



Report Reference Number 2022/1026/FUL

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

APPLICATION NUMBER:	2022/1026/FUL	PARISH:	Biggin Parish Council
APPLICANT:	Mr & Mrs Fielding	VALID DATE:	2nd September 2022
		EXPIRY DATE:	28th October 2022
PROPOSAL:	Erection of a single storey storage building required for maintenance of paddock/grassland land (retrospective)		
LOCATION:	Fentune House Meadows Edge Biggin Leeds North Yorkshire LS25 6GL		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as the Ward Councillor for the area where the proposal lies has requested it to be heard by the Committee in writing within 21 days of the publication of the application in the weekly list. The following reasons for Committee consideration were noted, which are considered to be valid material planning reasons:

1. The proposals are similar to other applications which the Council has approved recently, such as the application in North Duffield which was approved by Committee in December 2021 (ref 2020/1391/FUL).
2. It is important to provide reasonable private amenity space with properties, provided that the proposal would not have any significant adverse impact on the residential amenities of the occupiers of any neighbouring residential properties and there is no significant adverse effect on the character and appearance of the surrounding countryside. Having assessed the proposals, I consider that these proposals meet this test and are therefore compliant with Policy ENV1 (1) and H15 of the Selby District Local Plan and the NPPF.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located further to the south of the edge of the Biggin village which is identified as a Secondary Village in the Selby District Core Strategy. It is accessed from the rear garden of Fentune House and is within the open agricultural land to the south of the dwelling. There is an agricultural field surrounding the site on the north east, north west and south west and a group of mature trees to the south east of it.
- 1.2 The application site is part of agricultural land currently consisting of predominantly mown grass where the storage building was constructed without a formal planning permission and the application site area is drawn tightly to the footprint of this building. The site is located within the larger agricultural field to the south of the detached two-storey dwelling known as 'Fentune House' which was approved under application 2015/1004/OUT and a subsequent approval of reserved matters under reference 2017/0129/REM. The land to the rear in addition to the dwelling and its formal curtilage immediately to the rear of the dwelling is owned by the applicant.
- 1.3 This resubmission of previously refused application 2022/0039/FUL seeks approval retrospectively for a storage building stated to be required for maintenance of the mown grass area of land to the south of the curtilage of Fentune House. The authorised use of the site is agricultural. The site forms a part of larger agricultural parcel of land. Part of this field was subject to a retrospective application 2022/0040/COU for the change of use of agricultural land to domestic use in association with the dwelling, which was recently refused permission and has been resubmitted under application 2022/1027/COU; this is currently pending and is also to be considered by this Committee.

The Proposal

- 1.4 The application seeks planning permission retrospectively for the erection of single storey storage building required for maintenance of paddock/grassland land in connection with a dwelling known as Fentune House and is a resubmission of a previously refused application 2022/0039/FUL.
- 1.5 It is noted that no changes have been made to the proposals since previous refusal, however the Planning Statement supporting the application has been updated setting out the arguments in support of the application.

Relevant Planning History

- 1.6 The following historical application is considered to be relevant to the determination of this application.
 - Application Number 2015/1004/OUT (8/61/27M/PA) outline application for the erection of 5 No. dwellings including details of access (all other matters reserved) on land at Croft Farm, Oxmoor Lane, Biggin was approved in December 2015
 - Application 2017/0129/REM (8/61/27Q/PA) - reserved matters application for approval of details including appearance, landscaping, site layout and scale for 5 No detached dwellings including associated garaging and access at Croft Farm, Oxmoor Lane, Biggin was approved in April 2017

- Application 2022/0040/COU for the change of use of grassland to domestic garden (retrospective) at Fentune House, Meadows Edge, Biggin was refused in March 2022.
- Application Number 2022/0039/FUL for the erection of a single storey storage building required for maintenance of paddock/grassland land (retrospective) at Fentune House, Meadows Edge, Biggin was refused in March 2022 for the following reasons:
 01. *The application site is located outside development limits and is therefore within the open countryside and the proposal is for a domestic storage building. The proposal would not constitute any of the types of development acceptable in principle in the countryside and would therefore fail to comply with the aims of Policies SP1 and SP2 of the Selby District Core Strategy 2013 and with the advice contained within the NPPF. The proposal is therefore contrary to the above policies and hence the overall Spatial Development Strategy for the District.*
 02. *The building introduces an urban use in the open countryside location and a built form on the otherwise undeveloped agricultural land which is considered uncharacteristic and harmful to the open rural character of this part of the countryside. Also, the presence of the structure, unnecessary for agricultural use or other rural uses requiring such a location within this open field, is harmful to its open rural undeveloped character. The proposal is therefore contrary to the aims of Policy ENV1 of the Selby District Local Plan 2005, Policy SP19 of Selby District Core Strategy 2013 and the NPPF.*
- Application 2022/1027/COU for the erection of a single storey storage building required for maintenance of paddock/grassland land (retrospective) at Fentune House, Meadows Edge, Biggin is currently pending consideration, but is to be also considered by this Committee.

