

Parish: Thirsk

Ward: Thirsk

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Committee Date: 3 March 2016

Officer dealing: Mrs S Leeming

Target Date: 9 December 2015

15/02259/FUL

**Demolition of existing office building, sub-station building and garage and construction of six semi-detached and one detached dwellings with vehicle parking and alterations to vehicular access together with modified verge crossing and associated works as amended by plans received 12 January 2016.
at The Bungalow, Masonic Lane, Thirsk
for Stevenson Properties**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 This application, as amended, seeks permission for the construction of seven dwellings to replace an office building located adjacent to The Bungalow.
- 1.2 The dwellings would comprise a detached house and a pair of semi-detached dwellings on the front of the site in place of the office building and to the front of The Bungalow. To the rear, on the raised garden area adjacent to The Bungalow, two pairs of semi-detached dwellings are proposed.
- 1.3 The dwellings to the frontage each have three bedrooms and would be constructed of brickwork with pantiles. The four dwellings to the rear are proposed with two bedrooms and are to have a render finish with pantiles. All are proposed with timber windows and chimneys.
- 1.4 The layout of the site has been designed to provide a small rear garden area to each dwelling and parking would be adjacent to the existing substation within a single car parking area on the frontage for each dwelling and four visitor spaces (a total of 12 spaces) with a brick wall approximately 1m high proposed to either side of the vehicular access. The proposal includes the felling of a large Ash tree to the rear of the site.
- 1.5 The existing dwelling, The Bungalow, and the two pairs of semi-detached dwellings proposed within its garden area at the rear of the site (plots 4-7) are all located within the area designated as a Scheduled Ancient Monument (Thirsk Castle site, the open area of Thirsk Castle lies to the south and south west). The whole of the site lies within the Thirsk and Sowerby Conservation Area.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 02/00532/CAT - Proposed lifting and thinning of Ash Tree; Approved 15 April 2002.

3.0 RELEVANT PLANNING POLICIES

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Development Policies DP1 - Protecting amenity
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 - Promoting high quality design
Development Policies DP28 - Conservation
Development Policies DP29 - Archaeology
Development Policies DP32 - General design

4.0 CONSULTATIONS

4.1 Thirsk Town Council - wishes to see the application refused because:

- Part of the site is actually on the site of the scheduled ancient monument known as Castle Garth and units 3, 4, 5, 6 and 7 should not be built here;
- Quite apart from this, this is a green area leading into Thirsk;
- The site will be very overcrowded;
- There is insufficient parking space provided; and
- The walls that are stated to be rendered would look better brick.

4.2 Highway Authority - The proposed site layout includes the provision of 12 parking spaces to serve the development. These spaces are shown with dimensions of 2.4m x 4.8m. Four of the spaces are adjacent to walls which will restrict the ability to open doors and these should be widened to make them useable. The Authority's views on the amended plans (which widened some of the spaces from 2.4 to 2.6m) are awaited.

4.3 NYCC Archaeology - a condition is recommended to ensure the implementation of a scheme of archaeological mitigation recording through the submission of a Written Scheme of Investigation.

4.4 Historic England - Thirsk Castle was built around 1092 but was surrendered to King Henry II in 1174 who then ordered its destruction in 1196. The site was then occupied by a manor house but this building was destroyed in 1322 during raids by the Scots. From 1376 the site was used as garden and by the end of that century was laid to grass. The visible remains only survive in two areas: a portion of the motte (the current application site) and a much larger area of the bailey to the west and south of the motte. On the application site archaeological evaluation and geophysical survey have indicated that the medieval deposits are buried beneath a thick and hard layer of imported clay. "The implication of this is that archaeological deposits do survive on the application site but will be below the level of construction activity." They conclude that "Although the impact of the proposed development on the archaeology of the castle can be considered 'harm', it can be argued that this harm is outweighed by the enhancement of the Conservation Area and streetscape of Thirsk, and the positive contribution that the development could make to local character and distinctiveness. The impact on archaeological deposits can be mitigated through archaeological recording, and this condition will also be included in our advice to the DCMS (*Department of Culture Media and Sport*) on the forthcoming Scheduled Monument Consent application."

4.5 Environmental Health Officer - no objections

4.6 Environmental Health Scientific Officer- "The applicant has submitted a statement indicating that land contamination is not an issue on this site. I have assessed the application and have concerns on the following matters:

1. Electricity sub-station building - given the age and condition of the building the presence of asbestos containing materials (ACMs) and poly chlorinated biphenyls (PCBs) cannot be discounted. I recommend a site investigation to assess the potential for these contaminants be carried out prior to demolition of the buildings.
2. Existing dwelling and offices - the presence of asbestos containing materials cannot be ruled out and therefore I recommend an asbestos survey be carried out to assess the potential for these materials prior to demolition of the buildings.

