

Item Number: 9
Application No: 09/00369/FUL
Parish: Wombleton Parish Council
Appn. Type: Full Application
Applicant: Mr R Smallwood
Proposal: Demolition of existing unoccupied pre-fabricated dwellings and erection of 1 no. five bedroom dwelling with integral double garage
Location: Former WAAF Site Wombleton Aerodrome Common Lane Wombleton York YO62 7RR

Registration Date: 21 May 2009
8/13 Wk Expiry Date: 16 July 2009
Overall Expiry Date: 1 December 2009
Case Officer: Judith Vokes **Ext:** 329

CONSULTATIONS:

Yorkshire Water Services	No objection - recommend conditions
Environmental Health Officer	Recommend Conditions
Countryside Officer	Requests further information
Parish Council	Object
Highways North Yorkshire	No views received todate
Parish Council	Object

Neighbour responses: Mr & Mrs C C J Bellamy, Mr T Rooke,

SITE:

The planning application site stands in an isolated location within open countryside, occupying the former WAAF site to the north of the Wombleton to Harome road (Common Lane) and west of Wombleton village.

The site is presently characterised by a number of pre-fabricated buildings, other storage buildings as well as being used for car / scrap storage.

The site is accessed from the public highway by a narrow access track, which it is also understood provides for third party access to surrounding agricultural land.

The application site is isolated from surrounding development being some circa 300 metres distance from its access onto the public highway to the south. To the far west of the site is a caravan park accessed from Gale Lane and to the north-east lie a cluster of residential properties off Sykehead Lane. There is also a public right of way running along Sykehead Lane (off Gale Lane) to the north of the site.

PROPOSAL:

Full planning permission is sought for the erection of one, detached dwelling with integral double garage on the application site. Access to the site will remain as existing.

Following discussions with the Council's Solicitor it is suggested that the development description be amended to read as follows:-

³ The demolition of all existing buildings and structures and the removal from the site of all resulting materials including those associated with the car / scrap storage to facilitate the erection of one, five-bedroom dwelling with integral garage and the provision of a domestic curtilage; .

This is considered to be a more accurate reflection of the development as proposed and to more closely align with the findings of the officer report and subsequent recommendation.

POLICY:

National Policy Guidance

PPS1 - Delivering Sustainable Development
PPS3 - Housing
PPS7 - Sustainable Development in Rural Areas
PPS9 - Biodiversity and Geological Conservation
PPG18 - Enforcing Planning Control
PPG23 - Planning and Pollution Control

Ryedale Local Plan

Policy ENV3 - Development in the Areas of High Landscape Value
Policy H10 - Replacement Dwellings in the open countryside
Policy H16 - Gardens of new dwellings, which extend beyond the Development Limits
Policy ENV7 - Landscaping

HISTORY:

There is a detailed planning history to the site, which has been afforded the appropriate weight as a material planning consideration in the determination of this planning application. This is discussed further in the officer appraisal.

APPRAISAL:

The applicant's agent has submitted a series of detailed documents to support his client's planning application, which are appended to this report for Member consideration.

Officers consider that the starting point in the determination of this planning application is the advice set out in paragraph 10 of PPS7 'Sustainable Development in Rural Areas' which makes clear that isolated new houses in the countryside require special justification for planning permission to be granted.

The applicant has not sought to justify the proposed dwelling on the basis that there is an essential need for a worker to live at or near their place of work in the countryside (PPS7, Annex A).

Whilst the design of the proposed dwelling is considered acceptable officers do not consider it to be of exceptional quality and innovative design to justify its approval based on the advice set out in paragraph 11 of PPS7.

At the present time the Council continues not to be delivering a five-year housing land supply. The policy guidance set out in PPS3 'Housing' advises that in these instances Local Planning Applications should consider applications for housing development ³ favourably; . This planning application is for a single dwelling and having regards to all other considerations material to determination of this application, this policy advice has been afforded limited weight in the determination of this application.

Officers are, however, of the view that the planning history of the site is particularly relevant to the determination of this planning application and forms a material consideration, which should carry significant weight.

