

Report Reference Number: 2019/0792/FUL

To: Planning Committee
Date: 4th December 2019
Author: Laura Holden (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

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| APPLICATION NUMBER: | 2019/0792/FUL | PARISH: | Barlby And Osgodby Town Council |
| APPLICANT: | Daniel Gath Homes | VALID DATE: EXPIRY DATE: | 5th August 2019 30th September 2019 |
| PROPOSAL: | Proposed erection of two pairs of semi-detached houses on Plots 19 to 22 (substitution of house types approved under 2018/0468/REMM) | | |
| LOCATION: | Land To The North Of The Laurels The Laurels Barlby Selby North Yorkshire | | |
| RECOMMENDATION: | GRANT | | |

This application has been brought before Planning Committee as the proposal is a departure from the Development Plan, but there are material considerations which would justify the approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is situated north of The Laurels on a housing estate that is currently being constructed for 35 dwellings. The former greenfield site is 1.2 hectares, which has boundaries comprising of mature landscaping, including trees and hedgerows. Beyond the adjoining paddock to the east is Glebe Garth; Grove Park and a number of other residential properties on York Road. North east of the site is Barlby High School and Barlby Leisure Centre. Approximately 300m to the north and beyond the adjoining playing fields are River View; River Close and Kings Close.
- 1.2 Plots 19 - 22 which are the subject of the application are a pair of semi-detached dwellings lying to the north eastern corner of the site adjacent to the Public Open Space.

The Proposal

- 1.3 The proposal is to erect two pairs of semi-detached houses on Plots 19 to 22 being the substitution of house types approved under 2018/0468/REMM. The previous approved house types were Hepton (3-bed 808 sq ft) which are being replaced with the slightly larger Minton house type at 890 sq ft.

Relevant Planning History

- 1.4 The following historical application is considered to be relevant to the determination of this application.
- 1.5 2013/0572/OUT - Application for outline planning permission with all matters reserved for the erection of a residential development and laying out of associated roads and recreation open space – Withdrawn 29.08.2013
- 1.6 2014/0353/OUT- Application for outline planning permission with all matters reserved for the erection of a residential development and laying out of associated roads and recreation open space – Refused 12.02.2015
- 1.7 2015/0586/OUT - Application for outline planning permission with all matters reserved for the erection of a residential development (illustrative layout shows 37 dwellings) and laying out of associated roads and recreation open space – Approved 03.12.2015
- 1.8 2016/0491/MLA – Application to modify a Sec. 106 planning obligation under section 106BA following approval of 2015/0586/OUT for outline planning approval with all matters reserved for the erection of a residential development – Appeal Allowed 14.11.2017
- 1.9 2018/0468/REMM, Description: Reserved matters application including (a) appearance, (b) landscaping, (c) layout, (d) scale and (e) means of access to the site for erection of 35 dwellings (outline planning permission 2015/0586/OUT), Address: Land To The North Of The Laurels, The Laurels, Barlby, Selby, North Yorkshire, Decision: Permitted, Date: 30-NOV-18
- 1.10 2018/0499/DOC, Description: Discharge of conditions 4 (Materials), 5 (Site Enclosure), 7 (Foul & Surface Water Drainage), 12 (Energy Efficiency), 14 & 15 (Archaeology)2015/0586/OUT Application for outline planning permission with all matters reserved for the erection of a residential development (illustrative layout shows 37 dwellings) and laying out of associated roads and recreation open space, Address: The Laurels, York Road, Barlby, Selby, North Yorkshire, Decision: Permitted, Decision Date: 03-DEC-18
- 1.11 2018/1285/MAN - Non material amendment of application 2015/0586/OUT for outline planning permission with all matters reserved for the erection of a residential development (illustrative layout shows 37 dwellings) and laying out of associated roads and recreation open space – Approved 23.11.2018

