

**Parish: Kirkby**  
Ward: Stokesley  
**5**

Committee date: 30 March 2017  
Officer dealing: Mr K Ayrton  
Target date: 3 April 2017

**16/02525/MRC**

**Variation of condition 2 of planning permission 15/02246/FUL - Demolition of buildings, construction of 5 dwellings with associated access, garaging and parking and private amenity space and change of use of part of the land from agricultural to domestic, change of use of part of the site from agricultural to allotments, change of use of part of the site from agricultural to recreational keeping and grazing of horses and construction of one stable building**

**At Land and buildings at rear of Kirkby House Farm, Hill Road, Kirkby in Cleveland  
For Mr & Mrs Rowland and Jane Holmes-Smith**

## **1.0 SITE, CONTEXT AND PROPOSAL**

- 1.1 The site lies behind frontage properties on the east side of Hill Road, approximately 70m south of the village crossroads. The site is accessed by a concrete road, approximately 5m wide, between the gable ends of Kirkby House Farm (dwelling) and Heather House. The site lies just outside the south east extent of the Kirkby in Cleveland Conservation Area.
- 1.2 The site includes a farm yard which includes 3 large agricultural sheds, a timber single storey building, and a pair of brick stable buildings. Agricultural use appears to have ceased. To the east of the farm yard, the wider site includes agricultural land extending to a beck. The total site area is stated to be 2.07ha, of which the farmyard is 0.46ha. The surroundings include residential property fronting Hill Road and Kirkby Road. A public right of way runs through the site from an access point on the south side of the existing farm buildings.
- 1.3 The site lies outside, but in part adjacent to the Conservation Area.
- 1.4 The application seeks to vary the drawings relating to a planning permission granted in August 2016 for:
- Demolition of buildings;
  - Construction of 5 dwellings with associated access, garaging and parking and private amenity space;
  - Change of use of part of the land from agricultural to domestic;
  - Change of use of part of the site from agricultural to allotments;
  - Change of use of part of the site from agricultural to recreational keeping and grazing of horses; and
  - Construction of one stable building.
- 1.5 Since planning permission was granted the applicant has received interest in some of the plots from self-builders. As a result, individuals have each identified their own requirements, which have resulted in amendments to the approved scheme, primarily in the design of the five dwellings. This application has been made to secure these amendments to the original permission.
- 1.6 The applicant has submitted amended plans during the consideration of the application in an attempt to address comments made by the public and Parish Council.

1.7 The most up to date package of amendments includes:

- Plot 1 - Internal layout revised, with consequent minor increase in overall floor area;
- Plot 2 - Minor amendments to existing design proposals;
- Plot 3 - Design revised, retaining general form and character of original scheme but with consequent decrease in overall floor area. This element was amended during the consideration of the application, which is now closer to the originally approved elevation with a simpler form and rationalised fenestration;
- Plot 4 - Internal layout revised to achieve through living room with southern aspect resulting in slight increase in floor area;
- Plot 5 - Internal layout revised to increase living space and provide access to front door via porch, rather than through carport, resulting in slight increase in floor area;
- Boundary between the site and an adjacent paddock to the north has been rationalised, following agreement to land swap with owners of Otter's Hill, with consequent reduction of 27sqm in overall area of land accommodating residential development; and
- Additional allotment included for use by prospective resident, together with formation of access track, resulting in increase of 240sqm in area of allotment land and consequent reduction in area of a paddock to the south.

1.8 The applicant has submitted an extensive amount of information in support of the proposed amendments and clearly set out all the proposed changes in a detailed supporting schedule.

1.9 This application is referred to Planning Committee at the request of Councillor Wake.

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

2.1 10/00095/FUL - Construction of six holiday cottages and change of use of agricultural land to garden; Withdrawn 10 May 2010.

2.2 10/02927/FUL - Revised application for the construction of six holiday cottages and change of use of agricultural land to domestic garden; Refused 4 February 2011, Appeal dismissed 28 June 2011.

