

Parish: Newton-on-Ouse
Ward: Easingwold
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Committee Date: 15 September 2016
Officer dealing: Mr A Thompson
Target Date: 13 September 2016
Date of extension of time: 19 September 2016

16/01540/FUL
16/00009/TPO2

- (a) **Construction of four dwellings with associated access, parking and landscaping
At land to the south of Bravener Court, Newton on Ouse
For Mrs Toni Johnston**
- (b) **Confirmation of Hambleton District Council (Newton on Ouse) Tree Preservation
Order 2016 No: 9
At land fronting Back Lane opposite junction with Sills Lane, Newton on Ouse**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The application site is a field to the east of Back Lane, Newton on Ouse to the south of Bravener Court and opposite the junction with Sills Lane. The site is fronted by a highway verge 3m to 8m in width with a hedgerow fronting the site and a number of trees on the verge and within the application site. To the south of the site is a pond which relates to historical pits and filled ground and allotment gardens.
- 1.2 The application proposes four dwellings. Two would be three-bedroom dormer bungalows on the northern end of the site, one would be a detached four-bedroom two-storey dwelling and the fourth would be a detached four-bedroom two-storey dwelling at the southern end of the site. Access is proposed to be via two shared drives off Back Lane.
- 1.3 During the course of the application a Tree Preservation Order has been made in relation to the trees on the highway verge or at the front of the site. A majority of these are in the ownership of the County Council. This report seeks to consider both the trees within the Tree Preservation Order (16/00009/TPO2) and whether to confirm the order in full, partially or not at all. There are a total of seven wild cherry trees, a zelkova (a deciduous tree native to Japan), a red oak and two sycamores considered individually under the Order and the hawthorn hedge considered as a group with the Order. The application proposes to fell three of the wild cherry trees and replace the hedgerow to form the access and allow the development to be built.
- 1.4 The application is supported by a Design and Access Statement, Planning Statement, Heritage Statement, Flood Risk Assessment, Landscape Statement, Preliminary Assessment of Land Contamination, Sustainability Statement, Tree Survey and Ecological Assessment.
- 1.5 The application site is outside the Conservation Area and the village does not have Development Limits. Newton-on-Ouse is classed as an Other Settlement in the settlement hierarchy. However Linton on Ouse & Newton on Ouse are a quoted example of a cluster villages within the Council's adopted Interim Planning Guidance.
- 1.6 Amended plans were received on 30 August 2016 detailing the following changes:
- Plot 1 - a 400mm reduction in width (site depth) of the main house plan and the chimney moved within and in line with the gable structure;
 - Plot 2 - the home office element has been removed;
 - Plots 3 and 4 - a 500mm reduction in the width of the main part and the first floor layout adjusted to remove the need for the extended dormer with a residual

dormer left to serve the main bedroom. 300mm has also been removed from the depth in the entrance zone with the lounge bay removed for ease of access.

With these adjustments the overall footprint has been reduced, with plot 4 moved away from the northern and plots 3 and 4 from the rear boundary.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 16/00901/HYB - Hybrid application for: Site A full planning application for the construction of a four bedroom dwellinghouse and Site B outline planning application for the construction of up to 4 additional dwellinghouses (all matters reserved); Withdrawn 26 May 2016.

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 CP8 - Type, size and tenure of housing
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 - Promoting high quality design
Core Strategy Policy CP21 - Safe response to natural and other forces
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 DP29 - Archaeology
Development Policies DP30 - Protecting the character and appearance of the countryside
Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation
Development Policies DP32 - General design
Development Policies DP33 - Landscaping
Development Policies DP34 - Sustainable energy
Development Policies DP36 - Waste
Development Policies DP42 - Hazardous and environmentally sensitive operations
Interim Guidance Note - adopted by Council on 7th April 2015
National Planning Policy Framework - published 27 March 2012

4.0 CONSULTATIONS

- 4.1 Parish Council - does not object in principle to additional houses in the village, although this Planning Application was unanimously objected to the application as it currently stands for the following reasons:

Wildlife and European Protected Species

- The pond adjacent to the development supports a population of great crested newts which is a European protected species;
- The pond is also important for bats and at least two species in relatively large numbers are regularly seen flying around the pond search for insects;
- The current overgrown hedge creates an important wildlife corridor and refuge for both bats and newts;

- The building of houses behind the hedge will inevitably result in a significant reduction in its height and width thereby reducing its conservation value; and
- Proposals in the application should secure the management and protection of this resource.

Visual and landscape impact

- Trees, specifically cherry trees, are a significant characteristic of the village lining the grass verges throughout it;
- The trees on the verge and owned and managed by the Parish Council and fall outside the ownership of the applicant; and
- The landscape report fails to acknowledge the presence of the war memorial and carefully tended grass either side that extends across the front curtilage of the planning application.

