

**Parish: Huby**  
Ward: Huby  
**4**

Committee Date : 27 June 2019  
Officer dealing : Miss Ruth Hindmarch  
Target Date: 24 June 2019

## **19/00973/OUT**

**Application for outline planning permission with access to be considered (all other matters reserved) for a single dwelling to replace existing outbuildings on land to the rear of Rowan Brea.**

**at Rowan Brea Sutton Road Huby North Yorkshire  
for Mr Wendon.**

### **1.0 Site, context and proposal**

- 1.1 This application seeks outline consent for the construction of a detached dwelling on land to the rear of Rowan Brea, Sutton Road, Huby. Access is to be considered and is proposed to be taken off Brownmoor Lane that leads down the east side of the host dwelling. There is an existing access to the site however this is to be replaced with a new access positioned further north, closer to the host dwelling.
- 1.2 There is a range of buildings on the site that are to be demolished and replaced with the dwelling. The buildings on the site include an office building and various former agricultural buildings. The site is presently vacant and includes an area of grass and overgrown vegetation. The site would also encompass part of the existing rear garden area of Rowan Brea, bringing the boundary to Rowan Brea about 11 metres further north.
- 1.3 There are a number of mature trees along the boundary with Brownmoor Lane, many of which form part of a group Tree Preservation Order. To the south of the site is a paddock and barn associated with a dwelling known as Oaklands and to the west are some trees and further grassland.

### **2.0 Relevant planning and enforcement history**

Application relating to the same application site

- 2.1 15/01063/OUT – Outline planning application for the construction of a 4 bedroom dwelling; Granted September 2015. The 3 year time limit for the submission of reserved matters expired 21<sup>st</sup> September 2018. The permission was subject to a form of occupancy condition that required:  
The dwelling hereby permitted shall only be occupied by those persons engaged in the running of the bed and breakfast business occupying the entirety of Rowan Brea, or dependents of those persons.

Applications relating to Rowan Brea

- 2.2 2/83/070/0032C – Use of part of the existing dwellinghouse (Rowan Brea) for bed and breakfast purposes; Granted 1987.
- 2.3 09/00117/FUL - Change of use of dwelling to bed/breakfast and construction of a dwelling; refused 20 April 2009, appeal dismissed 7 August 2009.
- 2.4 15/01509/FUL – Change of use of Rowan Brea to a bed and breakfast guesthouse; Granted 2015

### **3.0 Relevant planning policies**

- 3.1 The relevant policy of the Development Plan and any supplementary planning policy advice are as follows;

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 - Access  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Development Policies DP1 - Protecting amenity  
Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Development Policies DP8 - Development Limits  
Development Policies DP9 - Development outside Development Limits  
Development Policies DP10 - Form and character of settlements  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP32 - General design  
Interim Guidance Note - adopted by Council on 7th April 2015

### **4.0 Consultations**

- 4.1 Parish Council – no comments received as yet.
- 4.2 Environmental Health Officer – no objection.
- 4.3 Highway Authority – Please refer to previous highway consultation comments for this site under planning application refs. 15/01063/OUT & 09/00117/FUL. The thrust of these comments are applicable in the case of this planning application. Of particular note is the reference to ensuring that agreement of all parties responsible for maintenance of the lane can be reached. It is noted that a relocated new access position onto Brownmoor Lane, slightly to the north of the existing access, is proposed with this application, and also that the range of existing outbuildings can be accepted in principle as having a certain degree of vehicular activity associated with them. On balance, it is considered that vehicle use allied with a single new dwelling would not be materially detrimental to the overall use of the lane. It is recommended that the new access crossing onto Brownmoor Lane be constructed to the Specification of the highway authority to ensure longevity and an appropriate condition is recommended.

