

Parish: Dalton
Ward: Sowerby and Topcliffe
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Committee date: 20 September 2018
Officer dealing: Miss Charlotte Cornforth
Target date: 21 September 2018

18/00423/FUL

**Construction of one dwelling
At Ivy House, Dalton
For Mr J Wood**

This application is referred to Planning Committee at the request of a member of the Council and was deferred at the meeting of 28 June 2018 for a flood risk assessment and further consideration of the proposed access.

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 The application site is located to the south west of the dwelling of Ivy House, within an open paddock (0.32 hectares) that is currently used as grazing land, within the village of Dalton. The land is elevated from the main road and is bounded by a timber post and rail fence to the front, with some trees. To the north of the site is the housing development of The Willows and to the west is open space before the road that runs north out of the village in a northerly direction.
- 1.2 Within the settlement hierarchy contained within the Interim Policy Guidance, Dalton defined as a Secondary Village. The application site is located outside of the development limits for Dalton.
- 1.3 The application site itself, with the dwelling and domestic curtilage measures approximately 386 square metres. The proposal seeks the construction of one dwelling. This dwelling is proposed to be single storey. The dwelling will have a hipped roof, with an attached garage and will be constructed from bricks and red clay pantiles, with grey UPVC windows and doors.
- 1.4 There will be a vehicular access directly off the main road that runs through the village, with parking and turning space to the front of the dwelling. The access to the site is located within flood zone 3.
- 1.5 An amended site location plan has been received, showing the access within the red line and certificate B has been signed, with notice given to North Yorkshire County Council.
- 1.6 A Flood Risk Assessment (Level 2) by FRC Ltd dated 31 July 2018 has been submitted since the deferral of the application in June 2018.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 There is no relevant planning or enforcement history regarding the application site.

3.0 RELEVANT PLANNING POLICIES

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP2 – Access
Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 - Promoting high quality design
Core Strategy Policy CP21 - Safe response to natural and other force
Development Policy DP1 - Protecting amenity
Development Policy DP3 - Site accessibility
Development Policy DP4 - Access for all
Development Policy DP8 - Development Limits
Development Policy DP9 - Development outside Development Limits
Development Policy DP10 - Form and character of settlements
Development Policy DP30 - Protecting the character and appearance of the countryside
Development Policy DP32 - General design
Development Policy DP33 – Landscaping
Development Policy DP43 - Flooding and floodplains
Interim Guidance Note - adopted by Council on 7th April 2015
Size, Type and Tenure of New Homes SPD - adopted September 2015
National Planning Policy Framework - published July 2018

4.0 CONSULTATIONS

- 4.1 Parish Council – Wishes to see the application approved.
- 4.2 Public comment – one comment has been received. It raises no objection to the principle of development but asks that the hedges at the side are not removed they are very well established.
- 4.3 Highway Authority – Following receipt of an amended site location plan and ownership certification, the Authority has no objection subject to conditions regarding the discharge of surface water, construction requirements for the private access and verge crossing, provision of approved access, turning and parking areas, precautions to prevent mud on the highway and on-site parking, on site storage and construction traffic during development.
- 4.4 Yorkshire Water – No response to date.
- 4.5 Environment Agency – It is necessary to apply Sequential Test evidence. The site lies within Flood Zone 2/3, which has a medium/high flood risk. The National Planning Policy Framework (NPPF) requires decision-makers to steer new development to areas at the lowest risk of flooding by applying a Sequential Test.

Development should not be permitted if there are reasonably available sites, appropriate for the proposed development, in areas with a lower probability of flooding. The development will only meet the requirements of the NPPF if measures as detailed in the Flood Risk Assessment are implemented and secured by way of recommended planning conditions.

- 4.6 Swale and Ure Drainage Board – No objection in principle to disposal of surface water via a soakaway system but advises 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.

