

North Yorkshire Council
Community Development Services
RICHMOND (YORKS) AREA CONSTITUENCY COMMITTEE
ZB23/00822/FUL - NEW 2 STOREY DWELLING HOUSE WITH DOMESTIC
GARAGE AT THE REAR
AT: OS FIELD 9319, CHURCH STREET, WELL, NORTH YORKSHIRE
ON BEHALF OF STELLING

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the report

- 1.1 To determine a planning application for a new 2 storey dwelling house with domestic garage at the rear on land at OS Field 9319, Church Street, Well.
- 1.2 This is a committee decision having been called in by the Ward Member.

2.0 Executive Summary

RECOMMENDATION: That planning permission be **Refused** for the reasons set out below:

- The site does not form part of the built form of Well and nor can it be said to be immediately adjacent to the settlement. It therefore cannot gain support from policy HG5 of the Local Plan as windfall housing development and thus would be in direct conflict with the Local Plan in terms of the principle of the use in this location.
 - The sequential test carried out for the application is too restricted to demonstrate there are no reasonably available sites in the locality that are not within flood zones 2 or 3. This means that the application conflicts with policy RM2 and the NPPF.
- 2.1 The application is for a single detached dwelling on a greenfield site to the east of the village of Well, just to the north of Church Street.
- 2.2 This would constitute windfall housing development and such the principle of the development would be assessed through policy HG5 of the Local Plan.



N

3.0 Preliminary Matters

- 3.1 Access to the case file on Public Access can be found here [Public Access](#)
- 3.2 Through the course of the application an amended Flood Risk Assessment was submitted to address concerns from the Environment Agency.
- 3.3 There is no relevant planning history on file for this site.

4.0 Site and Surroundings

- 4.1 The site is a parcel of grassland measuring approximately 0.23ha which is located to the north of Church Street to the eastern edge of the main built form of Well. The edge of the settlement is to the east, with the outlying cluster of development around the grade II listed Old School House approximately 40m to the west. There is also a large agricultural unit located within this outlying cluster.
- 4.2 There is a beck which runs along the western edge of the site. The eastern edge of the Well Conservation Area is also around 80m to the west. The vast majority of the site is within flood zone 3, with a very small stretch of the western-most edge in flood zone 2.

5.0 Description of Proposal

- 5.1 This application seeks full planning permission for the construction of one two-storey, 5 bed dwelling. It is proposed to be a stone-built unit, with a grey slate roof. The width of the main facade would be approximately 15m with an eaves height of 5.2m. The main two-storey section would front the road, with a rear off shoot providing a boot room and double garage. Access would come directly off the road to the south and around to a private drive area.

6.0 Planning Policy and Guidance

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2 The Adopted Development Plan for this site is the Hambleton Local Plan and the North Yorkshire Joint Waste and Minerals Plan.

Emerging Development Plan - Material Consideration

- 6.3 The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Consideration

- 6.4 Relevant guidance for this application is:
- National Planning Policy Framework 2021
 - National Planning Practice Guidance

- National Design Guide 2021
- Housing Size, Type and Tenure - July 2022

7.0 Consultation Responses

7.1 The following consultation responses have been received and have been summarised below:

Consultees

- 7.2 Parish Council - No comments received.
- 7.3 Environment Agency - Based on the information provided we can remove our objection on flood risk grounds. However, we strongly advise that flood proofing measures are incorporated into the development as well as an evacuation plan, as it still stands the development will be in flood zone 3 going off our flood map for planning map.
- 7.4 Environmental Health - No objections.
- 7.5 Gardens Trust - No comments to make.
- 7.6 Gardens Trust - No comments to make.
- 7.7 NYC Heritage Services - No objection subject to condition requiring archaeological monitoring.
- 7.8 NYC Highways - No objections subject to conditions.
- 7.9 Swale and Ure IDB - No comments to make.

