

Parish: Dalton
Ward: Sowerby & Topcliffe
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Committee Date: 26 May 2016
Officer dealing: Mr T Wood
Target Date: 4 September 2014

14/01472/FUL

**Construction of 2 dwellings
at Greenbank Farm, Dalton
for Mr Steve Bradbury**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 This application was originally reported to Planning Committee at its meeting of 30 April 2015, where it was resolved that planning permission would be granted subject to conditions. However, the assessment of the application had taken account of the Ministerial Statement "Small-scale developers" of 28 November 2014, which had prevented an affordable housing contribution being secured in line with Council policy, but was subsequently declared unlawful and quashed by the High Court.
- 1.2 The quashing of the Ministerial Statement required re-assessment of the proposal with a view to securing an affordable housing contribution. However, the Court of Appeal overturned the High Court's decision on 11 May 2016, thereby again preventing an affordable housing contribution being secured.
- 1.3 In view of the history outlined above and the passage of time since the previous resolution, the matter is presented to Planning Committee again for decision.
- 1.4 The proposed dwellings would be positioned to the east of the existing dwelling at Greenbank Farm, Dalton.
- 1.5 The two dwellings would each provide for a living room, family room, kitchen, hall, w/c and study at ground floor level and 3 bedrooms, 1 en-suite bedroom and a bathroom at first floor level. The dwellings would have maximum dimensions of 12.2m x 10m, with a total height of approximately 7m.
- 1.6 A detached double garage is proposed within the domestic curtilage of both properties.
- 1.7 Materials proposed for dwelling 1 are brickwork and render with a pantile roof, dwelling 2 would comprise slate roof tiles and brickwork and render walls.
- 1.8 Access to the proposed dwellings would be via the existing vehicular access to the existing dwelling at Greenbank Farm.
- 1.9 Part of site, most notably the vehicular access, is within Flood Zones 2 and 3. The development limit boundary dissects plot 2. Amended plans and a planning obligation provide for an emergency exit route from the rear of the proposed domestic curtilages to the land to the rear of the adjacent village hall to which access can be gained to the highway outside of Flood Zones 2 and 3.
- 1.10 A tree the subject of TPO 1987/7 is positioned to the south-eastern boundary of the curtilage of plot 1 adjacent 1 Oak View.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 04/02180/TPO - Application to carry out works to a tree the subject of a Tree Preservation Order No. 1987/7; Granted 2004.

- 2.2 13/02121/FUL - Rear extension and installation of new windows to the side and rear of Greenbank Farm; Granted 29 November 2013.

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 CP9 - Affordable housing
Core Strategy Policy CP9A - Affordable housing exceptions
Core Strategy Policy CP17 - Promoting high quality design
Core Strategy Policy CP19 - Recreational facilities and amenity open space
Core Strategy Policy CP21 - Safe response to natural and other forces
Development Policies DP1 - Protecting amenity
Development Policies DP2 - Securing developer contributions
Development Policies DP3 - Site accessibility
Development Policies DP4 - Access for all
Development Policies DP6 - Utilities and infrastructure
Development Policies DP10 - Form and character of settlements
Development Policies DP15 - Promoting and maintaining affordable housing
Development Policies DP32 - General design
Development Policies DP33 - Landscaping
Development Policies DP37 - Open space, sport and recreation
Development Policies DP43 - Flooding and floodplains
National Planning Policy Framework
Ministerial Statement 28 November 2014

4.0 CONSULTATIONS

- 4.1 Parish Council - Object to the proposal on the following grounds: "Scale, mass, density and visual impact on surrounding properties. There has been one estate of 31 properties recently completed and another one of 36 properties being built in the village and we are most concerned about the quantity of properties relative to the amenities and services in Dalton. The Parish Council would like to have a Planning Site Visit and for the application to go to a Planning Committee Meeting for a decision".

Note: Planning Committee members inspected the site before the meeting of 30 April 2015.