Design of buildings

- The proposed large house is out of character and completely out of context with the surrounding houses on Bravener Court.

Access and parking

- Concern about the capacity to support significant numbers of additional cars;
- Construction vehicles may result in damage to the road and verge; and
- Impact on fishing club visitors.

Infrastructure

- The capacity of the soakaways, sewage and associated drainage is at capacity.

Potential for additional houses

- The design of the application allows for additional houses to be built behind the site – suspected to be a future aspiration of the applicant; and
- Disappointment at the lack of affordable housing in the application.

4.2 Ministry of Defence - No objection.

4.3 Natural England - No comments.

4.4 Yorkshire Wildlife Trust – No objection. The submitted great crested newt (GCN) survey is acceptable. As long as a licence is obtained from Natural England before the development goes ahead and all the mitigation is put in place there should not be an impact on GCN. The developer should maximise the amount of semi-natural habitat suitable for wildlife and connect up hedgerows and field margins as much as possible.

4.5 Environmental Health Officer - No objection.

4.6 Yorkshire Water - No objection subject to a drainage condition.

4.7 Public comment - 21 letters of objection have been received (a further 3 duplicates have also been received). The objections are on the following grounds:

- The proposal is contrary to the Interim Planning Guidance and policies;
- Lack of facilities in Newton-on-Ouse;

- Precedent for other plots purchased for housing from Land and Property Bank;
- The long term future of the RAF base is uncertain and should it be discontinued there would be a surplus of housing stock should no alternative use be found for the site;
- No benefit to the local community;
- The design and size of the proposed development does not conform to the character and appearance of the area;
- Plot 1 is oversized compared with existing houses along Back Lane;
- Impact on the existing residents of Back Lane and Bravener Court, including overlooking and loss of privacy;
- Back Lane is narrow and cannot cope with traffic; it is clearly marked as 'Unsuitable for Motor Vehicles'; the access is unsafe and the proposal would make it more dangerous for pedestrians and the increasing number of cyclists using Back Lane as part of a dedicated cycle route;
- Impact on trees which are an integral part of the landscape;
- Impact on the War Memorial;
- Impact on the verges and the current use for vehicles parking there; deliveries to the proposed properties would mean more parked vehicles obstructing Back Lane and Sills Lane; and
- Impact on protected species, wildlife and habitats, including hedgehogs, bats and great crested newts.

4.8 Five further letters of objection repeating the above comments have been received in response to the amended plans.

4.9 In relation to the TPO, the applicant's tree consultant for the planning application states that the trees requiring removal are unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories. They argue that the hedgerow is a gapped hedgerow without significant landscape value and has limited benefit. It is noted that the development proposals include a management and enhancement of the Hedgerow, an action that would mitigate the loss by improving the visual amenity of the landscape.

5.0 OBSERVATIONS

5.1 The key determining issues for the planning application are (i) the principle of development; (ii) the impact on the character of the area; (iii) the impact on residential amenity; (iv) access arrangements; (v) impact on trees and the Tree Preservation Order; and (vi) ecology.

5.2 The case for confirming the Tree Preservation Order, the second subject of this report, can be considered under point (v).

Principle

5.3 Newton-on-Ouse has no Development Limits and the village is defined within the updated settlement hierarchy as an Other Settlement. It is therefore a location where Development Plan policies, specifically CP4, only allow development in exceptional circumstances. None of the exceptions allowed by Policy CP4 are claimed and so the proposal is contrary to the Development Plan. However, it is necessary to consider the impact 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".

- 5.4 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 and this is considered below.
- 5.5 The IPG states that the Council will support small-scale housing development in villages "where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community and where it meets all of the following criteria:
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."
- 5.6 As an Other Settlement in the current settlement hierarchy, to satisfy criterion 1 of the IPG the proposed development must provide support to local services including services in a village nearby. The IPG indicates that in order to be sustainable, and therefore appropriate for development, an Other Settlement must be capable of clustering with either a Service Village or a Secondary Village or with one or more Other Settlements that would jointly provide the necessary supporting services and facilities. In all cases, the settlements in question should be no more than approximately 2km apart and without significant barriers such as rivers between them. The IPG identifies Newton-on-Ouse and Linton-on-Ouse as an example of cluster villages. It therefore recognises that the two villages share a sufficient level of services and facilities to be a sustainable community. The supporting Planning Statement concurs, noting that the proposed development would be located where it can support local services in Newton and nearby Linton-on-Ouse.
- 5.7 The IPG advises that small scale development normally constitutes five or fewer dwellings. There have been no other applications within Newton-on-Ouse that have been considered under the remit of the IPG and considering the size and character of the village the proposal could be considered as a small-scale development. Noting the concerns of residents, the application site is not located in the Green Belt and any proposal for further development of the field would need to be considered on its merits, including the cumulative impact of development. It is therefore not considered that the proposal would set a precedent for further development. Overall, whilst the lack of facilities in Newton-on-Ouse is noted, given that the village forms a sustainable cluster the development is supported by the IPG in principle. The proposal is therefore considered to meet criterion 1 of the IPG and that to be small in scale, the first part of the requirements of criterion 2, in the context of the village.