Comments from the most recent application at the site: There has been a previous application at this site (reference 09/00117/FUL) and the Local Highway Authority recommendation remains applicable and is copied here. In the vicinity of the site Brownmoor Lane is a “ratione tenurae” (RT) road. It is privately maintainable but available for public use. It is usual with roads such as this that the maintenance liability rests with adjacent landowners but it is unclear whether the applicant is responsible in this case. The applicant should satisfy her/himself that the use of the lane for a dwelling has the agreement of all the parties responsible for maintenance. The Local Highway Authority has no objection to the use of the lane subject to a visibility improvement which can be achieved by the clearance of some plantings along the site’s boundary. Conditions on access, visibility, turning, parking, construction and highway condition are recommended.

- 4.4 Yorkshire Water – no objection. Development of the site should take place with separate systems for foul and surface water drainage and conditions are recommended.

- 4.5 Neighbours/site notice: Six letters of support have been received that welcome the potential to improve the appearance of the site. A further comment has been received regarding the access lane stating any development of additional dwellings or projects which will increase the volume of traffic should have sufficient provisions to update and maintain this existing private access road (Brown Moor Lane).

## 5.0 Analysis

- 5.1 The main issues for consideration in this case relate to the principle of allowing a dwelling in this location, outside the Development Limits, together with an assessment of the likely impact upon the character and appearance of the village, highway safety, neighbour amenity and drainage.

### Principle of residential development on this site

- 5.2 The site is beyond the development limits of the village of Huby. Policy CP4 states that all development should normally be within the Development Limits of settlements, subject to limited exceptions. Policy DP9 states that development will only be granted for development "in exceptional circumstances". The applicant does not claim any of the exceptional circumstances identified in Policy CP4 and, as such, the proposal would be a departure from the Development Plan.
- 5.3 The site falls some way outside the Development Limits for the village of Huby. Given the sites location it is considered the adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in the Rural Areas does not apply to the site.
- 5.4 There are however other factors relating to the principle of development that are important in this instance. As stated earlier in this report, there are a number of existing buildings on the site. The Planning & Design Statement considers two of the four buildings on site benefit from permitted development rights to be converted into residential accommodation. The statement claims that an existing office building on the site could be converted to a dwelling following the submission of a prior notification under Class O of the General Permitted Development Order (GPDO) 2015. Having visited the site it is considered by officers this building is capable of being converted into a dwelling. It is also put forward in the applicant's statement that an agricultural building on the site could be converted following the submission of a prior notification under Class Q of the GPDO. Following inspection of this building, it is considered further work would be required in the form of a structural survey to identify if this building is capable of conversion. However, this still leaves the prospect of at least one residential property being allowed within the site under permitted development rights. This fall-back position is considered to be a material planning consideration of the proposal.
- 5.5 A recent appeal decision for a dwelling further down Brownmoor Lane, to the south of the application is also of relevance to this proposal (APP/G2713/W/16/3162727). This appeal was dismissed however the reasoning related to the site's poor relationship in visual terms to the built-form of Huby. On the wider issue of sustainability the Inspector stated: *'I am satisfied that it would not result in an isolated new home in the countryside, the type of which the Framework seeks to resist. I accept, too, that future occupiers of the proposed dwelling may assist in supporting local services and facilities in Huby and beyond, thereby contributing towards the Framework's economic and social strands of sustainable development. Consequently, these factors attract some weight in my consideration'*. The Inspector however did not consider these factors outweighed the harm of the visual impact and how the proposal did not relate well to the built form of the village.

- 5.6 This application site whilst accessed from Brownmoor Lane has different characteristics to the appeal site. This site has existing buildings on the site and is located much closer to the existing built form along Sutton Road. It is not considered the reason for the appeal being dismissed is replicated at this site and the Inspectors comments relating to sustainability work lend support to this proposal. Although this application is considering “access” only, it is considered a suitable layout can be achieved. This would be controlled at the reserved matters stage and can ensure that built development on the site does not extend beyond the existing buildings and would not therefore extend out further into the countryside and would continue to relate well to the existing built form.
- 5.7 The site has also benefitted from a planning approval for a dwelling on the site; this was on the condition it was used as manager’s accommodation in relation to the use of the main dwelling as Bed and Breakfast accommodation and the economic benefits this would bring. This permission has now lapsed however it was considered that a property could be satisfactorily developed on the site which would respect the surrounding rural landscape.

