



Report Reference Number: 2019/1093/FUL

To: Planning Committee
Date: February 2020
Author: Laura Holden (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1093/FUL	PARISH:	Riccall Parish Council
APPLICANT:	Mrs Claire Northern	VALID DATE: EXPIRY DATE:	21st October 2019 16th December 2019
PROPOSAL:	Proposed erection of two detached dwellings with associated access, drainage and landscaping		
LOCATION:	Land To Rear Of The Lodge 23 Selby Road Riccall York North Yorkshire		
RECOMMENDATION:	REFUSAL		

This application has been brought before Planning Committee having been called in by Councillor Duggan as he believes the proposal is appropriate infill development.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is currently an open grassed paddock and currently has single-storey wooden stable block on the site. The site is currently bounded by a wooden closeboard fence.
- 1.2 The application site is located to the rear of the dwellinghouses located on Selby Road. The site is accessed via an existing lane directly off Selby Road. The site is located approximately 590 metres to the south of the defined development boundary of Riccall and is therefore located within the open countryside.

The Proposal

- 1.3 Proposed erection of two detached dwellings with associated access, drainage and landscaping

Relevant Planning History

- 1.4 The following historical application is considered to be relevant to the determination of this application. This centres around the use of the land for holiday use, the most recent application being in 2016 for the siting of 6 holiday units.

- Application Number: 2007/0934/OUT, Description: Outline for the erection of 12no. Holiday Chalets on land at Norwood Nursery to the rear, Decision: Refused, Decision Date: 16-NOV-07
- Application Number: 2008/0211/OUT, Description: Outline for the erection of 12no. Holiday Chalets on land to the rear, Decision: Granted, Decision Date: 23-MAY-08
- Application Number: 2011/0739/COU, Description: Change of use of land for the siting of 12No. twin unit static holiday lodges, Decision: Granted, Date: 19-SEP-11
- Application Number: 2011/0166/OUT, Description: Extension of time application for approval 2008/0211/OUT (8/15/89P/PA) for outline permission to erect 12no. Holiday Chalets on land to the rear, Decision: Granted, Decision Date: 08-APR-11
- Application Number: 2016/1258/COU, Description: Demolition of buildings on site, Change of use to allow the siting of 6 No. holiday use only units, Decision: Granted, Decision Date: 08-MAR-17
- Application Number: 2018/1108/FUL, Description: Proposed erection of amenity block following demolition of existing stables, Decision: Granted, Date: 20-MAR-19
- Application Number: 2019/0389/FUL, Description: Proposed erection of two detached dwellings with associated access, drainage and landscaping, Decision: Withdrawn, Date 11-JUL-19

2. CONSULTATION AND PUBLICITY

- 2.1 **North Yorkshire Fire & Rescue Service** – The submitted development plans do not give the dimensions of the access road to the houses, and therefore attention is drawn to Approved Document B, Volume 1 – Dwelling Houses 2019 edition, Section 13, Pages 97 and 98 – Vehicle Access. It is assumed that the provision of water for firefighting will meet the requirements set out in National guidance document on the provision of water for firefighting, Appendix 5.

The North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the Fire Authority.

- 2.2 **NYCC Ecologist** - It is supported by a thorough and clearly-presented Preliminary Ecological Appraisal. The application site has minimal ecological interest, comprising hard standing and mown grass, so there are very few constraints. The Design and Access Statement states that boundary planting will be retained and protected during development. An informative has been recommended which relates to the bird breeding season.
- 2.3 **The Ouse and Derwent Internal Drainage Board** – Identified discrepancies in the submitted documents relating to the proposed drainage and advises that soakaways are first considered. The Board recommends that a condition is attached to any permission granted to agree the proposed drainage works.
- 2.4 **Planning Policy Team** - The application site is defined in the Core Strategy as Countryside, Policy SP2 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.

This full proposal for 2 (market rate) dwellings on greenfield land does not constitute any of the development types described as being appropriate in the Countryside by Policy SP2A(c) and is therefore contrary to Policy SP2A(c) of the Core Strategy.

