

Parish: Dalton
Ward: Sowerby & Topcliffe
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Committee Date: 2 March 2017
Officer dealing: Ms Laura Chambers
Target Date: 1 March 2017
Date of extension of time (if agreed): 9 March 2017

16/02691/OUT

**Outline application with details of access (all other matters reserved) for residential development comprising 7 bungalows
At Land adjacent 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 the newer development of Harriers Croft. Pit Ings Lane rises steeply up from Dalton Lane 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 proposes seven dwellings, which are intended to be bungalows. Details of the access 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 adjacent to the site as well as those previously approved as part of a previous application for the northern half of the site.
- 1.3 The application is supported by a Design and Access Statement, Ecological Survey, Flood Risk and Drainage Statement, Transport Statement, Soil Report and a Site Investigation Report.

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 application for 17 dwellinghouses and associated parking (considering access with other matters reserved) - Refused 9 May 2016, appeal pending.

The application was refused for five reasons:

1. Relating 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 fails 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 have been fully considered. The Flood Assessment and Drainage Report has not established that drainage infrastructure has capacity to accept flows or 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 does not provide a suitable or robust basis for assessment to be made of the flood risks arising from the proposed development.

3. The loss of best and most versatile agricultural land.
 4. The proposed new dwellings are on land close to commercial uses which are currently being used as storage units under Use Class B8 which 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. In the absence of a signed Planning Obligation the proposal fails to deliver an appropriate level of affordable housing contrary to Policy CP9, CP9a and DP15 of the adopted Hambleton Local Development Framework as amplified by the Adopted Affordable Housing Supplementary Planning Document.
- 2.3 16/01933/OUT - Outline application for five dormer bungalows (considering access with other matters reserved): Granted 7 December 2016.

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 CP6 – Distribution of Housing
Core Strategy Policy CP8 - Type, size and tenure of housing
Core Strategy Policy CP9 - Affordable Housing
Core Strategy Policy CP9A - Affordable Housing Exceptions
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 DP15 – Promoting and Maintaining Affordable 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 DP42 – Hazardous and Environmentally Sensitive Operations
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 - As the proposal is for more than five properties, the development does not fall within the current interim planning guidance and therefore does not meet current policies.

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). The emergency exit route to and from the site as shown on the plans is unsuitable for motor vehicles.

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.

- 4.2 Highway Authority – No objection subject to conditions.
- 4.3 Environmental Health Officer – I have considered the above application and would like to make the following observations.

The proposed new dwellings are on land close to existing poultry sheds associated with Southland Farm, the closest of the new dwellings within 70m. The advisable separation distance between livestock buildings and non-associated residential premises, previously published by DEFRA, is 400m to prevent odour nuisance and nuisance from flies and noise.

I note that there are existing residential premises close to the poultry sheds, Larks Edge approximately 60m away and properties on Harriers Croft, the closest approximately 100m away. No complaints have been received historically and for 2 years the sheds have not housed poultry, only been used for storage. The absence of historical complaints associated with this farm indicates it has been managed so that a nuisance has not arisen.

However, the sheds could come back into use as poultry sheds at any time and this could result in the dwellings being affected by odour, noise and flies which could impact on the farming operation if a statutory nuisance is established.

- 4.4 Scientific Officer (Contaminated Land) – No objection subject to conditions.
- 4.5 Yorkshire Water – Recommends conditions.
- 4.6 Public comment - 14 objections have been received raising the following points:
- Existing parking and traffic issues on Pit Ings Lane would be exacerbated, particularly for emergency vehicles;
 - An existing access to the field could be used instead of the proposed access on a bend which cars currently park opposite;

- The proposed site access would impact highway safety;
- The proposed emergency access via the lane is unsuitable for vehicles;
- An alleyway access to the bus stop is not suitable, particularly for elderly residents, due to lack of maintenance and being unlit;
- The village floods, making access to the site difficult. the proposal would increase flood risk;
- The site is beyond Development Limits;
- Combined with the previous approval for five dwellings, the proposal would be close to reaching the 17 dwellings previously refused;
- Uncertainty where surface water and drainage would go;
- Excessive number of dwellings proposed for a small site;
- Multiple applications appear an underhand way to increase the number of dwellings on the site or influence the outcome of an appeal;
- Insufficient facilities in the village to support the increasing population;
- Village shop now only providing post office service;
- Loss of green space;
- Detriment to wildlife;
- There is an existing supply of properties in the village and other permissions granted, there is not a need for more housing;
- Loss of boundary hedge;
- Negative impact on the character of the village;
- This is not an infill site;
- This is not a brownfield site;
- Objections of residents have been previously ignored;
- Proximity to underground gas tanks is a concern; and
- Approval could set a precedent for other sites beyond the limit to development.

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; and (viii) highways and parking.

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 2014 Settlement Hierarchy and the IPG considers such settlements to be sustainable locations for small-scale development. It is noteworthy, however that the shop serving the village has recently diminished with only ad hoc opening hours and limited services available. This raises questions about the sustainability of the site and the amount of services future occupiers would have access to.
- 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 and the proposal site forms a natural rounding off to Dalton where development would not extend beyond the existing built form of the village and would 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 of the overall site there is residential development (Harriers Croft). The applicant considers that the site does not extend into open countryside as development will be contained within the current paddock, which is located between developed boundaries. This application effectively moves back to the larger scale proposals to develop the original site, rather than the small scale approach promoted under the IPG and achieved through the five bungalow scheme approved in December 2016.
- 5.8 In the previously refused application, the Council's assessment was 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 and up Pitt 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 previous application for five dwellings (proposed as bungalows) was determined to be small scale development in line with the IPG; however the combined impact of that and this proposal would be a more substantial form of development, out of

keeping with the character of the built form in a similar manner to the refused application for 17 dwellings.