The character of the area

- 5.8 The applicant contends that the proposed form, use of brick and design details would fit to the character of the village and the immediate vicinity of the site. They also consider that whilst the proposal would result in an extension of the village, it would be one directly related to the linear and in depth expansion of the village that has occurred in recent years both west and east of Back Lane. In this context they consider it is an organic development that anticipates an appropriate development pattern. The applicant also states that their proposed strategy for minimising adverse impacts is one, which when considered in the context of a minimal impact and intrusion on the openness of the fields behind, has overall no detrimental impact. Finally, they point out that the proposed development could connect into the existing infrastructure satisfactorily.
- 5.9 The area is a mix of property styles and character with modern development (e.g. Bravener Court) being a mix of two-storey and single-storey properties. Properties on Sills Lane and further south on Back Lane are close to the back of the highway with small back gardens. Further there are also large outbuildings and garages fronting Back Lane to the south. A different character exists on Cherry Tree Avenue where dwellings are predominantly older and larger.
- 5.10 The form of the village, in particular Sills Lane and opposite the application site, are dwellings which occupy a significant proportion of their plots with small back gardens, with many being bungalows. Further to the south the properties are larger and of more significant scale and mass and the proposals reflect this form of the village. The size of the rear gardens would be no different to other properties, for example Oak Tree House and Foldyard House.
- 5.11 The concerns relating to the War Memorial are noted however this is located on the highway verge to the north, next to 18 Bravener Court. The application site is some 15m to the south of the Memorial and therefore should not adversely impact on this feature.
- 5.12 It is also noted that the trees and hedgerows are a feature of Back Lane and Sills Lane. Whilst some are managed and maintained as part of residential boundaries, particularly fronting Sills Lane, the avenue of trees along the Back Lane frontage of the site, and the hedge behind them, are not. Avenues of trees are a distinctive feature of Newton on Ouse, most notably along both sides of Cherry Tree Avenue, in the heart of the Conservation Area, but the eastern side of Back Lane is also marked by a grass verge with trees planted within it. This feature is particularly strong heading south from the junction of Back Lane and Bravener Court, such that it limits the impact of the relatively modern development at Bravener Court on the character of Back Lane. The feature continues southward beyond Bravener Court, along the frontage of the application site, and the proposed positioning of dwellings and the formation of two accesses suitable for vehicular traffic across the verge would have a significant and adverse impact on this important aspect of local character.
- 5.13 The application proposes two access points. The northern access, serving plots 3 & 4, would require two wild cherry trees to be felled, both classified C1 by the applicant's tree consultant within a scale that spans A1 – A3, B1 – B3 and C1 – C3. They are described as "unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories". However, this assessment is considered to be flawed as it concentrates on each tree in isolation and does not give sufficient weight to the wider significance of the group, which forms an avenue along Back Lane at point of the transition from village to countryside. The creation of this vehicular access would introduce a significant break in the avenue of trees and also in the grass verge, both of which are important to local character.

- 5.14 The southern access, opposite Sills Lane, serving plots 1 & 2 would formalise a field access and would not require any trees to be felled. However, it would require a hard surfaced crossover to be constructed and this would have an adverse impact on the character and appearance of this section of Back Lane, albeit less than the impact of the northern access.
- 5.15 The proposed management and enhancement of the retained sections of hedgerow reflects the local character. The loss of a section to form the northern access would have an adverse impact but considerably less than that of the tree removal and the construction of the access.
- 5.16 It is considered that Plot 1 would be out of keeping with the size or bulk and mass of other properties in the vicinity of the application site on Back Lane and around Sills Lane, whilst it would be similar in built form to Mulberry Cottage further to the South with Plot 2 similar to White Rose Cottage (which neighbours Mulberry Cottage), the lack of garden and proximity to the boundaries would be out of keeping and harmful when viewed from New Road to the south..
- 5.17 Plots 3 & 4 would be dormer bungalow form (i.e. the upper floor within the roof space with dormers) with wings projecting forward to between one and two metres back from the hedge. The projecting wing to plot 4 in particular would be uncommonly close to the road, at the point where the verge is shallowest (approximately four metres). Furthermore, whilst the submitted plans suggest tree T1, a wild cherry, would not be removed, the dwelling and hard surfacing around it would occupy a quarter of the canopy area and the foundations would be approximately one metre from the trunk. Furthermore, the eaves of the projecting wing would be 3.8 metres above ground level and the ridge would be 5.5 metres above. This would be likely to require significant canopy removal. Taking all these factors into consideration it is questionable whether the tree would survive the development, with consequent adverse impact on the character of Back Lane.
- 5.18 Overall, for the reasons expressed above, it is considered that the proposal would have an adverse impact on the character of the area.

