

# 11

15/01622/FUL

**Construction of a dwellinghouse  
at 1 Chapel View Cottages, Thirn, North Yorkshire  
for Mr Assheton Montagu Windsor Curzon-Howe-Herrick**

## **1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 This application is for the construction of a detached three-bedroomed dwelling on the southern side of the village street in the centre of Thirn. The application site is the side garden of 1 Chapel View Cottages (a currently vacant semi-detached dwelling) and covers an area of approximately 360sqm. It is bounded to the south by an established hedge, to the east (abutting Alice Cottage a two-storey dwelling) by a stone wall and fence and to the north by a stone wall. The boundary to the west (i.e. the cottage within the curtilage of which it lies) is not marked on the ground.
- 1.2 The proposed two storey dwelling is laid out in two parts with a larger section stepped back behind the smaller and lower section at the front. A single storey section forming a porch links the two sections on the front elevation. The dwelling would be finished in stone and clay pantiles to match the adjacent properties.
- 1.3 The proposal initially included within this application, was for access to be gained to the rear of the application site via the private access track from the village street and across the rear garden of the adjacent properties at 1 and 2 Chapel View. This element has been deleted from the application. There is no existing or proposed vehicular access into the site and any parking required therefore would be on-street.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

- 2.1 14/01494/FUL - Construction of a dwelling. Permission was refused for the following reasons:
1. The construction of a dwelling in this location is contrary to the provisions of Policies CP1, CP2 and CP4 of the Local Development Framework Core Strategy and to the provisions of the National Planning Policy Framework in that the site is in an unsustainable location outside the boundaries of any settlement identified in the Council's settlement hierarchy and no evidence has been given to indicate that the proposal would be beneficial in enhancing or maintaining local services or the vitality of the rural community.
  2. It is considered that the proposed dwelling in view of its scale, site levels, siting and orientation would be detrimental to the amenity and privacy of the occupiers of the adjacent dwelling to the east contrary to Policies CP1 and DP1.
  3. It is considered that the engineering works required to create off-street parking facilities to the front of the site would be seriously detrimental to the appearance and character of this part of the village and would result in additional vehicles on the highway which would be detrimental to visual amenity and potentially to pedestrian safety. The proposal is therefore considered to be contrary to Policies CP17 and DP32 of the Hambleton Local Development Framework.
- 2.2 An appeal against this decision was dismissed in March 2015.

### **3.0 RELEVANT PLANNING POLICIES**

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 - Access  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP17 - Promoting high quality design  
Development Policies DP1 - Protecting amenity  
Development Policies DP9 - Development outside Development Limits  
Development Policies DP32 - General design  
Interim Guidance Note - adopted by Council on 7th April 2015  
National Planning Policy Framework

### **4.0 CONSULTATIONS**

- 4.1 Parish Council - The Parish Council does have concerns about the likelihood of parking on the roadside in Thirn if this dwelling is approved despite the provision of a new access. There will probably be insufficient room to provide enough parking off road for any visitors. The road through Thirn is very narrow and is already blighted by parked vehicles.
- 4.2 Highway Authority - expresses concerns regarding the lack of parking associated with this dwelling. However, due to the existing arrangement at this location an objection is not sustainable. The Local Highway Authority recommends conditions relating to the construction of the development.
- 4.3 Yorkshire Water - no objections to connection to public foul sewer.
- 4.4 Environmental Health Officer - no objections.
- 4.5 SABIC Pipelines: the proposed development falls 155m from the nearest point of the Trans Ethylene Pipeline and is located outside the outer zone of the above Major Accident Hazard Pipeline as defined by HSE guidelines (PADHI). Further consultation would be required if work took place within the 50m notification zone.
- 4.6 Health and Safety Executive - refer to use of PADHI support tool for consultation purposes (see SABIC comments above).
- 4.7 Site notice/local residents - objections have been received from 14 residents, whose comments are summarised as follows:
1. There is no existing vehicular access to the rear of 2 Chapel View Cottage; it is just a small garden;
  2. There is no right of way across the garden of 2 Chapel View;
  3. The development would impact considerably on the already congested village parking;
  4. Considerably diminish the limited amenity space used by children to play safely;
  5. There is a drop of 5' down to the neighbouring Alice Cottage; the french windows will encourage occupants to lay a patio and erect a fence resulting in a loss of light;
  6. In recent years both 1 and 2 Chapel View have been home to young families with children who attend the school at Thornton Watlass, supporting its viability. If the vehicular access to the new build goes ahead it will make two properties in a small village unattractive to families with children who would support the

services, including the school, in the nearby village. It would also unfairly devalue 2 Chapel View which is privately owned.

