

Meadows. This will involve removing a section of the existing hedge fronting the site (approximately 7m).

A Design, Access and Planning Statement submitted advises:

“The proposal is to erect a single two storey detached dwelling on the site and providing 2/3bedroom accommodation. The site has existing mature landscaping to be retained, however the insertion of new landscaping to the plot boundary is to be provided to segregate the shared use of this area of land and integrate the dwelling into the site and wider street scene. The dwelling is to be set back within the site parallel to the southern hedge boundary. Parking will be provided to the north-west of the plot.”

MAIN ISSUES

- 1.Principle of residential development.
- 2.Impact on the character and appearance of the Conservation Area and protected trees.
- 3.Effect on neighbouring property.
- 4.Highway safety and parking.
- 5.Other matters.

RELEVANT SITE HISTORY

15/02618/PRE: Pre-application advice was sought and given on the construction of a dwelling on the site in September 2015.

CONSULTATIONS/NOTIFICATIONS

Natural England

No comments have been received.

Parish Council

Kirk Deighton

NYCC Highways And Transportation

Has no objection subject to conditions.

DCS - Open Space

Advices of the commuted sum calculation.

EHO Contaminated Land

Has no objection to the proposal.

DCS Arboricultural Officer

Objects to the proposal.

Principal Ecologist

Advices that Natural England should be consulted.

RELEVANT PLANNING POLICY

NPPF National Planning Policy Framework

PGTPO	Planning Practice Guidance - Tree Preservation Orders and trees in conservation areas
LPHD03	Harrogate District Local Plan (2001, as altered 2004) Policy HD3, Control of development in Conservation Areas
LPHD20	Harrogate District Local Plan (2001, as altered 2004) Policy HD20, Design of New Development and Redevelopment
CSSG4	Core Strategy Policy SG4 Settlement Growth: Design and Impact
CSEQ2	Core Strategy Policy EQ2: The natural and built environment and green belt
CSSG2	Core Strategy Policy SG2 Settlement Growth: Hierarchy and limits
SPDHSE	Supplementary Planning Document: House Extensions and Garages Design Guide
OPGCKD	Other Planning Guidance, Kirk Deighton Conservation Area Character Appraisal
CSC1	Core Strategy Policy C1: Inclusive communities
SPDPOS	Supplementary Planning Document: Provision for Open Space in Connection with New Housing Development
SPDPVH	Supplementary Planning Document, Provision for Village Halls in Connection with New Housing Development

APPLICATION PUBLICITY

SITE NOTICE EXPIRY: 25.12.2015

PRESS NOTICE EXPIRY: 31.12.2015

REPRESENTATIONS

Kirk Deighton Parish Council objects to the proposal on the following grounds:

The site is considered to be too small and does not readily accommodate the development, which is too close to the south west boundary. The manoeuvring area in and out of the garage is potentially dangerous and the additional parking space is too small to fit a car, so parking will be an issue.

OTHER REPRESENTATIONS

Two letters of objection has been received. The main issues raised are:

-Concern at the design and siting of the dwelling. With the siting so close to the boundary with Deighton Lodge and combined with the significant difference in ground level (3metres) between the 2 properties this will create an overbearing, overshadowing effect on Deighton Lodge and its occupiers.

-The plans indicate that there is to be new hedgerow planting along the boundary with Deighton Lodge. There is currently a vegetated boundary along this part of the site and so is therefore assumed that this is to be removed. This is not achievable as this is not in the control of the applicants.

-The siting of the dwelling so close to the boundary with Deighton Lodge will impact on the amenity of the occupiers of both properties in terms of noise and privacy.

-Concern regarding flooding, and that any new soakaway for the new development will intensify the issue, bearing in mind the difference in site levels.

-The proposal will significantly reduce the area which is available for manoeuvring of vehicles and off street parking, due to the siting of the dwelling. Due to the proposed lack of parking area, this will have an adverse impact on the public highway as it could lead to an intensification of on street parking.

-Due to the appearance of the property being 'crammed' in, this is not a characteristic of the Conservation Area, and will impact on the views towards the Grade I listed church.

-The access to the site is subject to a legal agreement. No access to Deighton Meadows or the proposed dwelling for building materials or contractors vehicles is allowable by this agreement.

VOLUNTARY NEIGHBOUR NOTIFICATION

None undertaken.