Local Representations

7.10 No local representations received.

8.0 Environment Impact Assessment (EIA)

8.1 The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

9.0 Main Issues

9.1 The key considerations in the assessment of this application are:

- Principle of development
- The impact on the setting of the Conservation Area
- Design
- Amenity
- Flood risk
- Highway safety and access
- BNG

10.0 Assessment

Principle of Development

- 10.1 The site in question is not allocated for housing development. As a result, assessment of this proposal is governed by Policy HG5: Windfall Housing Development. Policy HG5 distinguishes between sites that are "within the built form of a defined settlement" and "adjacent to the built form" of a settlement that isn't a market town. Firstly, it should be noted that Well is defined as a secondary village and therefore is able to support residential development in principle.
- 10.2 The first issue at hand is whether the site can be said to be "within" or "adjacent to" the built form of the settlement. As set out in the introductory section, this site is considered to be located between the edge of the main built form of the village and a small cluster of development to the east, which on the most part contains agricultural buildings alongside a small number of dwellings. There is a clear physical break between the village and this outlying development underlined by the location of the beck which acts as a natural boundary from the main part of the village.
- 10.3 Policy S5 of the Local Plan, which sets out a definition of "built form" for the purposes of policy HG5 specifically excludes "[a] group of dispersed buildings or ribbon developments which are clearly detached from the main part of the settlement". It is clear that this cluster of development to the east should therefore not be considered part of the built form of the village and thus the site, which sits between the village and this cluster. Officers consider that this site can not be said to represent infill development within the built form of Well.
- 10.4 Consequently the only way in which policy HG5 would support the development of this site would be if it could be said to be "adjacent to the built form" and passes the tests set out in the second part of HG5. There is a considerable degree of separation between the site and the eastern boundary of the village. From the site to the nearest dwelling to the west (Mayzac) is approximately 45m. Between the site and this dwelling, which effectively marks the edge of the village, there is the physical barrier of the beck. This separation distance coupled with the location of the beck means that the site is physically and visually detached from the settlement and therefore can not be said to meet the definition of "adjacent to the built form" for the purposes of policy HG5. Consequently, the site fails to gain support from policy HG5 as a windfall housing site and the principle of the development is not supported by the Local Plan.
- 10.5 Notwithstanding this fundamental flaw, other issues and technical matters will be assessed below.

Impact on the Conservation Area

- 10.6 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The National Planning Policy Framework requires an assessment of the potential harm a proposed

development would have upon the significance of a designated heritage asset.

- 10.7 The boundary of the Well Conservation Area is located approximately 90m to the west, effectively just excluding the recent dwelling constructed to the west of the site. The approach westwards along Long Lane and then Church Street is undoubtedly an important aspect of the setting of the Conservation Area, allowing a view directly into the heart of the village with the focal point of the Grade I listed St Michael's Church prominent in the streetscape.
- 10.8 Given the degree of separation between the site and the Conservation Area boundary and the degree to which the proposed dwelling would be set back from the road frontage, these key views into the CA would be unaffected. As a result, notwithstanding the conflict with the Local Plan already identified above, the proposed development would not harm the setting of the Conservation Area.

Design

- 10.9 Policy E1 of the Local Plan relates to the design of development and requires all development to be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and helping to create a strong sense of place. It goes on to outline a number of design principles which help to achieve this overarching aim.
- 10.10 The proposed design of the dwelling effectively looks to replicate the new dwelling just to the west, Mayzac, using a similar style and massing and the same palette of materials. In that respect the design of the proposed dwelling is acceptable in isolation and would comply with the requirements of policy E1 and therefore is considered to be acceptable in these terms.

Amenity

- 10.11 Policy E2 of the Local Plan requires all development to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use.
- 10.12 The nearest dwelling is The Old School House which is located to the east beyond a hedgerow and with a fairly considerable separation distance. As a result, the siting of a dwelling on this site is not considered to raise any issues in terms of loss of privacy or overshadowing. The proposed layout also provides ample outdoor amenity space for the occupants of the proposed dwelling. As a result, the proposal is considered to comply with the requirements of policy E2.