Residential amenity

- 5.19 The concerns of local residents are noted, particularly those of neighbouring properties on Bravener Court (the closest of which is number 20). The boundary of Bravener Court is relatively open to the rear with a low boundary fence bordering the application site. It is noted that the separation distance at the nearest point would be approximately 21.35m between plot 4 and 20 Bravener Court and approximately 24m to the dormer window. It is also noted that the proposal shows plots 3 and 4 as dormer bungalows which reduces the height, bulk and mass of the proposals in relation to the impact on neighbouring properties. The side facing window to plot 4 would serve a bathroom and could be safeguarded as obscure glazed.
- 5.20 It is considered that the separation distance is therefore sufficient to maintain appropriate privacy to existing and future residential occupiers.

Access

- 5.21 The application proposes two access points. It is noted that the Highway Authority did not raise an objection to the safety or character of the highway to the previous application (reference 16/00901/HYB) which included a great number of access points to Back Lane to serve five dwellings. The position of southern access

(opposite Sills Lane) is the same as previously proposed and in the same position as the current field gate.

- 5.22 The proposal includes an appropriate level of parking and therefore it is considered that it would be acceptable in this respect.

Impact on trees and the Tree Preservation Order

- 5.23 As noted at paragraph 1.3 a tree preservation order was made on 3 August 2016 following the receipt of the application and the request to consider the trees and hedgerows.
- 5.24 As noted by the Parish Council and local residents and set out earlier in this report, the wild cherry trees on the verge are an important part of the character of this part of the village. It is understood they have been managed and maintained by the Parish Council although their ownership lies with the County Council.
- 5.25 As noted earlier, the comments of the applicant's tree consultant that the trees to be removed are unremarkable, of very limited merit or impaired condition are based on an assessment that does not take full account of the value of the avenue of trees as a group.
- 5.26 In considering the proposal, it is noted that the trees that would be lost are poorer specimens in arboricultural terms; however, their removal from the avenue without replacement would have a negative impact on the character of Back Lane.
- 5.27 It is therefore considered appropriate to confirm the Order in relation to all of the trees as shown on the draft Order, i.e. T1, T2, T3, T4 and T5 (wild cherry), T6 (zelkova), T7 (red oak), T8 and T9 (sycamore) and T10 and T11 (wild cherry) which collectively contribute positively to the character of the area.

Ecology

- 5.28 The applicant has submitted an ecological report noting that presence of great crested newts (GCN) could have major impacts on the viability of the site for development and subsequently undertaken GCN survey work. GCN are fully protected through The Conservation of Habitats and Species Regulations 2010 as a European Protected Species (EPS). They also receive protection through inclusion in Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).
- 5.29 The survey revealed that a small GCN population is present at the pond, therefore any development of the site would need to be undertaken under the terms of a licence from Natural England. The precise terms of granting or not granting the licence are a consideration for Natural England. The submitted GCN survey, which is agreed by the Yorkshire Wildlife Trust, states that the pond is of sufficient distance from the application site for the impact on the species to be considered low. Development could not start unless the licence was granted but there is no evidence that harm to habitats would occur from the development.

6.0 RECOMMENDATIONS

- 6.1 That subject to any outstanding consultations the planning application is **REFUSED** for the following reasons:
1. The proposed development by reason of its impact on trees, punctuation of the grass verge with new accesses, the proximity to the front boundary, in particular Plot 1, and the lack of garden space would be out of keeping with the character of the area. As

such the proposal would be contrary to Policies CP1, CP16, CP17, DP1, DP31, DP32 and DP33 of the Hambleton Local Development Framework and guidance contained in the Council's Adopted Interim Planning Guidance and the aims and objectives of the National Planning Policy Framework.

- 6.2 That the Hambleton District Council (Newton on Ouse) Tree Preservation Order 2016 No: 9 be confirmed in relation to trees shown as T1, T2, T3, T4 and T5 (wild cherry), T6 (zelkova), T7 (red oak), T8 and T9 (sycamore) and T10 and T11 (wild cherry).