It is understood that a temporary planning permission for the residential use of nine of the buildings on site as individual dwellings was first granted in 1949. Subsequent renewals of this temporary planning permission appear to have been allowed until 1979 when planning permission for the continued residential use of the buildings was refused (3/154/17/PA). It is understood that this was on the grounds that the condition of the buildings had deteriorated to the point where continued residential occupation was considered to be inappropriate as set out in the grounds of refusal below:-

- (a) A residential use is inappropriate within an area of white land where existing uses for the most part are expected to remain undisturbed and where new development will mostly be restricted to that essential in the interests of agriculture or forestry,
- (b) They are an obtrusive feature in what is essentially an open rural area.

Although referred to as a decision made in 1981, it is understood that it is this planning decision that Wombleton Parish Council refers to in their consultation responses.

In 1981 the District Council granted a further planning permission (3/154/17B) for the continued use of the dwellings for a 5-year period, expiring on 1st April 1986. In addition to the discontinuation of use the permission also required that the huts be demolished unless an extension of time was approved by the Local Planning Authority. The planning permission was accompanied by a legal agreement (Section 52 agreement), which required, amongst other conditions, that-

- (a) the owner of the property hereby covenants that each of the temporary dwellings will be immediately demolished as and when it becomes vacant and that no replacement dwellings whatsoever either of a temporary or permanent nature shall be erected on the property

No further planning applications have been determined on this site since 1981 allowing a further period of time for occupation and retention of the dwellings. The Council has not to date pursued formal enforcement action against either the occupancy or demolition of the nine temporary dwellings referred to the 1981 planning permission and accompanying legal agreement.

It is understood that the current on-site situation is that all but one of the dwellings is now vacant. Two industrial / storage buildings on the site, which have clearly been there for a established period of time but not referred to in the legal agreement remain on site. In addition, the site is also being used for car and scrap storage.

The applicant's case in support of his planning application centres on the following:-

- The time period, which has lapsed since the signing of the legal agreement without the Council taking formal enforcement action is such that the Council would likely be prevented from formally seeking the implementation of the legal agreement
- In any event if enforcement action were to be authorised the conditions of the planning permission and legal agreement would not result in a cleared site nor agricultural land as referred to by the Parish Council
- The use of the buildings for residential purposes has not been abandoned
- The current site uses are outside the scope of the legal agreement and are in themselves likely to represent unrestricted lawful site uses.
- This current planning application offers a reasonable opportunity to tidy up and enhance the site

Wombleton Parish Council is clear in its position that this planning application should be refused. Their grounds of objection are summarised as follows:-

- The applicant themselves recognise the requirements of the Section 52 Agreement
- It is regrettable that appropriate enforcement action has not been taken to ensure that the relevant conditions were complied with.
- The betterment of the site should not be a justification for favourable consideration of this planning application.
- If enforcement action had been taken the land would be agricultural land and a planning application of this nature would not be considered
- Enforcement action should now be taken following refusal of this current planning application
- Parish Council agrees with reasons for refusing planning permission in 1981.
- Would wish planning application to be determined by the Planning Committee.

Following the submission of additional information by the applicant's agent, the Parish Council has re-iterated its previous objections and provided additional reasoning summarised as follows:-

- Additional information provided should be challenged
- Concerned at land contamination from storage of cars / scrap on-site
- It is incorrect to aggregate the existing buildings together and use this to facilitate building a larger property on a different site
- Approval will set a precedent for other buildings associated with the airfield
- Parish Council provided with information by local resident regards intervening uses of this land

It should be noted that despite a further request from officers no additional evidence has been provided by the Parish Council to support their statement with regards intervening uses of the land. Officers have previously sought to obtain information concerning the timing of previous occupation of the buildings as well as their historical state of repair from another third party who has declined to make any representations. From the information presently available to officers it is not considered that these un-evidenced allegations should carry substantial weight in the determination of this planning application.

