

North Yorkshire Council

Community Development Services

Thirsk and Malton Area Constituency Committee

20 June 2024

ZE24/00344/FUL - Change of use of existing open space/playground to form additional domestic curtilage to Mulberry House to include erection of a greenhouse and formation of tennis court with 2.75 metre high fencing and change of use of equivalent area of agricultural land to form public open space/playground for community use adjacent to Oswaldkirk Village Hall to include play equipment, timber shed, pergola and site landscaping at OS Fields 4490 and 4090, York Road, Oswaldkirk on behalf of Trustees Of Oswaldkirk Village Hall & Mr William Brannon

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the Report

- 1.1. To determine a planning application for change of use of existing open space/playground to form additional domestic curtilage to Mulberry House to include erection of a greenhouse and formation of tennis court with 2.75 metre high fencing and change of use of equivalent area of agricultural land to form public open space/playground for community use adjacent to Oswaldkirk Village Hall to include play equipment, timber shed, pergola and site landscaping on land at OS Fields 4490 and 4090, York Road, Oswaldkirk.
- 1.2. The application has been referred to the Committee for determination owing to the range of issues raised.

2.0 SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to conditions listed below and a Unilateral Undertaking.

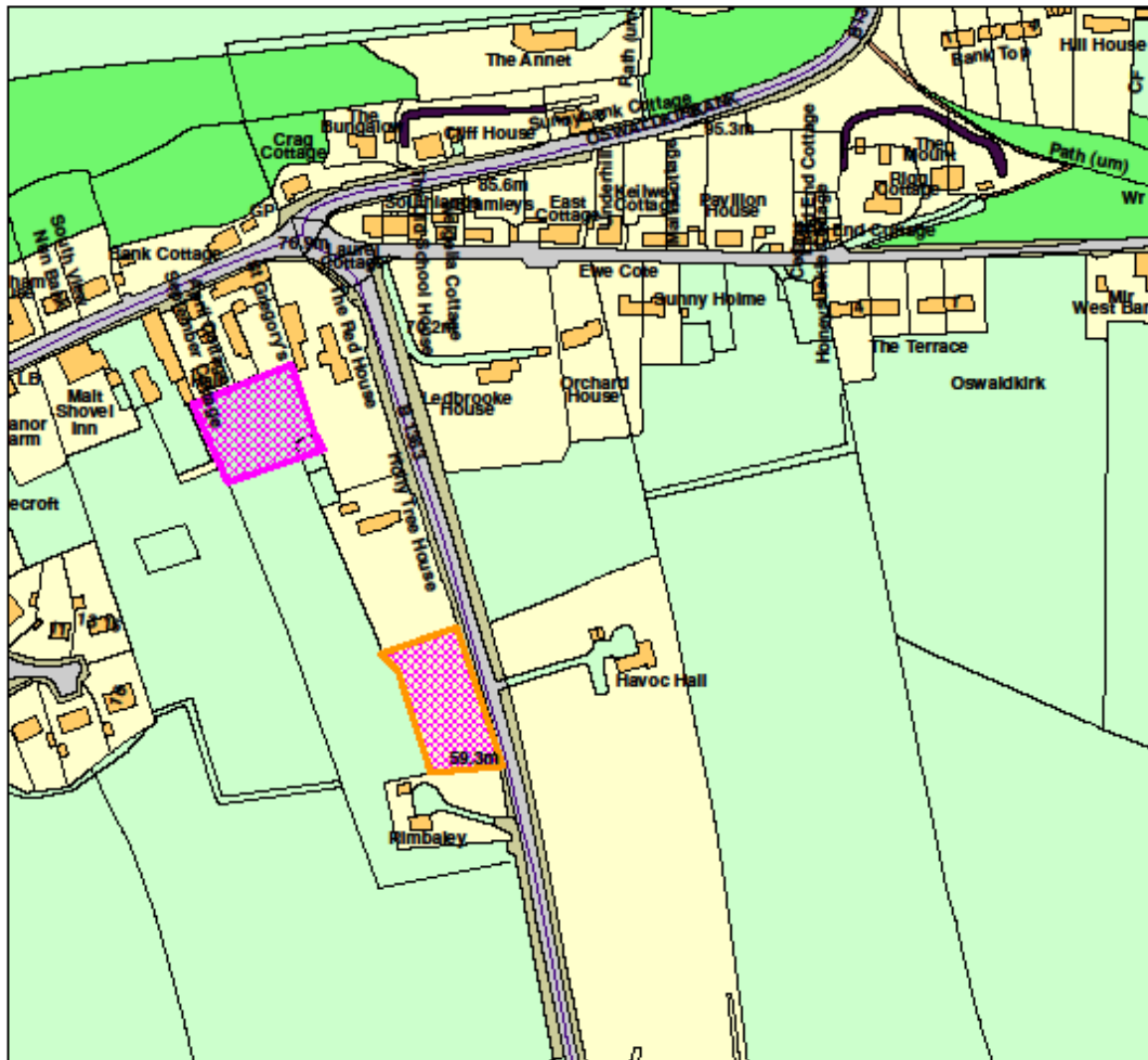
- 2.1. This application seeks full planning permission for the change of use of existing open space/playground to form additional domestic curtilage to Mulberry House to include erection of a greenhouse and formation of tennis court with 2.75 metre high fencing and change of use of equivalent area of agricultural land to form public open space/playground for community use adjacent to Oswaldkirk Village Hall to include play equipment, timber shed, pergola and site landscaping.
- 2.2. The application relates to two parcels of land. The existing playing field is located to the west of York Road, south of the village of Oswaldkirk. The site is located immediately to the north of Mulberry House and is accessed by a footpath adjacent to York Road. The site provides timber play equipment and open space.
- 2.3. The second parcel of land is located immediately to the south of the Village Hall and is currently agricultural land. The site is located to the east of the public house and west of