2. CONSULTATION AND PUBLICITY

- 2.1 **Public Rights Of Way Officer** – Recommended an informative regarding no works to be undertaken which will obstruct the Public Right of Way adjacent to the proposed development.
- 2.2 **NYCC Highways Canal Rd** – There are no Local Highway Authority objections to the proposed substitution of house types for plots 19 to 22. It is noted that the applicant is currently entering into a S38 agreement with the Highway Authority for the adoption of the estate. This is on-going and is conditioned in the previous approval for 2018/0468/REMM. My recommended conditions are related to the 4 plots and therefore not the full site given that the site requirements are conditioned under application 20108/0468/REMM. The Highways Authority has recommended conditions relating to construction of roads and footways, construction requirements, pedestrian visibility splays, provision of approved access, turning and parking areas, removal of permitted development rights and construction traffic.
- 2.3 **Pland Use Planning Yorkshire Water Services Ltd** – No comments have been received within the statutory consultation period.
- 2.4 **Selby Area Internal Drainage Board** – 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.
- 2.5 **The Ouse & Derwent Internal Drainage Board** – The Board notes that surface water is proposed to soakaway and foul sewage to the mains sewer. Provided this is still agreeable to Yorkshire Water and the Planning Authority, the Board has no objections to these proposals. The Board would, however, request that a specific condition is put in place on this new planning application stating that the disposal of surface water and foul sewage must be done in accordance with that approved under the Discharge of Conditions Application 2018/0499/DOC.
- 2.6 **Parish Council** - No Comments received.
- 2.7 **Neighbour Comments** – The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper. One letter of support has been received.

3 SITE CONSTRAINTS

Constraints

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

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
SP8 - Housing Mix
SP9 - Affordable Housing
SP15 – Sustainable Development and Climate Change
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
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:

1. Principle of the Development
2. Impact on Design and Visual Amenity
3. Impact on Residential Amenity
4. Highway Safety
5. Flood Risk and Drainage
6. Affordable Housing

Principle of the Development

- 5.2 The application seeks planning permission for erection of two pairs of semi-detached houses on Plots 19 to 22; the proposed four dwellings are a substitution of house types previously approved under application 2018/0468/REMM. The previous approval has been implemented and the works have begun.
- 5.3 Whilst the proposal is for the erection of four dwellings on an existing residential development site, the site is located outside the development limits of Barlby and is therefore, located within the open countryside.
- 5.4 Policy SP2A(c) of the Core Strategy 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.”*
- 5.5 The proposal does not meet the requirements of Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances that have been identified to justify the proposal the application should therefore be refused unless material considerations indicate otherwise.
- 5.6 Policy SP2A is consistent with the NPPF and therefore is considered up-to-date. The proposal is situated within open countryside and no special circumstances have been identified and therefore the proposal does not comply with Policy SP2A(c) and is not acceptable in principle.
- 5.7 There is an extant permission on the site, which granted planning permission for four dwellings as part of the wider site, this application is to alter the design and location of the dwellings. It is considered this extant permission is a fall-back position. As the previous permission is currently under construction, the fall-back position is attributed significant weight as there is a high chance of implementation. Whilst the proposal is not acceptable in principle, given the nature of the proposal, and the fall-back position of the previously approved house types on the site, it is considered that there are material considerations which would otherwise make the proposal acceptable.

Impact on Design and Visual Amenity

- 5.8 The previously approved proposal was for two pairs of semi-detached houses (known as Hepton); each pair together is 9.82 metres wide and 9 metres in depth.

The previous approved houses have a ridge height of 8.62 metres and an eaves height of 5.19 metres.