5.0 OBSERVATIONS

- 5.1 The main issues to consider are: (i) the principle of development; (ii) the impact on the character of the surrounding area, including the character and appearance of the village; (iii) residential amenity; (iv) highway safety; (v) flood risk; and (vi) drainage

Principle

- 5.2 The site falls outside the Development Limits of Dalton. Policy CP4 states that all development should normally be within the Development Limits of settlements.
- 5.3 Policy DP9 states that development will only be granted for development in exceptional circumstances. The applicant does not claim any of the exceptional circumstances identified in Policy CP4 and, as such, the proposal would be a departure from the Development Plan. However, it is also necessary to consider more recent national policy in the form of the National Planning Policy Framework (NPPF).
- 5.4 To ensure appropriate consistent interpretation of the NPPF alongside Policies CP4 and DP9, on 7 April 2015 the Council adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in the Rural Areas. This guidance is intended to bridge the gap between CP4/DP9 and the NPPF and relates to residential development within villages. The IPG includes an updated Settlement Hierarchy.
- 5.5 The Interim Policy Guidance states that the Council will support small-scale housing development in villages where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community and where it meets all of the following criteria:
1. Development should be located where it will support local services including services in a village nearby.
 2. Development must be small in scale, reflecting the existing built form and character of the village.
 3. Development must not have a detrimental impact on the natural, built and historic environment.
 4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
 5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
 6. Development must conform with all other relevant LDF policies.
- 5.6 Within the settlement hierarchy contained within the IPG, Dalton is defined as a Secondary Village and is therefore considered a sustainable location for development; satisfying criterion one of the IPG that proposed development must provide support to local services including services in a village or villages nearby.

The character of the village

- 5.7 With regard to criterion 2 of the IPG, development must be small in scale and reflect the existing built form and character of the village. IPG criterion 3 states that development must not have a detrimental impact upon the natural, built and historic environment. The development is small in scale, being one single storey dwelling. However, consideration needs to be given to whether the development reflects the existing built form and character of the village.
- 5.8 The application site is on land that was defined in the 1999 Hambleton District-Wide Local Plan as a space of townscape importance. These spaces included paddocks, orchards, large gardens and village greens, which, if infilled, would lead to erosion of the character of settlements. Open spaces within villages enhance the character of village and are important in contributing to the quality of life of residents within a settlement. It is only development that would not adversely affect the contribution of

such spaces make to the character, setting or historic form and layout of the settlement would be permitted.

5.9 As noted in the consideration of the principle of development, the LDF only provides support for development on land beyond Development Limits such as this in exceptional circumstances, none of which are considered to apply. It is considered to still meet the criteria of the 1999 Policy BD5 – Spaces of Townscape Importance. This criteria identifies that:

- Make a significant contribution to the character setting of the settlement
- Provide an attractive setting for buildings within it
- Are important to the historic form and layout of the settlement

LDF Policy DP10 (form and character of settlements) states that permission for development will only be granted where it respects the intrinsic qualities of open areas that have particular importance in contributing to the identity or character of settlements. 5.10 This paddock is undeveloped, set back from the road and is central to an open area that creates a sense of place and is of great significance to the form and character of Dalton and which provides a buffer between the built form of the main village and the recent housing at The Willows and Willow Grove to the north. To the south of the paddock is the main village road and a further area of open land in front of Garth House, on the opposite side of the road.

5.10 Together, these areas of land make a significant contribution towards the character and setting of the village. It is considered that the siting of the bungalow or any other development on this paddock would not only fail to respect the intrinsic quality of this area (as required by policy DP10) but would also harm the open character setting of this part of the village and be detrimental to the built environment. The dwelling would not be read in the context of any other dwellings in the locality. It would be viewed as an isolated feature within the otherwise open area within the village and which, by virtue of its central position, would devalue the contribution this area makes to the form and character of Dalton. Furthermore, it would set a clear precedent for further development that would reduce and eventually eliminate the open character of this part of the village.

5.11 One of Hambleton's strategic planning objectives, set out in The Core Strategy Local Development Document (2007), is "To protect and enhance the historic heritage and the unique character and identity of the towns and villages by ensuring that new developments are appropriate in terms of scale and location in the context of settlement form and character."

5.12 Policies CP17 and DP32 require the highest quality of creative, innovative and sustainable design for buildings and landscaping that take account of local character and settings, promote local identity and distinctiveness and are appropriate in terms of use, movement, form and space. Since the consideration of the application at Planning Committee on the 28th June 2018, the revised NPPF has been published. Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

5.13 It is considered that the design of the dwelling is not well suited to the historic core of the village and fails to comply with Policies CP17 and DP32.

Residential amenity

5.14 It is considered that due to positioning of the dwelling, it being single storey and the positioning of the openings, there would not be a material adverse impact upon the amenity of the neighbouring occupiers.