2.3 15/02246/FUL - Demolition of buildings, construction of 5 dwellings with associated access, garaging and parking and private amenity space and change of use of part of the land from agricultural to domestic, change of use of part of the site from agricultural to allotments, change of use of part of the site from agricultural to recreational keeping and grazing of horses and construction of one stable building; Granted 19 August 2016.

## **3.0 RELEVANT PLANNING POLICIES**

3.1 The relevant policies are:

Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 – Access

Development Policies DP3 – Site Accessibility

Development Policies DP1 - Protecting amenity

Core Strategy Policy CP4 - Settlement hierarchy

Development Policies DP9 – Development outside Development Limits

Core Strategy Policy CP9 - Affordable housing

Development Policies DP15 - Promoting and maintaining affordable housing  
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 CP17 - Promoting high quality design  
Development Policies DP32 - General design  
Core Strategy Policy CP19 - Recreational facilities and amenity open space  
Development Policies DP39 - Recreational links  
Core Strategy Policy CP21 - Safe response to natural and other forces  
Development Policies DP43 - Flooding and floodplains  
Interim Guidance Note - adopted by Council on 7th April 2015  
National Planning Policy Framework (NPPF)

## **4.0 CONSULTATIONS**

- 4.1 Parish Council – The Parish Council has made comments in relation to the plans as originally submitted and the subsequent amendments. The Parish Council has concerns over the proposed access arrangements to the allotments and southern stable building. Their preference would be for the access to pass round the edge of the allotments.

The original comments from the Parish Council also made comments in respect of the design moving away from the original permission. However, these have been largely addressed by the amended plans submitted during the consideration of the application.

- 4.2 Historic England – The application should be determined in accordance with the national and local policy guidance.
- 4.3 Environmental Health – No objections
- 4.4 Northumbrian Water – No comments to make.
- 4.5 Contaminated Land – No objection subject to condition requiring an assessment and any subsequent mitigation measures to be implemented.
- 4.6 Highways – No objections.
- 4.7 Public comments – 8 letters of objection have been received making the comments set out below. More letters have been received during the consideration of the application. However, several of these have been superseded during the consideration of the application.
- Some of the comments in the supporting statement are not accurate;
  - The development, including the increased size of the allotments, will have an impact on an open view;
  - The access track for the allotments is not necessary;
  - The changes to the elevational treatments will result in a loss of privacy;
  - The development will result in light pollution;
  - The proposal for allotment boundary divisions further dilutes the concept of a traditional village and rural characteristic and weakens the notion of the development as a “traditional farmyard”;
  - Objection to the large number of gates proposed; and
  - The development would be much higher than the existing and surrounding development.

4.8 Three letters of support making the following comments:

- The changes have little bearing on the overall project;
- This is likely to be the most sympathetic development of the old Kirkby Farm site;
- Five reasonably-sized dwellings arranged in a "Farmhouse and Farm buildings" pattern would seem to be an appropriate design for the site and the few changes in design requested by prospective purchasers do not seem big enough to alter the original decision of the Planning Committee; and
- It is important to protect existing rights of way.

## 5.0 OBSERVATIONS

5.1 The principle of development has already been established and is not the subject of this application. The original decision also addressed matters in respect of highways, ecology and affordable housing.

5.2 The main issues to consider in this application are (i) the impact of the changes on the character and design of the proposed development; and (ii) the impact on the residential amenity of nearby occupiers.

5.3 The amendments include the creation of a garden room for plot 2 (Barn 1), which is linked to the garage building. The Parish Council has queried the potential use of this and whether it could be used as a dwelling in the future. The applicant has explained that the future intention is for this to serve a natural swimming pond, although this is not yet definite and would be the subject of a future planning application. The scale of the structure and its relationship with the host dwelling removes concern that it could be used as a separate dwelling, which in any event would require planning permission in its own right.

### Character and Design

5.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to have special regard to the desirability of preserving or enhancing the character or appearance of the Kirkby Conservation Area. In this instance, the site adjoins the Conservation Area, therefore the impact on the setting of the Conservation Area needs to be considered.

5.5 The changes made to the application do not make significant alterations to the layout or scale of development. It is still based on a semi-enclosed group of buildings based on traditional forms which will maintain the character of the village and is considered to respond positively to its setting and will preserve the character and appearance of the Conservation Area.