residential dwellings. Both parcels of land are located outside of the village developments, within the wider open countryside and are both within the Oswaldkirk Conservation Area and Howardian Hills National Landscape.

- 2.4. The scheme for the proposed community facility is considered to be acceptable in principle and would align with the provisions of SP11 (Community Facilities and Services) of the Ryedale Plan – Local Plan Strategy. The position of the site in relation to the Village Hall and wider community is considered to provide better and safer access for users and would in turn, likely help to sustain the existing Village Hall.
- 2.5. Both schemes are considered to be acceptable in terms of character and form and subject to conditions, it is considered that they can both be delivered without causing harm to the surrounding wider landscape, Conservation Area or Howardian Hills. Consideration has been given to neighbouring residential amenity and it is considered that the proposed playing field can be accommodated without causing material harm to residential amenity, with the scheme complying with guidance provided by the Designing Out Crime Officer.
- 2.6. To ensure that the new play area/open space is delivered, and in a timely manner, the applicants have entered into a Unilateral Undertaking which will ensure that the new play area be open for use within six months of the date of the permission, or date of the transfer of the land ownership, whichever is the later. On this basis, the scheme is considered to be acceptable and the application is recommended for approval.

ZE24/00344/FUL

Not Set



Scale: 12,500

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Organisation	North Yorkshire Council
Department	Development Management
Comments	Not Set
Date	12/06/2024
MSA Number	Not Set

3.0 Preliminary Matters

- 3.1. Access to the case file on Public Access can be found here:-
<https://planningregisterdocs.ryedale.gov.uk/planning/planning-documents?SDescription=ZE24/00344/FUL>
- 3.2. There are two relevant planning applications for this application which are detailed below.
- 97/00424/FUL – Formation of a vehicular access onto B1363 and Erection of Gates.–
 Approved 27.06.1997
- 22/00556/FUL – Demolition of existing dwelling to allow erection of a 5no. bedroom dwelling, a detached double garage with office space and recreation area above, detached building to form BBQ/entertainment area and change of use of part of existing paddock to domestic curtilage and erection of a field barn within the paddock area – Approved
 02.08.2022