Sites nearby:

- Application 2022/0042/COU for the change of use of grassland to domestic garden (Retrospective) at Oxmoor Lodge, Meadows Edge, Biggin was refused in March 2022 due to the following reasons:
- Application 2021/1453/FUL for the erection of a green house, summerhouse with a small gravel area to the front and a lean-to shed and change of use of land to residential curtilage (retrospective) was refused in March 2022 for the following reasons:
- Application 2022/1028/COU for the change of use of grassland to domestic garden in connection with Oxmoor Lodge (retrospective) at Oxmoor Lodge, Meadows Edge, Biggin is currently pending consideration, but is to be also considered by this Committee.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No objections are raised as the site cannot be seen from the roadside or by neighbours. Support the application as no impact on residential amenity or on the Green Belt surrounding the area.

- 2.2 **NYCC Highways** – Confirmed no objections to the proposed change of use.
- 2.3 **Yorkshire Water Services Ltd** – No response was received during a statutory consultation period.
- 2.4 **Selby Area Internal Drainage Board** – It is noted that this is a retrospective application and it is not clear if there are any works have taken place within 7m of an ordinary watercourse but in any case, the Selby Area IDB cannot issue retrospective consent unfortunately. Beyond this, the Board has no further comments or objections.
- 2.5 **NYCC Minerals and Waste** – Attention is drawn to the Mineral and Waste Joint Plan and that the sites are within a Minerals Safeguarding Area. The proposal falls under the following exemption criteria: - Minor works such as fences, bus shelters, gates, walls, accesses. There are no active quarry sites or waste facilities within 500m of Fentune House and no sites have been proposed for allocation for minerals or waste activities in the Minerals and Waste Joint Plan within that 500m zone.
- 2.6 **Public consultations** – Site notices were posted on the 20th September 2022. No representations have been received as a result of this consultation.

3. SITE CONSTRAINTS

Constraints

- 3.1 The site is located outside the defined development limits of the Secondary Village of Biggin and is therefore within the open countryside for planning purposes.

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 neither 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).”

Selby District Core Strategy 2013 (SDCS)

4.6 The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP15 - Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 - Design Quality

Selby District Local Plan 2005 (SDLP)

4.7 The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development

National Planning Policy Framework (NPPF)

4.8 The relevant sections are:

- Section 2 – Achieving sustainable development
- Section 4 – Decision-making
- Section 12 – Achieving well-designed places
- Section 15 – Conserving and enhancing the natural environment

Minerals and Waste Joint Plan 2022 (MWJP)

4.9 The relevant Minerals and Waste Joint Plan Policies are:

- S01 – Safeguarded Surface mineral resources
- S02 – Developments proposed within Safeguarded Surface Mineral Resource areas
- S06 – Minerals ancillary infrastructure safeguarding
- S07 – Consideration of applications in Consultation Areas

5. APPRAISAL

5.1 The main issues to be taken into account when assessing this application are:

- The principle of the development in the open countryside
- Design and impact on the character and appearance of the area
- Impact on residential amenity
- Nature conservation
- Flood risk, drainage and climate change
- Minerals and Waste

The Principle of Development in the Open Countryside

- 5.2 The application site is located further to the south of the edge of Biggin village and outside its development limits and is therefore in the open countryside. Relevant policies in respect to the principle of development and the presumption in favour of sustainable development includes Policies SP1 and SP2 of the SDCS and the NPPF.
- 5.3 Policy SP1 of the SDCS outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework", to secure development that improves the economic, social and environmental conditions in the area, and sets out how this will be undertaken.
- 5.4 SDCS Policy SP2(c) states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the reuse of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."
- 5.5 The proposal is for a construction of a new storage building required for maintenance of grassland. The extent of the land ownership is the application site itself, a portion of adjoining agricultural land, part of which was subject to a planning application 2022/0040/COU for the change of use to domestic garden which was recently refused and a subsequent resubmission which is currently pending consideration, and a residential property with its curtilage known as 'Fentune House'. The Planning Statement submitted with the application dated August 2022 states that the building is used to store all the necessary equipment for the maintenance of the applicant's paddock land as well as the neighbouring land.
- 5.6 Whilst it is noted that the Planning Statement suggests that the building is not proposed to be used for domestic purposes, the building would be used for the storage of equipment needed for the maintenance of the grassland which could include but not be limited to lawn mowers, grass feed etc. and such equipment is generally considered to be domestic rather than agricultural. Also, from a site visit it is noted that the land surrounding the building consists of predominantly mown grassed area which is characteristic to domestic use. As such, the building is therefore considered to be for domestic storage and this type of use is not associated with agriculture or any type of rural business and does not have to be located in this rural location. Furthermore, there is no evidence to suggest that the proposal would contribute towards and improve the local economy or enhance or maintain the vitality of rural communities, in accordance with Policy SP13. As such and given the nature

of the use proposed and its open countryside location, it is considered that the proposed scheme would be unsustainable development which would not bring sustainable economic growth contrary to the development plan.