- 4.2 Highway Authority - Conditions recommended regarding Discharge of Surface Water, Private Access/Verge Crossings: Construction Requirements, Parking for Dwellings, Precautions to Prevent Mud on the Highway, On-site Parking, on-site Storage and construction traffic during Development.
- 4.3 Environmental Health Officer - This service has considered the potential impact on amenity and likelihood of the development to cause a nuisance and consider that there will be no negative impact. Therefore the Environmental Health Service has no objections.
- 4.4 Swale and Ure Internal Drainage Board - Part of the site lies within Board's Drainage District. The FRA does not cover the question of possible loss of floodplain storage and consequent increase in flood risk elsewhere. Also the risk of flooding in Old Beck is exacerbated by the presence of a weed-screen 200m downstream at OSNGR SE

42982 76380. The FRA ought to consider the impact of screen blockage on flood risk and design water levels. An objection has been raised whilst these concerns are addressed.

The advised concerns about flooding by blockage of the Old Beck weed screen and loss of flood plain storage have now been resolved and clarified by the agent.

- 4.5 Environment Agency - The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the Flood Risk Assessment by AAH Planning Consultants, dated December 2013, Ref: AAH/01111/13FRA submitted with this application are implemented and secured by way of a planning condition on any planning permission. Subsequently, advising that the flood risk sequential testing is required to be undertaken.
- 4.6 Senior Drainage Engineer - Highlights that the proposal would need to pass the sequential and exception tests to be considered acceptable from a flood risk perspective. Notes that the applicant has provided a detailed analysis of the exception and sequential tests and the EA have considered the levels of development. The access is within Flood Zone 3 and safe access and egress during flood events should be provided.
- 4.7 Yorkshire Water - No response received.
- 4.8 Public comment - No responses received.

5.0 OBSERVATIONS

- 5.1 The main planning issues relate to (i) the principle of the proposed dwellings in this location; (ii) the flood risks on site and in the locality; (iii) any impact on the visual amenity of the surrounding area; (iv) any impact on neighbour amenity; (v) any impact on highway safety; and (vi) affordable housing.
- 5.2 As noted in paragraph 1.1 Planning Committee has previously resolved to grant this application subject to the completion of a planning obligation relating to access during a flood event and a contribution towards affordable housing. A planning obligation relating to the access has been prepared but following the recent decision of the Court of Appeal there is again no requirement for affordable housing in this case. The following parts of this report are prepared to enable members to review the planning issues.

Principle of Development

- 5.3 Plot 1 is within the development limits of Dalton which is a sustainable settlement as is defined by policy CP4 of the Hambleton Local Development Framework. Half of plot 2 is within development limits, however it is considered to be no less sustainable in terms of its positioning with relation to the facilities of Dalton and would broadly comply with policies CP1 and CP2.
- 5.4 Whilst the incursion of plot 2 into the countryside is minor, it is not allowed for by any of the exceptions to the strict control of development beyond Development Limits set by Core Policy CP4. However, the dwelling would not be isolated and therefore is allowed for by the National Planning Policy Framework. More significantly, the Council has adopted Interim Policy Guidance (IPG) to assist in cases such as this and the minor element of the proposal that falls outside Development Limits is entirely within the scope of the IPG.

Flood Risk

- 5.5 The applicant has provided extensive analysis of the risks to the development posed by flooding. The applicant has provided a Flood Risk Assessment which has recommended measures which could form a planning condition to minimise the risk to occupiers of both dwellings. The risk is only posed by the access and subject to a 'floor levels' condition not to the dwellings.
- 5.6 The application has been considered in the light of paragraph 102 of the National Planning Policy Framework (NPPF). Assessment has established through site-specific flood risk assessment that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. In conclusion it is considered that through the assessment undertaken the scheme demonstrates compliance with policy DP43 of the Hambleton Local Development Framework (LDF).
- 5.7 Considering the location of the proposed dwellings, and the conclusions drawn in relation to flood risk, it is considered that the proposed development is acceptable in principle.

Visual Amenity

- 5.8 The applicant engaged in extensive pre-application discussions to ensure that the housing density and design are appropriate to the setting. The proposed dwellings would be appropriately positioned on the elevated site and would maintain the character and appearance of the local area.

Neighbour Amenity

- 5.9 The position of the proposed dwellings to each other, to the existing dwelling at Greenbank Farm, and to immediately adjacent residential properties is noted. The overall design of the dwellings and their relationship to nearby properties is such that there would not be an adverse impact on neighbour amenity.

Highway Safety

- 5.10 An existing access would serve both proposed dwellings. This access is partially constructed and subject to the recommended conditions of the Highway Authority, the proposal would not have an adverse impact on highway safety.

