



Report Reference Number 2021/1501/FUL

To: Planning Committee
Date: 9th November 2022
Author: Elizabeth Maw
Lead Officer: Hannah Blackburn (Planning Development Manager)

APPLICATION NUMBER:	2021/1501/FUL	PARISH:	Fairburn Parish Council
APPLICANT:	Mr Dobson	VALID DATE:	23rd December 2021
		EXPIRY DATE:	17th February 2022
PROPOSAL:	Erection of 1 No dwelling following demolition of existing garage		
LOCATION:	Caru Beckfield Lane Fairburn Selby North Yorkshire WF11 9JP		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as more than 10 letters of representation have been received, including 10 letters of support. The letters raise material planning considerations and officers are recommending the application to be determined contrary to the 10 letters of support.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is a plot of land occupied by a garage, and parking and grassed areas, which are part of a planning unit of a dwelling known as Caru. This is an elevated site that stands between Beckfield Lane and a treed embankment.
- 1.2 The site is within development limits of Fairburn.

The Proposal

- 1.3 The proposal seeks to build a two-bedroom dormer bungalow, following demolition of the existing garage. Externally the property would have two parking spaces, a patio and grassed areas surrounding the dwelling.

- 1.4 The site plan shows two car parking spaces would be created within the revised curtilage of the host property to compensate for the parking that would be lost if the development were to go ahead. These two additional spaces are outside the red line boundary but fall under the same ownership as the applicant.

Relevant Planning History

- 1.5 The following historical application is considered to be relevant to the determination of this application.

- CO/1990/0973 - Erection of a double garage. Granted 13-JUL-90.
- 2005/1201/FUL - Proposed erection of a 2 no bedroom dwelling on site of existing garage. Refused 01-DEC-05.
Reasons for refusal:
01 The proposal would constitute over development of the site, which would also be visually detrimental to the character and appearance of the surrounding area. The proposal would be contrary to Policy H6 (7) of the SDLP.
02 The proposal would not provide a satisfactory standard of private amenity space for the dwelling and in turn would decrease the amenity area for the existing dwelling to an unacceptable level. Therefore, the proposal would not comply with Policy H6 (2) of the SDLP.
- 2013/0853/FUL - Erection of a two bedroom, zero carbon holiday cottage on land
Refused 11-OCT-13.
Reason for refusal: The proposed scheme fails to provide sufficient parking for both the existing dwelling of Caru Beckfield Lane and the proposed holiday cottage. The failure to provide sufficient parking and the removal of the existing car parking will lead to vehicles displacing onto the highway. The proposal is considered not to be acceptable in highway safety terms and therefore fails to comply with policies ENV1 (2), T1 and T2 and the advice contained within the NPPF.
- 2014/0224/FUL - Erection of a two bedroom, zero carbon holiday cottage
Granted 19-JAN-15.

2. CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways** - The level of car parking proposed is satisfactory, however the proposed dwelling will block any visibility to the southeast for the existing dwelling and northwest for the proposed dwelling. In order to achieve visibility splays, the proposed should be set back from the highway boundary by 2m. If visibility splays cannot be provided, the application is considered unacceptable from a highways point of view.
- 2.2 **Yorkshire Water** - No response received.
- 2.3 **Selby Area Internal Drainage Board** - No comments received.
- 2.4 **Environmental Health** - The proposed development is near existing residential premises and may therefore negatively impact upon residential amenity of the area during demolition and construction due to the potential for generation of dust, noise

& vibration. To protect the residential amenity of the area a condition should be applied to control the construction hours.

- 2.5 **Contaminated Land Consultant** - The Screening Assessment Form shows that the site is currently part of a domestic property, including a detached garage. No fuel or chemicals are known to have been stored onsite and no past industrial activities or waste disposal activities have been identified onsite or nearby, so contamination is not suspected to be present.

The Screening Assessment Form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required. However, a condition is recommended which will require the reporting of any unexpected contamination.

- 2.6 **County Ecologist** - The roof and verge of the existing garage look well sealed and maintained. On balance, the risk of bats being present is probably too low to warrant a survey. No other concerns either.

- 2.7 **Parish Council** - No response received.

- 2.8 **Tree Consultant** - The site is alongside a treed banking, which falls outside the ownership of the land owner of the application site. According to Selby DC land ownership records, it is not owned by the council either. The landowner of the treed banking is therefore not known.

