

Parish: Knayton with Brawith

Ward: Bagby & Thorntons

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Committee Date: 10 December 2015

Officer dealing: Mr R Greig

Target Date: 6 November 2015

15/02061/OUT

**Construction of a single dwelling
at Hall Garth, Fanny Lane, Knayton
for Mr & Mrs J Appleton**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application site is situated to the east of Fanny Lane on the eastern edge of Knayton. The location of the site is such that it overlaps the designated Developments Limits of this settlement and also lies, in part, within the designated Conservation Area. The site is not recorded to be at risk of flooding.
- 1.2 The site comprises an irregular shaped area of land located to the south of Hall Garth, accessed to the west via the private lane which serves both Hall Garth and the adjacent dwelling, "The Chevens". The site is bounded from neighbouring residential plots to the west by solid masonry walls and to the north, south and east by a mix of mature landscaping and open boarded timber fencing.
- 1.3 This application seeks outline planning permission for the construction of a single dwelling with all matters reserved.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 2/91/088/0096A - Conversion of an agricultural building to one dwelling and to construct one further dwelling; refused 15 November 1991 and allowed on appeal 26 June 1992.
- 2.2 2/93/088/0096B - Construction of a detached bungalow; granted 14 July 1993.
- 2.3 2/96/088/0096C - Construction of a detached dwellinghouse (the aforementioned "Hall Garth" dwelling) and conversion of existing disused agricultural building to a domestic garage; granted 28 January 1997 following completion of a planning obligation preventing the implementation of permissions 2/91/088/0096A and 2/93/088/0096B or construction of any dwelling on the land other than the one permitted.

3.0 RELEVANT PLANNING POLICIES

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development

Development Policies DP1 - Protecting amenity

Core Strategy Policy CP4 - Settlement hierarchy

Development Policies DP8 - Development Limits

Development Policies DP9 - Development outside Development Limits

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Development Policies DP28 - Conservation

Development Policies DP30 - Protecting the character and appearance of the countryside

Core Strategy Policy CP21 - Safe response to natural and other forces

Development Policies DP43 - Flooding and floodplains

4.0 OBSERVATIONS

4.1 Knayton Parish Council - Objects as summarised below:

- Contrary to Village Plan as over 50% of development lies outside of limits;
- Can be described as back building;
- Too little detail is given as to the size and height of the property;
- The original property was built after appeal;
- Hambleton DC cannot discuss this application whilst the Section 106 Agreement is live;
- The property lies within Conservation Area;
- Three properties would be served by the access; and
- Existing properties will lose their views.

4.2 Following the public consultation period, five letters of representation were received from four different parties, raising objections to the proposed development. Those comments are summarised as follows:

- Planning permission for Hall Garth was limited by a Section 106 Agreement;
- The proposal is outside of Development Limits;
- It represents an unacceptable overdevelopment of the site;
- Further property would cause loss of privacy and restrict views;
- The road in the village is narrow and heavily used;
- If granted this would represent a significant departure and relaxation of policy;
- Knayton is a small village with few amenities; and
- Effect on Listed Building and Conservation Area.

5.0 OBSERVATIONS

5.1 As highlighted above this submission is an outline planning application with all matters, inclusive of design, layout, scale, appearance and access are reserved for future consideration. The application therefore seeks to establish the principle of development only. In doing so, it is necessary to consider the legacy of the approval of application 2/96/088/0096C and then the merits of the current proposal.

The 1996 application

5.2 The planning history of this site is highlighted above. Application (2/96/088/0096C) was subject to consideration under a former local plan and concerns were raised as to whether it would be an undesirable intrusion in to the rural landscape. However, permission was granted following completion of a planning obligation in which the landowner covenanted not to implement previous approvals (2/91/088/0096A and 2/93/088/0096B) "or to construct any dwelling on the land other than the development (i.e. the dwelling subsequently permitted under 2/96/088/0096C.

5.3 The strong concerns voiced by third parties relating, in part, to the planning obligation are fully acknowledged. However, the obligation appears to go beyond the scope now allowed for planning obligations under Regulation 122 of the Community Infrastructure Levy Regulations 2010, which states that obligations must be:

- (a) Necessary to make the development acceptable in planning terms;

- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

It is considered that the obligation associated with the 1996 application, dated 22 January 1997, would fail these more recent tests because:

- It cannot reasonably be said that an outright ban on future development is necessary in planning terms when those planning terms have to be reconsidered at that future stage, i.e. under the different policy framework now applying; and
- It cannot reasonably be said that a development proposed nearly 19 years later is directly related to the 1996 application.

- 5.4 Under the legislation and policy framework now applying it would be unreasonable for one planning decision to pre-judge another by taking away the right of any person to apply for planning permission. The Council must therefore consider the current application on its merits against current planning policy and any other material planning considerations.
- 5.5 If it is concluded that planning permission should otherwise be granted, it would be unreasonable, and open to challenge, for the Council to contradict its planning decision by reliance on a planning obligation from nearly 19 years before. Therefore if the obligation is viewed as an impediment to development that is considered acceptable now, it should be set aside.

