

**RYEDALE DISTRICT COUNCIL
PLANNING COMMITTEE**

SCHEDULE OF ITEMS TO BE DETERMINED BY THE COMMITTEE

PLANS WILL BE AVAILABLE FOR INSPECTION 30 MINUTES BEFORE THE MEETING

Item Number: 6
Application No: 15/00627/MOUT
Parish: Norton Town Council
Appn. Type: Outline Application Major
Applicant: Thomas Crown Associates Ltd
Proposal: Residential development of 23no. dwellings following demolition of existing agricultural type buildings (site area 0.54 ha) - revised details to refusal 14/00096/MOUT dated 09.06.2014.
Location: Agricultural Contractors Welham Road Norton Malton North Yorkshire
Registration Date: 3 June 2015
8/13 Wk Expiry Date: 2 September 2015
Overall Expiry Date: 16 July 2015
Case Officer: Alan Hunter **Ext:** Ext 276

CONSULTATIONS:

Highways North Yorkshire	Recommend conditions
Parish Council	Recommend refusal
Vale Of Pickering Internal Drainage Boards	Not in the IDB area
Public Rights Of Way	Recommend informative
Housing Services	Recommend conditions
Countryside Officer	No views received to date
Sustainable Places Team (Yorkshire Area)	Object
Land Use Planning	Recommend conditions
Tree & Landscape Officer	No views received to date
Environmental Health Officer	Recommend condition
Archaeology Section	Further archaeological evaluation required
North Yorkshire Education Authority	Developer contribution request
Flood Risk (Stuart Edwards)	Object - insufficient information
North Yorkshire Police Architectural Liaison Officer	Detailed comments, recommend conditions

Neighbour responses: David & Audrey Slaughter, Dinah & Howard Keal, Mr Chris Kirby, Mr John Stuart, Mr Frank Greatorex, Mrs Mellisa Mackenzie, Mr John Gelson, Patricia Greene, Mrs Nichola Scott, Mrs Lisa Horton, Mr Daniel Gilbank, Mr David Cooper, Mrs A Watts, Ms Dahne Moulding, Noel Revis, Mr & Mrs J Calvert, Mr & Mrs J Simpson, Mrs Sharon Bone, Mrs Yvonne Fogg, Mrs Karen Scott, Mr Stephen Waudby, Mrs Carla Mitchell, Mrs Gill Coates, Mr John Deacon, Mrs Joanne Clarke, Pat Wade, Mrs Irene Linfoot, Mr Paul Sandy, Mr A Paine, Mr Trevor Moss, Mr James Urquhart, Mrs Cathryn Hart, Mr Neil Campbell, Mr Reece Horton, Mrs P Jones, E Moss, Mr Mark Kewley,

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SITE:

The application site is located within the development limits of Norton, approximately 100 metres to the east of Welham Road and directly to the north of the Lakeside Way development. The site is almost triangular in shape and to the northern boundary, the site abuts the rear gardens of dwellings in Springfield Garth. St Peter's Street lies further to the east. A footpath runs along the southern boundary of the site and is part of a network of pedestrian links which run between Welham Road, Lakeside Way, St Peter's Street, Springfield Garth and St Nicholas Street.

The site has a total area of 0.514 hectares (1.27 acres) and approximately 95% of the site lies within Flood Zone 3 with the remainder in Flood Zone 2. Mill Beck abuts the sites western boundary.

PROPOSAL:

The application seeks outline planning permission for a residential development proposal of 23No. dwellings, following the demolition of the existing buildings on site. The outline application seeks approval for the reserved matters of both access and layout.

The layout is submitted at a scale of 1:500 and shows a development comprising a mix of flats and houses. The submitted plan includes a schedule of accommodation which specifies the following units on the layout.

Unit 1 - Detached 2/3 bed house

Unit 2 - Detached 4 bed house

Unit 3 - Detached 4 bed house

Units 4 - 11 (inc) - 8No. 1 bed flat - located within a 3-storey block

Units 12 - 17 (inc) - 6No. 2 bed houses (terraced)

Units 18 - 20 - 3No. 3 bed houses (terraced)

Units 21/23 - 2No. 3 bed houses (terraced)

Unit 22 - 1No. 2 bed houses (terraced)

The layout also shows ancillary garaging, open residents parking and also visitor parking spaces. The density equates to approximately 42 dwellings/hectare.

In addition to the submitted plan, the application is accompanied by a Design & Access Statement; a Planning Supporting Statement; an Ecological Assessment; an Arboricultural Assessment; an Archaeological Desk Based Assessment; a Phase 1 Desk Top Study Report; and a Flood Risk Assessment including Flood Compensation information. All of the technical reports can be viewed in full on the Council's website.

