

Report Reference Number: 2018/1037/FUL

To: Planning Committee
Date: 4th December 2019
Author: Rebecca Leggott (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/1037/FUL	PARISH:	Barlby And Osgodby Town Council
APPLICANT:	Mrs Melanie Metcalfe	VALID DATE: EXPIRY DATE:	5th October 2018 30th November 2018
PROPOSAL:	Erection of 1 No 3 bed attached dwelling following removal of a 2 storey side extension and a detached garage		
LOCATION:	1 Bungalow Road Barlby Selby North Yorkshire YO8 5AW		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposals have received more than 10 letters of objection contrary to the officer's recommendation to approve the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined development limits of Barlby, which is a designated Service Village as identified within the Core Strategy.
- 1.2 The application site is located within the residential curtilage of 1 Bungalow Road, Barlby. Further to this, the application site is surrounded by residential properties aside from the river bank to the river Ouse to the north of the site.

The Proposal

- 1.3 The application seeks planning permission for the erection of one, three bed, attached dwelling following the removal of a 2 storey side extension and a detached garage. The application has been amended since the initial submission which was for 2 linked dwellings.

Relevant Planning History

- 1.4 There are no historical applications which are considered to be relevant to the determination of this application.

2. CONSULTATION AND PUBLICITY

- 2.1 **Environmental Health** – Environmental Health have raised no objections to the proposed development.
- 2.2 **NYCC Highways Canal Rd** – The Highways Officer has raised no objections to the proposed development subject to a condition being attached to any permission being granted requesting a Construction Management Plan.
- 2.3 **The Ouse & Derwent Internal Drainage Board** – The IDB have raised no objections to the proposed development subject to the following conditions: (1) Drainage works to be agreed, (2) Confirmation of public sewer and mains drains capacity.
- 2.4 **Planning Yorkshire Water Services Ltd** – Yorkshire Water have raised no objections to the proposed development.
- 2.5 **Parish Council** – The Parish Council have raised objections to the original proposed development for the erection of two dwellings on site. In summary these state that the proposals would be an over development of the site and pose risks of potential flooding and issues/concerns about proximity to the flood defence bank. However, in terms of the amended proposals for the erection of only one dwelling, no comments have been received.
- 2.6 **The Environment Agency (Liaison Officer)** – While it is noted that the Environment Agency raised objections to the original proposals for the erection of two dwellings on site. Following receipt of amended plans for, one dwelling on site and additional information in relation to the flood defences. The EA have raised no objections subject to the following conditions: (1) compliance with the flood risk assessment and (2) removal of permitted development rights. Further to this, an informative has been suggested relating to Environmental Permits.
- 2.7 **Neighbour Summary** - All immediate neighbours were informed by letter and a site notice was erected. Resulting in 11 letters of objection being received raising concerns for:
- Loss of the original police house built in the 1900's
 - Lack of parking
 - Impact on the Trans-Pennine cycle route
 - Over development
 - Impact on the flood defences
 - Not in keeping with the area
 - Inconsistence in the information submitted with the application and no dimensions on the plans
 - Concerns that the application had not been advertised appropriately

3. SITE CONSTRAINTS

Constraints

- 3.1 The application site is located within the defined development limits of Barlby, which is a Designated Service Village as identified within the Core Strategy. The site also lies within Flood Zone 3.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 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.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 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)."

Selby District Core Strategy Local Plan

- 4.6 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
- SP16 - Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV2 - Environmental Pollution and Contaminated Land
- ENV25 - Development in Conservation Areas
- T1 - Development in Relation to Highway
- T2 - Access to Roads

5. APPRAISAL

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

- The Principle of Development
- Design and Impact on the Character and Appearance of the Area
- Residential Amenity
- Highways
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Affordable Housing
- Other Issues

The Principle of Development

5.2 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favor of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

5.3 Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF and should be afforded significant weight.

5.4 The application site is situated within the defined Development Limits of Barlby which as the Designated Service Village. The proposal is therefore in accordance with Policy SP2A (a) of the Core Strategy.

5.5 Policy SP4(a) 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 different settlement types, adding that in respect of Selby this includes:

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

- 5.6 This proposal involves the development of garden land for a single dwelling following the removal of a domestic extension. It is noted that the removal of the domestic extension would not require formal permission. Furthermore the proposed development would be within development limits and therefore would comply with Policy SP4 (a) and is therefore acceptable in principle. Whilst the proposals that are acceptable in principle, they are still required to meet the policy test set in criteria (c) and (d) of Policy SP4 concerning amenity, character, design and scale and all other relevant local and national policy tests.
- 5.7 The impact on acknowledged interests against the above policy tests is considered in the following parts of the report.