7. When all three properties are occupied between 2 Chapel View and Alice Cottage (3 The Cottages on site plan), there are already up to six cars parked regularly on the road. This is undesirable but unavoidable as the properties are built on the roadside without access to the rear. Any more would create traffic problems and aggravate further pedestrian safety in a village without roadside footpaths;
8. The Street View plan submitted by the applicants does not accurately represent the size of the windows and doorway of the cottage to the East of the proposed building. They are depicted as being larger than they actually are, giving the impression that the proposed building has less impact than would be the case;
9. The National Planning Policy Framework and Hambleton Core Strategies CP1 and CP2 elude to the desire for sustainable development and in particular the minimisation of the need to travel. There are no public services in Thirn, and the creation of a further dwelling in the hamlet would require travel for access to all services, from shops and schools to businesses. The proposal would not comply with sustainable development in this respect;
10. More vehicles on the main road through the village will hinder visibility for other drivers passing through the village. Tractors which drive through the village at high speed with limited visibility could cause a serious accident, if more cars are parked there;
11. Another large dwelling house built in the village will greatly affect the infrastructure in village, i.e. drains, sewage. Can the village cope with this?
12. Possible road closure while the property is build, will affect the villagers getting in and out to work;
13. Putting a large new build between two very old cottages will look out of place;
14. The plans are not accurate and this can be seen when comparing window and door sizes;
15. The proposed development is contrary to the Council's Interim Policy and not in accordance with the comments of the Inspector in his appeal decision;
16. The services in Thornton Watlass are limited. Thirn is not linked to Thornton Watlass by a bus service, and the walk is considered dangerous, which is why school transport is provided for primary age children;
17. Any outside activities associated with the proposed dwelling would overlook Alice Cottage; a fence would result in a loss of light;
18. The new development will make road safety much more of an issue, including the fact that school children have no option but to walk on that dangerous bit of road;
19. The existing drainage goes to a septic tank behind the wall with the post box, marked by the manhole cover marked on plan. The development is likely to be on top of the soakaway for the existing septic tank;
20. The barn is an attractive building which continues on from a row of outbuildings (wood store and garage) in the gardens of No.1 and No.2 Chapel View Cottages. The barn adds to the character of the built environment of these properties. We believe the barn to be the old village wash house;
21. The grass verge on the roadside which contributes to the rural charm of the village will be reduced;
22. Hedges and trees will be removed on the proposed development site;
23. The removal of this wall would detract from the rural nature of the village;
24. As far as I am aware it is not intended to use a local builder for the construction of the property; therefore even the short term economic benefit for the area is insignificant;
25. This is way out of the reach of most local families/young people looking to get onto the property market and not in line with the government's new initiative for affordable housing in rural locations;
26. Overbearing on the small cottage built in the 1700s;

27. There is therefore little precedent for an infill property to be so close to an existing property; and
28. With no footpath this would mean that walking my 2 children and baby in a pram through the village would become even more dangerous.

Further comments have been received from 7 local residents following the receipt of amended plans, whose comments are summarised as follows (expiry date for representations 2/10/2015):

1. Whilst the proposed property, arguably, no longer unduly dominates adjacent properties, would now be aligned with these long standing properties & the ill-thought out parking arrangements to the rear have been dropped - we come back to the very real concerns of even more on-street parking caused by the development;
2. It should be noted that there is no footpath in Thirn, so this limited road space is shared with pedestrians;
3. Delighted that the plan to access through the garden has been dropped but not happy about more vehicles being parked on the road;
4. Many farm vehicles and wagons regularly go through the village;
5. The house is too big and intrusive to neighbours;
6. At the point of the new dwelling, the road is narrow and curves over the top of a rise. There is no provision for pedestrians and the visibility is already poor because of the several cars that already park there. To add more parking will simply intensify the problem, making the section of road even more dangerous; and
7. The new revision has made no substantive attempt to properly address the issues of the effect of the proposed development on the living conditions of neighbouring occupiers and the effect of the proposed development on the danger posed by additional street parking.