Highway safety and access

- 5.15 Criterion 5 of the IPG states that development must be capable of being accommodated within the capacity of existing or planned infrastructure.
- 5.16 The Highway Authority has no objection in principle to the proposal; however the access would cross an area of grassed land between the development site and the footway on the site's frontage. This grassed land is not shown within the applicant's control and the Highway Authority advise that it is not part of the publicly maintained highway. The Council advised the agent on 15 June 2018 of the requirement to provide additional certification of ownership to include all the land in the application. In the circumstances that an applicant does not own or control land in an application site they are required to serve notice on the other owner(s). The applicant has given notice to the County Council but (at the time of writing) has not confirmed the ownership of the remaining land between the site and the highway. The agent has not published a public notice or provided certificate of how 'all reasonable steps' have been taken to discover the name and address of the landowner of all of the land included in the proposal. The proposal has therefore failed to meet the procedural requirements of the Planning Act and the Town and Country Planning (Development Management Procedure)(England) Order 2010, Article 12.

Flood risk

- 5.17 The site is located within Flood Zone 3. Land and property located within Flood Zone 3 have a high probability of flooding and any development must be accompanied by a Flood Risk Assessment. A dwelling is regarded as a more vulnerable use in terms of flood risk. The NPPF at paragraph 155 states that 'inappropriate development' in area at risk of flooding should be avoided by directing development away from areas at highest risk. The site as it is in Flood Zone 3 is at 'highest risk', a residential use has a high level of vulnerability. The proposal is therefore contrary to the NPPF.
- 5.18 This general approach to the Sequential Test is to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding and to steer it towards areas at lower risk of flooding where possible. In this regard, paragraph 158 of the NPPF is unequivocal in stating that:

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.

This is reflected in Development Plan policies CP21, which requires proposals to ensure protection from flooding, and DP43, which states:

To be considered for approval, development proposals advanced on land that has any risk of flooding will need to demonstrate that the sequential and exceptions tests required by national guidance have been undertaken, i.e. that all sites with less potential for flooding have been examined first, and if necessary a Flood Risk Assessment has been undertaken.

It is considered that there are reasonably available sites suitable for a single dwelling outside of Flood Zones 2 and 3 within Hambleton and there is no evidence that the applicant has considered sites with a lesser risk of flooding. Therefore the development fails the Sequential Test. 5.18 Paragraph 159 of the NPPF indicates that the Exception Test may need to be carried out "if it is not possible for development to be located in zones with a lower risk of flooding". As already noted, it is considered that there are reasonably available sites for a single dwelling in areas of lower flood risk, so it is questionable whether the Exception Test is appropriate in this instance. Paragraph 160 of the NPPF indicates that the Exception Test is a

method to determine whether flood risk to people and property can be managed satisfactorily.

- 5.19 The two parts to the Test require an applicant to demonstrate that the development (a) will provide wider sustainability benefits to the community that outweigh the flood risk; and (b) will be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, reduce flood risk overall. The applicant has sought to justify the development under the Exception Test by carrying out a Flood Risk Assessment.
- 5.20 The Flood Risk Assessment indicates that the primary flood risk to the proposed development is fluvial flooding from Old Beck, located approximately 6 metres south of the application site and which flows west within an open channel and is considered to be an Ordinary Watercourse.
- 5.21 The topographical survey provided identifies that the site slopes in a southerly direction ranging from approximately 23.60 metres AOD (above ordnance datum) to 23.00 metres AOD. The level on which the footprint of the dwelling would be located is approximately 23.50 metres AOD.
- 5.22 It is further stated that The Environment Agency has not provided any flood levels associated with Old Beck, therefore a search of local planning applications was undertaken to determine what levels relatively new developments within the area had used to base floor levels and flood mitigation on.
- 5.23 A search of Hambleton District Council's planning records found application 09/01777/FUL, for the construction of four dwellings 50m south west of the application site, now forming part of The Rowans. A Flood Risk Assessment was provided for that development, which identified the following flood levels associated with Old Beck.

100 Year Event - The flood level associated with the 100-year event is identified to be 21.53 metres AOD.

The ground level where the footprint on which the property will be located is approximately 23.50 metres AOD. Therefore, during the 100 year event the site for dwelling is elevated 1.97 metres above the modelled flood level.

