



Report Reference Number 2017/1269/FUL (8/61/53C/PA)

Agenda Item No: 8.3

To: Planning Committee
Date: 7 February 2018
Author: Mr Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

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| APPLICATION NUMBER: | 2017/1269/FUL | PARISH: | Biggin Parish Council |
| APPLICANT: | Mr Watson | VALID DATE: EXPIRY DATE: | 24 November 2017 19 January 2018 |
| PROPOSAL: | Proposed erection of a six bedroom detached dwelling with integral garage | | |
| LOCATION: | Land Adj To Little Common Farm Biggin Lane Biggin Leeds West Yorkshire | | |
| RECOMENDATION: | APPROVE | | |

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approving the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application is for the erection of a detached dwelling. The site is located in an area of open countryside outside the defined development limits of Biggin. The proposal would be located on land on an agricultural field lying to the west of the village of Biggin and located between two existing properties along the northern side of Biggin Lane. There is an established hedgerow to the east of the site wherein Little Common Farm is located. There are no protected trees which surround the site. The site is situated within Flood Zone 1, 2 and 3, with the property being erected within the Flood Zone 1 which is at low probability of flooding.

The Proposal

- 1.2. This application is for full planning permission for the erection of a six bedroom detached dwelling with integral garage. It is proposed the vehicular access into the site would be taken from Biggin Lane. The dwelling would be located on the eastern area of the site due to other areas of the site being located within flood zones 2 and 3.

Relevant Planning History

- 1.3. 2016/0154/OUT (Refused – 13 July 2016) Outline application with all matters reserved for the erection of two detached dwellings on land at Little Fenton Field. – **Allowed on appeal** dated 9 December 2016.
- 1.4. 2017/0733/FUL (Approved 13 October 2017) Proposed erection of new 5 bedroom detached house with detached double garage and car port. This is on the adjacent site.

2.0 CONSULTATION AND PUBLICITY

The application was advertised as a departure from the Development Plan by site notice, neighbour notification and advertisement in the local newspaper.

- 2.1 NYCC Highways
No objections to the proposal subject to conditions.
- 2.2 Yorkshire Water Services
No comments received.
- 2.3 Selby Internal Drainage Board
No objections with guidance provided for surface water disposing to a watercourse.
- 2.4 Parish Council
Comments received refer to the Outline permission and the plans and conditions associated with that permission, height of the proposed dwelling and drainage.

Neighbour comments

- 2.5 The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper resulting in two representations being received citing the following comments:
 - Foul drainage assessment has been inaccurately completed with reference to field drains possibly crossing the site,
 - Reference to the Outline permission, plans and conditions associated with the permission,
 - Plans have no dimensions,
 - Reference to removing permitted development in the blue edged land.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The site lies outside of the defined development limits of Biggin a secondary village as defined in the Core Strategy Local Plan. As such the application site is therefore within the open countryside.
- 3.2 The site is in three flood zones. Flood Zone 1 which is the designation for the majority of the site and is where the dwelling would be constructed, with the remaining parts of the site being within Flood Zone 2 and 3.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.4 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. 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.

Selby District Core Strategy Local Plan

- 3.5 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

- 3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and

following this 12-month period, due weight should be given to relevant policies in existing plans 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)".

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development

ENV2 - Environmental Pollution and Contaminated Land

T1 - Development in Relation to Highway

T2 - Access to Roads

4.0 APPRAISAL

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

- Principle of development
- Design and Impact on the Character of the Area
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Impact on Highways
- Residential Amenity
- Impact on Nature Conservation and Protected Species
- Affordable Housing
- Land Contamination.

Principle of Development

- 4.2 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 14 of the NPPF and should be afforded significant weight.
- 4.3 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 4.4 The application site is located outside the defined development limits of Biggin and is therefore located within the open countryside. The proposals are contrary to Policies SP2 and SP4 of the Core Strategy (2014). Outline planning permission was granted on the 9th December 2016 (reference 2016/0154/OUT) for the erection of two detached dwellings with all matters reserved. Therefore the principle of development has been established in principle on this site through the outline permission and reserved matters submissions could be made against this consent by the applicants.
- 4.5 It is considered that significant weight is given to the material consideration that is

the extant Outline permission that would outweigh the proposal being contrary to the development plan.