## **5.0 OBSERVATIONS**

5.1 The issues to be considered when determining this application are identified in the Policies within the Local Development Framework Core Strategy and the Development Policies document as set out above and relate, in this case, to the location outside a sustainable settlement identified in the Core Strategy (Policy CP4), the impact on adjacent residential amenity (Policy DP1) together with the potential impact on the appearance and character of the village street (Policies CP16, DP28 and DP30). The content of paragraph 55 of the National Planning Policy Framework (NPPF) is also relevant in this case.

5.2 Policy CP4 states that all development should normally be within the Development Limits of settlements identified in the hierarchy set out in the Core Strategy. 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. However, it is also necessary to consider more recent national policy in the form of the National Planning Policy Framework (NPPF) published in March 2012. Paragraph 55 of the NPPF states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances".

- 5.3 The NPPF identifies some special circumstances that are consistent with those set out in Policy CP4, with the addition of "the exceptional quality or innovative nature of the design of the dwelling". None of these exceptions are claimed by the applicant.
- 5.4 To ensure appropriate consistent interpretation of the NPPF alongside Policies CP4 and DP9, on 7 April 2015 the Council adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in the Rural Areas. This guidance is intended to bridge the gap between CP4/DP9 and the NPPF and relates to residential development within villages. The IPG has brought in some changes and details how Hambleton District Council will now consider development in and around smaller settlements and has included an updated Settlement Hierarchy.
- 5.5 The appeal Inspector referred specifically to the sustainability of the proposed development in the decision letter in respect of the economic, social and environmental strands referred to in the NPPF. The conclusion was that there were limited economic and social benefits likely to result from the development but that the environmental impact would be significant due to the harm caused to the living conditions of nearby residents and to the village. The current application has attempted to address these matters and this is discussed further within this report.
- 5.6 In the settlement hierarchy contained within the IPG, Thirn is defined as an "other settlement"; within the IPG small scale development adjacent to the main built form of the settlement "will be supported where it results in incremental and organic growth". To satisfy criterion 1 of the IPG the proposed development must provide support to local services including services in a village nearby. The site lies within the village of Thirn which lies 2km to the edge of Thornton Watlass, which is defined as a Secondary Village with facilities including a school, a pub and a church. Other economic benefits of the scheme include the short term boost to the rural economy during construction as referred to in the Inspector's decision letter.
- 5.7 Proposals must also be small in scale and provide a natural infill or extension to an existing settlement and also conform to other relevant LDF Policies. This part of Thirn is characterised by terraced and semi-detached cottages set within relatively small plots and the addition and extent of this residential development needs to reflect the established character. This proposal is for a single infill dwelling and as such is considered, in principle, to be of a suitable scale.
- 5.8 It is important to consider the likely impact of the proposed development with particular regard to criteria 2, 3 and 4 of the IPG. The proposed dwellings would be within a garden that forms an infill plot within the village and which is part of the village rather than part of the rural landscape beyond. The following detailed advice within the IPG is considered to be relevant:
- "Proposals will be assessed for their impact on the form and character of a settlement. Consideration should be given to the built form of a settlement, its historical evolution and its logical future growth and how the proposal relates to this."
- "Any detrimental impact on the character, appearance and environmental quality of the surrounding area should be avoided and development should not compromise the open and rural character of the countryside."
- 5.9 The reasons for refusal of the previous application did not relate to the form and design of the dwelling; one of the reasons for refusal, upheld by the appeal Inspector, related to the positioning and orientation in relation to the adjacent dwelling, Alice Cottage to the east of the site (which is a 'back-to-front' house with its main living rooms and aspect facing away from the highway and towards the rear garden) and its anticipated impact on residential amenity. The design and orientation of the

proposed dwelling has been altered in an attempt to address this objection, which results in a stepped arrangement that would, if this were an existing dwelling being extended, comply with the 45° rule detailed within the Council's SPD on Domestic Extensions—Whilst the SPD is not directly relevant to a new dwelling it provides a useful means of gauging the likely impact on residential amenity. It is not considered that the positioning of the dwelling in relation to the neighbouring property would have an overbearing impact or result in an unacceptable loss of privacy.