A letter of objection has been received from the recent purchasers of Wombleton Grange, which lies to the south of Common Lane some circa 300 metres south of the application site. The objector is of the view that they purchased the property as it was surrounded by agricultural land and would not be subject to housing development. The objector feels that the legal agreement should be enforced. If a dwelling is allowed then the objector would wish to see no windows and / or views allowed over their property / land. There is considered sufficient distance between the application site and the objector's domestic property and curtilage so as not to cause any adverse effect on their residential amenities. Whilst officers are not aware of the extent of the objector's land holding it is considered unreasonable to refuse a planning application where any overlooking, views created would be over non-domestic curtilage / agricultural land.

Officers are of the view that the following matters are considered to carry weight in the determination of this planning application:-

In the first instance, officers are not of the view that determination of this planning application can simply rest on the wording within the legal agreement that no replacement dwellings are provided on site. The legal agreement forms one of a number of material considerations, that carry varying levels of weight in the determination of this planning application.

Whilst the legal agreement required that each of the identified 'temporary dwellings' be demolished as and when it became vacant it did not require that the subsequent demolition materials be moved off site, nor that any hardstandings, access roads etc be demolished and removed. Nor did the nine 'temporary dwellings' identified in the section 52 agreement include the other buildings present on site or the substantial car and scrap storage that is currently taking place on-site.

The Council has not pursued formal enforcement action against implementation of the legal (Section 52) agreement nor has it sought to enforce through any other formal mechanisms available the existing site uses, car storage etc.

The applicant has now challenged the Council's ability to formally enforce against the current site uses. It is officers view, in conjunction with advice from the Council's Solicitor, that even if enforcement action were to be considered an appropriate way forward and was found to be legally achievable, it would not result in a cleared site. It is a reasonable assumption to make that even if the legal agreement were enforceable, the Council would need to take further enforcement action, for instance through the serving of a S.215 'Amenity / Wasteland Notice'. Notwithstanding the position regards residential occupation of the site, it is also likely that the applicant would seek and could be successful in obtaining a certificate of lawful development for the unrestricted use of the site for car / scrap storage and use of the other buildings excluded from the legal agreement.

Members are referred back to the matters outlined above and advised that considerable officer time and resources have already been spent bringing this planning application to this point.

Members are also advised that where proposed development involves the removal of an existing building and / or use from a site which is causing amenity harm to a locality, this planning benefit may be given weight in the decision making process as a material consideration.

It is considered by officers that if Members are minded to approve the planning application the decision should be based upon the weight to be given to the merits of the proposed development as a means of 'tidying up' the site rather than, in officers view, the lesser weight to be given to the merits or otherwise of the proposed development in complying with policy H10 'Replacement Dwellings in the Open Countryside' of the Ryedale Local Plan.

Officers do not consider that the proposed dwelling complies with the criteria set out in Policy H10, particularly in relation to the siting and subsequent scale of the dwelling as currently proposed as well as matters relating to the potential abandonment of residential occupation of the site.

The applicant's agent has confirmed that their client would be willing to re-locate the proposed dwelling from the southern part of the site to the northern site area where the buildings in question are located and the car / scrap storage is taking place. This is considered by officers to be a non-negotiable element of any recommendation of approval.

The dwelling itself is considered to be of a suitable design and scale. In addition to re-siting the proposed dwelling within the northern half of the application site area the applicant has also been asked to reduce the extent of the domestic curtilage to ensure compliance with Policy H16 - Gardens of new dwellings, which extend beyond the Development Limits – of the Ryedale Local Plan. Officers hope to be in a position to provide Members with a revised site layout prior to the meeting.

The proposed development is not considered to have an adverse impact on matters of highway safety or residential amenity. The merits of the development replacing existing on site uses and the subsequent impact of the wider site surroundings, which fall within the Edge of Moors Area of High Landscape Value, have been debated above.

Officers also consider that any recommendation be subject to the applicant completing a legal agreement ensuring that:-

- The incorporation of an amended development description as set out in the officer report
- The permanent cessation of all identified on-site uses
- The demolition of all identified buildings
- The removal off site of all identified materials to location(s) agreeable to the Local Planning Authority
- The identification and remediation of all on-site contamination to the satisfaction of the Local Planning Authority

- The submission to and agreement by the Local Planning Authority of a suitable landscaping scheme

Finally, any recommendation of approval is subject to the satisfactory conclusion of the outstanding ecology investigations to the agreement of the Local Planning Authority.