The construction of the dwelling is unlikely to affect the trees on the banking below. However, the trees could result in shading to the patio area, which will increase pressure to prune or fell the adjacent trees in the future. It would be preferable to TPO the trees on the banking to protect their long-term future but this is not an option at present as the landowner is not known.

On balance, no objections to the application because the applicant does not own the banking so they would not have the right to fell the trees. However, if the trees become affected in the future by either pruning or felling or the landowner comes forward, the LPA may review the case again and serve a TPO.

Publicity

- 2.9 The application has been advertised by site notice. Two letters of objection and ten letters of support were received by the Local Planning Authority.
- 2.10 In summary the comments made are:

Support

- The development would have no effect on privacy.
- The development has no detriment to the surroundings.
- Growth and new development should be supported in the village.
- Two letters offered their support for the scheme but did not provide reasons for supporting the application.
- There is plenty of room for off-street parking and the amount of traffic will be negligible.
- The development would allow a couple to downsize to a smaller property and enable them to stay in the village close to their friends and neighbours.

- The development would allow a family dwelling to be put onto the market in Fairburn, which will in turn support the local school.

Object

- Impact on privacy to occupiers of housing on Caudle Hill.
- Potential damage to trees.

3. SITE CONSTRAINTS

- 3.1 The site is within Fairburn, a secondary village and 'fourth tier' village as defined by the Selby Core Strategy. The site is in an elevated position and has a treed banking to the south. The site is not vulnerable to flooding (flood zone 1). Access is from Beckfield Lane, which is a single file road with no footpaths.

4. POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises various documents including the Selby District Core Strategy Local Plan (adopted 22nd October 2013), those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy, the Minerals and Waste Joint Plan (adopted 16 February 2022), and the adopted neighbourhood plans none of which relate to the site.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options and additional sites took place in early 2021. The Pre-submission Publication Local Plan is currently subject to a period of formal consultation prior to submission to the Secretary of State for Examination. Given the stage of the emerging Local Plan, the policies contained within it are attributed no weight and as such are not listed in this report.
- 4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced previous iterations of the NPPF. The NPPF does not change the status of an up-to-date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2021 NPPF and, in particular, the sections listed below
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the framework -

"219.existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should

be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

4.6 The most relevant chapters of the NPPF are:

- 2. Achieving sustainable development
- 4. Decision making
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well designed places

Selby District Core Strategy Local Plan

4.7 The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP4 – Management of Residential Development in Settlements
- SP5 - Scale and Distribution of Housing
- SP15 – Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

4.8 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads
- VP1 – Vehicle Parking Standards

Supplementary Planning Documents

4.9 Fairburn Village Design Statement (adopted February 2005)

Supporting Policy Documents

4.10 NYCC Interim Parking Standards

5. APPRAISAL

5.1 The main issues to be considered when assessing this application are:

- Principle of the development
- Design and impact upon the character of the area
- Impact upon surrounding residential properties
- Residential Standards
- Highway safety and parking

Principle of the Development

- 5.2 Policy SP1 of the Selby Core Strategy seeks a positive approach to the consideration of development proposals that reflects the presumption in favour of sustainable development established in Paragraph 11 of the NPPF and secures development that improves the economic, social, environmental conditions in the area.
- 5.3 The application site lies within the defined development limits of Fairburn, which is designated as a Secondary Village in the Core Strategy. This is a 'fourth tier' settlement in the settlement hierarchy as set out in Core Strategy SP2.
- 5.4 SP2 of the Core Strategy governs the council's approach to housing in the district, with the majority of development located to the main town centres or designated service villages which have 'some' scope for additional development. Below these tiers the policy moves to restricting development unless specific circumstances are met, i.e. limited development may be absorbed within secondary villages (such as Fairburn) where it will enhance or maintain vitality or rural communities and which conform to the provisions of SP4 and SP10. If the development fails to address these two requirements it should be refused unless justified by other material considerations.
- 5.5 Policy SP4 of the Selby Core Strategy adopts a hierarchical spatial development strategy as it directs most development to towns and more sustainable villages. SP4(a) states that in Secondary Villages, the following is permitted
- “conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built-up residential frontages, and conversion/redevelopment of farmsteads”.*
- 5.6 The supporting text to Policy SP4 states that the policy identifies the types of residential development that will be acceptable in different settlement types. It is intended to support development in the most sustainable locations, in a way which strikes a balance between maintaining the vitality and longer-term sustainability of all settlements, whilst avoiding the worst excesses of garden grabbing, particularly in smaller settlements. If this action is not taken, unacceptable amounts of housing may be provided in smaller, less sustainable settlements reducing the need for planned allocations of land where the maximum community benefit can be secured and further stretching existing servicing and resources.
- 5.7 The site has historically been part of a residential garden and it replaces a domestic garage; therefore, the site as a whole cannot be classed as previously developed land. To pass the test of SP4(a), the development would have to be defined as the 'filling of a small linear gap in a built-up residential frontage'.
- 5.8 When considering whether a proposal is defined as the 'filling of a small linear gap', a gap must already exist. In this case there is a garage in situ and therefore no gap currently exists. The proposal is an example of developing a garden rather than the filling of a small linear gap. As such, the proposal is considered to be contrary to SP4(a) of the Core Strategy and undermines the Spatial Development Strategy for the District, particularly the settlement hierarchy, as set out in Policy SP2 of the Core Strategy. The focus on Selby as a Principal Town and on Tadcaster and Sherburn-in-Elmet as Local Service Centres would not be supported by further development taking place outside of the provisions of Policy SP4.

