

16/01933/OUT

**Application for outline planning permission (considering access only) for proposed residential development comprising 5 dwellings
At land at Fren Dene and Primrose Hill, Dalton
for DH Land Strategy**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application site is located to the southwest of the village of Dalton at the end of Pit Ings Lane as it joins Primrose Hill, which leads to the newer development of Harriers Croft. Pit Ings Lane rises steeply up from the village street whilst the site itself is relatively flat and bordered by managed hedgerows and trees. A grass track runs along the northern boundary and on the eastern boundary of the site is a bungalow (Fren Dene). Opposite the site is a public right of way.
- 1.2 The application follows the refusal of permission for 17 dwellings on a larger site, extending further south, and proposes five dwellings, which are intended to be bungalows. Details of an access from Primrose Hill have been included for determination, but all other matters are reserved. Illustrative layout plans have been included to demonstrate how the site might be laid out in order to demonstrate appropriate distances can be established from existing neighbouring properties which are located adjacent to the site.
- 1.3 The application is supported by a Design and Access Statement, Planning Statement, Ecological Survey, Flood Risk and Drainage Statement, Transport Statement, Soil Report and a Site Investigation Report.
- 1.4 The applicant has also submitted that the proposed dwellings are in Flood Zone 1, and are at no risk of flooding. They have sought to contrast this with the approval of two dwellings nearby at Greenbank Farm (14/01472/FUL, approved 10 June 2016) which gain access through part of Flood Zone 3.
- 1.5 The site is outside but adjacent to the Development Limits of Dalton. The boundary to Development Limits runs along Primrose Hill.
- 1.6 Further the applicant highlights in the Consultation Draft Preferred Options for Dalton that Site number 9 is a preferred option and is close to the proposed site, and has exactly the same highways options. The applicant considers that the application site is surrounded by the other preferred options for Dalton (numbers 32 and 7) and that it very much appears Dalton is extending in the direction of the proposed site, so it will be in keeping with the village. This issue is considered in paragraph 5.12 below.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 2/74/037/0006 - Outline application for residential development; Refused 30 January 1975.
- 2.2 16/00480/OUT - Outline planning permission for 17 dwellinghouses and associated parking (considering access with other matters reserved); Refused 9 May 2016, appeal lodged. The application was refused for five reasons

1. Related to the site being outside the Development Limits of Dalton and the impact of the development on natural boundary features to secure access, the impact on the character of the area and the size of the development in terms of adopted Planning Policy and the Interim Policy Guidance Note. The indicative layout submitted also failed to demonstrate an appropriate design, mix, type or scale of development that would be in keeping with housing needs and failed to respect the character of the village.
2. Related to the robustness of the Flood Risk Assessment, the feasibility of sustainable drainage solutions and risk of flooding elsewhere had not been fully considered. The Flood Assessment and Drainage Report had not established that drainage infrastructure had capacity to accept flows and had not given detailed consideration to sustainable drainage mechanisms. The surrounding area, including principal roads and infrastructure, is known to be subject to localised flooding which could affect access to the site, the submitted FRA did not provide a suitable or robust basis for assessment to be made of the flood risks arising from the proposed development.
3. Related to the loss of the best and most versatile agricultural land.
4. Related to residential amenity: the proposed new dwellings were on land close to commercial uses that under Use Class B8 could be intensified without the need for planning permission. The closest of the new dwellings shown on the submitted plans would be within 70m, some 30m closer than existing dwellings.
5. Related to the failure to secure the delivery of affordable housing.