Design and Impact on the Character of the Area

- 4.6 The character and appearance of the local area is varied comprising a range of house types, development forms and materials. The submitted layout plan demonstrates that the dwelling would be set back from the site frontage along a similar line to the existing dwelling at Little Common Farm. There would be provision for parking areas to the frontage of the property, along with an integral garage. The materials of the property at Spring Well House are a cream render and orange pantile with little architectural merit. The bungalow at Little Common Farm is finished using rendered walls and red roofing. The application form indicates the external materials would mean the proposed dwelling would be erected using facing brickwork and natural slate roof. Given the varied mix of building materials in the village and adjacent to the site, it is considered that these materials would be acceptable.
- 4.7 With respect to the character of the area and landscape character of the village it is noted that the site is set within an agricultural field with an established Leylandi which separates the site and the neighbouring property Little Common Farm. The application form notes that the proposed boundary treatment would be a 1.2m high post and rail fence which is not an uncommon form of boundary found in the countryside, although no details have been submitted on plan and therefore this can be secured by condition.
- 4.8 The application site comprises of an open field with a drainage dyke to the front of the site separating the road from the site. An access driveway would be created to facilitate the crossing into the site. The proposed dwelling would be located in a linear position to the neighbouring property to the east.
- 4.9 The proposed dwelling would measure a maximum of 21.5 metres in width by 12.5 metres in depth. The proposed dwelling would be two storey and would have a pitched roof with an approximate ridge to a height of 8.4 metres with the approximate eaves height of 5.5 metres.
- 4.10 With regard to the red line boundary which surrounds the application site area, as indicated above, there is a similar red edge approved under the outline consent in December 2016. The layout plan submitted has identified some land in owner ship coloured in blue. This land is not considered to be residential curtilage and was not included within the original outline consent. Therefore it is considered that the land which lies outside of the red edge is still open countryside and not residential curtilage.
- 4.11 Having had regard to the above elements, it is considered that the design, scale and layout is acceptable and with conditions attached would be acceptable and not result in creating a detrimental impact on the character and form of the open countryside location contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Flood Risk, Drainage, Climate Change and Energy Efficiency

- 4.12 The proposal would consider energy efficiency/sustainable design measures within the scheme in order to meet building regulations requirements.
- 4.13 The application site is located within Flood Zones 1, 2 and 3. The NPPF states that Flood Zone 2 is of medium probability to flooding and defines it as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding or between a 1 in 200 and 1 in 1,000 annual probability of flooding from the sea. Flood Zone 3a has a 1 in 100 or greater annual probability of river flooding or a 1 in 200 or greater annual probability of flooding from the sea. Flood Zone 3b is the functional floodplain where water has to flow or be stored in times of flood. There is no residential development proposed within Flood Zones 2 and 3 of the application site.
- 4.14 The application is not accompanied by a Sequential Test because it is considered that the dwellings could be readily accommodated within Flood Zone 1, as shown in the layout plan.
- 4.15 In terms of drainage it has been confirmed by the agent that foul drainage would be provided by means of package sewage treatment plants discharging, subject to Environment Agency agreement, to watercourses. Yorkshire Water has been consulted as part of this proposal and has made no comment. Selby IDB has been consulted as part of this application and has no objections subject to their consent prior to any commencement if surface water was to be disposed to a watercourse.
- 4.16 Means of foul and surface water disposal can be secured by condition. The appeal decision for the outline consent approved in December 2016 stipulated that separate systems of drainage for foul and surface water shall be development. This should be coupled with no piped discharge of surface water from the application site to take place until works for a satisfactory outfall for surface water has been completed. The detail of the works shall be submitted to and approved by the local planning authority prior to the commencement of the development.
- 4.17 In view of the fact that no objection has been received from statutory consultees and that the proposal can be accommodated within Flood Zone 1, the proposed scheme is considered to be acceptable in terms of flood risk and drainage provision, subject to the inclusion of a condition requiring details of foul and surface water drainage as appropriate.
- 4.18 Subject to the aforementioned conditions it is therefore considered that the proposal is acceptable in terms of risk, drainage and climate change in accordance with Policy ENV1 (3) of the Local Plan, Policies SP15, SP16 and SP19 or the Core Strategy and the advice contained within the NPPF.

Impact on Highways

- 4.19 The proposed dwelling would be served from an existing vehicular access from Biggin Lane and would involve the creation of a site access and a new driveway and hardstanding area for turning and parking. Having consulted NYCC Highways they have reviewed the proposal and assessed the application with respect to the impacts on the highway. They have raised no objections subject to conditions.

- 4.20 Having regard to the above, 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.