3. Soils for garden areas - the soils that are provided for the new garden areas will require contamination screening to demonstrate they are suitable for use. Verification of site-won materials or imported soils shall be carried out prior to re-use and/or importation."

A contamination condition is therefore recommended.

- 4.7 The application has been publicised through letters to neighbours, a site notice and a press advertisement. There has been no response.

5.0 OBSERVATIONS

- 5.1 The site lies within the development limits of Thirsk where in principle residential development will be permitted. Therefore the main issues for consideration in this case relate to the likely impact on heritage assets, specifically the Scheduled Ancient Monument and the Conservation Area and loss of a mature tree. Any impact upon highway safety and neighbour amenities must also be carefully considered.

Heritage assets

- 5.2 Part of the site is formally designated as a Scheduled Ancient Monument. In this case Policy DP29 must be taken into consideration. This states that:

"The preservation or enhancement of archaeological remains and their settings will be supported, taking account of the significance of the remains as follows:

- i in the case of Scheduled Monuments (shown on the Proposals Map) and other nationally important archaeological sites and their settings, by operating a presumption in favour of their preservation; and
- ii in the case of other remains of lesser significance, development affecting the site and its setting will only be permitted where the need for development and other material considerations outweigh the importance of the remains. Such remains should be preserved in situ. Where this is not justifiable or feasible, appropriate and satisfactory arrangements will be required for the excavation and recording of the archaeological remains and the publication of the results.

In areas of known or potential archaeological interest, an appropriate assessment and evaluation must be submitted to accompany any development proposals.

Where appropriate, provision should be made for interpretation and access of remains in situ, and for realising tourism and cultural benefits where public access is possible without detriment to the site."

- 5.3 In addition to this further guidance is contained within the NPPF from paragraph 128 onwards. This details that the applicant should describe the significance of the heritage asset and the potential of the proposal upon its significance. At paragraph 131 it states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraphs 132 to 134 state:

“132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

5.4 In light of this policy guidance the agent was advised to make a full assessment of the contribution the application site makes to the setting of the Scheduled Monument and why its continued use as a garden area is no longer viable, to clarify how the proposed development would make a positive contribution to local character and the distinctiveness of the area and also, in terms of NPPF paragraph 134, to clarify what public benefit would be achieved by the development of Plots 4 - 7 that might outweigh any harm to the Scheduled Monument.

5.5 An amended Heritage Statement has been submitted to cover these points and this details that "The development will remove an area of inappropriate previous development that currently detracts significantly from both the Conservation Area and the setting of the Scheduled Monument. It will replace it with development that adopts the design, materials and densities successfully used in previous development to the north of Picks Lane". It states that this will:

"enhance the significance of the Scheduled Monument of Thirsk Castle by improving its setting" whilst acknowledging that "development within the boundary of the Scheduled Monument may have a minor impact on the archaeology of the castle, although any medieval deposits are protected by a thick layer of imported clay. Historic England have accepted that any harm will be successfully mitigated by appropriate archaeological recording and that it is outweighed by the improvements that the scheme will bring to Thirsk."

- 5.6 It is clear from this policy advice that the protection of the Scheduled Monument is paramount and of primary concern. It is noted that this part of the Scheduled Monument is only one of two areas of the Castle site with visible remains and that it has remained in its present grassed garden state since the late 1300s. It is also clear that any harm done to this as a result of the proposed development could only be overcome and seen as permissible if there was considerable public benefit as a result of the proposal. There are two public benefits that can be claimed, the first being the creation of additional dwellings in a sustainable location and the second, as stated by Historic England, if this development was considered to have a positive impact upon the character and appearance of the Conservation Area by the removal of the modern office building.
- 5.7 In this location it is considered that the existing office building fails to have a positive impact due to its appearance and the same is considered to apply to The Bungalow which is felt to be uncharacteristic of Masonic Lane due to its elevated position relative to the road. As identified by Historic England and as identified within the revised Heritage Statement, the removal of this unattractive office building would undoubtedly improve the appearance of the Conservation Area. The frontage dwellings proposed to replace it are considered to be of a high standard of traditional design which would appropriately respect the character of the Conservation Area. They would also help to screen The Bungalow which in itself is considered to detract from the appearance of the area, due largely to its raised position. As such it is agreed that the frontage dwellings to replace the office building would enhance the appearance of the Conservation Area.
- 5.8 These frontage dwellings are however outside of the Scheduled Monument site itself and as such it is highly important to make a full assessment of the likely impact of the proposed dwellings at the rear of the site on the setting of the Scheduled Monument as well as upon the Conservation Area. As noted earlier, paragraph 131 of the NPPF includes a requirement to consider “the desirability of sustaining and enhancing the significance of heritage assets”. This suggests that permission should only be granted here if the development of the dwellings to the rear would sustain or enhance the setting of the Scheduled Monument in comparison to the present use of that part of the site as a garden.
- 5.9 As Historic England has advised, the site is one of only two remaining parts of the Scheduled Monument that resembles how it appeared in the C14th, following the demolition of the Castle. It is therefore hard to conceive how the significance of the heritage asset could be sustained or enhanced by building on this surviving open area. The proposed dwellings would not assist in the understanding of the physical previous use of the land or aid an understanding of the significance of the Castle or Manor. As such it is considered that the development would fail the requirements of the LDF Policy CP16 and DP28 and the public benefits of providing additional housing noting that the SHMA 2016 shows a substantial supply of housing land and the removal of the office building does not outweigh the harm.
- 5.10 The dwellings proposed on the rear of the site would be built with the same ground floor level as The Bungalow. As already stated above The Bungalow is considered to be uncharacteristic due to its raised ground floor levels and its resultant height above the road and causes harm to the character and appearance of the Conservation Area. Despite a slight reduction to the height of the proposed dwellings through amended plans they would have a ridge height above that of The Bungalow. There is significant concern about the visual impact of these dwellings upon the street scene and upon the appearance of the Conservation Area. Whilst the detailed design of the dwellings is respectful of the traditional character of the Conservation Area, their raised height and rear location is not. Furthermore, they would be viewed from the road across a car park and behind a bin store and a wall of approximately