The applicant's agent has verbally confirmed his client's acceptance to proceeding on this basis.

The applicant has been made aware of the representations made in respect of ensuring access to surrounding agricultural land, which it is considered fall outside the remit of the planning system.

The applicant's agent has submitted a representation to request that Members of the Planning Committee visit the planning application site. This is on the grounds that it is an unusual site. Within the context of what the applicant is seeking to develop the agent considers it important that Members are fully aware of the site as it presently stands so that Members will have a full appreciation of the improvements that the planning application will bring about.

An initial bat survey of the buildings to be demolished recommended that further survey work be undertaken at an appropriate time of the year (April to October) to correctly determine the actual use of the site for bat roosts. It is recommended that the planning application not be formally determined until such time as a satisfactory assessment has been completed.

In making their recommendation officers have returned to the advice set out in national planning guidance, which is clear that isolated new houses in the open countryside require special justification for planning permission to be granted. In this particular instance, officers are of the view that special justification exists in the ability of the proposed planning application to comprehensively address the outstanding planning matters and to deliver a scheme of development that it is considered will enhance the application site and its surroundings.

Members will be aware that each planning application should be considered on its individual merits having regards to the Development Plan and any other material considerations. There are site specific reasons for officers making this recommendation of approval and it is not considered that permitting the proposed development will lead to a precedent been set in respect of other sites.

Subject to compliance with the detailed recommendations set out below, it is officers view that on balance the approval of this planning application represents the most effective means of satisfactorily resolving the outstanding matters affecting this site.

RECOMMENDATION:

That Members defer to the Head of Planning to approve this planning application subject to the following:-

- The satisfactory completion of the outstanding ecological survey requirements.
- The satisfactory re-siting of the proposed dwelling within the northern part of the defined application site.
- A reduction in the extent of the domestic curtilage to the satisfaction of officers and to ensure compliance with Local Plan Policy H16 - Gardens of new dwellings, which extend beyond the Development Limits

The satisfactory completion of a S106 Legal Agreement requiring compliance with the following in advance of the commencement of the approved development:-

- The incorporation of an amended development description as set out in the officer report
- The permanent cessation of all identified on-site uses
- The demolition of all identified buildings

- The removal off site of all identified materials to location(s) agreeable to the Local Planning Authority
- The identification and remediation of all on-site contamination to the satisfaction of the Local Planning Authority
- The submission to and agreement by the Local Planning Authority of a suitable landscaping scheme

If at any point the Head of Planning cannot be satisfied that the applicant is taking all reasonable steps to ensure that the above matters are being dealt with expediently and / or the applicant confirms that he is not willing to comply with any matters then Members defer to the Head of Planning to refuse this planning application under delegated powers on grounds as deemed appropriate without the need to refer the planning application back before the Committee.

Ryedale Local Plan - Policy ENV3 - Development in the Areas of High Landscape Value
 Ryedale Local Plan - Policy H10 - Replacement dwellings in the countryside
 Ryedale Local Plan - Policy H16 - Gardens of new dwellings which extend beyond the Development Limits
 Ryedale Local Plan - Policy ENV7 - Landscaping
 National Policy Guidance - PPS1 - 'Delivering Sustainable Development' 2005
 National Policy Guidance - PPS3 - 'Housing' 2006
 National Policy Guidance - PPS7 - 'Sustainable Development in Rural Areas' 2004
 National Policy Guidance - PPS9 - 'Biodiversity and Geological Conservation' 2005
 National Policy Guidance - PPG18 - 'Enforcing Planning Control' 1991
 National Policy Guidance - PPS23 - 'Planning and Pollution Control' 2004

RECOMMENDATION: **Approval**

Background Papers:

Adopted Ryedale Local Plan 2002
 Regional Spatial Strategy
 PPS1 - Delivery Sustainable Development 2005
 PPS3 - 'Housing' 2006
 PPS7 - Sustainable Development in Rural Areas
 PPS9 - Biodiversity and Geological Conservation
 PPG18 - 'Enforcing Planning Control' 1991
 PPS23 - Planning and Pollution Control
 Responses from consultees and interested parties