

Item Number: 10
Application No: 21/00049/FUL
Parish: Kirkbymoorside Town Council
Appn. Type: Full Application
Applicant: John Sugars and Carrie-Ann Brackstone
Proposal: Change of use and alterations to stables to form 1 no. four bedroom dwelling with associated parking and landscaping
Location: Land At OS Field 04201 Village Street Keldholme Kirkbymoorside North Yorkshire

Registration Date: 27 January 2021
8/13 Wk Expiry Date: 24 March 2021
Overall Expiry Date: 6 March 2021
Case Officer: Alan Goforth **Ext:** 43332

CONSULTATIONS:

Kirkbymoorside Town Council No objection subject to a condition on the permission that requires the sale of the property by the current owners to the applicants

Highways North Yorkshire Recommend conditions

Representations (20):

Objections (10): Mr and Mrs Goodway, Mr and Mrs Hoyland, John and Deborah Brindley, Mrs WM Wain, William Breakell, Mrs Emma Dineen, Mrs E.R Dineen, Jim Dineen, Mrs Anne Burns, Ms Ruth Breakell.

Support (10): Mr Joseph Coughlan, Mr and Mrs Bradley, Mr Andrew Scarth, Mr Martin Foster, Mr Ian Smithson, Mr Nick Turner, Caitlin Krause On Behalf Of Jane Newson, Mr Richard Wilkinson, Alastair Wilkinson, Kevin Hughes on behalf of Kirkbymoorside Golf Club

BACKGROUND:

The application is a revised submission, following on from an earlier proposal that was withdrawn (see planning history).

The application is to be determined by Planning Committee as one of the applicants is an elected Member of the Council. In addition representations received in response to the consultation exercise have raised objections based on material planning considerations.

SITE:

The site is beyond the Keldholme development limit and therefore within the open countryside and also an Area of High Landscape Value. The application site amounts to approximately 0.11 hectares and comprises the north western corner of a field to the rear of detached dwellings which front the road through the village. The building the subject of this application is fenced off from the field which is currently grazed by sheep.

The building is 'L-shaped' measuring 21.1 metres in length by 11 metres in depth with an external footprint of 157m². The building stands 2.5 metres to the eaves and 5.5 metres to the ridge. The building was completed approximately 14 years ago and was constructed in two parts as a workshop then an

adjoining stable block (see planning history). The building is constructed from stone with a pitched pantile roof. There are three stable doors in the front, south facing elevation and a single door in the rear, north facing elevation. There is a single door and window in the east facing side elevation of the workshop and a single door and obscure glazed window in the east facing gable end of the stables. There are four rooflights in the southern roof slope of the stables which serve the upper floor which has been created in the roof.

The residential properties of Springfield and Lytel Garth stand to the west of the building the subject of the application. Highfield House stands to the northwest. The access track off the main road which leads to the building runs between Lytel Garth and Newlands. It is understood that the access is under the ownership of Lytel Garth.

HISTORY:

05/01314/FUL- Erection of replacement workshop for domestic use. APPROVED 03.01.2006. Condition 4 requires that the workshop is only used for domestic purposes in association with the dwelling known as Highfield House.

06/00441/FUL- Erection of block of three stables with tack room. APPROVED 08.06.2006. Condition 4 requires that the stables are not used for commercial equine purposes.

20/00946/FUL- Change of use, conversion and alterations to stables to form 1no. four bedroom dwelling with associated parking and landscaping. WITHDRAWN 18.11.2020.

PROPOSAL:

Planning permission is sought for the change of use and alterations to stables to form 1no. four bedroom dwelling with associated parking and landscaping.

This revised scheme differs from the original scheme the subject of application ref. 20/00946/FUL only in relation to the proposed car parking which would be closer to the existing dwelling to reduce the amount of travel for the applicant's daughter, who is registered disabled.

It should be highlighted that the registered description of the proposed development only makes reference to the stables. However, for the purposes of clarity and avoidance of doubt, the proposed change of use relates to the whole building which comprises a workshop and attached stables as confirmed by the planning application details.