5.6 Policy DP32 requires that the design of all developments must be of the highest quality. In determining the previous application, it was concluded that the proposed dwellings made a successful attempt to suggest a hierarchy of dwellings that might arise from the development of barns and ancillary buildings around a farm house, providing a pleasing variety of unique designs.

5.7 There are several changes proposed as part of the application, which relate to all five dwellings and associated works (e.g. allotments). Once these have been individually broken down, it is apparent that the changes proposed are relatively minor. However, there is a benefit in receiving them as part of a single application as it has retained a degree of control over the overall character and design of the site.

5.8 The changes proposed to all five dwellings are considered to be acceptable and would continue to deliver a high quality development. It is noted that the comments

from the public and Parish Council have raised particular concerns with plot 3 (Barn 2). This dwelling has been the subject of the most amendments, most notably the removal of the wing extending east from the main part of the building and the increased fenestration on the eastern elevation. The applicant responded to the concerns raised during the consideration of the application, which has resulted in a more rationalised treatment of the fenestration. The proposed design is consistent with the overall character of development and is considered to be acceptable.

- 5.9 The amendments include an additional allotment for use by a prospective resident, together with the formation of an internal access track. There is no objection to the additional land used for the allotment. Comments from the public have raised concern over the access arrangements. However the design of the track is of a suitable width for the purpose it serves and will fit in with the overall mix of hard and soft landscaping.
- 5.10 The above assessment leads to the conclusion that the proposed design remains of a high quality that responds positively to its setting and preserves the character of the adjoining Conservation Area.

#### Neighbour Amenity

- 5.11 The layout is consistent with that previously approved, where it was concluded that the proposal would not result in an unacceptable loss of privacy for the occupants of neighbouring properties. The separation distances between the proposed dwellings and properties to the west and north (Kirkby Lane) of the site ensure that the scheme would not result in a detrimental level of overlooking.
- 5.12 Whilst the track to the allotments would undoubtedly be used by vehicles, it is considered that this would be on a very limited basis and therefore would not be to the detriment of the amenity of nearby occupants.

### **6.0 RECOMMENDATION**

- 6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:
1. The development hereby permitted shall be begun within three years of the date of the original permission (15/02246/FUL), which was approved on the 19/08/2016.
  2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 01 Rev F; 02 Rev D; 04 Rev G; 05 Rev F; 06 Rev B; 07/1 Rev B; 07/02 Rev B; 08 Rev B; 09 Rev B; 10 Rev C; 11 Rev D; 12 Rev B; 13 Rev B; 14 Rev D; 15 Rev D; 16 Rev C; 17 Rev D; 18 Rev B; 20 Rev A; 21 Rev D; received by Hambleton District Council on 13/03/2017 unless otherwise approved in writing by the Local Planning Authority.
  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 hereby approved shall not be commenced until details of the foul sewage and surface water disposal facilities have been submitted and approved in writing by the Local Planning Authority.

5. The use of the development hereby approved shall not be commenced until the foul sewage and surface water disposal facilities have been constructed and brought into use in accordance with the details approved under condition 4 above.
6. The development shall not be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority.
7. No dwelling shall 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 6 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.
8. 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 part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless the approved scheme has been completed. 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.
9. 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 for 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.
10. No development shall take place until the Public Right of Way diversion has been confirmed.
11. Unless otherwise approved in writing by the Local Planning Authority, the allotment gardens hereby approved shall be used solely for recreational gardening ancillary to the domestic occupation of Kirkby House Farm and/or residents of the dwellings hereby approved and not for any other public or private use.
12. The stable hereby approved shall be used only for stabling and equestrian related storage in association with the domestic occupation of a single dwelling and not for any other business or recreational activity.
13. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order for the time being in force relating to 'permitted development' there shall be no structures or fencing of any sort erected on the land without the consent in writing of the Local Planning Authority.
14. There shall be no burning of manure on site and no storage of manure except in accordance with a scheme previously approved in writing by the Local Planning Authority.
15. No bins shall be stored on the collection point hereby approved except on the relevant collection day and the day preceding.
16. 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 in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

