



Report Reference Number 2017/0219/FUL (8/35/56G/PA)

To: Planning Committee
Date: 20 March 2019
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0219/FUL	PARISH:	Cawood Parish Council
APPLICANT:	Mr Jon Sheard	VALID DATE:	29th September 2017
		EXPIRY DATE:	24th November 2017
PROPOSAL:	Proposed conversion of existing residential ancillary building to separate dwelling		
LOCATION:	New House Wistowgate Cawood Selby North Yorkshire YO8 3SL		
RECOMMENDATION:	APPROVE		

This application is to be determined by the Planning Committee since it does not accord with Policy H12 (1) of the Selby District Local Plan. This requires in that the conversion of rural buildings to residential use in the open countryside will only be permitted where (amongst other criteria) it can be demonstrated that the building or its location is unsuited to business use or there is no demand for buildings for those purposes in the immediate locality. Since the proposal would comply with all other relevant criteria, it is considered that there are material considerations which support the application and the recommendation for approval.

1. Introduction and background

The Site

- 1.1 The application site is located outside of the development limits of Cawood and therefore located within the open countryside.
- 1.2 Further to this, the site includes part residential and part agricultural land and is located near to a number of existing residential properties which are surrounded by open fields.

The Proposal

- 1.3 The application seeks to convert an existing rural building to a residential dwelling.
- 1.4 It is noted that the proposal description states that the outbuilding in question is a residential ancillary out building. The planning history makes clear that the land had an agricultural tie until 2017 and further to this an application was submitted in 2010 for the change of use of two agricultural outbuildings to use one building as motor mechanic garage and one building as metal fabrication business. Though there is no evidence to suggest that this was implemented. Furthermore, from a site visit it does not appear to be residential in use at present and therefore it is considered that it is more correctly described as a rural building.
- 1.5 Further to this, it is noted that the agent has submitted additional information in terms of the use of the building in question and considers that application reference, 2009/0217/CPE for a certificate of Lawful Development for continued non-compliance with agricultural occupancy, confirms the out buildings as being residential. However, confirmation has been provided to the agent that this certificate of lawfulness only relates to the non-compliance with the agricultural occupancy condition on the house within the wider curtilage of the site and therefore does not relate to the change of the use of the outbuildings to residential use.
- 1.6 The proposal would involve the retention of all external walls and roofing materials and would only involve internal works. Therefore, the proposal would not involve any significant external changes other than the insertion of a number of new openings.

Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application:
 - 2017/0583/FUL, Section 73 application for the removal of condition 4 of approval CO/1977/16373 (8/35/56A/PA) Erection of a dwelling house, garage and siting of implement shed for market garden. Permitted, 05.09.2017.
 - 2010/0803/COU, Change of use of two agricultural outbuildings to use one building as motor mechanic garage and one building as metal fabrication business. Permitted, 01.12.2010.
 - 2009/0217/CPE, Certificate of Lawful Development for continued non-compliance with agricultural occupancy. Permitted, 27.04.2009.
 - 2007/0112/FUL, Section 73 application to continue residential occupancy without complying with condition 4 of permission 8/35/56A/PA relating to agricultural occupancy. Withdrawn, 05.04.2007.
 - CO/1994/0741, Proposed erection of an attached garage and the creation of a new vehicular access. Permitted, 11.08.1994.

- CO/1977/16373, Erection of a Dwelling house Garage & Siting of Implement Shed for Market Garden
- CO/1976/16372, Outline App For The Erection Of House & Garage. Permitted, 22.12.1976.

2. Consultations and Publicity

- 2.1 The application has been advertised as a Departure through press and site notices and adjoining neighbours have been notified directly.
- 2.2 **Parish Council** – The Cawood Parish Council have raised no objections to the proposed development. However, the Parish Council have commented that the proposal description is incorrect as the building has never been a residential ancillary building, it is an outbuilding.
- 2.3 **North Yorkshire Bat Group** – No comments received within the statutory consultation period.
- 2.4 **The Environment Agency (Liaison Officer)** – The Environment Agency has raised no objections to the proposed development.
- 2.5 **Environmental Health** – Environmental Health have raised no objections to the proposed development. However have suggested an informative relating to the proposed use of a package treatment plant for the disposal of foul sewage as the installation of a new foul drainage system will require building regulation approval in addition to appropriate consent to discharge issued by the Environment Agency.
- 2.6 **Natural England** - Natural England has no comments to make on this application.
- 2.7 **Yorkshire Water** – No comments received within the statutory consultation period.
- 2.8 **NYCC Highways Canal Rd** – NYCC Highways have raised no objections to the proposed development.
- 2.9 **Selby Area Internal Drainage Board** – The IDB have raised no objections to the proposed development. However, the IDB have commented that the application may increase the impermeable area to the site. Therefore, the applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the area.

The IDB's current guidelines for any increase in surface water discharge are as follows:-

- 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.
- If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water

Authority are satisfied that the existing system will accept this additional flow.

- If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or green field runoff.
- No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB.