There are no proposed changes to the external dimensions of the building and conversion would largely make use of the existing openings in the building. The additional openings would comprise a single window inserted in both the northern and western elevations and bi-folding doors and a single window being formed in the south facing gable end elevation of what is currently the workshop. There would be a black steel flue pipe projecting from the western roof slope of the building.

The ground floor would comprise an entrance hall; an open plan kitchen; dining and living area; a bathroom; and two bedrooms one of which will have direct access to a wet room. The first floor would be accessed from the hallway and would contain two bedrooms one of which would be served by an en-suite.

The site would be enclosed by a post and rail fence. There would be a flagged area extending 3 metres out from southern elevation amounting to approximately 50m² in total. A flagged footpath would link the proposed dwelling to the parking area comprising three spaces adjacent to the southern gable end elevation of the building. The application site boundary includes approximately 460m² land (proposed domestic curtilage) to the south of the parking area which comprises land either side of the internal access road.

Foul drainage would be treated by a BioDisc Package Treatment Plant installed to the east of the building and discharging into the watercourse on site.

The application is accompanied by a supporting statement which states that the conversion to residential accommodation would be for the local needs of the applicants' and their two children. The supporting documents, which are appended to this report, explain the family's local connections to the area and also the specific requirements to create a home suitable for their disabled daughter.

There are letters of support appended to the applicants' statement from Kirkbymoorside Golf Club, Sinnington CPS, the Salvation Army and three individuals who know the family.

The application is also accompanied by a draft legal agreement in the form of a Unilateral Undertaking which is offered up restricting the occurrence of domestic paraphernalia within the relevant parts of the proposed curtilage (area of approximately 460m² shown hatched on the proposed site plan).

POLICIES:

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 planning authorities are required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the determination of this particular application comprises the following:

- The Ryedale Plan- Local Plan Strategy (2013)

The Ryedale Plan - Local Plan Strategy (2013)

Local Plan Strategy -Policy SP1 General Location of Development and Settlement Hierarchy

Local Plan Strategy - Policy SP2 Delivery and Distribution of New Housing

Local Plan Strategy - Policy SP4 Type and Mix of New Housing

Local Plan Strategy - Policy SP13 Landscapes

Local Plan Strategy - Policy SP16 Design

Local Plan Strategy - Policy SP18 Renewable and Low Carbon Energy

Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development

Local Plan Strategy - Policy SP20 Generic Development Management Issues

Local Plan Strategy - Policy SP21 Occupancy Restrictions

Material Considerations

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (PPG)

National Planning Practice Guidance- 'Use of planning conditions'

'Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?'

Planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company'. Paragraph: 015 Reference ID: 21a-015-20140306

REPRESENTATIONS:

The LPA has received a total of 20 representations from members of the public in response to the application. There are 10 objections from local residents in Keldhome including from the

owners/occupants of the following properties: Springfield, Lytel Garth, Newlands, Heather Grove and Moorcroft. The concerns raised are as follows:-

- The building is outside development limits and within an Area of High Landscape Value
- Residential use encroaching onto agricultural land
- The buildings are not redundant, the stables have never been used by horses
- The building has not been marketed for rent or sale to test whether there is any demand for use as stables
- If permission is granted it would set a precedent
- There is new housing on the edge of Kirkbymoorside better suited to a young family
- Three car parking spaces would be adjacent to hedge of neighbouring property
- Impact on privacy and peace of Lytel Garth
- Loss of privacy and overlooking of rear gardens
- Four bed house with no garage and small garden
- The main road is busy and has no footpaths
- Headlights and noise from traffic using shared access road
- Speed of traffic through the village
- Neighbours objections are nothing to do with welcoming or not welcoming new families into the local community
- The building was previously ancillary to Highfield House which has been sold off separately
- The building is used for workshop and storage but under terms of permission can only be used in association with Highfield House.
- The applicants do not own the land and building
- Disturbance from workmen involved in the conversion works
- If the applicants move or sell the dwelling will be available for purchase/occupation by anyone

The objections that raise concerns in relation to the effect on property values, land ownership and private rights of access are not material to the consideration of the application as they are matters beyond planning control.