17. 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 until: (i) The details of the following off site required highway improvement works, works listed below have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority: a. Build out and alterations to the give way line and other lining in the vicinity of the Hill Road/Kirkby Lane junction; (ii) An independent Stage 2 Road Safety Audit for the agreed off site highway works has been carried out in accordance with HD19/15 - Road Safety Audit or any superseding regulations and the recommendations of the Audit have been addressed in the proposed works; and (iii) A programme for the completion of the proposed works has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
18. No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing 05 Rev F. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
19. 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 in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway 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 in consultation with the Highway Authority agrees in writing to their withdrawal.
20. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase: a. the parking of vehicles of site operatives and visitors; b. loading and unloading of plant and materials; c. storage of plant and materials used in constructing the development; d. wheel washing facilities; e. measures to control the emission of dust and dirt during construction; and f construction access to the site.
21. The houses hereby approved shall not be occupied unless there has been implemented compensatory measures to ensure the conservation status of the local bat population in accordance with the scheme set out in Reasoned risk assessment for bats and barn owls dated September 2015 by Barrett Environmental Ltd received by Hambleton District Council 7 October 2015 as part of application ref: 15/02246/FUL.
22. Before the last house hereby approved is brought into use, the temporary haul road and access hereby approved shall be removed and permanently closed-off, the hedge re-instated, the grass verge made good and the highway made good in accordance with details that shall first have been approved in writing by the Local

Planning Authority. After such closure, no new access shall be created without the prior approval of the Local Planning Authority.

23. 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 temporary access to the site has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements: (a) The temporary construction access shall be located on Hill Road with its centre 18 metres to the south of the boundary with the property known as Meadowfields. It shall be constructed as shown on the submitted drawing reference "Proposed Temporary Construction Access from Hill Road-Revision D" and in accordance with Standard Detail number E7 (concrete or tarmac); and (b) Any gates or barriers shall be erected a minimum distance of 10 metres back from the carriageway of the existing highway and shall not be able to swing over the existing highway.
24. No external lighting shall be installed other than in complete accordance with a scheme that has previously been 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. 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 CP17 and DP32.
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 avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43
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6. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
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8. In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy DP32.
9. To ensure that the development is appropriate to the amenities of the surroundings in accordance with Local Development Framework Policy CP1 and DP1.
10. To ensure that the reasonable enjoyment of the use of the public right of way which crosses the land of the application site is not harmed by commencement of development in accordance with the Local Development Framework Policies CP19 and DP39.



11. To enable the local planning authority to assess the impact of any alternative use, in accordance with the policies of the local plan.
12. In order that the Council can assess the impact of any alternative use, in accordance with the policies of the Local Plan.
13. In the interests of the open character of the countryside, and the amenities of neighbouring occupiers in accordance with Local Development Framework Policy CP16, DP 30, CP1 and DP1.
14. In the interests of the amenities of neighbouring occupiers, in accordance with Local Development Framework Policy CP1 and DP1.
15. In the interests of the amenities of neighbouring occupiers, in accordance with Local Development Framework Policy CP1 and DP1.
16. In accordance with policy CP2 and DP4 and in the interests of highway safety.
17. In accordance with policy CP2 and DP4 and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.
18. In accordance with policy CP2 and DP4 and to provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.
19. In accordance with policy CP2 and DP4 and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
20. In the interest of safety and the general amenity of the development.
21. In the interests of nature conservation, in accordance with Local Development Framework policy CP16 and DP31.
22. In the interests of highway safety.
23. To ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience
24. In order that the Local Planning Authority can consider the impact of the proposed lighting scheme and avoid environmental pollution in accordance with Hambleton District Wide Local Plan Policy PH1.

#### Informatives

1. It is expected that details submitted in connection with conditions 7 and 8 will include provision for hedging on outer boundaries.
2. There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.
3. 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 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 Waste and Street Scene 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](http://www.hambleton.gov.uk) or by telephoning 01609 779977.