### **Character and appearance of the village**

- 5.8 The application site is located within a cluster of dwellings that are to the south of the main village of Huby. Local Development Framework Policy DP10 states that permission will only be granted where it respects (by protecting and enhancing) the intrinsic qualities of open areas. Policy DP30 also states the openness, intrinsic character and quality of the District’s landscape will be respected and where possible enhanced. The site contains a number of buildings that are unused and some of which are in a state of disrepair, a number of neighbour comments welcome development of the site as it will improve the visual appearance of the site. It is considered that given the existing development on the site that a scheme that respects the form and character of the area could be achieved and details would be agreed at reserved matters stage.
- 5.9 Of relevance to the character and appearance of the site is the presence of the existing structural planting, particularly the protected trees to the eastern boundary of the site, along Brownmoor Lane. The provision of a new access will involve the removal of a tree however this tree is not protected and is a low value, multi stemmed specimen and its retention is not considered necessary. A plan has been submitted to show the location of the access and the position of the protected trees. It is considered that given the siting of the access and the trees that subject to a full tree survey and appropriate method statement and protection a suitable scheme can be agreed without harm to the protected trees. It is further considered that given the size of the site an appropriate layout in terms of the dwelling itself is achievable without compromising the existing landscaping surrounding the site. Full details will be required to be submitted for approval at the reserved matters stage.

### **Highway Safety**

- 5.10 The Local Highway Authority has stated it is noted that a relocated new access position onto Brownmoor Lane, slightly to the north of the existing access, is proposed with this application, and also that the range of existing outbuildings can be accepted in principle as having a certain degree of vehicular activity associated with them. On balance, it is considered that vehicle use allied with a single new dwelling would not be materially detrimental to the overall use of the lane. It is recommended that the new access crossing onto Brownmoor Lane be constructed to the Specification of the highway authority to ensure longevity, and an appropriate condition is recommended.

### **Residential amenity**

- 5.11 It is considered likely that one dwelling within the submitted red line plan would provide adequate external garden space to ensure the occupants would have an acceptable level of amenity. There is no reason why the scheme would result in an overbearing presence or cause a loss of light to neighbours. The issue of residential amenity particularly privacy would be addressed the reserved matters stage.

### **Drainage and Flood Risk**

- 5.12 The application site is located in Flood Zone 1 where land is assessed as having a less than 1 in 1000 annual probability of river or sea flooding (low probability). The site has been assessed as being at low risk from other forms of flooding.
- 5.13 Foul water and surface water are to be disposed of via the mains sewer. Yorkshire Water have not provided any comments on the proposal however there is no evidence to suggest that the demands on the infrastructure of the village arising from the development (in respect of drainage or any other matter) would be so great that the infrastructure would be unable to cope with the additional development or cause harm to the amenity of the village.

### **Planning Balance**

- 5.14 It is acknowledged the site is outside Development Limits of Huby and the development plan directs development to within the limits. There are circumstances that allow development outside the limits and these are detailed with policy CP4. It is however considered there are a number of material considerations that affect the assessment of the principle of one additional dwelling on this site. Consideration has been given to the fall-back permission in terms of the conversion of one, potentially two of the existing buildings on the site into individual dwellings. The appeal decision further down Brownmoor Lane considered this area as a sustainable location and a dwelling down the lane would not result in an isolated new home in the countryside that the NPPF seeks to resist. Given the above, the existing buildings on the site and the close relationship to the existing built form it is considered on balance that a proposal for one dwelling on this site can be supported.