RELEVANT PLANNING HISTORY:

Relating to the Application Site

80/00129/OLD (3/96/270/PA) - Erection of steel framed implement shed - Approved 31.03.1980

83/00128/OLD (3/96/270A/PA) - Toilet block - Approved 19.08.1983

12/00890/PREAPP - Pre-application advice in respect of Proposed Development - Advice given 18.10.2012

14/00096/MOUT - Residential development of 18No. dwellings following demolition of existing agricultural type buildings (site 0.54ha) - Refused 09.06.2014

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Relating to Lakeside Way

91/00083/OLD (3/96/335E/OA) -Residential development including provision of public open space, lake, construction of Mill building and access improvements (site area 3.25 HA) at Leopold Nursery and Beck Mill - Approved 21.9.92

POLICY:

National Planning Policy

National Planning Policy Framework
National Planning Practise Guidance

Ryedale Local Plan Strategy

Policy SP 1 - General Location of Development and Settlement Hierarchy
Policy SP 2 - Delivery and Distribution of New Housing
Policy SP 3 - Affordable Housing
Policy SP 4 - Type and Mix of New Housing
Policy SP 10 - Physical Infrastructure
Policy SP 11 - Community Facilities and Services
Policy SP 14 - Biodiversity
Policy SP 16 - Design
Policy SP 17 - Managing Air Quality, Land and Water Resources
Policy SP 19 - Presumption in Favour of Sustainable Development
Policy SP 20 - Generic Development Management Issues
Policy SP 22 - Planning Obligations, Development Contributions and the Community Infrastructure Levy

CONSULTATION RESPONSES:

The Parish Council have objected to this application. The concerns raised include:

- Overdevelopment of a relatively small site, with insufficient parking leading to more congestion on surrounding streets;
- Vehicular access to the site cutting across a much used safe public footpath;
- Increased flood risk. This site is in the floodplain and any further development would limit the drainage of ground water which is already a problem in the area;
- Impact on sewage system. The Victorian sewers are already at over capacity and any further development puts residents in other areas, especially those living in the vicinity of Church Street, the bottom end of St Nicholas Street and Welham Road at much greater risk of having raw sewage impacting on their property whenever there is a period of heavy rain and the system is under pressure.

In addition a significant number of objections (36 in total) have been received from members of the public. The concerns they raise include:

- The site is located within the flood zone;
- The site and the surrounding area suffers from standing water in times of heavy rainfall;
- The development will increase the risk of flooding elsewhere;
- Surface water run-off will overload the existing drainage system;
- Impact on the local sewage system;
- The development is high density / overdevelopment;

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- The development would over dominate existing nearby residential properties;
- Impact on residential amenity of nearby dwellings;
- Concerns regarding increased highway activity, including noise levels and traffic;
- The existing local services (schools, doctors etc) are at capacity;
- The impact on the public footpath network within the area;
- The loss of valued open space;
- Ecology related issues;
- Concerns over the removal of Japanese knotweed;
- Affordable housing provision does not represent 35% of the total development;
- Inclusion / integration of affordable unit into the development;
- The planning history of the site – does the site already have outline planning permission?
- In addition a petition against the development has been submitted, which is signed by 46 individuals

APPRAISAL:

The main considerations in the assessment of this application are:

- i) The principle of the development
- ii) Flood related issues and the Site Sequential Test
- iii) Affordable housing
- iv) Site layout and design
- v) Residential amenity
- vi) Highway / Public Right of Way
- vii) Archaeology
- viii) Ecology
- ix) Impact on local sewerage system
- x) Public open space
- xi) Education contribution
- xii) Tree and Landscaping
- xiii) Land Contamination

The principle of the development

In considering the principle of this development, Policy SP1 (General Location of Development and Settlement Hierarchy) and Policy SP2 (Delivery and Distribution of New Housing) of the Ryedale Local Plan Strategy are relevant. These policies identify Malton and Norton as the principle towns for growth in the District and the main focus for new development and housing within Ryedale. In light of this, the proposed residential development, which is located within the settlement limits for Norton, is considered to be acceptable in principle, subject to compliance with other material considerations.

On the previous application, a member of the public raised concerns that the site may already benefit from outline planning permission. Officers have researched this matter, and it has been identified that Planning Application ref. 3/96/335E/OA (Lakeside Way, Norton) did not include this application site in the approved decision. Therefore, Members are advised that the site does not benefit from any outline planning consent.