ASSESSMENT OF MAIN ISSUES

1.PRINCIPLE OF RESIDENTIAL DEVELOPMENT.

In March 2012, the Council published its new Strategic Housing Market Assessment (SHMA) which provides information on objectively assessed housing need. The figures in that document have been reviewed in light of the publication of the 2012 household projections and a final SHMA report was published in September 2015.

This indicates an annual requirement of 518 dwellings per year for the period 2014-2035. An updated housing supply position to reflect the SHMA requirement has concluded that there is a 7.2 year supply of housing land, including a 20% buffer.

The National Planning Policy Framework, March 2012, sets out the Government's planning policies for England and constitutes a material consideration in determining applications.

The Framework requires that housing applications are considered in the context of the presumption in favour of sustainable development and goes on to note, at paragraph 49, that, 'relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of housing sites.'

As the Council can demonstrate a 5 year supply of sites, the automatic application of paragraph 14 of the Framework that 'permission should be granted unless to do so would result in significant and demonstrable adverse effects', does not apply.

However, although the Council can demonstrate a five year supply of sites, it is important that this position is maintained. An application cannot therefore be refused simply because the Council has a five year supply. There is a need to demonstrate that any planning harm arising from the development would clearly outweigh the benefits to be gained by delivering new housing.

Under the terms of policy SG2 of the Core Strategy DPD, Kirk Deighton is classified as a Group C settlement, within which residential development within the existing built confines is considered appropriate.

The site is located on the edge of the built confines of the settlement, located between Church Farm Buildings and Deighton Lodge. Kirk Deighton is considered a sustainable

location, having a number of facilities, a Church, Public House and Community Centre, which the provision of housing would help sustain.

In conclusion on this issue, there is no objection, in principle, to the construction of a dwelling on the site.

2.IMPACT ON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA AND PROTECTED TREES.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area in the exercise of planning functions.

The Framework advises, in paragraph 56, that the Government attaches great importance to the design of the built environment. Further stating that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

The Framework further states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. In this case, the designated heritage asset is Kirk Deighton Conservation Area.

Saved policy HD3 of the Harrogate District Local Plan seeks to protect the character and appearance of the conservation area. Saved policy HD20 seeks to ensure that development makes a positive contribution to the areas spatial quality. Policies SG4 and EQ2 of the Core Strategy DPD sets out criteria to ensure high quality design and to protect the natural and built environment.

Concern was initially raised at the size and scale of the house. It was considered that limited private amenity space would be afforded to the future occupants of the dwelling, given the position of the access drive intended to serve Deighton Meadows and the limited size of the site.

Amended plans have been submitted. These have reduced the footprint of the dwelling by 2m, omitted the garage and repositioned the property 1m to the east.

As amended, the size of the dwelling and its design, which reflects the character of the area, are considered acceptable. The impact on the character and appearance of the Conservation Area will be neutral.

There are two significant trees located within the boundaries of the site, an ash and elm. The Kirk Deighton Conservation Area Character Appraisal (approved 15 October 2008) states that "mature trees feature strongly within the village and are very important to its character."

The ash tree to the site frontage is identified as a landmark tree within the Conservation Area Character Appraisal, and the hedge to the road frontage is considered a significant field boundary.

The application was accompanied by an Arboricultural Report. In relation to the elm tree the report states:

“The proposed new dwelling is 3m from the elm, however, the elm is at the bottom of an embankment, 1m below the proposed house. I do not consider that the level of root plate infringement by the proposed house would cause significant damage to this tree. Dutch elm disease continues to claim elms and it is still unlikely that this tree would ever become a large mature specimen before it contracts DED. The pruning recommended would take the elm’s branch system clear of the proposed new house. There would also be a need for containment pruning on the house side in future years. There are several options for the house foundations avoiding or accommodation of the elm’s RPA.”

In relation to the ash tree, the report states:

“The footprint of the proposed new house is outside the root protection area for the ash tree. Therefore, subject to the tree protection area being implemented, the proposed new house should not affect the ash tree. The new drive passes within 1m of the ash. The ash bole is slightly raised above the lawn and there is clearly room for an upstand new drive. The drive excavation would be limited to a 100mm topsoil cut. The sub-base for the drive would be by 100mm deep cellweb filled with angular clean gravel. The cellweb would support a 50mm layer of porous tarmac separated from the cellweb by a geo-synthetic fabric.”

