby Area Internal Drainage Board** - If surface water is to be directed to a mains sewer system the IDB would have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow.
- 2.4 **Yorkshire Water Services** - The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal and Yorkshire Water promotes the surface water disposal hierarchy.

The developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourses are not reasonably practical before considering disposal to public sewer. Only as a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event. The developer will be also required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of YWS/the LPA by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted. Therefore, no objections, subject to a condition regarding the above.

- 2.5 **Environmental Health** - The site is bounded by residential and as such residents are likely to experience disturbance during demolition and construction works, notably from noise and dust emissions. It is therefore recommended that a condition regarding construction hours is attached to any planning permission granted.
- 2.6 **Waste And Recycling Officer** - Access to the properties would be via the existing highway and so presents no concerns in terms of waste collection. As there are more than four properties, the developer would be required to purchase the waste and recycling containers for this development.
- 2.7 **Neighbour Summary** – All immediate neighbours were informed by letter and a site notice was erected. Eleven letters of representation have been received as a result of this advertisement, all objecting to the application on grounds that may be summarised as:
- overdevelopment of the site
 - inappropriate design and adverse impact on the character and appearance of the area
 - not in accordance with the South Milford Village Design Statement
 - loss of the local shop, with the next nearest being Marks and Spencer, which is more expensive and involves crossing a busy road
 - safety of children at the school opposite
 - impact on residential amenity in terms of overlooking, overbearing, loss of privacy, loss of daylight/sunlight
 - impact on drainage
 - noise and disturbance; and comments on the publicity of the application.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located within the defined development limits of South Milford, which is a Designated Service Village as identified within the Core Strategy.
- 3.2 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)

- 3.3 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

- 3.4 The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP4 – Management of Residential Development in Settlements
- SP5 – The Scale and Distribution of Housing
- SP9 – Affordable Housing
- SP14 – Town Centres and Local Services
- SP15 – Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

- 3.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

“213....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

- 3.6 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
- S3 – Local Shops

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
- Waste and Recycling

The Principle of the 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 NPPF.
- 4.3 Policy SP2A(a) of the Core Strategy states that *"The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints"*. Further, the policy states that *"Designated Service Villages have some scope for additional residential and small-scale employment growth to support rural sustainability and in the case of Barlby/Osgodby, Brayton and Thorpe Willoughby to complement growth in Selby. Proposals for development on non-allocated sites must meet the requirements of Policy SP4"*.
- 4.4 Policy SP4(a) of the Core Strategy states that *"in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits"*.

In Selby, Sherburn In Elmet, Tadcaster and Designated Service Villages -

"Conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale development on greenfield land (including garden land and conversion/redevelopment of farmsteads)."

- 4.5 Policy SP4(d) of the Core Strategy states that *"Appropriate scale will be assessed in relation to the density, character and form of the local area and should be appropriate to the role and function of the settlement within the hierarchy."*
- 4.6 The proposed plans that have been submitted with the application seek to show how the site could be laid out to accommodate six two storey semi-detached dwellings, with accommodation in the roof space facilitated by roof lights. The indicative site layout shows how the proposed dwellings would each be served by their own vehicular access and parking areas to the front (north) of the dwellings, with private amenity areas to the rear (south) of the dwellings.
- 4.7 Having considered these plans, to see if six can be accommodated on the site, the scheme would not be of an appropriate scale in relation to its density, character and form relative to the local area. The indicative plans do not demonstrate how six might be accommodated on the site.
- 4.8 However, since the plans submitted are for indicative purposes only and the description of development is for the erection of a residential development, with no numbers or types of dwellings specified there is no doubt that the site can accommodate some residential development. A scheme could be designed to be of

an appropriate scale of development on greenfield land and as such the proposal is considered to fall within one of the types of development identified within Policy SP4(a) of the Core Strategy and therefore the proposal is considered to be acceptable in principle, without specifying numbers, in accordance with Policies SP2 and SP4 of the Core Strategy. It would be entirely appropriate to include an informative on any approval to indicate that the indicative plans have no status and that, furthermore the Committee do not find the present indicative layout or character of the indicative plans acceptable.