4.0 Site and Surroundings

- 4.1. The application site relates to two separate parcels of land within the village of Oswaldkirk. The existing playing field site is located on York Road, immediately to the north of the property known as Mulberry House and west of the property known as Havoc Hall. The site equates to an area of around 0.15 hectares and is served by a pedestrian access to the east, off York Road. The site also benefits from a timber, five bar gate providing vehicular access. The existing playing field is laid to grass and includes an area of open space and play equipment, with the site bounded by mature planting.
- 4.2. The second, currently a parcel of agricultural land, is located immediately to the south of the Village Hall, accessed off Main Street. This site also equates to an area of around 0.15 hectares, with post and rail fencing to the eastern and western boundaries. The Malt Shovel Inn public house is located immediately to the west of the site, with residential properties to the north-east and east.
- 4.3. Both parcels of land are located within the Howardian Hills National Landscape and Oswaldkirk Conservation Area. Both parcels of land are located outside of the Oswaldkirk development limits and are therefore considered as being located within the wider open countryside under the Ryedale Plan – Local Plan Strategy. The existing playing field is allocated as a Playing Field in the Ryedale Plan.

5.0 Description of Proposal

- 5.1. This application seeks full planning permission for the change of use of the existing open space/playing field to form additional domestic curtilage for Mulberry House and the change of use of an equivalent area of agricultural land to form open space/playing field adjacent to the Village Hall.
- 5.2. The change of use of the existing open space to form domestic curtilage would include the formation of a tennis court featuring 2.75 metre high fencing, the erection of a Victorian style greenhouse, provision of raised beds and additional landscaping including a mature Yew hedge to the eastern boundary.
- 5.3. The proposed greenhouse would measure 8.844 metres in length and 4.887 metres at its widest point. The greenhouse would be of dual pitched roof construction, featuring a dual pitched central lobby. The greenhouse would measure 1.723 metres to the eaves and 3.844 metres to the highest point.

- 5.4. The change of use of the land to a playground would include the erection of a 1.2 metre high post and rail fence to the southern boundary, the erection of a timber pergola and timber shed, the installation of play equipment, provision of outdoor seating areas together with the provision of additional landscaping to the boundaries and within the site.
- 5.5. The access to the site would incorporate an access ramp. The timber shed would occupy a footprint of approximately 8.5m², whilst the pergola would occupy a footprint of approximately 9m².
- 5.6. Natural un-edged stone paths would be provided within the site, along with wildflower areas, and native trees.

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 Ryedale Local Plan Strategy, adopted 5 September 2013

Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:
- National Planning Policy Framework
 - National Planning Practice Guidance
 - National Design Guide 2021

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Parish Council:** Support – the application puts into effect the long-held ambition of the Village Hall Trustees to bring the village’s play area within the curtilage of the Village Hall. The application has been formulated after a series of open and transparent consultations which were well attended by residents of the village. The first round of consultation was in July 2023, when residents were able to view the 5 potential development options. These included detailed drawings, plans and illustrations. Those voting at this consultation divided 60% to 40% in favour of option 1, which subsequently became the basis for this application. A second round of consultation took place on 6th and 7th of October 2023, after financial modelling had been completed. 70% of those voting supported option 1 at this stage. Under the charitable constitution of the Village Hall Trustees, at this point a vote of eligible parishioners on the electoral roll was mandated. On the 9th November 2023, a duly notified and quorate Parish Meeting was held, at which those attending and on the electoral roll of the civil parish were invited to vote on the proposal. The voting was independently managed and supervised by Community First Yorkshire to ensure complete transparency of the voting process. Individuals voting were required to provide their name and address to CFY, such that they could be confirmed as eligible voters (i.e. on the parish electoral roll). The vote to approve the submission of this planning application was as follows:
 Approve: Yes---47 (53%)
 Approve: No----42 (47%)

(Note: Chair did not vote)

Following this meeting, the Village Hall Trustees decided that a detailed, professional review of the entire process leading up to the meeting for the vote on Thursday 9th November would be appropriate. The Solicitor undertaking the review found that all aspects of the process had been undertaken correctly, trustees had sought appropriate advice from the specialists as necessary, had complied with the Charity's Constitution, Charity Commission Guidance and that the Trustees had behaved fully in accordance with Charity Law. In addition, the Solicitor further commented that the Trustees had done much more than what was necessary or required.