- 5.9 The current proposal is for two pairs of semi-detached houses (Minton House type); each pair together has a width of 10.2 metres and a depth of 9.5 metres. In addition, the proposed houses are to have a ridge height of 8.7 metres and 5.2 metres to the eaves height. The current proposal is slightly larger in scale than the previous approved houses. It is considered the scale of the proposed development is acceptable, given the two-storey dwellings, which have been approved on the wider site. It is not considered the proposed ridge height would be out of keeping with the surrounding properties.
- 5.10 The proposed development is also very similar in design and appearance to the previously approved house types and approved dwellings within the wider site. The substitution of the plots would not have a detrimental impact on the character and appearance of the area due to the minor changes proposed. Finally the proposed dwellings still retain adequate private amenity space.
- 5.11 Within the site the majority of the plots have parking spaces within the confines of the curtilages, most of which are located to the side, including this proposal. This would ensure that in the main, frontage areas of the dwellings would not be dominated by cars.
- 5.12 The proposed materials would comprise of Montrea Handmade bricks (Bespoke Brick Company) and Terracotta Sandtoft Shire Pantiles, as was previously approved. The materials match those used in the surrounding properties and are therefore considered to be acceptable.
- 5.13 It is therefore concluded that the proposed dwellings (plots 19-22) will result in a design that respects the character of the streetscene. As such it accords with Policy ENV1(1) and (4) of the Selby District Local Plan, Policy SP19 Design Quality of the Core Strategy and Section and Section 12 of the NPPF in relation to achieving well designed places.

Impact on Residential Amenity

- 5.14 The positioning of the proposed development is slightly different to the previously approved siting. The approved Plot 19 and 20 were approximately 10 metres from the neighbouring boundary and Plots 21 and 22 were approximately 7.3 metres from the boundary. Plots 19 and 20 will be positioned approximately 12 metres away from the site boundary and Plots 21 and 22 will be positioned approximately 7.6 metres from the site boundary. At the closest point the proposed dwellings are to be approximately 27 metres from the nearest neighbouring property. Given the separation distances and the level of screening on the site boundary it is not considered there would be any issues of overlooking, overshadowing or overbearing caused by the proposal towards the neighbouring properties to the rear.
- 5.15 In addition no new windows are proposed in the front or rear elevations, however, two new windows are proposed in the side elevations. These windows are to serve a bathroom and a hallway, therefore, the bathroom window will be obscured and the hallway window does not serve a habitable room. It is therefore, considered the proposal would be not cause any issues of overlooking towards the neighbouring properties nor represents any overshadowing or over dominance concerns.

- 5.16 It would be prudent to include a condition which removes permitted development rights for the insertion of any dormer windows of the proposed dwellings, in the interests of the residential amenity of neighbouring properties and to retain the modern character and uniform arrangement of the proposal.
- 5.17 On the basis of the above assessment, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and the Paragraph 127 of the NPPF.

Highway Safety

- 5.18 The application site is part of a larger site approved under reference 2018/0468/REMM. The Local Highway Authority has been consulted on the application and has raised no objections to the proposed substitution of house types subject to a series of conditions. They have also advised that the recommended conditions relate to the application site and not the wider site. The Highway Authority recommends a condition which relates to removing permitted development rights to convert a garage into a habitable room, there are no garages proposed and therefore, it is not considered relevant necessary to attach this condition.
- 5.19 Subject to these conditions it is considered that the development would not cause a significant impact with regard to highway safety and on the surrounding highway network in accordance with Policy SP19 of the Core Strategy and Policy ENV1 (2) & T2 of the Local Plan.

Flood Risk and Drainage

- 5.20 The application site is located within Flood Zone 1, which has a low probability of flooding. The proposed drainage scheme is to remain unchanged from the wider site and the IDB have requested a condition be attached which would ensure the disposal of surface water and foul sewerage must be done in accordance with that approved under the discharge of conditions application 2018/0499/DOC. It is therefore, considered the proposal would be acceptable in terms of flood risk and drainage in accordance with Policy SP15 of the Selby District Core Strategy.

Affordable Housing

- 5.21 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 5.22 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.
- 5.23 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.

5.24 It is also noted that the application site is part of a wider housing development site as approved under application reference 2018/0468/REMM. The affordable housing on the wider site has been secured by the approved Layout Plan, Drawing no.018/018/020/SL/ Rev B. The affordable units relate to plots 15-16. Therefore, it is not considered this application will impact the number of affordable houses on the wider site particularly as the housing numbers remain the same as previously approved.