Flood Risk

- 10.13 Policy RM2 of the Local Plan relates to flood risk and sets out a lengthy list of measures that the LPA will take to ensure development is safe from flood risk. Particularly relevant in this case are applying the sequential test to ensure development in flood risk areas is avoided where possible and all reasonable opportunities to reduce overall flood risk have been considered and where possible taken. The NPPF clarifies that the aim of the sequential test is to

steer new development to areas with the lowest risk of flooding from any source and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

- 10.14 The Flood Risk Assessment submitted over the course of this application outlines that given the site is categorised as being mostly within flood zone 3, it would be expected to flood in the 1 in 100-year exceedance event. However, hydraulic modelling used in the FRA deems that only a small part of the site along the north eastern edge would actually be impacted in such an event and therefore the vast majority of the site, including where the dwelling would sit, should actually be considered as being in flood zone 2. On this basis, the Environment Agency no longer object to the application subject to design measures to ensure adequate physical measures are in place to reduce flood impacts for the proposed development. In effect the Environment Agency conclude that the proposals will not adversely impact flooding to other properties within the catchment.
- 10.15 Whilst on the basis of the FRA it could be said that the development may be able to be made safe from flood risk, the Planning Practice Guidance at para 023 is clear that "even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied."
- 10.16 The applicant has submitted a statement outlining an assessment of other "reasonably available" sites in an attempt to ensure the requirements for a sequential test have been fulfilled. This assesses both allocated sites and the SCHLAA to assess future housing development opportunities in the village, both of which yielded no results. It then outlines sites with extant permission or other land for sale that could accommodate the development, again yielding no results. Whilst it is accepted that there may be no other available sites within the village of Well, this is a small settlement that would be expected to have a limited amount of development opportunity. No information has been provided regarding the availability of sites further afield in larger settlements in the surrounding area. As a result, Officers are not content that there is enough justification to allow this development within flood zone 2. On this basis the application fails the sequential test and is in conflict with policy RM2 of the Local Plan.
- 10.17 In the view of officers and backed up by the Planning Practice Guidance, development in this location has not been shown to be necessary and development within Flood Zone 1 (the area at lowest risk) remains feasible within the Local Plan area.

Highway Safety and Access

- 10.18 Policy IC2 of the Local Plan requires development to be served by a safe and efficient transport system that supports a sustainable pattern of development that is accessible to all. Access is proposed to be taken directly from the road to the south. The Local Highway Authority were consulted on this arrangement and raised no concerns subject to standard conditions. On that basis the scheme is considered to be acceptable on highway safety grounds and complies with policy IC2.

Biodiversity Net Gain

10.19 Policy E3 of the Local Plan now requires all development to demonstrate the deliverability of a net gain in biodiversity. No BNG Assessment or landscape plan has been submitted with this application. However, the site under the ownership of the applicant extends a considerable distance north which means there is adequate space to provide a scheme that would deliver a net gain in biodiversity and therefore the risk is very low and the matter could be addressed with a condition should the proposal have been acceptable on other grounds. Thus, this does not form a reason for refusal.

11.0 Planning Balance and Conclusion

11.1 The site has been assessed as being neither within or adjacent to the built form of Well. It therefore fails to meet the requirements for it to be supported under policy HG5 as windfall housing development. Furthermore, it has also been demonstrated that the application has failed to demonstrate that an adequate sequential test has been carried out. On this basis it also conflicts with policy RM2 of the Local Plan. The acceptability of the development in other terms does not outweigh these fundamental issues and therefore refusal is recommended.

12.0 Recommendation

12.1 That Permission be refused for the following reasons:

1. The site does not form part of the built form of Well and nor can it be said to be immediately adjacent to the built form of the settlement. It therefore cannot gain support from policy HG5 of the Local Plan as windfall housing development and thus would be in direct conflict with the Local Plan in terms of the principle of the use in this location.
2. The sequential test carried out for the application is considered too restricted to demonstrate there are no reasonably available sites that are not within flood zones 2 or 3. This means that the application conflicts with policy RM2 and the NPPF.

Target Determination Date: 11th August 2023

Case Officer: Mr Nathan Puckering
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