Flood related issues and the Site Sequential Test

With respect the Sequential Test, the NPPF forms an important material consideration. Paragraph 101 of the NPPF states that development should not be permitted if the sequential test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower flood probability. The Sequential Test should therefore be applied to proposals for new development.

The National Planning Practice Guidance identifies the aim of the sequential test. It states:

“The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The flood zones as refined in the Strategic Flood Risk Assessment for the area provide the basis for applying the Test. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required”

The starting point in applying the Sequential Test is the Strategic Flood Risk Assessment (SFRA). The submitted FRA for this application has been assessed by the Environment Agency who has recommended conditions to ensure that the development would be safe from flooding. Nevertheless, as the Agency state in their letter dated 19 February 2014, the Sequential Test should be applied to the site to determine if there are other available sites with a lower probability of flooding.

In terms of defining the area to which the Sequential Test should apply, Malton and Norton should be considered as they are the principle towns within the District and form the primary focus for growth (as identified in Policy SP1 and SP2 of the Ryedale Local Plan Strategy). The FRA has considered Strategic Housing Land Availability Assessment (SHLAA) sites for both Malton and Norton, which includes a number of sites both within and outside of the development limits for the town. Officers consider that this approach is acceptable therefore those sites within the FRA have been considered in the assessment of the Sequential Test.

Members will note that the current planning policy position is that the settlement limits identified in the Ryedale Local Plan are in a transitional period where sites outside of the development limits are being considered as part of the Council’s emerging Site’s Allocation Document. This is illustrated by the fact that the Council has recently granted planning permission (for example ref. 10/00977/MFUL, 10/00899/MOUT and 14/00427/MOUTE) to a number of housing sites which are located outside the development limits of Norton / Malton (the principle towns of the district). The SHLAA also includes numerous sites outside of the current development limits. In light of this, it is considered that sites should not be discounted solely because of their location outside of the identified development limits.

Policy SP17 of the Local Plan Strategy states that:-

“Flood Risk will be managed by:

Undertaking a risk based sequential approach to the allocation of land for new development and in the consideration of development proposals in order to guide new development to areas with the lowest probability of flooding, whilst taking account of the need to regenerate vacant and previously developed sites within the towns. In considering development proposals or the allocation of land, full account will be taken of the flood risk vulnerability of proposed uses and the national ‘Exception Test’ will be applied if required.”

As previously identified, the requirements of Paragraph 101 of the NPPF is to give preference to sites in areas of lower flood probability. In this case, the application site is located within approximately 95% - 98% flood zone 3. It is also understood that part of the site is within the rapid inundation area. This is the zone with the highest probability (1 in 100 or greater annual probability of river flooding).

Given the comments identified in the previous paragraph, Officers consider that there are clearly other sites available with a lower flood risk, both inside and outside of development limits of Malton and Norton, that have been discounted within the FRA. Therefore, based on the information within the FRA, Officers consider that there are a number of sites which would be sequentially preferable to the application site as they would direct the development area from the areas of highest flood risk. For this reason, it is considered the Sequential Test has failed to meet the requirements of Paragraph 101 of the NPPF and the NPPG.

Members are also advised that the Environment Agency has objected to the application on flood risk grounds. The formal response states:-

"Flood risk"

Flood risk Sequential Test

*We **object** to the application in the absence of any evidence to demonstrate that the flood risk Sequential Test has been applied. The application site lies within Flood Zone 3a, defined by Table 1 of the National Planning Practice Guidance as having a high probability of flooding, and as shown on the Environment Agency's Flood Map. Paragraph 101 of the National Planning Policy Framework (NPPF) requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'.*

You can overcome our Sequential Test objection by providing the following information:-

- Written confirmation from the Local Planning Authority that the Sequential Test has been undertaken in an open and transparent way, to fulfil the requirements of the NPPF, and that it has been passed;*
- Written confirmation that evidence to support the Sequential Test has been added to the planning application file for the public record.*

Should the development pass the flood risk Sequential Test, we would have the following comments to make on the site specific Flood Risk Assessment:

Site specific Flood Risk Assessment

*In the absence of an acceptable Flood Risk Assessment (FRA) we **object** to the grant of planning permission and recommend refusal on this basis for the following reasons:*

Reason

The FRA submitted with this application does not comply with the requirements set out in the National Planning Policy Framework. The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:

- 1. Consider the effect of a range of flooding events including extreme events on people and property.*
- 2. Demonstrate that surface water can be dealt with within the site.*

Overcoming our objection

The applicant can overcome our objection by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

Further detail is required regarding the impacts of an overtopping event from the River Derwent. The standard of protection of the defences through Norton / Malton is up to the 1 in 50 year event. (This means the defences protect against flood events that have up to a 1 in 50 chance of occurring in that location in any given year. They do not protect against events that have less than a 1 in 50 chance of occurring in that location in any given year – the defences will be overtopped during these larger flood events). The applicant should also provide details of the mitigation that is to be provided.