- 7.3. **Division Member(s):** No comments received
- 7.4. **Building Conservation Officer:** No Objection in principle. Please condition any lighting in relation to the tennis court/additional domestic curtilage to be submitted and approved in writing by the Local Planning Authority.
- 7.5. **Environmental Health:** No comments received
- 7.6. **Howardian Hills National Landscape:** No comments received
- 7.7. **Local Highway Authority:** No Objection
- 7.8. **North Yorkshire Police Designing Out Crime Officer:** Comments
- 7.9. **Sport England:** The proposed development does not fall within our statutory or non-statutory remit and therefore, Sport England has not provided a detailed response in this case, but would give advice to aid the assessment of this application

Local Representations

- 7.10. Ten local representations have been received, six in support and four objecting to the application. A summary of the comments is provided below, however, please see website for full comments.
- 7.11. Support:
 - We have used the play area on York Road when the children were younger, but with the increase in traffic and the change of type of traffic using this main road we can see it has become significantly dangerous to access. The proposed new site is in a central location off the Village Hall and the outside space by their location being adjacent to each other.
 - The new site also opens up the opportunity for other uses of both the village hall and the outside space by their location being adjacent to each other. We have attended and taken part at events in the new space when it was loaned to the village for one-off special events and the benefits of a dry space, with toilets and catering facilities being on hand rather than a 10 minute walk up the busy road created a relaxed and joyful atmosphere.
 - The application makes sense moving the playground near to the village hall particularly having access to the facilities nearby and to hand.
 - The Village Hall would have direct access to outdoor space, increasing the versatility of the venue for both village and income generating events which was demonstrated during the Jubilee event in 2022 where the current owners kindly allowed use of the land and a superb village event was held
 - The current playground is isolated on the outskirts of the village and can only be accessed by a narrow footpath alongside the B1363. Speeding and ever-increasing numbers of HGVs represent a very real danger. A great deal of time and effort has

been spent consulting with residents at every stage of this process and when put to a vote, the majority were strongly in favour.

- This community space is crucial for fostering social interaction and unity among all residents and its benefits far outweigh the concerns of a minority. The new space promises to enhance the quality of life for everyone in Oswaldkirk, making it a valuable asset for the whole village.
- The existing space is underutilised. Oswaldkirk is a lovely village where most people know each other and it has a lovely community spirit and I like to encourage my son with his close friend in the village of the same age, to start to gain independence and walk around the village. However, I am uncomfortable with him using the existing playground due to the required walk along the B1363 and once you arrive in the playground it feels secluded.
- The new location and access will be much improved which will facilitate older residents or those with wheelchairs being able to use the community area, as well as gardeners or cooks interested in the community garden. The open space without any specific designation is flexible to allow for multiple activities.
- The plans for the proposed change of use of the existing space to domestic curtilage, and specifically a kitchen garden, greenhouse and to reinstate a tennis court look really nice but will be largely hidden from view from those external to Mulberry House due to existing screening.

7.12. Objections:

Community Facility

- The existing playground has served the village since the early 1990s and has been well used for a wide variety of activities. The site was originally gifted to the village as a tennis court and whilst this has ceased it is noteworthy that the prospect of it being reinstated was requested as part of the Village Plan of 2014
- The proposed playground makes no provision for formal/adult/community activities as was the original intention of the land donor and is not able to accommodate such by virtue of the design and topography of the site. The proposal does not give rise to a comparable alternative provision in this regard
- It is necessary to identify what greater benefit the proposal provides for the community as the proposed activities can already be undertaken on the present open space/playground
- The proposed playground/open space site is not flat therefore meaning that for many events it is not suitable. To be equivalent to the status quo, the site would need to be levelled. In light of this, the proposed amenity gain compared to the status quo is limited.
- The area dedicated to play equipment is considerably smaller than the status quo; as is the amount of play equipment. The ability to site play equipment safely on such a sloping site has not been considered in the accompanying planning documentation.

Landscape and Heritage Impacts

- The proposal seems to be predicated by a significant enlargement of the domestic curtilage surrounding Mulberry House into an open/undeveloped part of the landscape that contributes to the rural setting of the village, within the Conservation Area and National Landscape. The proposal encompasses notable built development and formal surfacing as well as replacing the existing boundary hedge. The proposal will extent the degree of formal development and domestic activities associated with the dwelling further into the countryside, undermining the open/tranquil character of the site
- It is questioned whether a formal tennis court in this location could operate effectively without additional lighting, enclosures etc which would entail further development of an incongruous character within the countryside and should be resisted.