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 CP3 - Community assets
 Core Strategy Policy CP4 - Settlement hierarchy
 Core Strategy Policy CP8 - Type, size and tenure of housing
 Core Strategy Policy CP15 - Rural Regeneration
 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 forces
 Development Policies DP1 - Protecting amenity
 Development Policies DP3 - Site accessibility
 Development Policies DP4 - Access for all
 Development Policies DP6 - Utilities and infrastructure
 Development Policies DP8 - Development Limits
 Development Policies DP9 - Development outside Development Limits
 Development Policies DP10 - Form and character of settlements
 Development Policies DP11 - Phasing of housing
 Development Policies DP13 - Achieving and maintaining the right mix of housing
 Development Policies DP26 - Agricultural issues
 Development Policies DP30 - Protecting the character and appearance of the countryside
 Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation
 Development Policies DP32 - General design
 Development Policies DP33 - Landscaping
 Development Policies DP43 - Flooding and floodplains

Development Policies DP44 - Very noisy activities
Interim Guidance Note - adopted by Council on 7th April 2015
Supplementary Planning Document - Sustainable Development - Adopted 22
September 2009
Supplementary Planning Document - Size, type and tenure of new homes - adopted
September 2015
National Planning Policy Framework - published 27 March 2012
Written Ministerial Statement on Landscape Character dated 27 March 2015

4.0 CONSULTATIONS

- 4.1 Dalton Parish Council – The land is a greenfield site and outside the building line. This site is NOT in the current Local Plan, nor has it been submitted for inclusion in the next phase following the recent call for future sites.

There are flooding issues on the main road through Dalton (at the bottom of Pit Ings Lane). Does there need to be an emergency exit route and, if so, where would this be situated? Permission was recently given for the building of two houses on land at Greenbank Farm - this application had to have an emergency exit due to flooding issues on the main road in Dalton prior to permission being granted. Surely the same should apply to this application?

Pit Ings Lane is a narrow road and there are serious concerns about the increase in traffic that the development would generate. There have already been problems with access for emergency vehicles due to parked cars.

The proposed emergency access is little more than a track which has been used by residents of Dalton for many years for walking/dog walking and is a pleasant area to walk through. Dalton Parish Council are currently going through the process of applying to NYCC to have the track registered as a Bridle Path in order to conserve it as a natural habitat for walkers and wildlife in future years. Problems do arise when we have any rain in that the track becomes extremely muddy, slippery and rutted. If used as an emergency exit, one car may get through but it is very doubtful that any more would because the first car would inevitably churn up the ground making it virtually impassable for any to follow. The Parish Council consider it not suitable for motor vehicles in any situation whatsoever.

- 4.2 Highway Authority – No objection subject to conditions.
- 4.3 Environmental Health Officer – No objection
- 4.4 Scientific Officer (Contaminated Land) - No objection subject to conditions
- 4.5 Yorkshire Water – Recommends conditions. Comments that the submitted Flood Risk Assessment and drainage Strategy Report is satisfactory and confirms (i) foul water will discharge to public foul water sewer; (ii) sub-soil conditions do not support the use of soakaways; and (iii) therefore, surface water will discharge to public surface water sewer via storage with restricted discharge (of 3.5 litres/second). Advises that the public sewer network is for domestic sewage purposes and that land and highway drainage have no right of connection.

Company records indicate a 3 inch diameter live water main crosses the site and may affect the layout of the development. It is recommended that no obstruction encroaches within 3 metres on either side of the main i.e. a protected strip width of 6 metres. The exact line of the main will have to be determined on site under Yorkshire Water Services supervision. It may be possible for the main to be diverted at the

developer's expense. Further, it is understood that there is an abandoned water main at the site frontage. This pipe is not live.

4.6 Lead Local Flood Authority (NYCC) – Comments awaited

4.7 Internal Drainage Board –The submitted drainage strategy and flow limitation to 3.5 l/s has been considered and found to be acceptable. The individual effect of this development is insignificant. However the concerns with regard to the Old Beck and recent flooding events in the last 12months are noted. The cumulative impact of new and future large-scale development in the Dalton area, including this proposal, on the drainage network would need to be assessed by the Local Planning Authority as part of its Local Plan review as there may be an improvement scheme necessary to the Old Beck which would need to be funded by contributions from developers, the Lead Local Flood Authority and Grant in Aid. This could prove to be expensive.