Design and Impact on the Character and Appearance of the Area

- 5.8 The application site is located within the defined development limits of Barlby and comprises of an existing residential site. It is noted that the site as existing includes a side extension to 1 Bungalow Road and a double garage, both of which are to be demolished to make way for new development.
- 5.9 The application site is located within a residential area with dwellings to the east, south and west and the River Ouse and flood defences to the north of the site. The surrounding area consists of mostly two storey terrace properties, with frontage relationships with the highway, Bungalow Road. Overall, the properties directly surrounding the host property are similar in terms of materials, scale and siting.
- 5.10 The details for the proposed materials have been submitted these include:
- Roof - Clay pantiles (to match the neighbouring properties owned by the applicant).
 - Windows – White UPVC Casement
 - Doors – Double Glazed White UPVC
 - Walls – Red facing brick work (to match the neighbouring properties owned by the applicant)
- 5.11 In considering the above materials, these would match those of the surrounding properties and would be considered acceptable. The described materials could be secured by way of condition.
- 5.12 In terms of the design, careful attention has been given to the design of the dwelling with the ridge and the eaves matching that of No.1 Bungalow Road. It is however noted that the windows would not match the detailing of levels of the adjoining dwelling. In respect of the window detailing it is considered that amended window detailing can be secured by way of condition. In respect of the window levels, this is due to the increase in floor levels due to flood risk and is therefore acceptable on balance. The span of the dwelling and its overall form is similar to that of the host dwelling and a good sized amenity area is retained for both dwellings. Overall, given the extent of the corner plot in which the proposal would be situated, it is considered that the proposals would have a satisfactory appearance in relation to development within the surrounding area, by use of matching materials and design features seen throughout the area.
- 5.13 Subject to aforementioned conditions, it is therefore considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. Therefore, having had regard to Policies ENV1(1), (4)

and (5) of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and paragraphs 124, 127, 128, 130 and 131 of the NPPF.

Residential Amenity

- 5.14 Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan.
- 5.15 Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.
- 5.16 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking and overshadowing of neighboring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.17 It should be noted that no objections have been received in relation to impacts on residential amenity.
- 5.18 The proposal would result in the erection of one, three bed, attached dwelling following removal of a 2 storey side extension and a detached garage. The proposed dwelling would face south towards the highway, Bungalow Road.
- 5.19 It is noted that the proposed dwelling would be attached to the host property 1 Bungalow Road. Although the close proximity is noted it is not considered that the proposals would have any impacts in respect of overlooking or overshadowing on 1 Bungalow road given the orientation of the proposed dwelling in parallel to the existing dwelling.
- 5.20 In considering the proposals in respect of other surrounding properties given the boundary treatments, the principle orientation of the neighboring property, which are at a right angle to that of the proposed dwelling and the modest size, scale and design of the proposed scheme. Overall, it is not considered that there would be any significant adverse effects in terms of overlooking, overshadowing and or oppression further than that which currently exists.
- 5.21 The proposed dwelling would benefit from a private amenity area to the rear and side of the proposed dwelling. No.1 Bungalow Road would equally still retain a good sized garden that is similar in size to that of adjoining dwellings.
- 5.22 On the basis of the above the proposals are considered to be acceptable in terms of drainage, and flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and paragraph 163 of the NPPF.

Impact on Highway Safety

- 5.23 Policy in respect of highway safety is provided by Policies ENV1 (2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. The policies of the Local Plan referred to above should be afforded significant weight as they do not conflict with the NPPF.

- 5.23 The proposed scheme would benefit from existing access to off street parking for two cars. This would provide sufficient parking on site for the size of the dwelling proposed.
- 5.24 NYCC Highways have raised no objections to the proposed development subject to a condition requesting a Construction Management Plan.
- 5.25 Subject to the aforementioned conditions, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and the advice contained within the NPPF.