- The change of use will impact upon existing views from Main Street, identified as key views within the Conservation Area. The proposed planting and provision of public seating areas will interrupt this view and fundamentally alter the character of the site.
- This will ruin what is a beautiful view from the properties and such a proposal should not be permitted in a Conservation Area

Residential Amenity

- The proposed playing field site raises significant concerns regarding the impact on residential amenity. The proposed provision of a community space that will be readily accessible on a continued/permanent basis for use by residents and visitors will have a significant impact in this respect, resulting in greater activity at the site
- The proposed peripheral tree planting will over time, have an overbearing and enclosing impact on neighbouring properties
- The site immediately behind the village hall looks directly into my bedroom and bathroom window and as such will have a significant impact on my property
- This represents a material change to the current tranquil status of the site and locality and will have significant adverse implications for the privacy, enjoyment and security of neighbouring properties
- The community area should be closed off during hours of darkness and access limited

Other matters

- The proposed tree planting along the northern and eastern boundaries will reduce the efficiency of solar panels on neighbouring properties
- No artificial lighting should be permitted within the community/play area to discourage use after dark and ensure dark skies are maintained
- The proposed tennis court and extended garden should not be illuminated with no external lighting permitted
- The application should be accompanied by an arboricultural statement or resultant impact assessment or methodology statement. The retention of trees and hedges should be assured. A scheme of landscaping for the new play area should be submitted and trees to the present play area should be retained, not grubbed up, or reduced in height
- Details of play equipment and structures should be agreed with the LPA prior to installation and not replaced without further prior approval
- Permitted development rights should be removed from the proposed extended domestic curtilage area
- The proposal assumes that the existing Village Hall car park will be used for access. Given a covenant exists on the car park, this is a change of use of the said car park and contrary to the terms of the covenant.

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
 - Heritage, Design and Landscape Impact
 - Impact on neighbouring amenity

10.0 ASSESSMENT

Principle of Development

10.1. Policy SP11 (Community Facilities and Services) of the Ryedale Plan – Local Plan Strategy states that in all other villages, the provision of new facilities outside of development limits is supported where the facility is needed to serve the local area and could not be provided within development limits.

10.2. Policy SP11 further states that:

“In rural Ryedale and in particular those villages that are not well served by public transport, the loss of such facilities can have a major impact on the vitality of local communities as well as individuals, particularly the less mobile and those without access to a car. Once lost, these facilities can be difficult to replace. This Strategy considered these facilities to have an importance and they should be protected as far as possible. Projects which help to improve access to existing services and facilities or involve the creation of new facilities will be supported across the District.”

And-

“The Council is keen to assist in the delivery of meaningful and practical open space provision which meets the needs of the people of Ryedale. The key issue is to ensure that there is quality provision with sustainable long-term management.”

10.3. Policy SP11 further states that *“Existing local retail, community, cultural, leisure and recreational services and facilities that contribute to the vitality of the towns and villages and the well-being of local communities will be protected from loss/redevelopment unless it can be demonstrated that:*

- *Proposals involving replacement facilities provide an equivalent or greater benefit to the community and can be delivered with minimum disruption to provision”*

10.4. Furthermore, paragraph 97 of the NPPF (2023) states that *“to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- a) Plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;*
- e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.”*

10.5. The existing playing field is located to the south of the village of Oswaldkirk, on York Road, accessed by a footpath which runs adjacent to the road. The existing playing field features timber play equipment and open space, with evidence of a former tennis court.

10.6. The proposed playground would be located immediately to the south of the Village Hall, within an existing parcel of agricultural land. The new playground would cover the same extent of land as the existing playground and would include the provision of timber play equipment, a timber pergola, seating areas and a storage shed. The site would be bounded

by a 1.2 metre high post and rail fence with a mixed species hedgerow. Additional landscaping would be provided to the northern, eastern and southern boundaries.