The Council’s Arboricultural Officer has considered the submitted report and objects to the proposal. It is advised that this is a tight site with a large ash tree to its north and a developing elm to the south (with the potential to be as large as the ash).

In terms of the ash, the majority of the roots are likely to be within the lawned area. Note 4.6.2 of British Standard (BS) 5837:2012 advises that trees are adaptive organisms and develop to their given environment with the ash bordered by an established hedge, a driveway to the north, a banking on which a number of other trees are growing and then the highway. Whilst to the south is an area of open grassland into which trees roots will freely find all of the resources readily available for establishment and growth. It can be presumed that the vast majority ash roots are within the grassed area given the access to the north and the other trees who will be competing for rooting medium.

BS(5837) advises that new permanent hard surfacing should not exceed 20% of any existing un-surfaced ground within the Root Protection Area (RPA). The proposed access is approximately 36% of the RPA and there exceeds the guidance. The ash trees’ RPA is 50% smaller than it could be as a result of the hedge and access to its northern aspect. A no-dig is considered suitable where the site allows for an offset into which new roots can develop (a minimum of 20%). A no-dig access will, over a number of years, become compacted as the space between the wearing course becomes filled with soil and detritus. This is recognised and accepted on sites where the tree has room to develop new roots and offset the damage caused. In this case the site is so tight that no offset exists into which the ash tree could develop new roots to offset those lost to the development.

Much effort has been put into the proposed no-dig though this is not accompanied by an assessment of the practical challenges of the site. The likely outcome from the construction of a dwelling, is the slow decline of the ash, with its removal within 10 years of the development.

In terms of the elm, there are a number of assumptions being made. The elm is a healthy tree with no major defects and could be part of the landscape for the next 40 to 100 years.

The potential for Dutch Elm exists though this is not a given outcome.

Consideration should be given to BS5837:2012 Trees in relation to construction-Recommendations. Amongst other things this considers the following:

a)Shading: Shading of buildings by trees can be a problem, particularly where there are rooms which require natural light.

The elm is a developing tree directly in line with the main living quarters of the property. It is foreseeable that this tree will severely impact on direct sunlight to the property for significant periods of the day and will lead to unnecessary pressure for felling.

b)Shading of open spaces: such as gardens and sitting areas should be designed to meet the normal requirements for direct sunlight for at least part of the day.

The default position should be that structures are located outside the RPA's of trees to be retained. However, where there is an overriding justification for construction within the RPA technical solutions might be available to prevent damage to the tree.

Given the limitations of this site, with the RPA's of the trees noted to the outside walls of the proposed, to the north and south (not allowing for future growth), then technical options are not considered appropriate.

c)Direct damage: a realistic assessment of the probable impact of any proposed development on the trees and vice versa should take into account the characteristics and conditions of the trees, with due allowance and space for their future growth and maintenance requirements.

Below ground damage can occur as a result of incremental root and stem growth. Above ground damage can occur to trees and structures by continuous whipping of branches against the fabric of the building.

The site is limited in size and no room is available to give space for the predicated growth of the elm and as a result there will be foreseeable conflict with the property.

D)Future pressure for removal: The relationship of buildings to large trees can cause apprehension to occupiers.

The lack of space for the elm to grow would increase conflict and potential pressure in the future for its removal.

Furthermore, there is a challenge in constructing the proposed development. The RPA's of both trees are to the edge of the dwelling and there is little physical space for the practical implementation of the planning permission, such as storage of materials and location of construction traffic.

It is considered that the ash is unlikely to survive the build stage over the medium term and the elm will have an overbearing impact on the resulting dwelling.

The applicants have had the opportunity to respond to the issues and concerns raised. As a

result their Arborist has commented as follows:

"I accept that the lawn represents an easier rooting area than the land to the north. However, there will still be considerable rooting material to the north. I know from innumerable subsidence cases, that a domestic 3m wide drive does not act as a root barrier to trees. There will be roots within the grass verge on the far side of the drive, Furthermore, any root meeting the edge of the roadside retaining embankment has the option of growing up and down the embankment. Tree roots are not concerned by the shape of any form of container.

In addition, the favourable lawn rooting area would, in fact, enhanced by my design. The greatest competitor to trees is mown grass; mown grass absorbs considerable amounts of water and minerals from the soil. The proposed drive would be porous and of an up-stand design so the ash would experience less competition on its southern side and would experience no loss of topsoil or rooting area.