1m in height. Hedge planting is proposed to the front of plots 4-7 but this would not offset the harm caused by the presence of the buildings on the skyline. The dwellings would be clearly visible from the road frontage and their raised height and rear siting, and the immediate visual impact of the car park, are considered to be an incongruous form of development that fails to preserve or enhance the character or appearance of the Conservation Area. The proposal to develop plots 4 - 7 is therefore considered to be contrary to Policy CP16 and DP28.

Tree

- 5.11 The proposed development of plots 4 - 7 also necessitates the felling of the large Ash tree which is the only substantial and attractive tree within this area and which is visible for a large proportion of Masonic Lane. This would have a significant harmful impact upon the appearance of the Conservation Area. Furthermore, the tree is a strong visual clue that an open area exists and emphasises a visual link to other remaining grassed area of the Scheduled Monument.

Highway safety

- 5.12 There is space within the layout for some parking but falls short of the standards adopted by the Highway Authority. The layout of the parking area shows parking arrangements that are tight giving little space for drivers and passengers to enter or leave vehicles and insufficient space for maintenance within the parking bays. There are parking restrictions on Masonic Lane and any overflow parking would be likely to impact on public or private parking areas further from the site.

Neighbour amenity

- 5.13 There is no objection from any neighbours to the proposal and assessment of issues of amenity of neighbours has found there to be no significant impacts as there are no overlooking windows and the main impact from overshadowing would be from the existing bungalow upon the proposed dwelling.

Conclusion

- 5.14 It must therefore be concluded that whilst the frontage dwellings as proposed could have a positive visual impact upon the Conservation Area, the dwellings to the rear would have a harmful impact and fail to sustain or enhance the significance of the Scheduled Monument. There would be benefit gained by the loss of the office building and the replacement proposed dwellings at plots 1-3. The policy requirement is to consider whether the scheme as a whole would have a positive impact that would outweigh the harm done to the Scheduled Monument by building upon part of it. This has not been proved. Any positive impact relates to plots 1-3 only. There is no evidence provided that details why the rear part of the site cannot continue as an open area (and more recently garden area) as it has since the 1300s. The dwellings proposed at plots 4 - 7 would, due to their raised levels, be inappropriate and harmful to the character of the Conservation Area. As such there is no exceptional case that would allow the development to be permitted contrary to Policy DP29 and refusal must therefore be recommended.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations the application is **REFUSED** for the following reasons:
1. The proposed development would have a harmful visual impact upon the character and appearance of the Thirsk and Sowerby Conservation Area due to the location

and raised siting of the dwellings at plots 4 – 7, the physical dominance of the frontage of the site by use for parking and refuse storage and the loss of the Ash tree contrary would harm the local scene when viewed from Masonic Lane. The proposal is therefore contrary to the Local Development Framework Policies CP16 and DP28 and in the absence of any public benefit that would outweigh the harm approval would be contrary paragraphs 131 – 133 of the NPPF.

2. In the absence of any evidence to prove to the contrary and due to the inclusion of plots 4 - 7 the proposed development would fail to sustain or enhance the setting of the Scheduled Monument contrary to Local Development Framework Policy DP29 and paragraphs 131 – 133 of the NPPF.