- 5.7 In this context, it is considered that the proposed development fails to comply with Policies SP1 and SP2 of the SDCS and the NPPF.

Design and impact on the character and appearance of the area

- 5.8 Relevant policies in respect to the impact of development on character and appearance of the area are Policy ENV1 of the SDLP, Policy SP19 of the SDCS and advice contained within the NPPF. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.
- 5.9 The application site is a parcel of land located within the larger grassed area lying within the ownership of residential property known as 'Fentune House'. The application seeks retrospective approval for a storage building on an undeveloped parcel of land within the open countryside to be used for the maintenance of the grassed area lying within the ownership of residential properties, namely Fentune House and Oxmoor Lodge. It is noted that the parts of the larger field where the application site is located are currently used as garden land and contain some domestic outbuildings. However, these matters are currently subject to separate planning application and no favourable weight should be attributed to the fact that these other unauthorised developments have occurred. Moreover, this application must also be assessed as if it had not occurred already.
- 5.10 The application site lies to the rear of Fentune House and contains a retrospectively erected storage building sited within the grassed area with a group of mature trees to the south east. The site and the area it is located within have formed a part of larger parcel of agricultural field and did not form part of the original permission for dwellings on Meadows Edge. It is noted from a site visit and the information in the Planning Statement that this agricultural field has been divided into separate plots and sold off to the residents of 5 properties approved under application 2015/1004/OUT.
- 5.11 The immediate area is characterised by a predominantly open landscape with a small group of residential properties forming the edge of Biggin village that are adjacent to a field. This field is visually separated from the larger open fields by a group of mature trees and other vegetation on the west, south east and north east and a built form of Meadows Edge and is free of built form.
- 5.12 The retrospectively erected building is not visible from any public points of view due to its siting, due to the existing built form of Meadow Edge and existing mature vegetation along the highway to the west and a group of mature trees to the south east and there are no public rights of way within close proximity to the site. As such, it is therefore considered that the building is situated on a site which minimises its public visual impact. However, in any event the argument that the building is out of public view for this reason would not be compelling in principle, as it could be repeated too often to the overall detriment of the character and appearance of the countryside.
- 5.13 The building measures approximately 10 metres in width and 5 metres in depth, and has a single pitched roof where the highest part of the roof is 2.35 metres above ground level and its lowest part is 2.1 metres in height. The building consists of a steel framework structure with corrugated aluminium sheet cladding finished in green

for the external walls and roof with 3 double doors in same material. Whilst the size and scale of the building are considered modest, the proposed materials give the building an industrial look which is not characteristic to the immediate area or wider open countryside.

- 5.14 Whilst existing substantial screening is noted, the erection of this industrial style building for a domestic use introduced a built form on this otherwise undeveloped agricultural land and introduced an urban use in the open countryside location which is considered to cause harm to the rural character of this edge of settlement location.
- 5.15 Having taken into account all of the above and due to the nature of the use and the design and materials proposed to be used, the building is considered to introduce a built form on the otherwise undeveloped agricultural land and to introduce an urban use in the open countryside location which is uncharacteristic to the open countryside location. The presence of the structure, unnecessary for agricultural use or other rural uses requiring such a location within this field, is harmful to its open rural undeveloped character. It is therefore concluded that it would cause a detrimental impact on the character and appearance of the open countryside and the proposal therefore fails to comply with Policy ENV1 of the SDLP, Policy SP19 of the SDCS and the advice contained within the NPPF.

Impact on Residential Amenity

- 5.16 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the SDLP and advice contained within the NPPF. Significant weight should be attached to those policies as they are broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 5.17 The key considerations in respect of residential amenity are the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.18 Given the separation distance from the nearest residential properties, and due to the size, scale and design of the proposed development, it is not considered that it would result in adverse effects of overlooking, overshadowing or overbearing of neighbouring properties.
- 5.19 As such, it is therefore considered that the proposal would not cause any significant adverse impact on the residential amenities of the neighbouring properties and would be in accordance with Policy ENV1 of the SDLP and advice contained within the NPPF.

Nature Conservation

- 5.20 There is a pond within the site and close proximity of the retrospectively erected building. Relevant policies in respect to nature conservation interests include Policies ENV1 (5) of the SDLP and Policy SP18 of the SDCS. Significant weight should be attached to the above policies as they are broadly consistent with the aims of the NPPF.
- 5.21 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.