There would also be no disturbance to the ash by the construction of the up-stand drive. The method of construction involves: the removal of the turf with a turf cutter- the machine cuts off a 30mm deep turf: the levelling of the bare soil as necessary using GT topsoil from Greentech- a manufactured soil which is very sandy and has no weeds or contaminants; the compaction of any filled areas with a garden roller: and, finally, the installation of the drive by covering the bare soil with a geo-textile, spreading out the Cellweb mattress for the length of the drive, and filling the mattress with gravel on a rolling road programme so that no plant ever drives over the bare soil.

The root protection area shape for a tree does not have to be a circle. The shape of the RPA is governed by the site. As I have already pointed out, the existing drive to the north does not represent a root barrier. The roadside embankment is at 6m from the ash but there is land both up and down the embankment which the ash roots can explore. Therefore I do not consider the embankment or the hedge significant in reducing the RPA. With regard to the hedge, trees are normally associated with shrubs and woodlands and an under-storey of other trees or a hedge will affect a tree less negatively than grass. Therefore the percentage of any existing un-surfaced ground within the ash's RPA which would be affected by the proposed new drive would be 19% which is within the Standard.

The bearing capacity of the wearing course is not reduced because of detritus build-up. In the cases where the ground becomes compacted beneath the Cellweb this is due to the topsoil layer not having been tested for its bearing capacity. In this case, we have undertaken Californian Bearing Ratio tests to determine the bearing capacity of the land beneath the Cellweb.

There is, in fact, room for root growth to the west, south and north sides of the tree. Also, the reduction of the competition from the lawn increase the water and nutrients available to the ash.

The tree protection methodology has been clearly set out in Tree Protections Plans 1 and 2 and discussed in my report.

The chances of the elm surviving for the next 40 to 100 years are low when the elm immediately to the southeast has already died of Dutch elm disease.

It is clear that there would be no shade issues with the ash tree as it is due north of the proposed new house.

The level of pruning proposed is so minor that the development would not impact on the amenity value of the site trees. The matters of access and working space are covered within my report. The tree protection measures exclude any plant from beneath the crowns of the tree.

A key part of my design is for a new roadside tree in the grass embankment to the side of the highway. Much effort will be made to find a high profile place for a new planting that would not conflict with highway sight lines.

The dwelling has been moved to 5m from the elm and would be outside the tree's canopy.

The builder will have access to the extensive car park in front of the existing property as well as the drive spaces in front of the proposed building."

The Council's Arboricultural Officer has considered in detail the points raised and has concluded that the points of disagreement are as follows:

a)Root Protection Area considerations: Disagree with the way the RPA has been considered given the site constraints. In order for the no dig to be acceptable, the ash tree requires a new/alternative area which it can utilise in terms of new root development. It is not accepted that areas to the north, south and west are new/alternative areas for new rooting. The north is compromised by the hedge, access and existing trees, the south and west by a reduction in the grassed area as a result of the development. The overall potential rooting area for this tree will be reduced as a result of the development.

It is not accepted that the mowed grassed area is a poor environment in terms of tree development. Grass does use water and nutrients though to a shallow depth, there are a significant number of trees in open mown grass throughout the district and these are invariably some of the largest in terms of height and spread.

b)Use of no dig: The tree roots for this ash may not extend below 300mm so around 30% of the roots could be lost to the no dig access.

There is no independent assessment of no dig solutions and their long term effects on trees. The no dig could realistically backfill with soil and detritus or more significantly removed a short period after being laid and a less favourably solution laid (non-permeable). It is understandable why the BS5837-2012 reduces the amount of damage to 20% and requires alternative rooting areas for the trees to offset the predictable root loss.

c)Effect of the elm on the proposed dwelling: The kitchen, dining room and living room would be in almost constant shadow as a result of its location close to the elm.

Given the constraints of the site an Arboricultural Method Statement is required to ensure that development can take place without harm to retained trees.

Planning Practice Guidance on Design and Tree Preservation Orders advises that Orders should be used to protect selected trees and woodlands if their removal would have a

significant negative impact on the local environment and its enjoyment by the public.

Due to the visual significance of these trees and the threat to their health as a result of the development, a Provisional Tree Preservation Order has been served.