6 CONCLUSION

6.1 The application for four dwellings is located outside the development limits the proposal therefore, does not comply with SP2 of the Core Strategy. However, given the nature of the proposal, and the fall-back position of the previously approved house types on the site it is considered that there are material considerations which would otherwise make the proposal acceptable.

6.2 The proposal is considered to be acceptable in respect of visual amenity, residential amenity, highway safety and flood risk and drainage subject to the recommended conditions.

7 RECOMMENDATION

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

Drawing No. 018/018/020/SL/H – Received 31st July 2019

Drawing No. 018/025/1/A – Received 5th August 2019

Drawing No. 019/0050/LP – Received 31st July 2019

Reason:

For the avoidance of doubt.

03. The external materials to be used in the construction of the dwellings hereby approved shall be Terracotta pantile concrete tile and Montrea Handmade Brick (Bespoke Brick Company), unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of visual amenity and having had regard to the character of the area.

04. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the

occupation of the building for its permitted use, or occupation of the final dwelling on the site to be occupied.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard (3998 Tree Work).

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size, species and maturity, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

Reason:

This condition is imposed as the Council is under a statutory obligation when considering planning applications to consider whether it is necessary to take steps to preserve existing trees. There are trees within or near the site and these contribute to the character and appearance of the area. If these trees are to be retained it is important that they are protected from accidental damage during construction work. It is considered that the above details are required in accordance with policy ENV1 of the Selby District Local Plan and are necessary to enable the Council to consider the effect of the proposed development on these trees.

05. In the event that unexpected contamination is found at any time when carrying out the approved development, 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. No construction works shall take place on site outside of the hours of 8am to 6pm Monday to Friday, 9am to 1pm Saturday or at all on Sundays or Public/Bank Holidays.

Reason:

In the interests of the residential amenities of the area and in order to comply with Policy EV1 of the Selby District Local Plan.

07. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order 2015 or any Order revoking or re-enacting or amending those Orders with or without modification), no development shall be undertaken within Part 1, Class A, B or C including the installation of windows, dormer windows or other openings (other than those expressly authorised by this

permission) to any elevation at first floor level without the grant of a separate planning permission from the Local Planning Authority.

Reason:

In accordance with policy ENV1 of the Selby District Local Plan as the Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and have a detrimental impact on the character of the area and for this reason would wish to control any future development.

08. The disposal of surface water and foul sewage must be completed in accordance with the details approved under the discharge of conditions application 2018/0499/DOC.

Reason:

To ensure the development is provided with satisfactory means of drainage.

09. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:

In accordance with Policy T1 and T2 and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

10. 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:

- Individual vehicle crossings to dwellings shall be constructed in accordance with the approved details and/or Standard Detail number E5 (please note Standard Details where amended on 1/8/19 and therefore the standard E6 is now E5).
- 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.

Reason:

In accordance with Policy T1 and T2 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.

11. 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

visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metre and the object height shall be 0.6 metres. 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 Policy T1 and T2 and the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

12. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition 11 are available for use.

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with policy T1 and T2 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

13. During construction works there shall be no:

- a. Vehicles above 7.5 tonnes permitted to the site, accept for the delivery of roof joists.
- b. Goods Vehicles exceeding 3.5 tonnes
- c. Medium Goods Vehicles up to 7.5 tonnes
- d. Heavy Goods Vehicles exceeding 7.5 tonnes (except for delivering the roof joists) shall not be permitted to arrive, depart, be loaded or unloaded on Sunday or a Public/Bank Holiday nor at any time, except between the hours of 09:00 and 16:00 on Mondays to Saturdays.

Reason:

In accordance with policy T1 and T2 and to avoid conflict with vulnerable road users.

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 2019/0792/FUL and associated documents.

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Appendices: None