



Report Reference Number: 2018/0646/FUL

To: Planning Committee
Date: 6 February 2019
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0646/FUL	PARISH:	Hensall Parish Council
APPLICANT:	Mr Stephen Hill & Mrs Deborah Hill	VALID DATE: EXPIRY DATE:	7th June 2018 2nd August 2018
PROPOSAL:	Proposed erection of a two storey dwelling and detached double garage		
LOCATION:	A19 Caravan Storage Limited Hazel Old Lane Hensall Goole East Yorkshire DN14 0QA		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as application is recommending approval contrary to Policy SP2 of the Core Strategy.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of Hensall and is therefore located within the open countryside.
- 1.2 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 1.3 The proposed scheme is located on grassed land which is adjacent to A19 Caravan Storage which is located on the north and west boundaries of the application site. To the north and west of the site there are 2metre high grass bunding which

provides screening to the application site and there is 2metre high galvanised metal fence to the east boundary. To the south of the site there are a cluster of residential properties which vary in height, size, scale, design and materials used.

The Proposal

- 1.4 The application seeks full planning permission for the erection of a two storey dwelling and detached double garage.

Relevant Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
- 1.6 Application Number: 2009/0013/COU,; Change of Use of land from HGV parking and agriculture to storage of caravans and leisure vehicles, PERMITTED
- 1.7 Application Number: 2014/1314/OUT,; Outline application with all matters reserved for the erection of a single dwelling, PERMITTED
- 1.8 Application Number: 2015/0918/REM,; Reserved matters application for the erection of a detached dwelling following outline approval 2014/1314/OUT (8/38/125J/PA), PERMITTED
- 1.9 Application Number: 2016/0251/FUL,; Proposed erection of single storey building for caravan maintenance, associated offices, storage and toilet facilities., PERMITTED
- 1.10 Application Number: 2016/0752/COU,; Extension to existing caravan parking site, removal of grassed embankment in part and erection of a 2.4m high replacement acoustic fence. Change of use from vacant scrubland to caravan parking site PERMITTED

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No response received.

- 2.2 **NYCC Highways** — No objections subject to conditions attached to any consent granted regarding:

- Private Access/Verge Crossings: Construction Requirements
- Visibility Splays
- Provision of Approved Access, Turning and Parking Areas
- Garage Conversion to Habitable Room
- On-site Parking, on-site Storage and construction traffic during Development

- 2.3 **Danvm Drainage Commissioners Shire Group Of IDBs** – No objection subject to a condition.

- 2.4 **Yorkshire Water** – No response received.

- 2.5 **Neighbour Summary** – The application was advertised by site and press notice as a departure to the Local Plan and neighbours notified by letter. No neighbour representations have been received as a result.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside the defined development limits of Hensall and is therefore located within the open countryside.
- 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.

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

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
 - 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

4. APPRAISAL

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

- 1) Principle of the development
- 2) Climate change
- 3) Flood Risk and Drainage
- 4) Design and Impact on the character and form of the area
- 5) Affordable Housing
- 6) Impact on Residential Amenity
- 7) Highway Safety Issues
- 8) Protected Species
- 9) Contaminated Land

The Principle of the Development

- 4.2 The site lies outside development limits of Hensall and the application is for the proposed erection of a two storey dwelling and detached double garage (amendment to dwelling previously approved under 2014/1314/OUT and 2015/0918/REM)
- 4.3 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 4.4 The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are considered to be contrary to Policy SP2 of the Core Strategy.
- 4.5 It is established case law that if an applicant can demonstrate a ‘fall-back’ position, this may constitute a material consideration to be taken into account in determining the application. A ‘fall-back’ is an existing consent which is capable of being implemented irrespective of the decision on this current application. Under Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314, which concerned the redevelopment of a site of a large barn and a bungalow to provide four dwellings, Lindblom LJ confirmed the legal considerations in determining the materiality of a fall-back position as a planning judgement were: (1) the basic principle is that for a prospect to be a “real prospect”, it does not have to be probable or likely: a possibility will suffice; (2) there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the

alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand. In this case there is an extant planning permission for the erection of 1 dwelling under application number 2014/1314/OUT and 2015/0918/REM and officers consider that there is a real prospect of it being implemented.