In conclusion on this matter, it is considered that the proposed development would have a detrimental impact on the protected trees, which contribute significantly to the visual amenity of the area. In addition, there would be little room available outside the Root Protection Area and footprint of the dwelling for construction activity to take place. Furthermore, the canopies of both trees would cover much of the outdoor amenity space associated with the dwelling, and this would also affect the level of light available to main habitable rooms. Such factors are likely to lead to future pressure to prune or remove the trees to improve light and general amenity. The proposal is therefore contrary to national and local planning policies.

3.EFFECT ON NEIGHBOURING PROPERTY.

One of the core planning principles identified in the Framework is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Concern was raised at the initially submitted scheme and its relationship to the neighbouring property, Deighton Lodge. This dwelling is positioned at a considerably lower level than the application site and the area adjacent to the boundary is used as private amenity space.

The applicant was advised that the scale of development proposed was unacceptable as a result of its overbearing and enclosing impact on Deighton Lodge.

The applicants have sought to address these concerns and amended plans have been submitted. These reduce the footprint of the dwelling by 2m, increasing the distance from the boundary with Deighton Lodge. The single garage has been removed and replaced with two parking spaces. The house has also been repositioned 1m to the east.

As amended the proposed dwelling is located over 21m from Deighton Lodge and no part of the property faces this existing house. The proposed ground floor windows will be screened by existing planting and proposed landscaping. The first floor windows facing onto Deighton Lodge serve the landing and a condition could be attached to ensure these are obscure glazed to prevent overlooking.

4.HIGHWAY SAFETY AND PARKING.

The highway authority initially raised concern at vehicles parking on site. It was advised that there appeared to be insufficient room for an additional space, as well as the garage. In addition, the garage opened straight onto the access drive.

The highway authority has been consulted on the amended site layout and has no objection.

5.Other matters.

Policy C1 of the Core Strategy and supplementary planning guidance set out the threshold under which contributions are required towards the provision of open space.

Under the terms of this policy and guidance, a Unilateral Undertaking has been signed by the

applicant, in respect of the required payment of a commuted sum.

However, there are specific circumstances where contributions for tariff style obligations should be sought for small-scale residential development. This follows the Order of the Court of Appeal, dated 13 May 2016, which gave legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014 and should be taken into account.

One such circumstance is in Designated Rural Areas, as is Kirk Deighton. In these locations, where development involves the provision of 5 units or less, no tariff style contribution should be sought.

As such, there is no requirement for a contribution to open space provision in relation to this application.

With regards to land contamination, the Environmental Health Officer advises that the applicant has submitted an Appendix 2 contamination assessment, which is appropriate for this type of proposal. This has not revealed any obvious issues on site and the records held indicate that the site is not within 250m of a former landfill site. As such there is no objection to the proposal.

The Council's Ecologist advises that Natural England should be consulted on this application as it lies within their site of Special Scientific Interest (SSSI)'Impact Risk Zone for Kirk Deighton Special Area of Conservation.'

Natural England has been consulted but has not responded to this request for comments.

In relation to the concerns raised by third parties regarding drainage and legal matters, appropriate drainage of the site can be controlled by the imposition of conditions to address this matter.

With regards to legal agreements controlling rights of way, this is not a planning matter but legal issue between the parties concerned.

CONCLUSION

The development, due to the position of the proposed driveway and dwelling along with its construction, would have a detrimental impact on the protected trees, which contribute significantly to the visual amenity and character of this part of the Conservation Area. Furthermore, the canopies of both trees would cover much of the outdoor amenity space associated with the dwelling and this would also affect the level of light available to main habitable rooms. Such factors are likely to lead to future pressure to prune or remove the trees to improve light and general amenity. The proposal is therefore contrary to the provisions of the development plan and there are no other material considerations in this instance that warrant setting aside local planning policies.