Further details are also required regarding surface water runoff. The applicant has stated that it will be restricted to agricultural rates, but not what these rates are, nor the amount of attenuation required and whether it can be incorporated into the site."

In addition the response from North Yorkshire County Council as Lead Local Flood Authority (LLFA) confirms that the LLFA concur with the comments of the EA with respect to flood risk, and that they also object to the application. The LLFA go on to state that insufficient information is present with the application document to 'assess the priority of surface water management proposals.

In view of the above, and that there are other available sites in Norton and Malton that could accommodate this development it is considered that the sequential test is not passed. Furthermore, there is insufficient information to demonstrate that surface water can be satisfactorily drained from the site.

Affordable Housing

In considering affordable housing, Policy SP3 of the Ryedale Local Plan Strategy is relevant. This policy identifies the levels of developer contributions that the Local Planning Authority seeks for affordable housing. The policy also states:

“The size, type and tenure of affordable units will be expected to reflect the affordable housing needs in the locality. Affordable housing contributions should comprise of both social and affordable rent tenures as well as intermediate tenure types. Off-site provision in lieu of on-site contributions will only be supported where it is agreed that this is preferable in terms of management arrangements or where there are clear advantages or overriding reasons for contributions in lieu of provision on-site.”

In this case, the proposed affordable units are proposed to be the 8 no.1 bedroomed dwellings (shown as Plots 4-11) on the submitted scheme. The proposed affordable housing is considered to be acceptable by the Council's Housing Manager, based on a split of 50% affordable rent, together with the need for a developer contribution (commuted sum) equating to 0.05 of a dwelling unit (based on a one bedroomed flat).

Site layout and design

Policy 16 (Design) of the Ryedale Local Plan states that *“To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings including:*

- *The grain of settlements, influenced by street blocks, plot sizes, the orientation of buildings, boundaries, spaces between buildings and the density, size and scale of buildings.*

As mentioned earlier in this report the application site has a total area of 0.514 hectares and the mix of development proposed provides for a density of development at approximately 42 dwellings/hectares.

By way of comparison the adjacent post war development at Springfield Garth (a combination of largely semi-detached two storey dwellings and bungalows) is developed at a density of approx. 28 dwellings/hectare.

Lakeside Way is developed mainly with larger detached dwellings at a density of approximately 19 dwellings/hectare (23 dwellings/hectare if excluding the Mill Pond and public open space).

The density of the development is therefore much higher than both of the adjacent sites to the north and south of the application site.

The higher density of the development has been achieved through the introduction of larger numbers of smaller properties in the form of 1 no. Bedroomed flats and 9 no. 2 and 3 bed terraced dwellings. The block of flats is also proposed to be over three storeys. Whilst the scheme provides for a mix of housing types it is considered that the application as submitted (even in outline form) fails to re-enforce local distinctiveness in terms of form, layout and scale and as such it fails to adequately respect the context provided by its surrounds.

The proposal is, therefore, considered not to satisfy Policy SP16 of the adopted Ryedale Plan - Local Plan Strategy.

Residential Amenity

With respect to residential amenity, concerns have been received in relation to the impact of the proposed development on the existing residential properties within the area. Such concerns include overlooking, overbearing impact and the impact of increased traffic levels through Lakeside Way.

In terms of overlooking and overbearing issues, the impact of the development on the existing amenities of the neighbouring occupiers will largely be dependent on the detailed design and layout of the dwellings. With respect to the traffic related concerns created as a result of the proposal, it is not considered that the development would result in a such an increase that would materially harm the amenities of nearby residents. Therefore, it is considered that the development would not in principle have a significant adverse impact on neighbouring amenities.

In the event that Members are minded to grant approval, the Councils Environmental Health Officers have recommended an informative to restrict the hours of activity during the construction phase of the development.

Highway / Public Rights of Way

NYCC Highway Authority have been consulted on the application. No objections have been received to the proposal subject to conditions. The comments received from the Highway Authority do however identify that as the proposal will increase the number dwellings served off Lakeside Way would be beyond 50, that a dedicated alternative route for emergency service vehicles will be required. The applicant has informed the Local Planning Authority that they have a right of access over the track leading directly from Welham Road to the site which would address this issue. NYCC have however identified that evidence of such rights will need to be provided to the Highway Authority as part of the adoption process of the new estate road.