- 4.6 Outline planning permission 2014/1314/OUT was granted consent on the 23rd April 2015 and the reserved matters application was granted on 12th May 2017 subject to conditions and therefore is capable of implementation up until 12th May 2019. The extant planning permission is considered as a clear fall-back position that is a material consideration of sufficient weight to justify development that does not accord with Policy SP2 of the Core Strategy, as the erection of 1 dwelling already has planning permission in this location.

Climate Change

- 4.7 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. It must be acknowledged that the proposal is for the creation of a dwelling on a site that is in close proximity to the services of designated service village. The proposed development therefore complies with parts (a), (f) and (g). The proposal's ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is therefore limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of SP15 (B) (b), (c) (d), and (e) of the Core Strategy Local Plan.
- 4.8 Part (h) of Policy SP15 (B) refers specifically to the requirement to fulfil part (a) of Policy SP16 of the Core Strategy Local Plan. The proposed development is below the threshold of 10 dwellings and this part of the policy is therefore not applicable in this case. Policy SP16(c) requires development schemes to employ the most up to date national regulatory standard for code for sustainable homes which the proposed development would do through the current Building Regulations regime. Therefore having had regard to policies SP15 (B) and SP16 (a) & (c) of the Core Strategy Local Plan it is considered that the proposal is acceptable.

Flood Risk and Drainage

- 4.9 Firstly addressing the issues of flood risk, the application site is within Flood Zone 1. The application form states the proposed scheme will dispose of surface water via a soakaway and foul sewerage via the septic tank. The application has received no response from Yorkshire Water and the IDB have stated "If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year." The scheme is therefore acceptable subject a planning condition attached to any consent granted which ensures that percolation tests are

undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year

- 4.10 On the basis of the above the proposed scheme is considered to be acceptable in terms of flood risk and drainage and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

Impact on the Character and Form of the area

- 4.11 The proposed scheme is located on grassed land which is adjacent to A19 Caravan Storage which is located on the north and west boundaries of the application site. To the north and west of the site there is a 2metre high grass bunding which provides screening to the application site and there is a 2metre high galvanised metal fence to the east boundary. To the south of the site there are a cluster of residential properties which vary in height, size, scale, design and materials used.
- 4.12 The application site has an extant planning permission for a detached 2 storey 4 bedroom dwelling, which measures 4.8metres to the eaves and 7.2metres to the ridge under application reference numbers 2014/1314/OUT and 2015/0918/REM. This proposed scheme is also seeking consent for a 2 storey 4 bedroom dwelling which would measure 4.8metres to the eaves and 8.6metres to the ridge. Through the submission of amended plans a detached garage has now been located to the side of the dwelling. This was previously located forward of the front wall of the dwelling as was considered by Officers to be out of keeping of the character and the form of the area.
- 4.13 The proposed layout has sufficient space in relation to neighbouring boundaries and the proposal has a simple symmetrical fenestration detail which is sympathetic to the character and form of the surrounding area. The proposed layout involves parking immediately adjacent to the front elevation with a grassed garden area to the rear. The proposed scheme shows a 1.8metre timber fencing to the side and rear boundaries and a 1.5metre high brick is proposed to the front boundary which is considered to be in keeping with the character and form of the area.
- 4.14 The proposed scheme therefore accords with Policy ENV1 of the Selby District Local Plan SP4, SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

- 4.15 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. 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.
- 4.16 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Impact on Residential Amenity

- 4.17 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the sheer size, scale and massing of the development proposed.
- 4.18 The proposed dwelling is 28metres away from the nearest dwelling Alsuno Old Hazel Lane and due to the combination of the orientation of the site, the size, scale orientation and siting of the proposed scheme and distance away from the neighbouring properties, the proposal is considered not to cause any significant adverse effects of overlooking, overshadowing or oppression.
- 4.19 Having had regard to the above, the proposed development by virtue of the separation distances, orientation and layout of the site ensures that the dwelling would not cause a significant detrimental impact on the residential amenities of the neighbouring properties in accordance with policies ENV1 (1) Selby District Local Plan SP19 of the Core Strategy and the advice contained within the NPPF.