- 5.22 The previous recently refused application has been assessed by the Yorkshire Wildlife Trust, Natural England and NYCC Ecologist. The Yorkshire Wildlife Trust has not provided any comments at that time and Natural England had no comments to make. NYCC Ecologist advised at the time that assuming the building was erected on mown/grazed agricultural grassland, harm is unlikely to have been caused to any protected species or other nature conservation features. Whilst neither of those were consulted on this current application, given that the development has already occurred, that no changes to the building have been made and only a short time has passed since previous refusal, the previous comments are still considered relevant.
- 5.23 It is therefore considered that no significant adverse impacts would be caused on protected species or nature conservation. As such it is considered that the proposal is not contrary to Policy ENV1 (5) of the SDLP, Policy SP18 of the SDCS and the advice contained within the NPPF.

Flood risk, drainage and climate change

- 5.24 The application site is located within Flood Zone 1, which has a low probability of flooding. The area of the site is approximately 0.77 ha which is less than 1 ha and as such a Site-Specific Flood Risk Assessment is not required in this instance and the proposal is therefore acceptable in terms of its impacts on the flood risk.
- 5.25 Policy SP15 (B) of the SDCS states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the SDCS. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.26 In terms of drainage, the submitted application form sets out that surface water would be disposed of via existing watercourse and that foul sewage arrangements are unknown. Given the nature and scale of the proposed development, it is unlikely that any foul connections would be required and other drainage works can be agreed via a suitably worded condition.
- 5.27 It is therefore considered that the proposal is acceptable in terms of flood risk, drainage and climate change subject to a condition and the scheme is considered to be in accordance with Policy ENV1 (3) of the SDLP, Policies SP15 and SP19 or the SDCS and the advice contained within the NPPF.

Minerals and Waste Local Plan

- 5.28 The application site is located within a Surface Minerals Safeguarding Area. The application for a building does not constitute 'exempt development' as set out in paragraph 8.55 of the Minerals and Waste Joint Plan. Therefore, Policy S07 of the MWLP is relevant.
- 5.29 Policy S07 of the MWJP states that 'Where development, other than exempt development as defined in the Safeguarding Exemption Criteria list, as set out in paragraph 8.55, is proposed in an area safeguarded on the Policies Map for minerals

resources, minerals transport infrastructure, minerals ancillary infrastructure and waste infrastructure, and the proposed development site is located outside the City of York and North York Moors National Park areas, consultation with North Yorkshire County Council will be required before permission is granted.

- 5.30 Whilst the site is located outside the City of York and North York Moors National Park areas, the proposal does not fall within an area safeguarded on the Policies Map for minerals resources, minerals transport infrastructure, minerals ancillary infrastructure and waste infrastructure. NYCC Minerals and Waste raise no objection on the basis that the works are exempt.
- 5.31 As such, the proposal would comply with Policies S01, S02, S06 and S07 of the Minerals and Waste Joint Plan 2022.

6. CONCLUSION

- 6.1 The proposal is in accordance with Policies S01, S02, S06 and S07 of the Minerals and Waste Joint Plan 2022.
- 6.2 The proposed development is considered acceptable in terms of its impacts on residential amenities, nature conservation, flood risk and drainage.
- 6.3 However, the proposal would not constitute any of the types of development acceptable in principle in the countryside nor would it improve or contribute to the local rural economy or enhance or maintain the vitality of rural communities.
- 6.4 In addition, the building is considered to introduce a built form on the otherwise undeveloped agricultural land and to introduce an urban use in the open countryside location which uncharacteristic and harmful to the open rural character of this part of the countryside.
- 6.5 As such, the proposed development would therefore fail to comply with the aims of Policies SP1, SP2 and SP19 of the SDCS, Policy ENV1 of the SDLP and with the advice contained within the NPPF.

7. RECOMMENDATION

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

01. The application site is located outside development limits and is therefore within the open countryside and the proposal is for a domestic storage building. The proposal would not constitute any of the types of development acceptable in principle in the countryside and would therefore fail to comply with the aims of Policies SP1 and SP2 of the Selby District Core Strategy 2013 and with the advice contained within the NPPF. The proposal is therefore contrary to the above policies and hence the overall Spatial Development Strategy for the District.
02. The building introduces an urban use in the open countryside location and a built form on the otherwise undeveloped agricultural land which is considered uncharacteristic and harmful to the open rural character of this part of the countryside. Also, the presence of the structure, unnecessary for agricultural use or other rural uses requiring such a location within this open field, is harmful to its open rural undeveloped character. The proposal is therefore contrary to the aims

of Policy ENV1 of the Selby District Local Plan 2005, Policy SP19 of Selby District Core Strategy 2013 and the NPPF.

8. Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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 2022/1026/FUL and associated documents.

Contact Officer: Irma Sinkeviciene (Senior Planning Officer)

Appendices: None