- 2.5 **NYCC Highways** – The proposed houses are more than 45m from the highway and as such should have turning available for fire attendants. It was therefore recommended that the site plan is amended to address this issue. Following concerns raised an amended site plan was submitted to widen the driveway to ensure a fire attendant would be able to turn on the site. Subject to the recommended conditions, no further objections were raised following the submission of the amended plans.
- 2.6 **NYCC Archaeologist** - The proposal is within an area of extensive prehistoric and Romano-British activity extending from Riccall to Skipwith. However the small scale of the development within an existing paddock is unlikely to have a significant impact on archaeological remains, therefore no objections.
- 2.7 **Contaminated Land** - The Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. The report and the proposed site investigation works are therefore acceptable. Conditions are recommend covering the need for: Investigation of Land Contamination, Submission of a Remediation Scheme, Verification of Remedial Works, and Report of Unexpected Contamination.
- 2.8 **Yorkshire Water** – As the proposal site is currently undeveloped, no positive surface water is known to have previously discharged to the public sewer network (which comprises foul only sewers in the vicinity of the development) does not have capacity to accept a discharge of surface water. It is noted from the Design & Access comments, within the submitted Planning Statement (October 2019) that it is proposed dispose the surface water from the dwellings to soakaways, subject to viability testing. Conditions relating to separate drainage systems and no piped discharge have been recommended.

- 2.9 **National Grid** – No objection to the proposal which is in close proximity to a High-Pressure Gas Pipeline - Feeder

Publicity

- 2.10 **Neighbour Summary** – All immediate neighbours have been informed by letter and a site noticed has been erected. 6 letters of support have been received as a result of this advertisement. The letters of support raise the following comments:

- We feel that two single storey dwelling would be more suitable than caravans or lodges.
- I broadly support this application as I consider it would represent a more agreeable long-term outcome to that of the previously approved application for holiday lodges / touring caravans, which was widely objected to.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located outside development limits, and is therefore, within the open countryside.
- 3.2 The application site is located within Flood Zone 1, which has a low probability of flooding.

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
SP15 - Sustainable Development and Climate Change
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:

- Principle of the Development
- Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Ecology
- Archeology
- Contaminated Land
- Affordable Housing

Principle of the Development

- 5.2 Core Strategy Policies SP2 and SP4 direct new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside.
- 5.3 The application site is defined in the Core Strategy as Countryside, Policy SP2 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.

- 5.4 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development.
- 5.5 Paragraph 78 of NPPF is particularly relevant as it states that “To promote sustainable development in rural areas, housing should be located where it will maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby”.
- 5.6 Paragraph 79 of the NPPF states “Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
 - (a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - (b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - (c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - (d) the development would involve the subdivision of an existing residential dwelling; or
 - (e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”
- 5.7 The Local Planning Authority does not consider that any of the above circumstances apply and no case has been made within the submissions to justify compliance with the above.
- 5.8 This full proposal for two dwellings with the open countryside does not constitute any of the development types described as being appropriate in the Countryside by Policy SP2A(c) and is therefore contrary to Policy SP2A(c) of the Core Strategy and Paragraph 78 and 79 of the NPPF.
- 5.9 The applicants and letters of support make the point that the proposal is better than the approved lodges consent, however this cannot be used to compare on appropriate use in the countryside for one inappropriate use. Both uses have fundamental differing planning considerations and as such are not comparable or cannot be traded.