There are 10 representations made in support of the application which have been submitted by members of the public from the local area. The reasons are summarised below:

- The present home is too restrictive and does not meet the applicant's needs
- The adapted accommodation would be suitable for the applicant's disabled daughter
- The applicants' are a local family and active members of the local community
- The conversion of the building would provide them with a better standard of living
- The proposal would make use of a redundant building
- This would not set a precedent
- The building is well hidden
- The change of use would not have a negative impact on any neighbours

APPRAISAL:

Principle of development

The Ryedale Plan-Local Plan Strategy 2013 sets out the strategy for the distribution of housing development during the plan period. Policy SP1 (General Location of Development and Settlement Hierarchy) sets out a hierarchy of settlements and seeks to focus new housing within the Principal Towns, Market Towns and Service Villages. The application site is outside of development limits and within the open countryside.

Policy SP1 of the Local Plan Strategy makes it clear that in open countryside locations, development will be restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy

and communities; which can be justified to secure significant improvements to the environment or conservation of significant heritage assets or, to that which is justified through the neighbourhood planning process.

Paragraph 79 of the NPPF notes that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more specific circumstances apply. The criteria (c) relates to circumstances where ‘the *development would re-use redundant or disused buildings and enhance its immediate setting*’. Similarly, Policy SP2 of the Local Plan Strategy states that a source of new housing in the open countryside is ‘*Conversion of redundant or disused traditional rural buildings and where this would lead to enhancement to the immediate setting for Local Needs Occupancy*’.

In considering the proposal against Policy SP2, it is noted that the proposed change of use relates to a purpose-built outbuilding comprising a workshop and attached stables constructed for ancillary domestic purposes (to serve Highfield House) approximately 14 years ago. In terms of landownership the building has been separated from the dwelling it was originally constructed to serve.

The applicant’s supporting statement makes reference to an earlier intention to use the stables as a disabled riding centre which never progressed. It should be noted that the 2006 planning application for the stables proposed domestic use only and in light of the restriction imposed by Condition 4 of the permission such commercial use would have required the prior grant of planning permission. Therefore no weight should be afforded to the applicant’s statement on this matter in the decision making process.

The workshop is in use (which was evident from the Case Officer site visit) although the stables have never been brought into use for their intended purpose and are currently used for domestic storage purposes. In light of this it is considered that the building, as a whole, cannot reasonably be described as ‘*redundant or disused*’.

It is noted that a representation from an objector has highlighted that there is potential demand to use the stables and paddock for equestrian purposes similar to the use originally intended but the building has not been made available for rent or sale.

It is considered that whilst the stables have not been brought into use the building is in good condition and capable of being used for the keeping of horses and there is no evidence to support the argument that the building is redundant.

The building, as required by permission ref’s 05/01314/FUL and 06/00441/FUL, has been constructed from traditional materials appropriate for this type of ancillary building in this open countryside setting and Area of High Landscape Value. However, in a departure from the approved plans relating to permission ref. 06/00441/FUL at some stage an upper floor has been formed above the stables and four rooflights inserted within the south facing roof pitch. Whilst those building operations are likely to be immune from enforcement action through the passage of time they do result in a domesticated, non-traditional appearance to a building which was initially permitted as a modest stable block. In light of this it is considered that the building cannot reasonably be described as a ‘*traditional rural building*’.

The proposed change of use relates to modern building constructed from traditional materials but is not regarded as a ‘*redundant or disused traditional rural building*’, as required by Policy SP2. The proposal therefore runs contrary to the development strategy for the area set out in the Development Plan.