Loss of Local Shop

- 4.9 The proposal involves the demolition of existing buildings at the site, including a local shop.
- 4.10 Policy SP14A of the Core Strategy states that *“The health and wellbeing of town centres, and local shopping facilities and services will be maintained and enhanced”*.

On Local Shops and Services Outside Established Town Centres – the policy reads:

“Supporting local shops and services....by resisting the loss of existing facilities and promoting the establishment of new facilities to serve the day-to-day needs of existing communities and the planned growth of communities”.

- 4.11 Policy S3B of the Selby District Local Plan states that *“Outside Selby, Tadcaster and Sherburn in Elmet, proposals involving a loss of retailing (Class A1) use, or loss of a public house (Class A3), will not be permitted unless: (1) It can be demonstrated that there is alternative provision of a similar type of use within reasonable walking distance; or (2) It can be shown that the business is no longer viable for retail purposes within its existing use class, and that it has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms”*.
- 4.12 The applicants contend that there is alternative provision of a similar type of use within reasonable walking distance and that the business is no longer viable for retail purpose within its existing use class.
- 4.13 It is not considered that the requirements of the second part of Policy S3B have been demonstrated as the applicants have merely stated that the business is no longer viable for retail purposes and have not provided any evidence to demonstrate this claim or that the premises has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms. However, there are two limbs to the policy. There is an A1 retail unit within a two minute walk of the application site (which is currently occupied by Marks and Spencer). Therefore, there is alternative provision of a similar type of use within reasonable walking distance and the proposal would thus satisfy the first part of Policy S3B. Proposals are only required to satisfy one of the above tests to comply with Policy S3B relating to the loss of retailing (Class A1).

- 4.14 Having regard to the above, the proposal is considered to be acceptable in principle and in accordance with Policy SP14 of the Core Strategy and Policy S3 of the Selby District Local Plan.

Design and Impact on the Character and Appearance of the Area

- 4.15 The application site is an existing bungalow, known as 25 Sand Lane, plus an attached single storey shop along with its associated turning and parking area.
- 4.16 The application site is located within a predominantly residential area, with residential properties within the immediate vicinity of the application site comprising a mixture of bungalows and two storey detached, semi-detached and terraced dwellings of varying size and design.
- 4.17 The residential development of the site can be acceptable in principle and the reserved matters – layout, scale, appearance which would include materials and design, for example are not in front of the authority presently and any consent would not give any status to the indicative plans.
- 4.18 It is therefore considered that a scheme could be designed with an appropriate layout, appearance, scale and landscaping at reserved matters stage to ensure that the proposed development would not have a significant adverse impact on the character and appearance of the area 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

- 4.19 Whilst the specific impact upon neighbours and residential amenity as a whole cannot be determined at the outline stage, it is considered that a scheme could be designed with an appropriate layout, appearance, scale and landscaping. In the circumstances, it will be possible to regulate the development at the reserved matters stage to that there are no unacceptable effects upon residential amenity.
- 4.20 The Environmental Health Officer has raised concerns that the construction phase of the development could result in existing residential properties surrounding the development site being subject to disturbance from dust and noise. The Environmental Health Officer therefore recommends that a condition is attached to any planning permission granted relating to construction hours, which is considered reasonable and necessary given the context of the application site.
- 4.21 Subject to the aforementioned condition, it is considered that an appropriate scheme could be achieved at the reserved matters stage, which would not result in any significant detrimental impacts on the residential amenities of the occupiers of the existing or proposed dwellings in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.22 The indicative proposed site layout plan (drawing no. 15066- P300 B) submitted with the application demonstrates how the site could be laid out to accommodate

six two storey semi-detached dwellings, each served by their own vehicular access and parking areas to the front (north) of the dwellings.

