

Parish: Thornton le Moor
Ward: Bagby & Thorntons
12

Committee date: 14 September 2017
Officer dealing: Mr K Ayrton
Target date: 18 August 2017

16/01871/FUL

Alterations and extension to public house and construction of 3 dwellings with garages as amended by details received by Hambleton District Council on 15th May 2017

At Black Swan, Main Street, Thornton Le Moor
For Mr C Sayer

This application is referred to Planning Committee as the proposal is a departure from the Development Plan

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 The site is located centrally within the settlement of Thornton Le Moor, which is approximately 5km to the south of Northallerton. It currently accommodates a public house, which is sited in-line with the adjacent residential development, fronting onto the road that passes through the village. A car park is located to the front of the site. The application form confirms that the public house has been closed since July 2014. It has been formally designated as an Asset of Community Value.
- 1.2 There is an access road that passes alongside the western gable of the public house and links to:
- A second car park that serves the public house. Some of the spaces have been used by occupants of neighbouring properties. The supporting planning statement advises that there are four properties that have pedestrian and vehicular rights of way across the rear car park to access their land.
 - Chestnuts Caravan park which is located to the rear of the site.
- 1.3 The surrounding area is predominantly residential, with the built form being characterised by linear development fronting onto the main road. There are examples of development set behind the main frontage. However this character tends to be more secondary or commercial in appearance with only limited examples of residential development extending back from the main built frontage.
- 1.4 The site itself has a back-land feel with unsightly modern extensions to the rear of the public house and rear garden boundary treatments facing onto the large extent of hardstanding that serves as the car park. The caravan park to the rear is distinct from the wider countryside, which is separated with hedgerow and tree planting.
- 1.5 The scheme is for the construction of 3 dwellings in the rear car park and alterations and extension to the public house. As part of the development the amount of car parking would be reduced, with the focus being on the remaining car park to the front, which would be rearranged with the removal of the telegraph pole and phone box. The remaining car park would provide 14 spaces.
- 1.6 The public house at present has 272 sqm of accommodation at ground floor level and a first floor that accommodates 4 en-suite bedrooms (bed and breakfast) and one staff bedroom. The alterations to the public house include the part demolition, extension and reconfiguration of the internal layout in order to make it a more attractive and viable proposition to publicans. The resultant public house will have a

reduced ground floor area of 156 sqm and the first floor will be used as a self-contained flat for the owner/tenants of the public house.

1.7 Improvements have been secured as follows:

- The originally submitted planning application included plans for 3 detached dwellings of a standard design. Officers considered that the detached dwellings proposed did not respond positively to the existing scale and grain of development. Being sited to the rear of the established building line, it was felt that they failed to respond to this context.
- In response the agent submitted plans for the same amount of development (i.e. 3 dwellings) but with amendments to the layout and form. This reduced the height of the dwellings and aimed to introduce a design which re-enforced the architectural character of the area, moving away from the standard dwelling design. The proposed layout plans show 5 'community car parking spaces for the owners of the properties that have access rights over the rear car park along with 2 car parking spaces per dwelling (including the flat above the public house).

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

2.1 07/00290/FUL - Change of use of first floor staff accommodation of existing public house to bed and breakfast and staff accommodation – Approved 30/03/2007

16/02039/FUL - Site to rear (Chestnuts Park, Thornton Le Moor) - To increase number of pitches on existing caravan site to exceed no more than 26. – Pending Consideration

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Policy CP1 - Sustainable development
Core Policy CP2 – Access
Core Policy CP3 – Community Assets
Core Policy CP4 - Settlement hierarchy
Core Policy CP8 -Type, Size and Tenure of Housing
Core Policy CP16 – Protecting and enhancing natural and man-made assets
Core Policy CP17 – Promote high quality design
Development Policy DP1 - Protecting amenity
Development Policy DP3 – Site Accessibility
Development Policy DP4 - Access for all
Development Policy DP9 – Development outside Development Limits
Development Policy DP13 – Achieving and maintaining the right mix of housing
Development Policy DP30 – Protecting the character and appearance of the countryside
Development Policy DP32 – General Design
Interim Policy Guidance Note – adopted by Council on 7th April 2015
National Planning Policy Framework - published 27 March 2012

4.0 CONSULTATIONS

4.1 Parish Council – The majority of councillors (apart from 1) were in favour of this application provided the Black Swan is renovated before the houses are completed and marketed and the neighbouring residents will have allocated parking at the rear of their properties.

4.2 Highway Authority – No objection subject to conditions.

4.3 Environmental Health: The proposed development includes the construction of 3 residential dwellings in close proximity to the public house. We are concerned that noise, odour and lighting from the activities at the public house may cause nuisance to the occupier of the premises and recommend the following conditions:

- The hours of use of the beer garden are restricted to 11.00am to 10.00pm daily.
- No music shall be played through external speakers in the beer garden.
- Use of bottle bins are restricted to 11.00am to 10.00pm daily.
- Deliveries to public house are restricted to between 7.00am and 8.00pm daily.
- Details of any ventilation and fume extraction systems to be installed, including details of the emissions, methods of treatment to remove odour, particles or droplets and discharge points shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement.
- Details of any external lighting to the rear of the public house site shall be submitted to, and approved in writing by the Local Planning Authority prior to the development commencing to and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting into the residential premises to the rear of the public house.

In addition to 2m fence proposed to the beer garden shall be of close fitting timber board construction to reduce noise level at the residential premises.