The building is not a traditional rural building in need of preservation or at risk without refurbishment or repair and the paddock is not degraded land in need of redevelopment. The introduction of back land residential use and associated domestic curtilage comprising parking and amenity space does change the character of the land use in this Area of High Landscape Value. For this reason the conversion of this building would not result in an ‘*enhancement to the immediate setting*’ which also conflicts with the requirements of Policy SP2.

Local Needs Occupancy

The Local Needs Occupancy policy consideration would only apply in this case if the building was deemed to be ‘*a redundant or disused traditional rural building*’ under Policy SP2 which is not considered to be the case for the reasons given above. For completeness the applicant’s circumstances will be assessed against Policy SP21(a), in relation to local needs occupancy, which states: “*To meet local housing need in the non-service villages the occupancy of new market housing will be subject to a local needs occupancy condition where this accords with Policy SP2, and will be limited to people who:*

- *Have permanently resided in the parish, or an adjoining parish (including those outside the District), for at least three years and are now in need of new accommodation, which cannot be met from the existing housing stock; or*
- *Do not live in the parish but have a long standing connection to the local community, including a previous period of residence of over three years but have moved away in the past three years, or service men and women returning to the parish after leaving military service; or*
- *Are taking up full-time permanent employment in an already established business which has been located within the parish, or adjoining parish, for at least the previous three years; or*
- *Have an essential need arising from age or infirmity to move to be near relatives who have been permanently resident within the District for at least the previous three years”.*

The hamlet of Keldholme is within the parish of Kirkbymoorside and the parishes that adjoin Kirkbymoorside are Hutton le Hole, Appleton le Moors, Sinnington, Edstone, Nunnington, Welburn, Nawton, Fadmoor and Gillamoore, In terms of the existing housing stock there is a healthy five year housing supply in the District and new houses are currently under construction in Kirkbymoorside.

It is accepted that the applicant’s circumstances require specialised adapted accommodation to meet their needs. The supporting statement explains that the requirements comprise single level accommodation, wide doorways, no threshold impediments and strong levels of natural light.

The application makes an argument that such accommodation is not available in the area and that it is not possible to retrofit an existing bungalow and, as a result, options are limited to either a new build or conversion project. However, the Officer view is that it cannot be accepted that the only suitable option to address the applicant’s need is the conversion of an existing workshop and stable block and there is no obvious reasons why the modifications needed to adapt the subject building could not be undertaken on a bungalow.

It is considered that the applicant’s accommodation needs could be met by existing housing within the development limits of more sustainable settlements in the local area.

The personal circumstances of the applicants’ and their accommodation requirements of are noted. However, as set out in the planning practice guidance quoted earlier in this report, planning permission runs with the land and personal circumstances are usually only considered material to the decision making process where they are relevant to an assessment against a specific policy objective, for example local needs occupancy or new residential accommodation in the open countryside for agricultural or forestry workers.

The application details and this report advise Members of the applicant’s personal circumstances which clearly cannot be ignored. However, it is considered that the other decisions and cases referred to in the applicant’s supporting statement in relation to personal circumstances are not comparable to the application in front of Members for determination.

The personal circumstances, as material considerations, are peripheral to the main planning issues to be taken into account. The planning assessment centres on the settlement hierarchy in relation to the provision of housing and the character and effect of the land use and not any particular purposes of a particular occupier or individual or how the land would be used by particular individuals.

Furthermore, the request of the Town Council that a condition is imposed requiring the current landowner to sell the site to the applicants' is ultra vires and cannot be imposed in order to make the development acceptable in planning terms.

Policy SP21(a) sets out the specific circumstances for those who meet local needs occupancy. The applicant's supporting statement summarises the family's local connections to the area which is supported by the letters appended to their statement referred to earlier in this report.

However, the application does not contain any evidence that the applicants would meet the abovementioned Local Needs Occupancy requirement set out in Policy SP21(a). The applicants currently live in Pickering, which is not an adjoining parish, and no details are provided to confirm that they have lived in Kirkbymoorside or an adjoining parish for at least three years and have moved away in the last three years. It is noted that one of the applicants works for the Salvation Army in the Kirkbymoorside area but this would not fall within the definition of '*full-time permanent employment in an already established business*'. With regard to the other circumstances listed in SP21(a) there is no reference in the application to any previous military service or a need to live close to relatives due to age or infirmity.