- 4.23 NYCC Highways have been consulted on the proposals and have advised that, based on the indicative proposed site layout plan, there are major concerns regarding the lack of a vehicle turning area for each plot due to the location of the application site near a school entrance and on a route to school.
- 4.24 However, the access is reserved for subsequent approval at the reserved matters stage and the extent to which existing properties have their own on curtilage turning areas would be a matter for consideration at that stage. There would be a concern about the indicative multiple crossovers and any scheme would need to reduce the number of dwellings proposed in order to reduce the number of parking and turning areas required to be accommodated within the application site.
- 4.25 Thus, it is considered that an appropriate scheme could be achieved at the reserved matters stage which would be acceptable in terms of highway safety 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

- 4.26 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.27 In terms of drainage, the submitted application form sets out that surface water would be disposed of via mains sewer but does not set out how foul drainage would be disposed of. The Selby Area Internal Drainage Board and Yorkshire Water have been consulted on the proposal and have not raised any objections subject to a condition regarding surface water drainage.
- 4.28 Subject to the aforementioned condition, it is considered that the proposals are acceptable in terms of flood risk and drainage.

Land Contamination

- 4.29 The application has been supported by a planning application form and a contaminated land screening assessment form.
- 4.30 Having reviewed the contaminated land screening assessment form 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 which will ensure that if there is any contamination identified in the course of the works of development this can be appropriately mitigated.
- 4.31 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

- 4.32 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 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.
- 4.33 However, the NPPF is a material consideration and states at paragraph 63 - *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount”*. Major development is defined in Annex 2: Glossary as *“For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”*.
- 4.34 The application is outline; however an indicative proposed site layout shows six dwellings. Given the proposed number of dwellings is below 10 (and Officers do not consider that the site could accommodate 10 or more dwellings) and the site area is less than 0.5 hectares, the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore concluded that there is no requirement to provide affordable housing.

Waste and Recycling

- 4.35 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be approved a condition could be imposed to secure a scheme for the provision of waste and recycling.

5. CONCLUSION

- 5.1 The application seeks outline planning permission (all matters reserved) for the demolition of existing buildings and the erection of a residential development. Notwithstanding the details shown on the indicative layout, floor and elevation plans submitted with the application, it is considered that a scheme could be designed (in terms of layout, scale and appearance) to be of an appropriate scale of development on greenfield land and as such the proposal is considered to fall within one of the types of development identified within Policy SP4(a) of the Core Strategy. Furthermore, in terms of the loss of the local shop, there is alternative provision of a similar type of use within reasonable walking distance and the proposal is considered to be acceptable in principle in accordance with Policy SP14 of the Core Strategy and Policy S3 of the Selby District Local Plan.
- 5.2 Having assessed the proposals against the relevant policies, it is considered that an appropriate layout, scale, appearance, landscaping and access could be achieved at the reserved matters stage for the proposals to be acceptable in respect of the impact on the character and appearance of the area, impact on residential amenity and impact on highway safety. Furthermore, the proposals are considered to be

acceptable in respect of flood risk and drainage, nature conservation and protected species, land contamination, affordable housing and waste and recycling.

6. RECOMMENDATION

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

01. Applications for the approval of the reserved matters referred to in Condition 2 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. Approval of the details of the (a) appearance, (b) landscaping, (c) layout, (d) scale and (e) the means of access to the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990.

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

15066-S100 – Site Location Plan

Reason:

For the avoidance of doubt.

04. No construction works shall take place on site outside the hours of 8am-6pm Monday to Friday, 9am to 1pm Saturday, or at all on Sundays and Bank Holidays.

Reason:

In interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan.

05. 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. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-

a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;

- b) evidence of existing positive drainage to public sewer and the current points of connection; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change

Reason:

To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.

06. 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.

07. Prior to the occupation of any dwelling, waste and recycling provision shall be provided for each of the dwellings.

Reason:

In order to comply with the Adopted Developer Contribution Supplementary Planning Document (2007).

INFORMATIVE:

The indicative layout plans submitted with this application (15066- P300 B, 15066-P301 A and 15066-P302 A) have been dealt with on this basis and do not form a part of this approval. The local planning authority would advise that the indicative three pairs of semi-detached properties would not be in keeping with the character of the locality and would thus, without prejudice, not have the authority's support.

7. Legal Issues

7.1 Planning Acts

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

7.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

7.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

8. Financial Issues

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

9. Background Documents

Planning Application file reference 2018/1141/OUT and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None