Impact on the Character and Appearance of the Area

- 5.10 Relevant policies in respect to the impact of development on the character and appearance of the area include Policy ENV1 (1), (4) and (5) of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy. Further to this, relevant policies within the NPPF, include paragraphs 124, 127, 128, 130, 131.
- 5.11 The application site is located outside development limits and is situated to the north of the dwellings located on Selby Road. The surrounding dwellings are predominately detached and semi-detached properties, set within large plots. The current form of the area is predominately linear development, with properties facing onto Selby Road, with only a limited number of properties set back from the road.
- 5.12 The proposed development would therefore interrupt this character and result in uncharacteristic backland development. The proposal would also change this open and green character created by the paddock to one of residential and lead to the domestication of the land and an extension of the built form into the countryside.
- 5.13 The proposed application proposes two detached, single storey dwellings which are to be identical in design and scale. The dwellings are proposed to be of an L-shaped construction with an integral garage. The proposed dwellings are of an appropriate size and would sit comfortably within the plot. The dwellings would benefit from a reasonable sized amenity area to the front and rear of the dwellings. It is not considered the proposal would result in an overdevelopment of the site.
- 5.14 The proposed curtilage of the dwellings is to be bounded by a 1.8 metres fence to match the site boundary fence. This type of boundary treatment is considered acceptable for the character of the area.
- 5.15 Whilst the proposed dwellings are considered acceptable in terms of design and scale, the location of the proposed dwelling is not considered to be acceptable. It is considered the proposed dwellings would result in backland development and would alter the character, form and layout of the area. The proposal does therefore, not comply with Policy SP19 (a) and (b) of the Core Strategy or ENV1 (1) and (4) of the Local Plan.

Impact on Residential Amenity

- 5.16 Policy ENV1 (1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that Policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF.
- 5.17 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 size, scale and massing of the development proposed.
- 5.18 The proposed dwellings are to be single storey and are positioned to the north of the existing two-storey dwellings on Selby Road. The proposed dwellings are to be situated approximately 11.7 metres from the existing site boundary. The rear elevations of the proposed dwellings are to face the rear elevations and gardens of

the existing dwellings to the south of the site. The separation distance between the rear elevations is approximately 36.7 metres.

- 5.19 Given the proposed dwellings are to be single storey, and therefore have no first floor windows facing towards the neighbouring property it is not considered there would be any issues of overlooking caused by the development.
- 5.20 There are significant separation distances between the existing and proposed dwellings, as well as the existing 1.8 metres high boundary fence, and therefore, it is not considered the proposed dwellings would be overbearing or overshadowing towards the neighbouring properties.
- 5.21 The proposals due to the appropriate separation distances, the existing and proposed boundary treatment and landscaping around the perimeters of the site ensures there would be no significant detrimental impact in terms of overlooking or overshadowing or adverse noise and disturbance in accordance with Policies ENV1 (1).

Impact on Highway Safety

- 5.22 The application site can be accessed via an existing single track lane off Selby Road. The initial site plan identified that the two dwellings would be accessed by a 4 meter width driveway. Both dwellings have an integral double garage, and a turning area to the front of each dwelling.
- 5.23 NYCC Highways have been consulted on the application and raised concerns as the proposed houses are more than 45 metres from the highway and so should have turning available for fire attendants. Following the concerns raised by NYCC Highways, the proposed site plan has been amended, and the driveway has been widened to allow for the turning of fire attendants vehicles. NYCC Highways have raised no further objections to the submitted plans subject to the recommended conditions relating to the detail of access, turning and parking to be carried out in accordance with the approved plans.
- 5.24 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

- 5.25 The application site is located in Flood Zone 1, which has a low probability of flooding and therefore no Flood Risk Assessment, sequential or exceptions test are required.
- 5.26 In terms of drainage, there are discrepancies within the submitted documents as to how the surface water would be disposed of and so the Internal Drainage Board has requested a condition to secure the proposed drainage works. This condition is considered necessary for the proposed development.
- 5.27 Yorkshire Water have provided comments on the application and advised conditions relating to separate drainage systems and no piped discharge of surface water on the site. It would therefore be reasonable and necessary to secure drainage details by condition.

- 5.28 It is therefore considered that the proposal is in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF, subject to conditions.