Flood Risk, Drainage and Climate Change

- 5.26 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.
- 5.27 It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15(B) and criterion (c) of Policy SP16 of the Core Strategy. It is also considered that, taking into account the size, scale and nature of the proposal it would be not necessary or appropriate for the proposal to meet the other requirements of these policies.
- 5.28 The site is confirmed to lie within Flood Zone 3. Land in Flood Zone 3a is regarded as having a 1 in 100 or greater annual probability of river flooding; or Land having a 1 in 200 or greater annual probability of sea flooding. Buildings used as dwellings are considered to be "more vulnerable" in terms of flood risk. "More vulnerable" uses in flood Zone 3a are normally required to meet the Sequential and Exceptions tests.
- 5.29 Paragraph 155 of the NPPF states that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change."
- 5.30 Paragraph 158 of the NPPF states that "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."
- 5.31 The proposed scheme would be located within the defined development limits of Barlby and therefore, having regard to the guidance note on the sequential test published by Selby District Council in October 2019, the geographical coverage area for the sequential test would be Barlby.

- 5.32 A sequential test has been carried out within the submitted Flood Risk Assessment, which considers that there are no other reasonably available sites at a lower risk of flooding within Barlby. Therefore, the proposed development would pass the sequential test.
- 5.33 In respect of the exceptions test, the submission details the wider sustainability benefits of the proposal and the site specific Flood Risk Assessment has demonstrated the proposal will be safe for its lifetime, which the Environment Agency have confirmed is sufficient. The proposed development would pass the exceptions test in that the proposal would not pose any significant adverse risks of flooding and would be safe for the life time of its development.
- 5.34 In respect of the disposal of foul and surface water it is noted that the applicant's intention is to dispose of both to the mains sewer. In considering this, Yorkshire Water and the IDB have raised no objections. Therefore, given there are no objections for the use of the mains sewers it is not considered necessary to request a further detailed scheme of drainage.
- 5.35 In considering all of the above and discussions with the Environment Agency and the agent it is considered that on balance the proposals would be acceptable.
- 5.36 On the basis of the above the proposals are considered to be acceptable in terms of drainage, and flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and paragraphs 158, 159 and 160 of the NPPF.

Affordable Housing

- 5.37 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 5.38 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.
- 5.39 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. It is therefore considered that having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Other Issues

- 5.40 It is noted that a number of letters of objection were received against the proposed development, of which the above sections address the issues which are material considerations in relation to principle, character and appearance of the area, highway safety and flood risk.
- 5.41 However, it is noted that there were issues raised in respect of inconsistent information within the submission. It is noted that there is a typo on the plans relating to the address, however it is clear in respect of all other information received that the application related to No.1 Bungalow Road.

5.42 Further to this, it is noted that concerns were raised in respect of the site notice. However, officers can confirm that a site notice was erected in respect of the original proposals and another site notice erected in respect of the amended proposals.

6. CONCLUSION

6.1 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 principle of the proposed development is acceptable and the proposed development would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety, flood risk and drainage. The application is therefore considered to be in compliance with Policies ENV1, ENV2, T1 and T2 of the Selby District Local Plan, Policies SP1, SP2, SP4, SP15, SP18 and SP19 of the Core Strategy and the NPPF.

7. RECOMMENDATION

7.1 This application is recommended to be GRANTED 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. Notwithstanding the window details, the development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

- PAS 238 / 003 B – Proposed Details
- PAS 238 / 001 B – Site Plans
- PAS 238 / 002 B – Existing Details

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as stated within the submitted application form received by the Local Planning Authority on 4th September 2018:

- Roof - Clay pantiles (to match the neighbouring properties owned by the applicant).
- Doors – Double Glazed White UPVC
- Walls – Red facing brick work (to match the neighbouring properties owned by the applicant)

Only the approved materials shall be utilised unless otherwise approved in writing by the Local Planning Authority.

Reason:

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

04. No development shall commence above slab level until details of the windows of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason:

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

05. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Construction Management Plan.

Reason:

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

06. The development shall be carried out in accordance with the flood mitigation strategies as set out in the Flood Risk Assessment and following documents:

- Flood Risk Assessment - Rev C : 13th May 2019 – Plot 2 Removed
- Embankment Section - PAS 238 / 005 A.

Reason:

In the interests of flood risk and flood risk reduction and in order to comply with the advice contained within the NPPF and NPPG.

07. 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.

08. 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 the interests of flood risk and flood risk reduction and in order to comply with the advice contained within the NPPF and NPPG.

8. **Legal Issues**

8.1 Planning Acts

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

8.2 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.

8.3 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.

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2018/1037/FUL and associated documents.

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Appendices: None