Highway Safety Issues

- 4.20 The Highways Officer has been consulted on the proposals and has raised no objections subject to the following planning conditions attached to any consent granted:
- Private Access/Verge Crossings: Construction Requirements
 - Visibility Splays
 - Provision of Approved Access, Turning and Parking Areas
 - Garage Conversion to Habitable Room
 - On-site Parking, on-site Storage and construction traffic during Development
- 4.22 The above conditions are considered to meet the conditions test apart from the condition relating to Garage Conversion to Habitable Room. Officers considered this to be unnecessary as the development has a sufficient amount of space to park on the site. Therefore this condition will not be imposed. It is considered that the development would not cause a significant impact with regard to highway safety and the impact on the surrounding highway network in accordance with Policy SP19 of the Core Strategy Local Plan, Policies ENV 1 (2) & T2 of the Local Plan and the advice contained within the NPPF.

Protected Species

- 4.23 The site is not a protected site for nature conservation nor is it known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest. As such it is considered that the proposed would not harm any acknowledged nature conservation interests and therefore accords with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the NPPF.

Land Contamination

- 4.24 The submission of approved Reserved Matters application 2015/0918/REM discharged condition 7 of the outline 2014/1314/OUT consent. With this being the case a condition will be imposed that the development shall be carried out in accordance ground gas monitoring and risk assessment approved in planning permission 2015/0918/REM. The proposed scheme therefore accords with Policies ENV2 of the Local Plan and SP19 of the Core Strategy and the NPPF

5. CONCLUSION

- 5.1 The application is for the erection of one dwelling and the proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are considered to be contrary to Policy SP2 of the Core Strategy. The proposed development doesn't accord with the development plan when looked at as a whole – even though it may be consistent with individual policies. However, outline planning permission 2014/1314/OUT was granted on the 23rd April 2015 and the reserved matters application was granted on 12th May 2017 subject to conditions and therefore is capable of implementation up until 12th May 2019 and officers consider that there is a real prospect of the extant planning permission being implemented. The extant planning permission is considered as a clear fall-back position that is a material consideration of sufficient weight to justify a departure from policy SP2 of the Core Strategy, as the erection of 1 dwelling already has planning permission in this location.
- 5.2 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not have a detrimental effect on the open countryside, form and character of the area, highway safety, climate change, flood risk, drainage, protected species, contaminated or the residential amenity of the occupants of neighbouring properties. The application is therefore considered to be in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP1, SP4, SP15, SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

6. RECOMMENDATION

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

1. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

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

2. The development hereby permitted shall not be carried out otherwise in complete accordance with the approved plans and specifications.

Location Plan LOC01
Proposal Dwg No: 03

Reason:

For avoidance in doubt

3. The materials to be used in the construction of the exterior walls shall use Mullberry and Cinnabar Red Brick and shall use grey concrete tile on the exterior roofs.

Reason:

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

4. The development shall be carried out in accordance ground gas monitoring and risk assessment approved in planning permission 2015/0918/REM.

Reason

In the interests of contaminated land and in accordance with policies ENV2 of the Local Plan and SP19 of the Core Strategy and the NPPF

5. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
 - The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6.
 - Provision shall be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the Specification of the Local Highway Authority.

All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.HI-03

Reason

In accordance with policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience

6. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 45m(south) and 215m (north) measured along both channel lines of the major road (Old Hazel Lane) from a point measured 2m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 0.6m. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason

In accordance with policies ENV1, T1 and T2 of the Selby District Local Plan and in the interests of road safety.

7. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas. Once created these areas shall be

maintained clear of any obstruction and retained for their intended purpose at all times.

Reason

In accordance with policies ENV1, T1 and T2 of the Selby District Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

8. There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:
 - on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
 - On-site materials storage area capable of accommodating all materials required for the operation of the site. The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

Reason

In accordance with policies ENV1, T1 and T2 of the Selby District Local Plan and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

INFORMATIVES:

- 1) You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.
- 2) Mud on the Highway. You are advised that any activity on the development site that results in the deposit of soil, mud or other debris onto the highway will leave you liable for a range of offences under the Highways Act 1980 and Road Traffic Act 1988. Precautions should be taken to prevent such occurrences.

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 2018/0646/FUL and associated documents.

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Appendices: None