The current proposal

- 5.5 The former local plan, used as the basis for the determination of the 1996 application has been replaced and the proposed development must be considered under the current LDF policies and with regard to the NPPF. The policy emphasis within the LDF is to concentrate development within defined Development Limits and the NPPF seeks to avoid the introduction of isolated homes in the countryside.
- 5.6 The Core Strategy has established a Settlement Hierarchy which provides a spatial guide to the location of development. The village of Knayton is defined as a Secondary Village within the Settlement Hierarchy. In this instance the application site extends beyond the eastern edge of the designated Development Limits of Knayton wherein Policy DP9 of the Development Policies will only permit development in exceptional circumstances, having regard to the provisions of Policy CP4. No exceptional circumstances have been highlighted in this instance. However, it must also be acknowledged that contrary to the remarks of the Parish Council, only part of the site is beyond Development Limits. Whilst no details of the siting of the proposed dwelling are included within this application, it is evident that a dwelling could be built on that part of the site within Development Limits, with only its garden extending beyond.
- 5.7 Notwithstanding the above it also necessary to pay careful consideration to the NPPF which promotes sustainable development, encouraging the provision of housing in rural areas where it will help to maintain the vitality of rural communities.
- 5.8 To maintain consistent interpretation of the NPPF and to bridge the gap between it and LDF policies CP4 and DP9, the Council adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in Rural Areas in April 2015. The IPG details how development in and around villages will be considered and has included an updated Settlement Hierarchy.
- 5.9 The approach to the consideration of new housing development depends in the first instance on the nature and number of services within the village where the development is

proposed. This is defined by the Settlement Hierarchy. Service Villages and Secondary Villages are considered to be sustainable settlements and Knayton is listed within the IPG as a Secondary Village. It is therefore recognised in policy terms as a sustainable location for development.

- 5.10 To draw support from the IPG, the development would need to meet a number of criteria, in that it would need to contribute towards achieving sustainable development by maintaining or enhancing the vitality of the local community and also achieve all of the following:
1. Development should be located where it will support local services including services in a village nearby.
 2. Development must be small in scale, reflecting the existing built form and character of the village.
 3. Development must not have a detrimental impact on the natural, built and historic environment.
 4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
 5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
 6. Development must conform with all other relevant LDF policies.
- 5.11 Having given careful consideration to the above, it is noted that the site is partly contained within the designated Development Limits of Knayton, where development is permissible in principle under LDF policies. In turn the position of the site appears broadly consistent with the linear pattern of development to the village, which includes examples of dwellings set behind frontage development, as the proposed dwelling would be. However, as the site contains sufficient space for a dwelling to be built within Development Limits, the scheme is not necessarily reliant on the IPG.
- 5.11 The western part of the site, closest to Fanny Lane, is within the Knayton Conservation Area and it is therefore appropriate for the Council to consider the desirability of preserving or enhancing the character or appearance of the Conservation Area when determining this application. However, this part of the site would primarily be the existing access from Fanny Lane, which need not change. Therefore it is considered that the character and appearance of the Conservation Area can be maintained. The nearest listed buildings are on the opposite side of Fanny Lane and therefore it is not considered that any adverse impact would be caused to a heritage asset.
- 5.12 With the above in mind it is concluded, on balance, that the principle of development is acceptable in this instance, with all matters reserved for future consideration. As noted above, it may be necessary for the 1997 planning obligation to be set aside in order for the development to proceed.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations the application is **GRANTED** subject to the following conditions:
1. Application for the approval of all of the reserved matters shall be made to the Local Planning Authority not later than two 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 one year 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 means of access to the building plot, (b) the siting, design and external appearance of the building(s), including a schedule of external materials to be used; (c) the landscaping of the site; (d) the layout of the proposed building(s) and space(s) including parking and any external storage areas; and (e) the scale (including the number) of buildings overall.
3. 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. The development shall be constructed of the approved materials in accordance with the approved method.
4. The development shall not be commenced until a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, has been submitted to and approved by the Local Planning Authority. No dwelling shall be occupied after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless those elements of the approved scheme situate within the curtilage of that dwelling have been implemented. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.
5. Prior to 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 of the development. 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.
6. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.
7. 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 until the access to the site has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements: (i) The details of the access shall have been approved in writing by the Local Planning Authority. All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.
8. 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) tactile paving; (ii) vehicular, cycle, and pedestrian accesses; (iii) vehicular and cycle parking; (iv) vehicular turning arrangements; (v) manoeuvring arrangements; and (vi) loading and unloading arrangements. All works shall thereafter accord with the approved details unless otherwise agreed in writing by the Local Planning Authority and no part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved have been brought into use.

9. 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.
10. 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 all staff and sub-contractors vehicles clear of the public highway; (ii) 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.

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 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. In order to soften the visual appearance of the development and provide any appropriate screening in accordance with LDF Policies CP16 and DP30.
5. To safeguard the character and appearance of the area and neighbour amenity in accordance with LDF Policies DP1, DP32 and DP33. Submission of these details is required prior to commencement in order to ensure that the height and appearance of the dwelling will be appropriate to the locality.
6. To ensure appropriate on site facilities in the interests of highway safety and the general amenity of the development in accordance with LDF Policies CP2 and DP4. These details are required prior to the commencement of development to ensure that road safety requirements are met.
7. In accordance with LDF Policies CP2 and DP4 and in the interests of highway safety. These details are required prior to the commencement of development to ensure that road safety requirements are met.
8. In accordance with LDF Policies CP2 and DP4 and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

9. 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.
10. 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.