5.10 The principal concern is with regard to the possibility of overlooking into the neighbouring property from the rear garden of the proposed dwelling. The application site is already an area of garden and it would currently be possible for overlooking to occur between the site and the adjacent property; it would also be permitted development to erect a 2m high fence that would affect the outlook from Alice Cottage. The use of the garden would not be intensified as the land would still relate to a single dwelling and therefore it is not considered that the impact on residential amenity would be contrary to LDF Policy DP1. If planning permission is granted it would be possible to impose a condition requiring details of boundary treatment to ensure the impact of any fencing on Alice Cottage is limited.

5.11 The previous planning application was also refused due to the adverse impact on the appearance of the site resulting from the removal of the grass bank to provide parking spaces. The current application proposes to retain most of the bank but remove part of the stone boundary wall. The wall is specifically referred to in the Inspector's letter as follows:

"I do not regard the alteration of the boundary wall, or indeed to the relocation of telegraph pole and post box, as causing detriment in themselves. Simply moving the wall to a different alignment would not fundamentally alter the character or appearance of this part of Thirn. The wall could be re-erected to be a similarly attractive stone wall as that which exists."

The wall has a length across the frontage of approximately 13m. A central section of 7m would be removed to allow the dwelling to be sited further forward to address the impact on residential amenity at the rear. Part of the wall may require re-building due to its structural condition but overall a major part would be retained and therefore would retain the attractive appearance identified by the Inspector.

5.12 There is a shortage of off-street parking for a number of the cottages adjacent to the site and several vehicles do already park on the village street. The addition of potentially two new spaces would have both a knock-on effect of additional on-street parking and mean that parked vehicles would spread further along the street. Notwithstanding the absence of off-street parking there are no objections to the proposal from the Highway Authority. The additional on-street parking is not considered to be detrimental to Highway safety in this instance.

5.13 A bat survey has been received with regard to the proposed removal of the existing outbuilding. No evidence of bat roosts or a bat or barn owl presence has been found within the building. Evidence of nesting swallows has been found.

5.14 Under the Community Infrastructure Levy (CIL) regulations the proposed dwellings are liable for payment of CIL at a rate of £55 per sq. m, the rate adopted by the Council on 7 April 2015.

## 6.0 RECOMMENDATION

6.1 That subject to any outstanding consultations the application is **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. Prior to development commencing, 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. a) The development shall be constructed of the approved materials in accordance with the approved method. b) The method of coursing of stonework, the mortar mix and pointing finish to be employed shall be agreed in writing by the Local Planning Authority.
3. The development shall not be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of the development including details of any alterations or rebuilding of the retained parts of the northern boundary wall, have been submitted to and approved in writing by the Local Planning Authority.
4. The dwelling shall not be occupied until the boundary walls, fences and other means of enclosure have been constructed in accordance with the details approved in accordance with condition 3 above. All boundary walls, fences and other means of enclosure shall be retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.
5. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order, for the time being in force relating to 'permitted development', no enlargement shall be carried out to the dwelling nor shall any structure be erected within or on the boundary of the curtilage of the dwelling hereby approved without express permission on an application made under Part III of the Town and Country Planning Act 1990.
6. 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.
7. 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: a. on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway; b. on-site materials storage area capable of accommodating all 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.
8. The permission hereby granted shall not be undertaken other than in complete accordance with the drawings numbered HN/39014(00)01B, (10)13A, (20)10, (20)11, (20)11A, (20)12A and (20)01A received by Hambleton District Council on 14 and 30 September 2015 unless otherwise approved in writing by the Local Planning Authority.

The reasons for the above conditions are:

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. 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.
3. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings in accordance with the Local Development Framework Policies CP1, CP17, DP1 and DP32.
4. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings in accordance with the Local Development Framework Policies CP1, CP17, DP1 and DP32.
5. The Local Planning Authority would wish to retain control over the extension of this development in the interests of the appearance of the site and the amenities of residential property nearby in accordance with Local Development Framework Policy CP1, CP17, DP1 and DP32.
6. In accordance with LDF Policies CP2 and DP4 and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
7. In accordance with LDF Policies CP2 and DP4 and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
8. 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 Development Plan Policies.