The supporting statement sets out the applicants' local connection to the area but the personal circumstances in this case would not satisfy the Local Needs Occupancy requirements set out in Policy SP21(a).

Design, appearance and impact on open countryside and Area of High Landscape Value

In terms of proportions, construction materials and the position, size and treatment of openings it is considered that the existing building is structurally suitable for conversion, currently exhibits some characteristics of a dwelling and would require relatively limited works to be brought into residential use.

The building is a modern, purpose built outbuilding which has been adapted and altered through the insertion of an upper floor above what was intended to be stables along with four rooflights to provide natural light to this space. The building is a non-traditional hybrid and, arguably, already appears as a dwelling which has been designed to resemble a stable block in part. It is considered that the design of the proposed development would fail to reinforce local distinctiveness and would result in a residential building and associated domestic curtilage and parking areas within a rural landscape which would appear incongruous and result in domestic encroachment upon the open countryside to the detriment of its visual amenity.

To address objections the applicants have submitted a draft legal agreement in the form of a Unilateral Undertaking which would prohibit the siting of various items of domestic paraphernalia within the proposed domestic curtilage to rear of the existing dwellings. It is considered that the need for such restrictions emphasises the concern that the proposed residential use of this backland site is not compatible with the neighbouring land use.

The development would fail to enhance its immediate setting and would result in harm to the character and appearance of the open countryside and the Area of High Landscape Value in conflict with Policies SP13 (Landscapes), SP16 (Design) and SP20 (Generic Development Management Issues) of the Local Plan Strategy.

Residential Amenity

Policy SP20 seeks to protect the living conditions of present or future occupants, and the users or occupants of neighbouring land and buildings.

It is noted that due to existing boundary treatments and the scale and orientation of the building there would be no direct views or overlooking from the windows of the proposed dwelling towards any

habitable rooms of the adjacent dwellings. Furthermore, the conversion would not result in any overbearing presence or loss of light to any neighbouring properties.

The building was constructed tight to the north-west corner of the field to allow access to and from Highfield House to the north (which it initially served as an ancillary outbuilding) and as a result is close to the rear boundary of Springfield.

This is a back land plot within a rural area with low ambient background noise levels. The proposed alterations would include the creation of a large glazed opening with folding doors in the south facing gable end of what is currently the workshop. The application site includes land (directly accessible from the folding doors) which is parallel to the private, rear gardens of both Springfield and Lytel Garth.

The draft legal agreement which accompanies this revised application does not propose to remove the area to the south of the building from domestic curtilage only restrict the siting of various items of domestic paraphernalia.

The concern is that the parking and outdoor amenity areas would be immediate to the rear boundary of those properties and activity in this area such as parking and turning of vehicles and the enjoyment of the amenity space could result in noise disturbance that would have a significant adverse impact on the ambience of the area and cause harm to the residential amenities of the occupiers of the two adjacent dwellings to the west contrary to Policy SP20 of the Local Plan Strategy.

There would be increased use of the shared access between Lytel Garth and Newlands as a result of the new dwelling. However, due to the small scale nature of the development, the noise arising from the associated level of vehicular movements would not be harmful to the living conditions of the occupants of those neighbouring residential properties which are side on to the access track and it is relevant to note that the track is also used by agricultural vehicles accessing fields to the east.

Highways impact

The highways officer notes that the proposed development makes use of an existing access onto the C20 public highway within an existing 30mph local speed limit and where other existing vehicular entrances are present. The design standard for the site is Manual for Streets and the required visibility splay is 2.4 metres by 45 metres. The available visibility is 2.4 metres by 45 metres.

The proposed development is for a single dwelling and the shared agricultural access element is unlikely to be intensive in itself and there are no concerns in this respect.