- 10.7. The new location of the playing field is considered to be more appropriate, providing better and safer access for users, located adjacent to the village hall building, off the village Main Street. Furthermore, it is likely that new location of the site will provide wider community benefits given its proximity to the village hall.
- 10.8. Given the topography of the site for the proposed playing field, it is acknowledged that the facility will not be able to provide equivalent facilities to the existing site, such as a tennis court. However, the proximity of the site to the Village Hall and in a more central position within the village, will likely lead to wider benefits including helping to sustain the Village Hall.
- 10.9. Given a replacement playing field is proposed, which would provide the same scale of open space as existing, the principle of the change of use of the existing playing field to domestic curtilage for Mulberry House is considered to be acceptable, subject to the wider considerations.
- 10.10. To ensure that the new playing field facility is delivered, the applicants have entered into a Unilateral Undertaking which specifies that:
- “The Owner and Developer Covenants with the Council:-
to deliver the new play area referred to in the Planning Application so that it is open for community use by the date which is six months from the date of Planning Permission or six months from the transfer of the Property from the Owner to the Developer, whichever is the latter.”*
- 10.11. The LPA would have preferred that the new playing field be completed and open for use prior to the cessation of the use of the existing playing field to ensure the continuous provision of the community facility. However, due to the transfer of land ownership and subsequent insurance liability concerns, this is not considered to be reasonably possible. As such, the requirement that the new play area be open for use within six months of the date of the permission, or date of the transfer of the land ownership, is considered to be acceptable and will ensure that the new play area is delivered and in a timely manner.
- 10.12. Under Section 149 of The Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 10.13. The relocation of the playing field, which would be of the same size and provide a similar level of facilities as the existing playing field, but located in a central, and more safely accessible, position within the village, is considered to have a positive effect on persons with The Equality Act protected characteristics.
- 10.14. To conclude, subject to the Unilateral Undertaking which will ensure the delivery of the new open space/play area, the principle of both elements of the development is considered to be acceptable.

Heritage, Design and Landscape Impact

10.15. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area.

10.16. The application site is located within the Oswaldkirk Conservation Area and Howardian Hills National Landscape.

10.17. Policy SP12 (Heritage) of the Ryedale Plan – Local Plan Strategy states that:

“Distinctive elements of Ryedale’s historic environment will be conserved and where appropriate, enhanced.”

And-

“Designated heritage assets and their settings, including Listed Buildings, Conservation Areas, Scheduled Monuments and Registered Parks and Gardens will be conserved and where appropriate, enhanced. Proposals which would result in less substantial harm will only be agreed where the public benefit of the proposal is considered to outweigh the harm and the extent of harm to the asset.”

10.18. The Council's Building Conservation Officer has been consulted on the application, providing the following comments:

“No Objection in principle. Please condition any lighting any lighting in relation to the tennis court/additional domestic curtilage to be submitted and approved in writing by the Local Planning Authority.”

10.19. In regards to the Howardian Hills National Landscape, Paragraph 176 of the NPPF (2023) states that:

“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”

10.20. Policy SP13 (Landscapes) of the Ryedale Plan – Local Plan Strategy states that:

“The natural beauty and special qualities of the Howardian Hills Area of Outstanding Natural Beauty (AONB) will be conserved and enhanced and the impact of the proposals on the AONB, its setting or the setting of the North York Moors National Park will be carefully considered.”

And-

“The District Council and Howardian Hills AONB Joint Advisory Committee will resist development proposals or land management practices that would have an adverse impact on the natural beauty and special qualities of the AONB unless it can be demonstrated that the benefits of the proposal clearly outweigh an adverse impact and the proposal cannot be located elsewhere in a less damaging location.”

10.21. Policy SP16 (Design) states that *“To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context*

provided by its surroundings” and that “development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which:

- *Reinforce local distinctiveness*
- *Provide a well-connected public realm which is accessible and usable by all safe and easily navigated*
- *Protect amenity and promote well-being”*