4.8 Public comment - 11 objections have been received raising the following comments:

- The proposed site is outside the development limits of the village;
- Need for new homes - Hambleton quota for new housing is already fulfilled, more new properties not required by central government;
- There are already major developments coming forward;
- Planning permission for 17 houses was refused on the same site – same decision should follow;
- Other new build homes in Dalton already built not even selling;
- Should be considered under the Local Plan/Enough land is coming forward in response to the call for sites;
- The amenities and transport links within the village do not sustain the current village population;
- The character of the village will be adversely affected with the existing development building to the capacity of the village;
- Access to the land via Pit Ings Lane, which is a narrow road - additional cars would harm highway safety;
- The access to the site is not safe in my opinion with cars travelling towards Harriers Croft would not have great visibility as the bend curves to the left so would not have the best chance to react to cars pulling out of the new development;
- It would also add to the heavy traffic on the main street of the village;
- The drains in Dalton village already not able to cope with excess rain water - extra houses would only make this worse (the village floods with excessive rain and that would affect the access to new properties);
- The road leading to Primrose Hill (Pit Ings lane) would become busy to a point of being dangerous;
- Why does green land have to be used, when there are brown field sites more suitable to be built on?;
- The planned location is quite close to flood zone 3 in the village, and the proposed area regularly stands in water contributing to standing water on my property. Any proposals need to detail how current standing water issues generally in the area would be successfully managed and not just assume they can be;
- In 2015, on Boxing Day, people living on Pit Ings Lane, Harriers Croft and around this area were not able to leave the village. Why add more houses to this? And potentially put further strain on the countryside and add to flooding if open spaces are built on and there is nowhere for the water to go. The site proposed was heavily waterlogged in recent flooding, where will this water go? How will people on this site leave the village with no other access?;
- Flooding on a similar scale also occurred in 2012 and previous years;

- Loss of views;
- Set a precedent for more developments - The field behind this one is very similar so would then be ripe for development and then the next etc. Also, there are other similar sites on the edges of Dalton;
- It is not infill; and
- Unlike the previous three large developments, this is not a brownfield site but rather agricultural land (the bungalow adjacent to the field has an agricultural workers restriction).

5.0 OBSERVATIONS

- 5.1 The key determining issues are (i) the principle of development; (ii) loss of agricultural land; (iii) design and the likely impact of the proposal on residential amenity; (iv) flooding and drainage; (v) highways and parking; and (vi) affordable housing. Assessment must be made whether the reasons for refusal relating to the scheme for 17 dwellings have been overcome by the changes made in this proposal.

Principle

- 5.2 LDF policies CP1 and CP2, (which relate to sustainable development and minimising the need to travel) set a general presumption against development beyond Development Limits but policies CP4 and DP9 allow that planning permission can be granted where one or more of six exceptional circumstances are met. 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) published in March 2012. Paragraph 55 of the NPPF states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances".

- 5.3 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 could boost overall housing supply and affordable housing provision within the District. The Council's Interim Planning Guidance therefore should also be considered.
- 5.4 The IPG notes that small scale development adjacent to the main built form of settlements (excluding Service Centres) will be supported where it results in incremental and organic growth. As a guide, small scale is normally considered to comprise up to five dwellings. However, each development must be considered on its own merits taking into the account the scale, form and character of the settlement.
- 5.5 Development in villages with no or few services or without convenient access to services in a nearby settlement will not be considered sustainable. However, Dalton is identified as a Secondary Village in the updated Settlement Hierarchy and the IPG considers such settlements to be sustainable locations for small-scale development.
- 5.6 The IPG notes that proposals will be assessed for their impact on the form and character of a settlement. Consideration should be given to the built form of a settlement, its historical evolution and its logical future growth and how the proposal relates to this. Wider consideration must also be given to the special physical

characteristics of the surrounding area as well as the settlement which sets it apart from its surroundings and contributes to its individuality (e.g. architecture, landscaping, setting, natural features, open space, types and styles of housing, number and size of roads and footpaths) and how the proposal addresses this. Small gaps between buildings should be retained where these provide important glimpses to open countryside beyond and contribute to the character and appearance of the area.