- 5.9 As of 31st March 2020, the district has a 7.7 year deliverable supply of housing. This means that, in line with paragraph 11 of the new NPPF, relevant policies that relate to the supply of housing continue to be considered up-to-date.
- 5.10 Furthermore, the Council has over provided against its housing targets for the past five years and so passes the Governments housing delivery test. The fact of having a five-year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five-year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date. The NPPF aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications. An approval on this site (if its deliverability can be proved by the applicant) would provide one additional dwelling to the housing supply. The benefits of one additional dwelling would be modest and this factor is given limited weight.
- 5.11 Policy SP5 of the Core Strategy designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy does not set a minimum target for individual Secondary Villages but did set a minimum dwelling target for Secondary Villages as a whole of 170 dwellings. This target reflected planning permissions at that time (April of 2011), which have all been built out. Secondary Villages as a whole have already exceeded their minimum dwelling target set by Policy SP5 and it should also be noted that Policy SP2 of the Core Strategy does not require Secondary Villages to accommodate additional growth through allocations.
- 5.12 The provision of one dwelling is considered to be appropriate to the size and role of a settlement designated as a Secondary Village when considered in isolation. However, the individual scale of the proposal must also be considered in terms of the cumulative impact it would have with the previous levels of growth in this settlement that have occurred since the start of the plan period. To date, Fairburn has seen 23 (gross) dwellings built in the settlement since the start of the Plan Period (20 net) in April 2011 and has extant gross approvals for 8 dwellings (8 net), giving a gross total of 31 dwellings (28 net).
- 5.13 The village of Fairburn was considered as part of Background Paper 5, Sustainability Assessment of Rural Settlements, (updated February 2010). The assessment looked at access to services, public transport and employment in each settlement. The survey noted that Fairburn has a primary school, general store, post office but no doctor's surgery. It scored 'poor' for availability to public transport. The assessment gave an overall score of between 1 and 4 for sustainability - 1 being most sustainable and 4 being the least sustainable - with Fairburn scored 3.
- 5.14 As part of assessing this application, an online search was carried out and it found that Fairburn does not have a doctor's surgery and only one bus service, which is 2 hourly and no services in the evenings or Sundays. Therefore, whilst the sustainability assessment was carried out in 2010, a recent online search does not show that access to facilities or public transport has improved in later years. Therefore, it is considered that residents would be dependent on the use of a private car for basic services and travelling to employment.
- 5.15 The proposal would therefore fail to comply with Policy SP2 of the Core Strategy which seeks to focus new development within the existing settlements best placed to provide services to support new residents and would not be a development that is permitted by Policy SP4(a). The proposal would not contribute to any identified

housing need. The proposed development would therefore be contrary to the aims of sustainable development explicit in the NPPF, particularly paragraphs 11,105 and 124 of the NPPF.