Ecology

- 5.29 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPP and accompanying PPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.
- 5.30 In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010 and the NPPF. The presence of a protected species is a material planning consideration. In addition Policy ENV1(5) require proposals not to harm acknowledged nature conservation interests.
- 5.31 The application is supported by an Ecological Assessment which makes recommendations to proposed biodiversity enhancements and recommendations for vegetation to be removed outside the bird breeding season (March to August).
- 5.32 The NYCC Ecologist has provided comments on the application and advised that the application is supported by a thorough and clearly-presented Preliminary Ecological Appraisal. The application site has minimal ecological interest, comprising hard standing and mown grass, so there are very few constraints. The Design and Access Statement states that boundary planting will be retained and protected during development. An informative has been recommended which advises that works should be preferably outside the bird breeding season.
- 5.33 As such, having had regard to all the ecological issues associated with the proposal, it is concluded that the proposal is acceptable and that the proposal is in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan.

Archaeology

- 5.34 The proposal is within an area of extensive prehistoric and Romano-British activity extending from Riccall to Skipwith.
- 5.35 The NYCC Archaeologist has been consulted on the application and advised they have no objections to the proposal as the proposal is relatively small scale development within an existing paddock and therefore, is unlikely to have a significant impact on the archaeological remains.
- 5.36 It is therefore, considered the proposal is acceptable in terms of impact on archaeology and therefore, complies with Policy ENV1 of the Local Plan.

Contaminated Land

- 5.37 A Stage 1: Desktop Study Report has been submitted with the application. The report shows that the site has previously been used as a nursery, with a storage tank having been located on the site. The past activities could have given rise to

land contamination and so the report recommends that further intrusive investigation is carried out, along with a quantitative risk assessment.

- 5.38 The Council's Contaminated Land Consultant has been consulted on the application. Their response states that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. Their response confirms that the report and the proposed site investigation works are acceptable. If contamination is found, then appropriate remedial action will be required to make the site safe and suitable for its proposed use. Four conditions have been recommended relating to further investigations and risk assessments, remediation schemes, verification of remedial works, and reporting of unexpected contamination.
- 5.39 Subject to the recommended conditions, it is considered the proposal is acceptable in terms of contaminated land in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.

Affordable Housing

- 5.40 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District.
- 5.41 However, the NPPF is a material consideration and states at paragraph 63 - "Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount". 'Major development' is defined in Annex 2: Glossary as "For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more".
- 5.42 The application proposes the erection of two dwellings on a site which has an area of less than 0.5 hectares, such that the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the advice contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

6 CONCLUSION

- 6.1 The application site is located outside the defined development limits of Riccall and is therefore, located within the open countryside. This proposal for two dwellings with the open countryside does not constitute any of the development types described as being appropriate in the Countryside by Policy SP2A(c) and is therefore contrary to Policy SP2A(c) of the Core Strategy and Paragraph 78 and 79 of the NPPF.
- 6.2 The proposal is considered to result in back land development, and would therefore, be out of character with the linear form of residential development on Selby Road.

The proposal would result in development which is not characteristic of the area and therefore does not comply with Policy SP19 of the Core Strategy or ENV1 of the Local Plan.

- 6.3 The proposal is considered to be acceptable in respect of matters of acknowledged importance such as residential amenity, highway safety, flood risk and drainage, ecology, archaeology, contaminated land and affordable housing.

7 RECOMMENDATION

This application is recommended to be REFUSED for the following reasons:

1. The proposal would result in the creation of two new dwellings within the open countryside, wherein accordance with the overall Spatial Development Strategy for the District, development will be restricted 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 communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposal does not comprise any of the types of development that are acceptable in principle under Policy SP2A (c) of the Core Strategy. Therefore, the proposal is unacceptable in principle and contrary to Policy SP2A (c) of the Selby District Core Strategy and hence the overall Spatial Development Strategy for the District.
2. The erection of a residential development on this backland site would extend the residential built form into the countryside, lead to the loss of the open and green character and the domestication of the land, all of which would be harmful to the character and appearance of the countryside. The proposal is therefore contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 (a) and (b) of the Core Strategy and the advice contained within the NPPF.

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 2019/1093/FUL and associated documents.

Contact Officer: Laura Holden (Planning Officer)
lholden@selby.gov.uk

Appendices: None