2.10 **Natural England** – Natural England have no comments to make on this application.

2.11 **The Environment Agency (Liaison Officer)** - This application lies within flood zone 2 and is classed as more vulnerable. The applicant's flood risk assessment should be assessed in line with the NPPF and its associated planning practice guidance and the application complies with any local planning guidance, such as that within your strategic flood risk assessment.

2.12 **Council's Contaminated Land Consultant** – No objections subject to conditions.

2.13 **Neighbour Summary** – All immediate neighbours were informed by letter, a site notice was erected and an advert placed in the local press. It is noted that 13 replica letters of support with different signature were received in relation to the original proposals relating to the design and sustainability of the proposal. However, following re consultation on the amended scheme no comments were received.

3. Site Constraints and Policy Context

Constraints

3.1 The site is in the open countryside without allocation.

Policy Context

3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *"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"*.

3.3 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. Paragraph 213 provides as follows:-

"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)."

3.4 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.

3.6 The principal Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP19 - Design Quality

3.7 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 in relation to the presumption in favour of sustainable development and decision taking.

3.8 Development in the countryside is limited in SP2 to the replacement or extension of existing buildings, the re-use preferably for employment and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy.

3.9 Policy SP19 promotes high quality design and provides that development proposals should have regard to local character, identity and context including being accessible to all.

Selby District Local Plan

3.10 The relevant Selby District Local Plan Policies are as follows:

3.11 Policy H12 is the principal policy which would support the conversion of rural buildings to residential use in the countryside. The relevant criteria include where it is unsuited for or there is no demand for business use; it is the best means of conserving a building of interest; the building is structurally sound and capable of re-use without substantial re-building; it will not require extensive alteration, rebuilding or extension outside of the fabric of the building and there will be no adverse effect upon local character and no effect upon highway safety.

- ENV1 - Control of Development which would permit good quality development subject to normal development management criteria.
- ENV2 – Pollution and contaminated land
- H12 – Conversion to residential use in the countryside

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The NPPF

3.13 Paragraph 79 of the NPPF provides as follows:-

“ Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:....

c) the development would re-use redundant or disused buildings and enhance its immediate setting...”

4 Appraisal

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

1. Principle of the use
2. Conversion not requiring substantial rebuilding or extensive alteration
3. Design
4. Impact upon amenity
5. Ecology and Protected Species
5. Contamination
6. Flood Risk

Principle of the Use

4.2 The principle of the re-use of rural buildings for residential use is supported by Policy SP2 and its commentary (para 4.31). The re-use of redundant or disused buildings is seen as an exception to avoiding isolated new homes and the commentary to the Policy includes that it would lead to an enhancement to the immediate setting. Policy SP2 (c) qualifies the re-use as preferably for employment purposes whereas the Framework which is more up to date, at para 79, has no such qualification.

Conversion/ not require substantial rebuilding or extensive alteration.

4.3 The principal tests in SDLP Policy H12 of relevance here are summarised below together with officer comments :

A) Unsited for business use.

A lack of information has been submitted in order to demonstrate that the building is unsuitable for business use. It is noted that the submitted information states that, *“The proposed building site within an existing domestic curtilage which makes business use wholly inappropriate.”* From a review of the site history the rural building in question has been used for various *business* uses which inconsistent with the contention that it is a residential ancillary use.

Though it is noted that Policy H12 (1) of the Selby District Local Plan requires in that the conversion of rural buildings to residential use in the open countryside will only be permitted where (amongst other criteria) it can be demonstrated that the building or its location is unsited to business use or there is no demand for buildings for those purposes in the immediate locality this is not a requirement of paragraph 79 of the NPPF.

B) Best reasonable means of conserving a building of interest

The building is not of architectural or historic interest and given external changes are limited to new openings it is not considered that the proposals would damage the fabric and character of the building.

- C) Structurally sound and capable of re-use without substantial rebuilding

The application is accompanied by a Structural Survey Report in support of the application. This survey concludes that, the building is structurally sound and subsequently the current proposal involves no rebuilding. Therefore, it is considered that the building is structurally sound and is capable of reuse without substantial rebuilding, unlike many other conversions where more works are required.

- D) Re-use and adaptation generally take place within the fabric and not require extensive alteration/ rebuilding or extension

All external walls and roofing would be retained therefore there would be no external works other than the insertion of a number of new openings.

- E) Conversion and creation of curtilage not to have a significant adverse effect on local character

It is noted that the wording within the commentary for Policy H12 states, *“Since the reason for permitting residential use contrary to normal countryside policies is to preserve attractive buildings in their setting, it is important to ensure that the conversion can be carried out sympathetically without damaging the intrinsic character of the building and without substantial rebuilding, extension or alteration.”* The rural outbuilding in question is not considered to be an attractive building. However, the proposed scheme would retain all the external fabric of the building (walls and roofing) with the exception of the insertion of the new openings. Therefore, there would be a limited impact on the local character of the area. The curtilage will need to be correctly defined using appropriate boundary treatment and given that the application site is located within the curtilage of an existing residential dwelling this would not have any adverse impacts on local character.