- 5.7 The applicant submits that the proposed site forms a natural rounding off to Dalton where development would not extend beyond the existing built form of the village and would partially infill a paddock that sits within existing development. The eastern boundary is formed by the development of a bungalow (Fren Dene), and the western boundary is formed by the built extent of a farmhouse (Larks Edge). To the north there is residential development (Harriers Croft). The applicant considers that the site does not extend into open countryside as development would be contained within the current paddock which is located between developed boundaries.
- 5.8 In the assessment of the previous application it was considered that the proposal did not create or use natural or defensible boundaries. The existing landscape is defined by the open and rural views rising up from Dalton Lane along Pit Ings Lane. Harriers Croft currently forms a natural boundary to the village respecting the character of the area. Fren Dene is a separate dwelling and forms an end vista to the road and its limited scale ensures that the sense of openness is maintained rising up towards the site. The proposal would create a linear, non-natural boundary that would fail to respect the form and character of the settlement which formed the basis, amongst other considerations, for the first reason for refusal.
- 5.9 The application site has been significantly reduced in area and to five dwellings (proposed as bungalows) following the refusal of 16/00480/OUT and as such would be small scale development in line with the Interim Policy Guidance. However, it is considered that the proposal would still be out of keeping with the character of the built form which has a defined and clear development boundary that would not be replicated on the proposed scheme. Approval of this site could set a precedent for additional dwellings both on the remainder of the field and beyond and would impact on the clear and defined boundary to the settlement.
- 5.10 As raised by residents it is noted that Dalton has a large number of housing approvals, including 43 on the recent approval under reference 16/00511/FUL on Willow Bridge Lane, which is the second phase of the redevelopment of the former Turkey factory. Whilst this development is being brought forward as part of an allocation on a parcel of previously developed land, the overall incremental growth of Dalton should be noted.
- 5.11 The Preferred Options of the new Local Plan is at an early stage and subject to public consultation, so it cannot be afforded weight at this stage. The applicant's comments are noted but it is not agreed that any of the sites set a preferred stance or alter the characteristics of the settlement that would make the scheme less harmful; indeed the Preferred Options indicate that Primrose Hill, Pit Ings Lane and Harriers Croft would continue to be effectively part of the southern boundary of the village although Development Limits are not defined in the consultation documents. However, there is no need to consider future policy as the application can be adequately assessed within the context of the LDF, the NPPF and the IPG, as above.
- 5.12 Overall whilst the number of dwellings has been reduced to bring it in accordance with the Interim Policy Guidance in terms of scale, the impact on the character of the settlement remains as set out in the previous refusal. The proposal would not fit in

with that character and the impact on the open countryside setting remains a reason for concern.

Loss of agricultural land

- 5.13 At the time of the previous application no agricultural land classification assessment was submitted for the site. At that time publicly available data indicated that all land around Dalton is within the "best and most versatile" (BMV) category, i.e. Grades 2 and 3a agricultural land. The applicant has submitted a Soil Report, with associated trial pit data. In this report the assessment agrees that this was a reasonable approach based on the available data but having carried out detailed site assessment and trial pits the site data can be considered as predominantly Grade 3b with some of the area being described as Grade 4. As such, based on the updated data, the site cannot be considered as Best and Most Versatile Agricultural Land and the submitted data and assessment would overcome the previous reason for refusal.