Design and Impact upon the Character of the Area

- 5.16 The NPPF, particularly paragraph 130, states that, amongst other criteria, developments should add to the overall quality of an area, be visually attractive, sympathetic to local character and history, including the surrounding built environment and landscape setting whilst not preventing or discouraging innovation or change. These criteria are further explained in the governments National Design Guide.
- 5.17 At a local level, saved Policy ENV1 (particularly parts 1 and 4) of the Local Plan and Policies SP18 and SP19 of the Core Strategy seek to ensure developments safeguard and, where possible, enhance the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Developments should have layout and a high-quality design that has regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside.
- 5.18 Criteria c) of SP4 requires that all development must protect local amenity, preserve or enhance the character of the local area and comply with any local design codes. SP4 d) requires the application to be of a suitable scale and will be assessed in relation to the density, character and form of the local area.
- 5.19 Fairburn has an adopted Village Design Statement, and this describes the character of the area, its history and its local distinctiveness.
- 5.20 The site stands on Beckfield Lane and has a steep treed banking to the south. The dwelling would replace a detached garage. On Beckfield Lane is a group of dwellings with individual characteristics, but most are small scale and constructed in stone. The sites contribution to the wider character of Fairburn is from views from Caudle Hill.
- 5.21 The proposed house type is a bungalow with dormer looking onto Caudle Hill. Its proportions are similar to the garage it will replace. The bungalow will be partially screened by the trees on the banking to the south but in wintertime, limited foliage will open views of the dwelling from Caudle Hill.
- 5.22 Views from the foot of Caudle Hill is of dwellings, including bungalows and two storey dwellings with a mix of styles and designs. Red brick and stone houses are the most dominant materials. Dormers on the front elevations are not characteristic of the area.
- 5.23 Given the variety of house types on both Caudle Hill and Beckfield Lane and the small proportions of the proposed dwelling, the proposal is deemed to be sympathetic to the character and appearance of the area. The dwelling would stand in an elevated position, but it would not over dominate the area due to its modest proportions and the screening that will be provided by the adjacent treed banking. The proposed dormer on the front elevation is uncharacteristic but would not cause harm to the character of the area or local distinctiveness.

- 5.24 The agent has confirmed no engineering operations or retaining walls are required to build out the development.
- 5.25 Therefore, the proposal would accord with policies ENV 1 (1) and (4) of the Local Plan, Policies SP4 (criteria c and d), SP18 and SP19 of the Core Strategy, the NPPF in respect to achieving good quality housing developments and the VDS for Fairburn.

Impact upon Surrounding Residential Properties

- 5.26 Saved Local Plan Policy ENV1 (1) advises proposals should take account of the effect upon the amenity of adjoining occupiers. Core Strategy Policy SP4 (c) expects all proposals to protect local amenity.
- 5.27 The main impact of the dwelling is from its windows and the dormer on the south elevation. These windows, whilst partly screened by the treed banking, will still overlook bungalows to the south of Caudle Hill and the overlooking will be accentuated by its elevated position. Neighbours to the south of Caudle Hill have objected on privacy grounds, as they consider that the windows will look directly into their main living areas.
- 5.28 According to OS maps, the dwelling would have a separation distance of 30m to the houses on the south side of Caudle Hill. At ground floor, the windows of the proposed dwelling and any outdoor space could be screened by fencing or a wall. A condition for screening and boundary treatments could be a condition of the planning approval. At first floor is only one dormer window to serve the main bedroom. The applicant has also amended the drawings since submission as the dormer window was initially a full length window/Juliet balcony.
- 5.29 When taking into account the separation distances, available screening at ground floor and the amended size of the dormer window, on balance no adverse harm to the residential amenity of neighbouring occupiers is identified. The scheme therefore complies with parts 1 and 4 of Local Plan Policy ENV1 and Core Strategy Policy SP4(C)

Residential Standards

- 5.30 Paragraph 130 of the NPPF, requires developments to be high quality, well designed, fit for purpose and have a high standard of amenity for existing and future users. In addition, paragraph 130 of the National Design Guide provides helpful advice on how to determine whether an amenity space is appropriate for its users. It states that consideration should be given to how the associated building sits in the wider context, who will use the amenity space and the quality of the space.
- 5.31 The garden area for the proposed dwelling is an outdoor area to the south and small pockets of grassed areas. It is limited in size and will be shadowed by trees to the south, therefore not ideal in size and location. However, it has open views, the trees in summer would offer shade and privacy, light would filter through in winter. This is also a small two bedroom dwelling. On balance, no objections are raised to the garden size.
- 5.32 The proposed parking spaces on the Caru site reduces the garden space for the existing dwelling. Although, the reduction is not deemed to create an adverse impact on living standards given the small area that is subject to the change.