Affordable Housing

- 5.11 The Ministerial Statement of 28 November 2014 removed the ability for Local Planning Authorities to collect tariff obligations for developments of this size and the proposal was originally assessed on that basis. However, the Ministerial Statement had been found unlawful by the High Court in July 2015 and therefore the LDF requirement for affordable housing, either by provision or a financial contribution, could be afforded full weight again. Following the subsequent Court of Appeal decision the scheme is again not required to contribute towards the provision of affordable housing.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations the application is **GRANTED** subject to the following conditions:
1. The development hereby permitted shall be begun within three years of the date of this permission.

2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings and details received by Hambleton District Council on 14 July 2014 and 6 February 2015 unless otherwise approved in writing by the Local Planning Authority.
3. Prior to development commencing, details and samples of the materials to be used in the construction of the external surfaces of the development shall be made available on the application site for inspection and the Local Planning Authority shall be advised that the materials are on site and the materials shall be approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.
4. The use of the building shall not be commenced until the external surfaces have been finished in accordance with a colour scheme to be approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented and retained in accordance with the approved details.
5. The development hereby approved shall be constructed with finished floor levels are set no lower than 22.50m above Ordnance Datum (AOD) as detailed within the Flood Risk Assessment received by Hambleton District Council on 14 July 2014.
6. No built development shall take place below the 22.50m AOD contour line.
7. No ground levels on site should be raised above those existing, and all excess spoil shall be removed from the site.
8. The development shall not be commenced until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved by the Local Planning Authority. No part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.
9. The development shall not be commenced until tree guards, comprising chestnut pale fencing, at least 1.5 metres high have been erected on the perimeter of the branch spread (or, in the case of a fastigiated tree such as a Lombardy Poplar, have been erected to enclose an area with a radius of 6 metres from the trunk) of all the trees shown as being retained. The guards shall be maintained in position and in good order during the whole period of works on site. Works, including the removal or deposit of earth or other materials shall not be carried out within the tree guards without the prior consent of the Local Planning Authority.
10. The site shall be developed with separate systems of drainage for foul and surface water.
11. The development hereby approved shall not be commenced until details of the foul sewage and surface water disposal facilities have been submitted and approved in writing by the Local Planning Authority.
12. The use of the development hereby approved shall not be commenced until the foul sewage and surface water disposal facilities have been constructed and brought into use in accordance with the details approved under condition 11 above.
13. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water

from non-highway areas discharging on to the existing highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.

14. No dwelling shall be occupied until the access to the site has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements: (ii)(b) The existing access shall be improved by widening to give a minimum carriageway width of 4.5 metres, and that part of the access road extending 6 metres into the site shall be constructed in accordance with Standard Detail number E6 VAR; and (iii) 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 highway. All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.
15. No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing "Proposed Site Plan". Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
16. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.
17. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of: (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway; and (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site. The approved areas shall be kept available for their intended use at all times that construction works are in operation.
18. Prior to the first occupation of the dwellings hereby approved the mitigation measures detailed within the Flood Risk Assessment received by Hambleton District Council on 14 July 2014 shall be implemented and thereafter retained.

The reasons are:

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies CP1, CP17, DP1 and DP32.

3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
4. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
5. To ensure that the proposed dwellings are not at risk of flooding in accordance with policy DP43 of the Hambleton Local Development Framework.
6. To ensure there is no displacement of possible future flood flows onto others in accordance with policy DP43 of the Hambleton Local Development Framework.
7. To ensure that there is no loss of storage of flood waters, and to ensure that possible future flood flows are not pushed onto others in accordance with policy DP43 of the Hambleton Local Development Framework.
8. In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy DP33.
9. To ensure that existing trees within the site, which are of amenity value, are adequately protected during the period of construction in accordance with Local Development Framework Policies CP16, DP31 and DP32.
10. In the interest of satisfactory drainage and to avoid pollution of the water environment.
11. In the interest of satisfactory drainage and to avoid pollution of the water environment.
12. In the interest of satisfactory drainage and to avoid pollution of the water environment.
13. In the interests of highway safety.
14. To ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.
15. To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.
16. To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
17. To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
18. To ensure that the proposed dwellings are not at risk of flooding in accordance with policy DP43 of the Hambleton Local Development Framework.