CASE OFFICER:

Mrs Gillian Pinna-Morrell

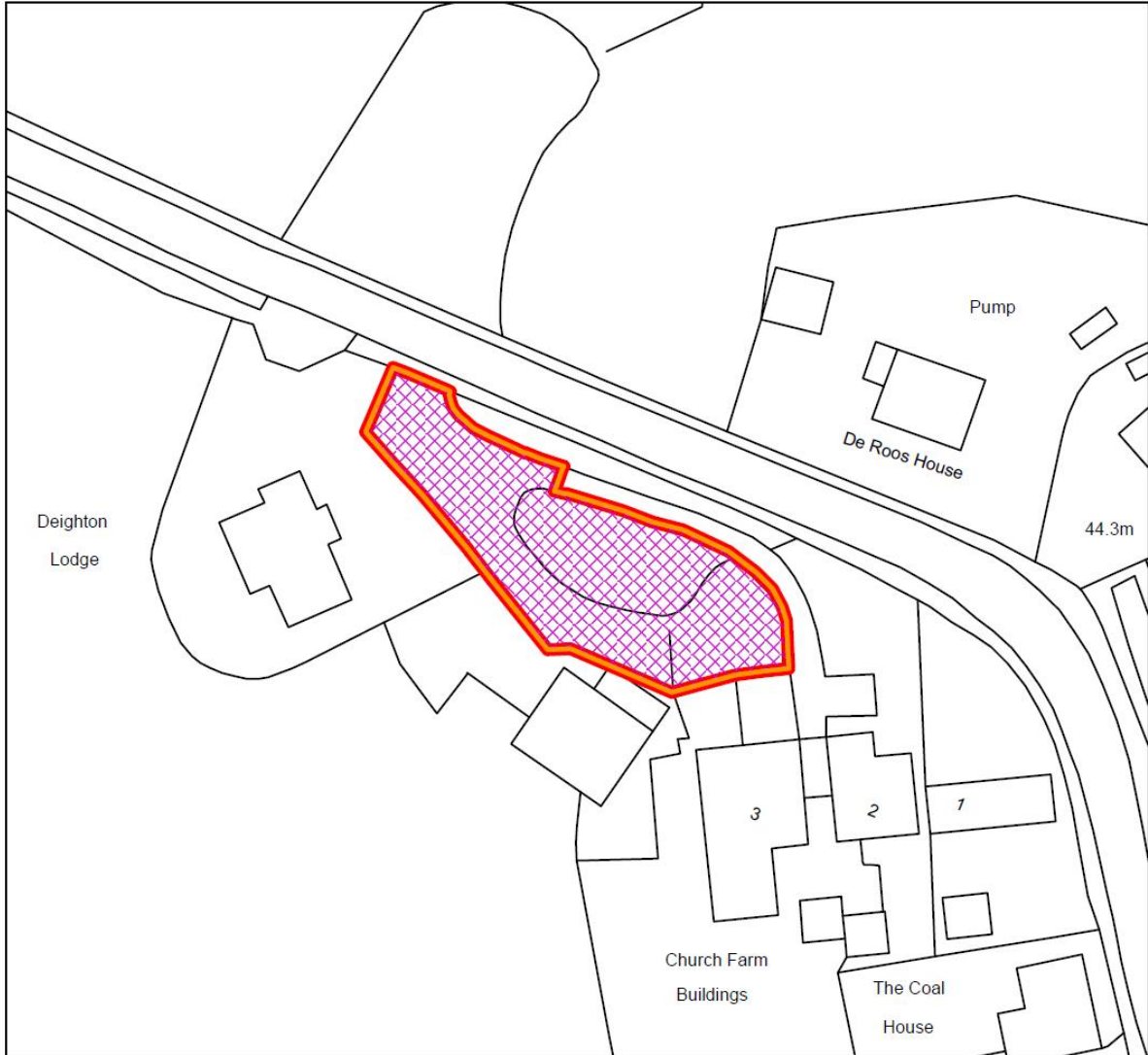
RECOMMENDATION

That the application be REFUSED. Reason(s) for refusal:-

- 1 The development, due to the position of the proposed driveway and dwelling along with its construction, would have a detrimental impact on the protected trees, which contribute significantly to the visual amenity and character of this part of the Conservation Area. Furthermore, the canopies of both trees would cover much of the outdoor amenity space associated with the dwelling, and this would also affect the level of light available to main habitable rooms. Such factors are likely to lead to future pressure to prune or remove the trees to improve light and general amenity. The proposal is therefore contrary to policy EQ2 of the Harrogate District Core Strategy DPD, along with Government advice embodied in the National Planning Policy Framework, March 2012.

Deighton Meadows 3 Church Farm Bldgs Kirk Deighton

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Organisation	Harrogate Borough Council
Department	Economy and Culture
Comments	
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