Design and residential amenity

- 5.14 The proposed layout, although indicative, shows a linear built form for four of the proposed bungalows with separate parking and garaging. The proposed fifth plot would sit next to Fren Dene, facing into the site. The proposed layout in this respect needs amendment to ensure that there is adequate private amenity space and the proposals form an adequate relationship to Pit Ings Lane and Primrose Hill. It is noted that the plot would be constrained by the proposed visibility splays. Whilst the concerns should be noted the layout is not a matter for consideration at this time.
- 5.15 The comments of the Environmental Health Officer on the previous application indicated that future residents could suffer harm to their amenity due to the proximity of the poultry sheds to the south west of the site, even though the sheds are currently not used for that purpose. The buildings have planning permission for B8 storage units and are currently being used as such but the use could be intensified without the need for further planning permission. It should also be borne in mind that the buildings could revert to poultry keeping without planning permission because use for agriculture is not development.
- 5.16 The applicant highlights that there are currently existing residential properties to the east, west and north of the site. Those to the north face onto the site, so the layout for the scheme needs to ensure sufficient distances can be achieved to primary habitable rooms. The indicative layout suggests the necessary distances can be achieved, and so it is expected that the proposed development can be laid out to protect the amenity of the neighbouring properties to the site.
- 5.17 It is plausible that an appropriate and detailed assessment could outline mitigation and management mechanisms in relation to the operation of the neighbouring buildings but none has been submitted and as such the previous reason for refusal is noted and continues to be a concern.
- 5.18 Unlike the previous refusal there is more space available around the units to move development away from noise generating uses with an amended layout and a larger separation distance to neighbouring uses. The separation to neighbouring uses and the space available could allow for mitigation to be implemented. Further the proposal is now a similar distance from neighbouring uses to existing properties.
- 5.19 As such with the space now available, a suitable residential environment could be achieved with mitigation included. Should the application be approved, a suitable planning condition would be required.

Flooding and drainage

- 5.20 Dalton Lane (at the eastern end of Pit Ings Lane) and the Old Beck are known flood zones and road closures occurred as a result of flooding in December 2015 and June 2016 whilst the development would be some way from this, similar flooding could affect access to the site. Therefore safe access and egress to and from the site to areas outside the flooded areas in Dalton would be limited. It is noted that other flood events are raised by residents.
- 5.21 It is noted that Yorkshire Water raise no objection subject to a condition requiring very restricted discharge rates which reflects the concerns of the drainage situation on the site and in Dalton, with the Old Beck a particular constraint.
- 5.22 At the consideration of the previous application the Swale and Ure Drainage Board commented on 19 April 2016 that: "the submitted drainage strategy and flow limitation to 3.5 l/s has been considered and found to be acceptable. The individual effect of this development is insignificant. However the concerns with regard to the Old Beck and recent flooding events in the last 12 months are noted. The cumulative impact of new and future large-scale development in the Dalton area, including this proposal, on the drainage network would need to be assessed by the Local Planning Authority as part of its Local Plan review as there may be an improvement scheme necessary to the Old Beck which would need to be funded by contributions from developers, the Lead Local Flood Authority and Grant in Aid. This could prove to be expensive".
- 5.23 The Lead Local Flood Authority also commented (on 20 April 2016) that issues of Flood Risk, Volume Control, Pollution Control, Designing for Exceedance (e.g. when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site), Urban Creep, and Maintenance were not detailed to ensure suitable surface water management. These are set out in the detail in North Yorkshire County Council SuDS Design Guidance.
- 5.24 The applicant highlights other planning permissions, e.g. Greenbank Farm and their escape route and information provided. The applicant has produced an escape route which runs along the northern boundary, past Larks Edge, to Main Street. This is a comparable route to that approved for Greenbank Farm. However, the proposal may introduce accommodation that would be potentially used by people who are less mobile or who have a physical impairment which is a concern and comment raised in the National Practice Guidance as part of the Flood Risk Assessment guidance.
- 5.25 There continue to be concerns raised that future growth of Dalton would need to assess the impact of such proposals on the Old Beck and improvements would need to be undertaken through the form of contributions to reduce the incidence and impact of flooding. This would be best understood through the Local Plan preparation as such improvements could prove expensive and impact on the viability of schemes.
- 5.26 As such, whilst the scheme would have less of an impact than 17 dwellings under the previous application, the scheme is constrained by the Old Beck. Whilst the site itself is away from the flood zone the proposal could have an impact on this constraint and whilst it is accepted that a limited flow of 3.5l/s could be acceptable but a wider issue with Flood Risk in Dalton should be noted. As such, whilst the applicant has produced more information and an escape route there continues to be significant concern.