100 Year + Climate Change Event - The flood level associated with the 100-year event, plus an allowance for climate change as set out in the FRA is estimated to be 21.76m AOD.

The ground level where the footprint on which the property will be located is approximately 23.50m AOD. Therefore, it is anticipated that during the 100 year plus climate change event the site is elevated by 1.74m.

- 5.24 It is concluded in the FRA that the application site is located in excess of 1m above the 100 year and 100 year plus climate change flood levels as identified within the FRA undertaken for the development on The Rowans in 2009.
- 5.25 It is understood that the new application of the new climate change requirements brought in since The Rowans FRA of 2009 has not been incorporated into the figures within the FRA, therefore it is recommended that the proposed finished floor levels of the proposed dwelling are elevated an extra 300mm above existing ground level to provide an extra element of safety.
- 5.26 The applicant has not provided any evidence in respect of the first part of the Exception Test, i.e. whether the development will provide wider sustainability benefits

to the community that would outweigh the flood risk. While it is accepted that additional dwellings can help sustain communities by providing greater support for local services, it is not considered that the gain in this regard to form a single dwelling would outweigh the identified flood risk, particularly when there are alternative sites with lower flood risk that could accommodate the dwelling. Paragraph 160 of the NPPF requires both parts of the test to be met and as the first part is not, the development does not accord with the NPPF and, considered with the failure to meet the Sequential Test, the proposal is contrary to policies CP21 and DP43.

5.27 Regarding the second part of the Exception Test, flood mitigation measures are identified within the Flood Risk Assessment. These include:

- Finished floor levels to be elevated a minimum of 300mm above existing ground levels;
- Incorporation of an undercroft with grilles to prevent the requirement of flood storage compensation;
- Design the development with flood proofing measures to reduce the damage following the onset of flooding;
- Boundary treatments to allow flood water to migrate through the site;
- Residents to sign up to receive EA Flood Warnings;
- Evacuate the site north onto Willows Grove on receipt of EA Flood Warnings;
- Incorporation of a proprietary flood alarm system; and

- A safe place of refuge is provided at a level above ground floor

The measures except the final provision could be secured by planning condition.

5.28 The findings of the Flood Risk Assessment are duly noted. However, as examined above, the proposed development of a residential dwelling located within Flood Zone 3 whereby land has a high probability of flooding is considered to not meet the Sequential or Exception Tests.

5.29 Development should not be permitted where there are reasonably available sites, appropriate for the proposed development, in areas with a lower probability of flooding. In addition to the wider availability of housing land at lower risk of flooding in the District, it is noted that there is other land, within the applicant's ownership' located outside of Flood Zones 2 and 3 that could accommodate a dwelling and therefore meet the Sequential Test.

Drainage

5.30 Foul drainage would be disposed of via the mains and surface water via a soakaway. The exact details of which can be agreed by planning condition. There is no evidence to suggest that the demands on the infrastructure of the village arising from the development would be so great that the infrastructure would be unable to cope with the additional development or cause harm to the amenity of the village.

6.0 RECOMMENDATION

6.1 That subject to any outstanding consultations permission is **REFUSED** for the following reasons:

1. The proposed development of a residential dwelling located within Flood Zone 3 whereby land has a high probability of flooding is considered to not meet the sequential or exception tests as set out in the NPPF. The proposed development does not provide wider sustainability benefits to the community that outweigh flood risk. There are other sites, including land within the applicant's ownership, outside of

Flood Zones 2 and 3 that could accommodate a dwelling. As such, the proposal fails to accord with the requirements of Local Development Policies CP21 and DP43 and the NPPF.

2. The proposed development by virtue of its siting on this undeveloped, elevated paddock will result in harm to the open character setting of the settlement. As such, the proposal fails to accord with the requirements of Local Development Policies CP4, DP10, CP17 and DP32 and the NPPF.
3. The proposed development by virtue of its detailed design would fail to comply with Local Development Policies CP17 and DP32 and the NPPF.
4. The applicant has failed to comply with the requirements of the Town and Country Planning (Development Management Procedure)(England) Order 2010, Article 12 to i) take all reasonable steps to find the name and addresses of the owners of all of the land and ii) has failed to set out the steps that have been taken and ii) failed to give notice in a newspaper circulating in the area where the land is situated.