- F) Not create conditions prejudicial to highway safety

The site is served from an existing access and thus in terms of traffic generation and in the light of no highway authority objections, the access is acceptable.

- 4.3 The policy concludes that conditions may be imposed on any permission to control future extensions or alterations; this can be addressed by the removal of permitted development rights.

Design

- 4.4 The application is for the conversion of an existing rural building to a separate dwelling. In terms of the proposed external alterations these include the inclusion of two car parking spaces in terms of layout and then the insertion of a number of new openings to the existing rural building. It should be noted that all existing materials are to remain including, corrugate panel roofing and concrete block up to 2.7m high with corrugated cladding above which matches the roofing.

Impact upon Amenity

- 4.5 The neighbours have made no comments in relation to the current proposals. However, the Cawood Parish Council have raised concerns in terms of the use of the building not being a residential ancillary building and in fact an agricultural building.
- 4.6 In considering the above and given the separation and the alignment between the two properties, they would remain in line so there are no effects in either direction and Policy ENV1 is satisfied.

Ecology and Protected Species

- 4.7 The application is accompanied by a Preliminary Ecology Appraisal Report. However, that the appraisal has demonstrated that there is a very low likelihood of any such species being present, there are no outstanding objections and implementation in accordance with recommendations within section 4.3 of the report can be controlled by condition on any approval.

Contamination

- 4.8 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. The application is supported by a contaminated land screening assessment form. Comments were sought from the Council's contaminated land consultant, who raised no objections subject to a number of conditions relating to the investigation of land contamination, submission of remediation scheme, verification of remediation scheme and the reporting of unexpected contamination.
- 4.9 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Flood Risk

- 4.10 The application site is located within Flood Zone 2.
- 4.11 In terms of drainage, the submitted application form sets out that surface water would be disposed of via a sustainable drainage system and the foul sewage would be disposed of via a septic tank.
- 4.12 The Ouse and Derwent Internal Drainage Board, Yorkshire Water and Environment Agency have been consulted on the proposals and neither have raise objections.
- 4.13 Foul water is going to a new package treatment plant which is shown on the drawings so does not need conditioning since it will be on any approved drawings. However, limited information has been provided in terms of the scheme for surface water drainage, however, it is considered that an acceptable scheme of drainage can be achieved therefore further information can be requested and subsequent measures secured by way of condition.

Legal Issues

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

- 4.15 Human Rights Act 1998: It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.
- 4.16 Equality Act 2010: This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

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

5. Conclusion

- 5.1 This type of conversion of an existing rural building to residential is acceptable in principle in the NPPF and in development plan policy. Though it is noted that the proposal would conflict with criteria 1 of Policy H12 of the Core Strategy, it is considered that the NPPF is a material consideration and in line with Paragraph 79 of the NPPF the further reuse of the building would be sustainable. Furthermore, the Framework is more up to date and more flexible since it does not include criteria requiring the building to be 'unsuited to business use'.
- 5.2 The works are appropriate to this agricultural building in terms of openings. In view of the size of the site, the extent of new residential curtilage would be acceptable. Thus, subject to comments from the Contaminated Land specialist and the recommended conditions set out below, this application complies with the up to date Framework guidance and with, principally SDLP Policy H12 and compliance with the conditions would create a scheme in compliance with the development plan.

6. Recommendation

- 6.1 The application is recommended for APPROVAL subject to the following conditions:

01. 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.

02. The development hereby permitted shall be carried out in accordance with the following approved plans and documents, notwithstanding the details in the application form:

2615-03-01A – Existing and Proposed Plans and Elevations
2615-01-04B – Drainage Plan
2615-01-03 - Existing Block Plan
2615-01-04 – Location Plan

Reason: For the avoidance of doubt.

03. Prior to the first occupation of the dwelling hereby approved the boundary treatments of the curtilage of the dwelling shall be in place as shown on drawing reference, 2615-03-01A.

Reason: In accordance with the details of the application and to protect the amenities of the prospective occupants and in order to comply with local plan Policy ENV1.

04. In the event that protected species are discovered on the application site upon commencement of the approved development, which were not previously identified, it must be reported in writing immediately to the Local Planning Authority. A site investigation and assessment must be undertaken and where mitigation is necessary, a mitigation scheme must be prepared, which is subject to approval in writing of the Local Planning Authority.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

05. 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.

06. Prior to the first occupation of the dwelling hereby approved a detailed scheme for the provision of surface water should be submitted to and approved by the Local Planning Authority. The following points should be considered:

- Discharge rates to any water course
- Storage volume
- Allowance for climate
- A range of durations should be used to establish the worst-case scenario.

Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

Reason:

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

07. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved, without the prior written consent of the Local Planning Authority.

Reason:

In order to ensure that the character and appearance of the surrounding area is protected in the interests of residential amenity having had regard to Policy ENV1 of the Selby District Local Plan.

6.2 Planning Application file reference 2017/0219/FUL and associated documents.

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Appendices: None