The concerns raised in relation to ownership and rights of access are civil matters for the users and landowners and not matters of planning control.

If permission is granted the highways officer would require conditions to secure the proposed access and parking to serve the dwelling as shown on the plan and also arrangements for construction parking and materials storage areas clear of the public highway. It is considered that the proposed development would not result in conditions prejudicial to highway safety and complies with the requirements of Policy SP20 in this regard.

Conclusion

It is considered that the application does not involve the conversion of a *'redundant or disused traditional rural building'* and would not lead to an enhancement to the immediate setting for Local Needs Occupancy. The applicants' circumstances would not meet any of the LNO policy requirements. The site is to the rear of existing dwellings and beyond the development limits for the settlement. The change of use of the building and creation of domestic curtilage and a parking area and associated activity in these areas would encroach on the open countryside conflicting with the ambience of the area to the detriment of its visual amenity, the area of high landscape value and the living conditions of the occupants of neighbouring properties immediately to the west. The building is not considered to be

conducive to residential use due to its back land position and proximity to the private, rear gardens of Springfield and Lytel Garth.

The limited benefits of adding to the supply and choice of housing in the area are acknowledged, as well as any social, health and well-being benefits that may arise from the development. However, given the existing housing land supply in the District and the small scale of the development, these matters do not outweigh the fundamental conflict with the Development Plan.

In conclusion, the proposed accommodation would not be appropriately located at this site and would give rise to conflict with the NPPF and the adopted development plan Policies SP1, SP2, SP13, SP16, SP19, SP20 and SP21. There are considered to be no compelling arguments or material considerations of sufficient weight to justify a departure from the adopted Development Plan.

RECOMMENDATION: Refusal

It is considered that the proposed development does not accord with the aims of paragraph 79 (c) of the NPPF and is contrary to the requirements of Policies SP1, SP2, SP13, SP16, SP19, SP20 and SP21(a) of the adopted Ryedale Local Plan Strategy (2013) for the following reasons:-

- i. The proposed development site is not a suitable site for a new dwelling and is contrary to the provisions of Policy SP1 (General Location of Development and Settlement Hierarchy) and SP2 (Delivery and Distribution of New Housing) of the Ryedale Plan of the Ryedale Plan - Local Plan Strategy which states that new residential development in the wider open countryside will not be permitted unless exceptional factors apply. The proposal is not considered to form the conversion of a 'redundant or disused traditional rural building', nor would this proposed conversion lead to 'an enhancement to the immediate setting', for Local Needs Occupancy.
- ii. The applicants' personal circumstances in this case would not satisfy the Local Needs Occupancy requirements contrary to Policy SP21(a) (Occupancy Restrictions). In addition, Policy SP21 requires justification for the requirement of new market housing, specifically how the proposed accommodation cannot be met from the existing housing stock. No convincing justification for the requirement of a Local Needs Occupancy dwelling has been provided in this instance.
- iii. The design of the proposed development would fail to reinforce local distinctiveness and would result in a residential building and associated curtilage within a rural landscape which would appear incongruous and result in domestic encroachment upon the open countryside to the detriment of its visual amenity. The development would fail to enhance its immediate setting and would result in harm to the character and appearance of the open countryside and the Area of High Landscape Value in conflict with Policies SP13 (Landscapes), SP16 (Design) and SP20 (Generic Development Management Issues) of the Local Plan Strategy.
- iv. The proposed development site occupies a back land position within a quiet rural area with low ambient background noise levels. The parking and outdoor amenity areas would be immediately to the rear boundary of two adjacent dwellings and activity in this area would be likely to result in additional noise disturbance that would have a significant adverse impact on the prevailing quiet rural character of the area and harm to the residential amenities of the occupiers of the properties Springfield and Lytel Garth. This would be contrary to Policy SP20 of the Local Plan Strategy.

There are no material considerations to outweigh the relevant policies outlined above contained within the Plan that justify a departure from the adopted Development Plan in this case.