With regards to the Public Right of Way, NYCC Public Rights of Way Officers have not raised any objections to the proposal. However, it is stated that the developer will need to agree a safe crossing of the road from the PROW with the Highway Authority.

Archaeology

NYCC Historic Environment Team have requested a scheme of trial trenching prior to determining this application because of the sensitivity of the site. A written scheme of investigation (WSI) for identifying this work has been submitted to NYCC for their comments. Members will be updated. Nevertheless, the lack of this information forms an additional reason for refusal at this point in time.

Ecology

The Council's Countryside Officer has been consulted on this application. The comments received on 15 April 2014 identify that no objections are received to the development subject to the mitigation and compensation measures identified sections 9 and 10 of the submitted ecological report being carried out.

Impact on local sewerage system

Members are referred to the comments received from Yorkshire Water dated 26 March 2014. This correspondence identifies that Yorkshire Water do not have any objections to the development. Within this correspondence it is identified that the public sewer network does not have capacity to accept any discharge of surface water from the site therefore the use of SUDS is suggested as an appropriate alternative. Yorkshire Water have also advised that a suitable watercourse could be used for the disposal of surface water, such as Mill Beck located to the west of the site, however, members will appreciate from earlier in the report that the Local Lead Flood Authority (LLFA) objects to the proposal because the submitted information does not demonstrate that surface water can be satisfactorily drained from the site.

Public Open Space

The layout provided does not allow for on-site public open space provision, although the applicant is aware of the Council's policy on this matter. Therefore, should Members be minded to approve this application financial contributions will be sought for off-site provision.

Education contribution

NYCC Education Authority has been consulted on the application, and have made no objection subject to the receipt of developer contributions to deal with anticipated need for additional primary school places. The contribution sought is £78,177.

Tree and Landscaping

The Councils Tree and Landscape Officer has been consulted on the application, however, no response has been received. Members will be updated on this aspect of the application in the late pages.

Land Contamination

A Phase 1 Desktop Study Report has been submitted alongside the planning application. The Councils Environmental Health Officers have considered this document. A condition has been recommended to ensure further investigations are undertaken into the potential land contamination before any dwelling on the site is occupied, if permission is granted.

Conclusion

Officers consider that there are other sites at the principle towns of Malton and Norton which are preferable to the application site in terms of flood risk and which are capable of accommodating the residential development proposed. The proposal is also considered to fail to reinforce local distinctiveness and it is therefore contrary to Policy SP16. Inadequate information is currently submitted to assess the impact on archaeology and surface water drainage.

RECOMMENDATION: Refusal

- 1 The proposed development is located within Flood Zones 2 and 3a as identified in the Environment Agency's flood maps. The Local Planning Authority considers that there are sequentially preferable areas of land at Malton and Norton which are located in areas with lower probability of flooding which are capable of accommodating the residential development proposed. The development of this site is, therefore, considered to be contrary to Policies SP17 and SP19 of the Ryedale Plan - Local Plan Strategy.
- 2 Paragraph 101 of the NPPF states that development should not be permitted if the sequential test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower flood probability.

The National Planning Practice Guidance identifies the aim of the sequential test. It states:

"The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The flood zones as refined in the Strategic Flood Risk Assessment for the area provide the basis for applying the Test. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required."

In this case, the application site is located within 100% Flood Zone 2, and approximately 95% - 98% flood zone 3a. The Local Planning Authority considers that the Council's SHLAA demonstrates that there are sequentially preferable sites in Malton and Norton (including those located outside of development limits) which are capable of accommodating market led housing in areas of lower risk of flooding. As such the application fails the sequential test and is contrary to the requirements of paragraph 101 of the NPPF and the NPPG.

- 3 The proposed development by virtue of the density and quantity of residential units, on this site and as detailed on the submitted layout the proposed development is not considered to reinforce a local distinctive layout and density in this location. As a result the high density proposal would represent an alien form of development within this medium density low-level suburban environment. The proposal is therefore contrary to Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 4 There is insufficient information submitted with the application to fully assess the impact of the proposal upon known archaeology in the area. As a result the proposal is contrary to the requirements of NPPF, Section 12 Conservation and enhancing the historic environment with particular regard to Paragraphs 126 and 128.
- 5 There is insufficient information submitted to demonstrate that surface water can be satisfactorily drained from the site. The proposal is therefore contrary to the requirements of Policy SP17 and the NPPF.

Background Papers:

Adopted Ryedale Local Plan 2002
Local Plan Strategy 2013
National Planning Policy Framework
Responses from consultees and interested parties