## **6.0 Recommendation**

- 6.1 That subject to any outstanding consultations the application be **GRANTED** subject to conditions

1. Application for the approval of all of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: (i) Three years from the date of this permission; (ii) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

2. No development shall commence until details of all the reserved matters have been submitted to and approved by the Local Planning Authority: (a) the siting, design and external appearance of each building, including a schedule of external materials to be used; (b) the means of access to the site; (c) the landscaping of the site (including tree survey, method statement and

tree protection measures); (d) the layout of the proposed buildings and spaces including parking and any external storage areas.

3. Prior to built development commencing detailed cross sections shall be submitted to and approved in writing by the Local Planning Authority, showing the existing ground levels in relation to the proposed ground and finished floor levels for the development and the relationship of the proposed development to the existing dwellings to the north. The levels shall relate to a fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.

4. Before any above ground development details and samples of the materials to be used in the construction of the external surfaces of the development shall be made available on the application site for inspection and the Local Planning Authority shall be advised that the materials are on site and the materials shall be approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.

5. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 33 metres measured along both channel lines of Brownmoor Lane from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

6. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority: (i) vehicular access; (ii) vehicular parking; (iii) vehicular turning arrangements; and (v) manoeuvring arrangements for the proposed dwelling.

7. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 6 above have been constructed in accordance with the submitted details. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

8. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.

9. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the

site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

- (i) on-site parking capable of accommodating staff and sub-contractors vehicles clear of the public highway; and
- (ii) on-site materials storage area capable of accommodating materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation.

10. The site shall be developed with separate systems of drainage for foul and surface water.

11. The development hereby approved shall not be commenced until details of the foul sewerage disposal facilities have been submitted and approved in writing by the Local Planning Authority. Thereafter, the approved scheme shall be implemented and maintained in accordance with the approved details.

12. The development hereby approved shall not be commenced until details of the surface water drainage have been submitted and approved in writing by the Local Planning Authority. Thereafter, the approved scheme shall be implemented and maintained in accordance with the approved details.

13. If contamination is found or suspected at any time during development that was not previously identified all works shall cease and the Local Planning Authority shall be notified in writing immediately. No further works (other than approved remediation measures) shall be undertaken or the development occupied until an investigation and risk assessment carried out in accordance with CLR11, has been submitted to and approved in writing by the LPA. Where remediation is necessary a scheme for the remediation of any contamination shall be submitted and approved by the LPA before any further development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the Local Planning Authority.

14. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered S487 001 Rev A unless otherwise approved in writing by the Local Planning Authority.

15. This decision grants permission for no more than 1 dwelling. The size of the dwelling in the reserved matters submission shall reflect the requirements as expressed in the Size, Type and Tenure SPD.

The reasons for the above conditions are:

1. To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To enable the Local Planning Authority to properly assess these aspects of the proposal, which are considered to be of particular importance, before the development is commenced.
3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.

4. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
5. In accordance with LDF Policies CP2 and DP4 and in the interests of highway safety.
6. In accordance with LDF Policies CP2 and DP4 and in the interests of highway safety.
7. In accordance with Policy DP4 and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.
8. In accordance with LDF Policies CP2 and DP4 and in the interests of highway safety.
9. In accordance with LDF Policies CP2 and DP4 and in the interests of highway safety.
10. In the interest of satisfactory and sustainable drainage in accordance with LDF Policies CP21 and DP43.
11. In the interest of satisfactory and sustainable drainage in accordance with LDF Policies CP21 and DP43.
12. In the interest of satisfactory and sustainable drainage in accordance with LDF Policies CP21 and DP43.
13. In order to take proper account of any health risk arising from contamination.
14. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Hambleton Development Plan Policies DP1, CP4 and CP17.
15. To ensure that the scope of the decision reflects the proposal made and that the development meets local needs in terms of the size and type of dwellings in accordance with LDF Policy DP13 and the Size, Type and Tenure SPD.