Highways and parking

- 5.27 The proposal shows access off Primrose Hill opposite number 27. The comments of the Highway Authority have been noted and the objections of residents are also carefully considered. The proposed indicative layout also shows a field access to the southern boundary of the existing field.
- 5.28 There are concerns that the development would be in close proximity to the bend in the highway entering Harriers Croft from Primrose Hill and the character of Pitt Ings Lane is also noted. These issues and driver visibility are legitimate areas of concern in the assessment of this application. The advice of the Highway Authority is noted insofar that adequate visibility can be provided and improvements to highway layout (e.g. a new footpath on Primrose Hill frontage) can be secured. However, those highway improvements are likely to require the removal of hedgerows and this would have an impact on the rural character of the area.
- 5.29 It is noted from the comments of residents that there are issues of parking on the road narrowing the road width. The existing road width is however built to adoptable standards and the carriageway is of an appropriate width. Whilst the issues of parking on the road are noted, it is the view of officers that the road width in itself is acceptable and the Highway Authority has not raised concerns.
- 5.30 It is considered that in this instance, with the conditions recommended by the Highway Authority noted, there would not be a sustainable reason for refusal on highway grounds. However, the impact on the character of the area of the necessary highway improvements would be negative.

Affordable Housing

- 5.31 Following the Court of Appeal decision on 11 May 2016; the 28 November 2014 Ministerial Statement prevents affordable housing contributions being secured from schemes of this scale. The reason for refusal relating to the delivery of affordable housing from the 17 dwelling scheme is therefore not relevant to this application but should the remainder of the field be brought forward for housing an assessment as to whether site had been sub-divided to circumvent affordable housing requirements may need to take place.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations the application is **REFUSED** for the following reasons:
1. The site lies beyond the Development Limits of Dalton and in a location where the Council considers that housing development should only be permitted where it results in incremental and organic growth. The proposal would not deliver such growth and would cause substantive and significant harm to the open and rural nature of the site and result in the loss of natural boundary features as a result of ensuring a safe access to the site. There is a clear and defined boundary to the settlement which would be lost as a result of the proposal and which would harm the form and character of the settlement. The indicative layout submitted fails to demonstrate an appropriate design that would be in keeping with housing needs and fails to respect the character of the village and would set a clear precedent for further encroachment into the open countryside due to the lack of defined natural boundaries. The Council has assessed and updated its housing land supply and objectively assessed need and can demonstrate a housing land supply well in excess of 5 years. Development Plan policies for the supply of housing are therefore up to date and the planning balance identifies that the harm from the development would therefore be contrary to Hambleton Local Development Framework policies CP1, CP2, CP4, CP6, CP8, CP9, CP9A, CP16, CP17, DP8, DP9, DP10, DP15, DP30, DP31, DP32 and DP33 as

amplified by the Council's Interim Policy Guidance and Supplementary Planning Documents and the aims and objectives of the National Planning Policy Framework to deliver housing growth in a plan-led system.

2. The Flood Assessment and Drainage Report gives no indication of the feasibility of the potential strategies for draining the site of surface water and has not established that drainage infrastructure has capacity to accept flows or given detailed consideration to sustainable drainage mechanisms. As the surrounding area, including roads and infrastructure, is known to be subject to localised flooding which could affect access to the site, the submitted FRA does not provide a suitable or robust basis for assessment to be made of the flood risks arising from the proposed development. In addition there is no mitigation that has been put forward as part of a robust assessment to demonstrate that the development will not increase flood risk elsewhere and where possible reduce flood risk overall. The proposal is therefore contrary to policies CP21 and DP43 of the Hambleton Local Development Framework, North Yorkshire County Council SuDS Design Guidance and the aims and objectives of the National Planning Policy Framework and Flood and the Water Management Act 2010.