- 5.10 The Council has a housing land supply well in excess of the minimum five-year requirement, based on allocations and extant permissions and as such the proposal is not necessary to address a shortfall in supply pursuant to the requirements of the NPPF.
- 5.11 The proposed seven dwellings, in addition to the previously approved five dwellings, would result in an overall scheme that does not accord with the Interim Policy Guidance and is not necessary to supplement housing land supply in the district. 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 refusal.

Loss of agricultural land

- 5.12 As per the previous application for five dwellings, a soil report has been submitted with associated trial pit data. Following a 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, the site cannot be considered as Best and Most Versatile agricultural Land and this issue would not constitute a reason for refusal of the application.

Design and residential amenity

- 5.13 The proposed layout, although indicative, shows four dwellings in a linear form to the south of the site, mirroring the previously approved dwellings to the north. A small terrace of three properties would form a cul-de-sac to the south west extent of the site. The properties would be served by a combination of in-curtilage car parking and garages, each with a minimum of two spaces. The proposed layout would allow for adequate separation distances to be achieved between those properties previously approved to the north in principle, albeit layout is not matter to be considered as part of this application.
- 5.14 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 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.
- 5.15 Unlike the previously approved scheme, where there was more space available and a larger separation distance to neighbouring uses, this proposal would place dwellings in close proximity to the storage units with the associated potential impact on amenity. Environmental Health Officers have expressed concern in relation to the proposal and the proximity to the currently unused poultry sheds which lie to the south west of the site. Although the poultry sheds do not currently cause nuisance, they could be brought into a more intensive use without the need for planning permission and this is a material consideration in determining the application.
- 5.16 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 it should also be noted that the storage facilities would have a level of commercial activity. Without adequate assessment, the relationship between the

proposed residential and commercial uses cannot be assessed and parameters cannot be established within the outline application that would inform a subsequent reserved matters submission. The indicative layout does not automatically lead to an appropriate form of development that would create parameters for the delivery of a high quality development.

Flooding

- 5.17 Dalton Lane (at the eastern end of Pitt Ings Lane) and the Old Beck are within Flood Zones 2 and 3 and road closures occurred as a result of flooding in December 2015. 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, although a through route from Harriers Croft to Chapel Row, beyond Flood Zones 2 and 3, is understood to be available. It is noted that other earlier flooding instances are raised by residents; however Yorkshire Water raises no objection subject to a condition requiring very limited drainage discharge which reflects the concerns of the drainage situation on the site and in Dalton, with the Old Beck a particular constraint.
- 5.18 When considering the previous applications for the site, 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".
- 5.19 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 sustainable drainage systems (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.
- 5.20 The application identifies two possible escape routes, one that would be proposed for pedestrians only, and the other for vehicles. A number of the objections received raise concern about the suitability of these routes as means of escape in relation to whether they would be passable due to maintenance issues the lack of a hard surface to ensure vehicles could be used. Concerns are expressed about the usability of these routes coupled with the likelihood the nature of the proposed dwellings increasing the likelihood they would potentially be used by those who are less mobile.
- 5.21 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.
- 5.22 As such, whilst the scheme would have less of an impact than 17 dwellings under the original application, the scheme is constrained by the Old Beck. Whilst the site itself is away from Flood Zones 2 and 3, the proposal could have an impact on this constraint. Whilst it is accepted that a limited flow of 3.5l/s could be acceptable the

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.

Parking and highways

- 5.23 A number of residents have raised objections in relation to the proposed access to the site and the impact of the proposal on car parking in the area. Access is a matter for which approval is sought at this stage; however this follows the previous approval for five dwellings which included the same access proposed here, which would therefore serve the whole development. The Highway Authority has raised no objection to the proposed access and associated visibility splays and it is therefore difficult therefore to attribute significant weight to the objections on this issue.
- 5.24 Although full permission is not sought at this stage, the indicative plans show the proposed properties would be served by in-curtilage parking, some also having garages. Each of the properties would have a minimum of two parking spaces, which meets with minimum requirements; no objection has therefore been made by the Highway Authority on that basis. As adequate parking for each proposed property could be achieved as part of a detailed reserved matters application, this matter does not warrant refusal of the application.

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. 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, 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 application should demonstrate, potentially as part of the Flood Risk Assessment that adequate infrastructure, feasibility of sustainable drainage solutions and risk of flooding elsewhere have been fully considered. 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 principal 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.

3. The proposed new dwellings are on land close to commercial uses which are currently being used as storage units under Use Class B8 which 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. The advisable separation distance between livestock buildings and non-associated residential premises, previously published by DEFRA, is 400m to prevent odour nuisance and nuisance from flies and noise. It is noted that whilst the sheds have not housed poultry for 2 years, they could come back into use as poultry sheds at any time without requiring planning permission and this could result in the dwellings being affected by odour, noise and flies which could impact on the farming operation if a statutory nuisance is established. Adequate assessment and associated mitigation relating to noise and disturbance has not been put forward as part of the application submission. As such the proposals are contrary to Policies CP1, CP15, CP21, DP1, DP26 and DP42 of the Hambleton Local Development Framework.