5.33 The internal standards of the dwelling provide all the necessary requirements for day to day living. As such, the residential standards are acceptable.

Highway Safety and Parking

5.34 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2. Paragraph 110 of the NPPF states that development should ensure that safe and suitable access can be achieved for all users to a site. Paragraph 111 of the NPPF advises that development should only be refused (on highway grounds) where it would result in an unacceptable impact on highway safety.

5.35 Policy VP1 and the NYCC Interim Parking Standards requires:

- 2 and 3 bed dwellings: 2 off street parking spaces;
- 4+ bedroom: three off street parking spaces.

5.36 NYCC Highways have objected to this application, due to lack of visibility when vehicles are manoeuvring from the parking spaces. The site is on a single carriage way with no pavements.

5.37 Due to a lack of visibility, drivers exiting the parking spaces would have to 'edge out' onto the highway blindly. The potential highway safety issue is vehicles colliding with other vehicles and any pedestrians, which are travelling along Beckfield Lane.

5.38 This site has previously had permission for a holiday cottage. This permission has now lapsed. Highways objected to the application for a holiday cottage, but only on parking grounds. No comments were made regarding visibility. Despite past history, this application must be re-assessed and against current planning policy as set out above.

5.39 Two off street parking spaces are shown for the new dwelling. This is in accordance with local standards. The scheme replaces the current number of spaces for the existing property (2), which is deemed acceptable even though the number of bedrooms in the existing dwelling is not known.

5.40 In summary, highway safety issues are expected to arise due to lack of visibility. Therefore, the proposal is not in accordance with paragraphs 110 and 111 of the NPPF and Local Plan Policies ENV1(criteria 2), T2.

6. CONCLUSION

6.1 Having considered all of the above, it is clear that the proposal should be seen as being in conflict with SP4(a). The development is unacceptable in principle and is not regarded to meet any of the exceptions for residential developments in Secondary Villages listed in Policy SP4. Conflict also exists with the wider sustainability objectives of the NPPF in that its location will be reliant on the private car and the settlement is regarded as being unsustainable. The above are given significant weight.

6.2 It is recognised that there needs to be a balance between ensuring the vitality of rural settlements and the encouragement to locate development where it is or can be made to be sustainable with reference to sustainable travel patterns. Plainly, development in smaller settlements without services meets the first aim but conflicts

with the second. This is an inevitable tension in relation to rural housing applications such as this. However, the authority have met their housing targets for secondary villages as set out in Core Strategy SP5 and has allowed small scale growth in the village during the plan period.

- 6.3 Overall, in terms of the planning balance, the scheme would boost housing supply by one dwelling, it is a development that is sympathetic to the character of the area, does not cause an adverse impact on local amenity and provides adequate residential standards. However, these matters do not outweigh the sustainability issues and the clear conflict with Policy SP4. Furthermore, the proposal is considered to create a highway and pedestrian safety issue as drivers would have to edge out of the site blindly due to lack of visibility.

7. RECOMMENDATION

This application is recommended to be REFUSED for the following reasons:

1. The proposed development does not fall within any of the listed acceptable in principle forms of development in secondary villages, which are identified in Policy SP4 a) and therefore the proposal fails to accord with Policy SP4 of the Core Strategy.
2. The proposal would not provide a sustainable site for further housing in terms of its access to everyday facilities and a reliance on the private car. The proposal is therefore contrary to Policies SP1 and SP2 of the Core Strategy and would conflict with paragraphs 11, 105 and 124 of the NPPF.
3. The proposed parking for both the new and existing dwelling would have inadequate visibility. The lack of visibility creates a highway and pedestrian safety issue as drivers would have to edge out of the site blindly, resulting in the risk of collisions with both vehicles and pedestrians. Therefore, the proposal fails to accord with paragraphs 110 and 111 of the NPPF and Local Plan Policies ENV1(criteria 2) and T2.

8. Legal Issues

Planning Acts

- 8.1 This application has been determined in accordance with the relevant planning acts.

Human Rights Act 1998

- 8.2 It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

Equality Act 2010

- 8.3 This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

9. Financial Issues

Financial issues are not material to the determination of this application.

10. Background Documents

Planning Application file reference 2021/1501/FUL and associated documents.

Contact Officer: Elizabeth Maw

Appendices: None