- 10.22. Whilst the extension to the domestic curtilage of Mulberry House would be located forward of the principal elevation of the dwelling, it is considered to relate well to the host dwelling and its existing curtilage. The existing playground, by virtue of the timber play equipment and mown grass is considered to feel somewhat domesticated, particularly given its relationship and proximity to Mulberry House and as such, it is not considered that the change of use of this site to domestic curtilage would appear incongruous, or inappropriate.
- 10.23. Furthermore, it is considered that the extended grounds are commensurate with the size and status of Mulberry House. The size and design of the proposed greenhouse is considered to be appropriate for a dwelling of this size and status and it is not considered that its position forward of the principal elevation of the dwelling would result in any harm to its character or appearance.
- 10.24. The proposed tennis court is considered to be acceptable. It would appear that a tennis court has been provided within the existing playing field site historically due to high fencing and as a result, the provision of a tennis court is not considered to be an incongruous addition within the open countryside location, nor would it detract from the setting of the dwelling. It is considered that the host dwelling and resulting curtilage are of a good size and capable of accommodating a tennis court without appear cramped or overdeveloped.
- 10.25. The northern boundary is currently bounded by a mature beech hedge, with the proposal seeking to plant a mature Yew hedge to the eastern boundary along with the provision of additional tree planting within the site.
- 10.26. It is therefore considered that the proposed extension to the domestic curtilage is acceptable. The scale, siting and landscaping is appropriate and the additional planting will soften the appearance of the development, conserving the natural scenic qualities of the National Landscape and the character and appearance of the Conservation Area.
- 10.27. It is not proposed to install external lighting within the extended domestic curtilage and this will be secured by condition to protect the qualities of the area and reduce light pollution. The proposal is for domestic purposes only and shall be controlled as such by condition. It is also considered prudent to remove permitted development rights of buildings and structures within the site in light of the proposal including an extension to domestic curtilage within the National Landscape and Conservation Area.
- 10.28. Within the new play area, timber is the predominant material for the development, together with natural un-edged stone paths, wildflower areas and native species tree planting. The proposed materials are considered to be acceptable for a new play area and would respect the character of the local area.

- 10.29. The open space/play area would be located immediately to the rear of the Village Hall, extending 40 metres south of the Village Hall building. It is noted that the adjoining Public House, the Malt Shovel Inn, benefits from a car park area that extends approximately 30 metres south of the Village Hall building and as such, it is not considered that the proposed development would represent an unacceptable incursion into the agricultural landscape.
- 10.30. Furthermore, the proposal involves limited structures, with the proposal seeking to erect a small timber pergola to the southern boundary and a small timber shed to the northern boundary. As a result of the limited structures, the proposed materials for the play equipment and the additional planting of native species hedgerows and trees, it is considered that the proposed play area is appropriate, with the additional planting softening the appearance of the development, conserving the natural scenic qualities of the National Landscape and the character and appearance of the Conservation Area.
- 10.31. Whilst the play area would be open 24/7, it is not expected that the site will be used throughout the night, with the extent of any lighting within the site to be conditioned to ensure that the impact on the nocturnal character is minimised.
- 10.32. To conclude, it is considered that both elements of the proposed development are acceptable and would not result in unacceptable harm to the Conservation Area or National Landscape in compliance with Policies SP12 and SP13.

Impact on neighbouring amenity

- 10.33. Policy SP20 states that *“new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings, or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence.”*
- 10.34. The main concerns relate to the levels of activity and noise created by the relocated playing field. It is recognised that such activities can result in levels of noise and disturbance that could be harmful to the amenity of nearby residential properties.
- 10.35. A number of objections have been received citing concerns in relation to the potential impact on neighbouring amenity including noise and disturbance and overlooking.
- 10.36. It is noted on the plans that the proposed timber play equipment would be located in the south-west corner of the application site, the furthest most point from residential properties. The nearest residential receptor would be located approximately 30 metres from the play equipment.
- 10.37. Furthermore, it is noted that substantial planting is proposed to the north-east and eastern boundaries of the site.
- 10.38. The Designing Out Crime Officer has noted in their response that care needs to be taken when siting children’s play areas to ensure that they are not too close to residential properties to reduce the potential for noise complaints and that the proposed site layout

indicates that suitable buffer distances between the nearest item of play equipment and the nearest dwelling are in line with the guidance provided by Fields in Trust.

