

Parish: Bagby
Ward: Bagby & Thorntons
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Committee Date: 13 October 2016
Officer dealing: Mr A Thompson
Target Date: 14 October 2016

16/01677/MRC

Removal of condition 11 (provision of affordable housing) for application reference number: 15/01499/OUT - outline application for the construction of 5 dwellings (all matters reserved)

**At Land to the East of Church Lane, Bagby
For Mr K Almond**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 The outline planning application (15/01499/OUT) was reported to Planning Committee at its meeting of 4 February 2016, where it was resolved that planning permission would be granted subject to conditions.
- 1.2 The assessment of the application took account of the Ministerial Statement "Small-scale developers" of 28 November 2014, which had prevented an affordable housing contribution being secured in line with Council policy, being declared unlawful and quashed by the High Court. On that basis, the Planning Committee's planning permission had been granted subject to securing 40% affordable housing in line with Development Plan policy by an appropriate condition. Subsequent to the Committee's resolution, the Court of Appeal overturned the High Court's decision on 11 May 2016; the Planning Practice Guidance has been updated to restore the guidance to accord with the 28 November 2014 Ministerial Statement and again it prevents affordable housing contributions being secured from schemes of this scale.
- 1.3 The application site comprises a roughly rectangular area of grazing land, equating to approximately one third of a hectare, situated on the eastern side of Church Lane and to the rear of Hill View, a dwelling on the main village street. A modern development of six dwellings, Church Close, lies on the opposite side of Church Lane. The site is outside of Development Limits.
- 1.4 The site is bounded by dense, mature landscaping to the north, east and west and from Hill View to the south by a hedgerow.
- 1.5 The site is not recorded to be at risk of flooding.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 15/01499/OUT - Outline application for the construction of 5 dwellings (all matters to be reserved) – Granted 09.02.2016

3.0 RELEVANT PLANNING POLICIES

- 3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP4 - Settlement hierarchy
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP21 - Safe response to natural and other forces
Development Policies DP1 - Protecting amenity
Development Policies DP8 - Development Limits
Development Policies DP9 - Development outside Development Limits

Development Policies DP28 - Conservation
Development Policies DP30 - Protecting the character and appearance of the countryside
Development Policies DP43 - Flooding and floodplains
National Planning Policy Framework - published 27 March 2012
Interim Policy Guidance Note - adopted by Council on 7 April 2015

4.0 OBSERVATIONS

- 4.1 Bagby & Balk Parish Council – Objects: the majority of councillors feel the developer should not be able to change conditions after they have been set and the conditions should remain.
- 4.2 Public comment – None received.

5.0 OBSERVATIONS

- 5.1 As highlighted above this submission is to amend a condition of an outline planning application where all matters, inclusive of design, layout, scale, appearance and access, had been reserved for future consideration. The application therefore seeks to establish whether the principle of development is still acceptable without the provision of affordable housing. If planning permission is granted a 'new' permission will be given and it is therefore relevant to give consideration to all the policies relevant to the decision to be made.
- 5.2 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.
- 5.3 The Core Strategy has established a Settlement Hierarchy which provides a spatial guide to the location of development. The village of Bagby contains no designated Development Limits. With this in mind 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.
- 5.4 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.
- 5.5 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 in conjunction with an updated Settlement Hierarchy (2014).
- 5.6 The approach to the consideration of new housing development depends in the first instance on the nature and number of services and facilities 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 Bagby is listed within the 2014 Settlement Hierarchy as a Secondary Village, whereas it did not feature in the 2007 Hierarchy. It is therefore currently recognised in policy terms as a sustainable location for development, even though it was not considered to be when the LDF was adopted.
- 5.7 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 (the assessment of which follows each criterion):

Development should be located where it will support local services including services in a village nearby

- 5.8 In view of Bagby's status as a Secondary Village, this criterion is met.

Development must be small in scale, reflecting the existing built form and character of the village

- 5.9 Bagby is characterised by a linear pattern of development which fronts the main village street. The northern side of the road includes examples of developments, such as Church Close and Sandown Close, which are set behind the village street frontage. The proposed development is considered to be consistent with this approach and has the ability to provide a form of development consistent with the character of the village by dwellings fronting Church Lane. Considering the scale and character of the village, the provision of 5 dwellings would be "small scale" as outlined under the IPG and appropriate to Bagby.

Development must not have a detrimental impact on the natural, built and historic environment

- 5.10 The historic pattern of development in Bagby has evolved in recent years, the aforementioned development of Church Close being a prime example. The redevelopment of this site would continue that approach, but with the opportunity to secure more traditional frontage development. The site could therefore be developed in a way well related to the built form of the village. The development of this site is not considered to pose a risk to any designated heritage or natural assets, the nearest being St Mary's Church (approximately 40m from the site), Bagby Hall (approximately 80m from the site) and East Farm House (approximately 50m from the site), all listed grade II.

Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements

- 5.11 The site is closely associated with the village and the open countryside beyond would therefore be perceived as remaining intact. To the north of the village street, St Mary's Church forms the outer limit of the village and the development of the site would not alter that, or lead to the coalescence of settlements.

Development must be capable of being accommodated within the capacity of existing or planned infrastructure

- 5.12 The small scale nature of the development and the close proximity to the established pattern of development is such that, in the absence of evidence to the contrary the scheme is considered to be capable of being accommodated within the capacity of existing or planned infrastructure.

Development must conform with all other relevant LDF policies

- 5.13 As noted above this application seeks to establish the principle of development only. Consequently, compliance with all other relevant LDF policies relating to issues inclusive of design, layout, scale, appearance and access, are reserved for future consideration. The proposals would continue to be subject to the provisions of the Community Infrastructure Levy (CIL). The implications of the loss of affordable

housing are regrettable but it is considered this does not result on balance in the scheme being unacceptable.

- 5.14 With the above in mind it is concluded that the principle of development is still acceptable in this instance, with all matters reserved for future consideration.

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 the decision to planning permission 15/01499/OUT (i.e. 09.02.2016) 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 planning permission 15/01499/OUT (i.e. 09.02.2016); 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 any above ground construction 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. Prior to any above ground construction commencing a detailed landscaping scheme indicating the type, height, species and location of all new trees and shrubs, shall be 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.

Informatives

1. You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in condition 10.
2. The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development - A Guide' available at www.northyorks.gov.uk.
3. An explanation of the terms used in condition 8 is available from the Highway Authority.
4. The works referred to condition 8 shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level.
5. This planning permission is liable to the Community Infrastructure Levy adopted by Hambleton District Council on 7th April 2015.
6. The applicant is advised that prior to the initial occupation of any individual dwelling hereby permitted, the following bins and recycling box conforming to European Standard EN840 should be provided by the developer for the exclusive use of the occupants of that dwelling:
 - 1 x 240 litre black wheeled bin for general waste
 - 1 x 240 litre green wheeled bin for garden waste
 - 1 x 240 litre black wheeled bin with a blue lid for mixed household recycling; and
 - 1 x 55 litre blue recycling box for glass bottles and jars.

In order to guarantee EN840 compliance the Council will only collect from bins and boxes sourced from its own Neighbourhood Services. If the developer does not pay for bins and boxes, each new resident will be required to pay for them. In the event that no payment is made, the Council will not collect waste and recycling from the dwelling concerned.

Further details of the Council's Waste and Recycling Collection Policy and the charges for bins and boxes is available at www.hambleton.gov.uk or by telephoning 01609 779977