Residential Amenity

- 4.21 The proposed dwelling would measure circa 21.5m wide x 12.5m deep x 5.5m to eaves and 8.4m to ridge height. The integral garage eaves height would be 3.5m and 7m ridge height. The dwelling would be set off the shared boundary with Little Common Farm where there lies a tall mature Leylandi. The dwelling would be sited circa 21m from the nearest dwelling at Little Common Farm which is a bungalow. There is extant planning permission for a two storey dwelling on land west of the site and this would be circa 65m away. The dwelling would have a rear garden and a large garden west of the dwelling which is adequate to support a dwelling this size.
- 4.22 The separation distances noted above are considered to be acceptable to ensure that there are no adverse overlooking, overbearing or overshadowing of the neighbouring property and the new dwelling to the west.
- 4.23 As such it is considered that this proposal is in accordance with Policy ENV1 (1) of the Local Plan and the NPPF.

Impact on Nature Conservation and Protected Species

- 4.24 Having had regard to the location of the site it is noted that the application site does not contain significant areas of semi-natural habitat and is not subject to any formal or informal nature conservation designation or known to support any species given special protection under legislation.
- 4.25 However, the proposal is in the open countryside which has an intrinsic value for the character of the area. As such, it is considered that the proposal would accord with Policy ENV1 of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to the impact of the proposal on the open countryside.

Affordable Housing

- 4.26 In the context of the West Berkshire High Court decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for a commuted sum. It is therefore considered that having had regard to Policy SP9 of the Core Strategy and PPG on balance the application is acceptable without a contribution for affordable housing.

Land Contamination

- 4.27 The application is accompanied by a Contamination Screening Assessment Form which sets out that there is no past or existing contamination issues associated with the site. It is recommended that a planning condition is attached to ensure that in the event of any unexplained contamination found when carrying out the approved development can be dealt with safely. This is a precautionary measure due to the agricultural use of the site.

- 4.28 The proposals, subject to the attached conditions are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Legal Issues

- 5.0 Planning Acts: This application has been considered in accordance with the relevant planning acts.
- 5.1 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.
- 5.2 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

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

7.0 CONCLUSION

- 7.1 The application proposes full planning consent for residential development comprising one dwelling. The application site lies outside the defined development limits of Biggin, a secondary village as established in the Core Strategy Local Plan. However there is an extant planning permission reference 2016/0154/OUT for two dwellings permitted by the Planning Inspector in December 2016.
- 7.2 As such, the application site benefits from an extant permission for an outline consent for two dwellings so the principle of residential development has been established on this site. Significant weight is applied to this permission and is considered to outweigh the departure from the development plan.
- 7.3 Matters of acknowledged importance such as energy efficiency, renewable considerations, flood risk, drainage, layout, scale, design, impact on residential amenity, impact on the highway network and affordable housing contributions are considered to be acceptable.

8.0 RECOMMENDATION

- 8.1 This planning application is recommended to be APPROVED subject to conditions detailed below:
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:

| | |
|--------------------------------|------------|
| Proposed Site Plan | 17063-P100 |
| Proposed Site Plan Flood Zones | 17063-P101 |
| Site Location Plan | 17063-S100 |
| South and West Elevations | 17063-P210 |
| North and East Elevations | 17063-P211 |
| Roof Plan | 17063-P202 |

Reason:

For the avoidance of doubt.

03. 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,

- a. The existing access shall be improved with 6 metre radius kerbs, to give a minimum carriageway width of 4.1 metres, and that part of the access road extending 6 metres into the site shall be constructed in accordance with Standard Detail number E6d
- b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
- c. Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and shall be maintained thereafter to prevent such discharges.

Reason:

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

04. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- e. measures to control the emission of dust and dirt during construction

Reason:

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

05. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:

To ensure a satisfactory form of drainage in accordance with Policy SP15 of Selby Core Strategy.

06. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water has been completed in accordance with details to be submitted to and approved by the local planning authority before development commences.

Reason:

To ensure that the installation of soakaways provide an adequate method of surface water disposal and reduce the risk of flooding, in accordance with Policy SP15 of Selby Core Strategy.

07. 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 any potential 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, in accordance with Policy ENV1 of Selby District Local Plan.

08. The development hereby permitted shall be constructed entirely of the material details of which are shown on the approved plans and application form.

Reason:

In the interests of visual amenity in accordance with Policy ENV1 of Selby District Local Plan.

09. The development shall not be brought into use until a scheme detailing the boundary treatment of the site has been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, type,

height, style and method of installation. The development shall not be brought into use until the works comprising the approved scheme have been completed. The scheme shall thereafter be retained for the lifetime of the development.

Reason:

In the interests of the visual character of the area in accordance with Policy ENV1 of Selby District Local Plan and Policy SP19 of Selby District Core Strategy.

Contact Officer:

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Appendices:

None

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