- 10.39. The DOCO also notes that POS should be well-overlooked with strong levels of natural surveillance to provide a sense of guardianship that can deter criminal or anti-social behaviour and that the proposed POS would provide greater levels of surveillance than the existing facility.
- 10.40. The applicants have provided a management plan with details of how the POS, equipment and facilities would be maintained and the site managed, which will be conditioned.
- 10.41. It is acknowledged that the proposed playing field may result in an increased level of noise and disturbance to properties within the village, given the existing agricultural use of the land. However, the applicants have given careful consideration to the position of the proposed play equipment which, together with the proposed landscaping, is not considered to result in a level of disturbance that would result in significant adverse material impacts upon neighbouring amenity.
- 10.42. It is also noted that no comments have been received from Environmental Health.
- 10.43. The proposed extension to the domestic curtilage for Mulberry House is not considered to result in material harm to occupiers of neighbouring properties.
- 10.44. Subject to conditions, it is considered that the proposal would not result in materially adverse impacts in respect of residential amenity and as a result, the proposal is considered to comply with the requirements of Policy SP20.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. The principle of both elements of the development are considered to be acceptable. The relocation of the playing field is considered to be in better location for the village and more easily and safely located for users. It is considered that both elements can be accommodated without causing material harm to the character of the Conservation Area and National Landscape, or material harm to the occupiers of neighbouring properties.
- 11.2. It is therefore considered that subject to conditions and the Unilateral Undertaking, that the proposal is in compliance with Policies SP11 (Community Facilities and Services), SP12 (Heritage), SP13 (Landscapes), SP16 (Design), SP19 (Presumption in Favour of Sustainable Development) and SP20 (Generic Development Management Issues) of the Ryedale Plan – Local Plan Strategy and the National Planning Policy Framework. Consequently, the scheme is recommended for approval.

12.0 RECOMMENDATION

- 12.1. That planning permission be GRANTED subject to conditions listed below.

Recommended conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans;

Location Plan, drawing number 2024340/A500 dated March 2024, scanned to file 26.03.2024

Masterplan of Proposals, drawing number 2024340/AS101 Revision B dated 01.03.2024, scanned to file 26.03.2024

Roemoor Greenhouse Plans, scanned to file 26.03.2024

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The materials of the development hereby approved shall be in accordance with the details included on the planning application form/plans unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

4. Notwithstanding the submitted details, the play equipment within the new open space/playground shall be of timber construction unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the appearance of the area is not prejudiced by the introduction of unacceptable materials and/or structure(s).

5. Prior to their installation, details in terms of the siting, levels of luminosity, hours/method of operation, height/positioning and type of external lighting shall be submitted to and approved in writing by the Local Planning Authority. No external lighting shall be installed within either application site without the prior written approval of the Local Planning Authority. The agreed external lighting shall be retained for the lifetime of the development. There shall be no floodlighting or other means of illumination associated with the tennis court.

Reason: To ensure that the level of illumination is appropriate and reflective of the nocturnal character of this part of the wider landscape, in accordance with the requirements of Policies SP13, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

6. The site shall be operated and managed in accordance with the Oswaldkirk Village Hall Community Space Management Plan scanned to the application file 15.05.2024.

Reason: In the interests of public safety and amenity and to ensure compliance with Policy SP20 of the Ryedale Plan – Local Plan Strategy.

7. The tennis court hereby approved shall only be used for domestic purposes in association with the dwelling known as Mulberry House.

Reason: The proposal has been considered on the basis of being for domestic purposes only and is therefore considered acceptable in the context of Policy SP20.

8. Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted Development) Order 2015, (or any Order revoking, re-enacting or amending that Order) development of the following classes, other than as authorised by this permission, shall not be undertaken within the extended domestic curtilage of Mulberry House, other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse

Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse

Reason: To ensure that the appearance of the area is not prejudiced by the introduction of unacceptable materials and/or structure(s).

9. The development hereby permitted shall be carried out in accordance with the Masterplan of Proposals (drawing number 2024340/AS101 Revision B dated 01.03.2024). The proposed additional boundary planting comprised in the above scheme shall be carried out in the first planting season following the commencement of development. Any trees or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SP13 and SP20 of the Ryedale Plan - Local Plan Strategy

INFORMATIVE

1. This planning permission is also subject to a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 as amended.
2. Any tree or hedgerow removal is required to be undertaken without harming nesting birds or destroying their nests. The main nesting and breeding season runs from 1 March to 31 August. If this is unavoidable checks should be undertaken by a suitably qualified ecologist prior to any felling or cutting of trees or shrubs, in order to prevent disturbance to breeding birds which are protected by the Wildlife and Countryside Act 1981 (as amended).

Target determination date: 14.05.2024

Case Officer: Ellie Hardie, eleanor.hardie@northyorks.gov.uk