4.4 Contaminated Land Officer: No objections subject to conditions.

4.5 Public comments – 21 letters of objection (including one signed by 9 residents) received making the following comments:

- A solid block of houses would be too overpowering on the cottages.
- Who will be responsible for the upkeep of the road?
- The pub must be brought back into a going concern before the houses are built.
- Concerns that the parking provision will be harmful to highway safety.
- The proposed gardens are too small.
- The owner has obviously bought it as a building site.
- The reduction in the size of the pub will impact the social aspect of village activities.
- Impact on sewers.
- The pub is being altered in a way that would make it easily converted into residential use.
- Concern over the impact from the beer garden.
- No objection to the pub but do object to the dwellings.
- There is no special justification for this development.
- Approval would set a precedent for back-land development. Two storey dwellings are inappropriate.
- The dwellings would impact our maintenance arrangements.
- Potential overlooking from gable window.
- No details of surface water drainage have been submitted.
- The development will put a strain on existing infrastructure.
- Overdevelopment of the site.

14 letters of support received making the following comments:

- I recognise that the development is needed to support the creation of a village pub.
- The revised application provides the best opportunity of ensuring the development of the community asset.
- The layout of the dwellings in the re-submitted plans have a more traditional look with a lower roofline and are more in keeping with this area.
- I note that the community parking spaces are shown on the plans, this should be seen as a benefit to surrounding properties which currently do not have an entitlement to park in that area.
- Regarding this proposed development, I think that this is the best compromise for the village to get its pub back. The pub would seem not to be viable in its previous form with a large, soulless dining area.
- Hopefully, the centrally based pub could (once again) provide an additional important 'hub' for the community.
- A well-managed pub could thrive in a village which has a strong sense of community and will also create employment opportunities.
- My decision to move into the village four years ago was strongly influenced by the presence of a village pub at the centre of the community, I'm certain that I'm not alone on this, particularly as it's the only outlet within the village.
- Building on the mainly empty and barren rear car park and away from the back of the existing 2 semi-detached houses would also improve the area there.

Members should note that the full letters can be viewed on the Council's website.

5.0 OBSERVATIONS

- 5.1 The main issues to consider are: (i) the principle of development; (ii) the impact on the character and appearance of the surrounding countryside; (iii) the impact on residential amenity; and (iv) highway safety.

Principle of Development

- 5.2 Thornton le Moor is beyond any Development Limits identified in the Local Development Framework (LDF). Therefore development is only considered acceptable under LDF policies in exceptional circumstances, set out in Policy CP4. The applicant does not claim any of the exceptional circumstances identified in that policy and as such the proposal is a departure from the Development Plan. However, it is also necessary to consider more recent national policy in the form of the National Planning Policy Framework (NPPF) published in March 2012. Paragraph 55 of the NPPF states:

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

- 5.3 To ensure consistent interpretation of the NPPF alongside Policies CP4 and DP9, 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 new housing in villages.
- 5.4 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.
- 5.5 In the Settlement Hierarchy reproduced in the IPG Thornton le Moor is identified as an Other Settlement. This status recognises its relatively limited range of services and facilities. Therefore it would need to form a cluster with a Secondary or Service Village or one or more Other Settlements. Where a cluster comprises only Other Settlements, they must have a good collective level of shared service provision in order to comply with criterion 1 of the IPG.
- 5.6 South Otterington, which is a Secondary Village, is the largest settlement in close proximity at approximately 1.5km. Newby Wiske (an Other Settlement) is located a little further to the west. The IPG notes that in order to form a sustainable community, villages must be clustered with other settlements where there are no significant distances or barriers between them. The IPG defines "significant distance" as approximately 2km. It is therefore considered that Thornton le Moor can be viewed as an example of a cluster village with South Otterington and Newby Wiske. It is considered that criterion 1 of the IPG would be satisfied and the principle of development is therefore acceptable.
- 5.7 Another key consideration in terms of the principle of development is the impact of the development on the public house, which has been closed since July 2014. The proposal includes the remodelling of the public house, which will effectively reduce the ground floor area of the public house, with a first floor flat. It is not clear, from the supporting statements, what the reasoning behind this is, however it is understood that the works and reduced area would deliver a more attractive (in terms of the market) public house.
- 5.8 The application has been supported by a viability report which states that 'it would not be viable to bring the pub back into use in isolation in its current form and condition. The report identifies that there is a need for 'enabling' development to make the development more viable as a whole. The report includes evidence to indicate that a large number of public houses have been sold over the last 4 years (that) have been refurbished and subsequently leased. Much of the site (the large rear car park) is not considered necessary to the beneficial running of the public house and as such is not contributing to the value of the site.
- 5.9 It is considered that sufficient evidence has been provided to demonstrate that the proposed development would improve the prospects of the public house being reopened, but would not guarantee it. However, it would be unrealistic of a planning application to be able to deliver this. The purpose of the application is to make the public house offer, more attractive to a potential purchaser.
- 5.10 The applicant has also confirmed that they would be happy to accept a planning condition requiring the works to the public house to be undertaken prior to the commencement of works to the proposed dwellings. This would avoid the need for a legal agreement. It is considered to be unreasonable to require the public house to

be re-opened prior to the commencement of works to the dwellings, in particular, due to the support offered to the development of the site under the Interim Policy Guidance.

- 5.11 In support of the proposal, it is recognised that there is policy support for the retention and creation of community facilities such as public houses. This is recognition of the benefits they can deliver to rural settlements. Policy CP4 permits development beyond the development limits where it would support the social and economic regeneration of rural areas. Policy DP5 – Community Facilities, expands on this by stating that support will be given to the provisions and enhancement of community facilities, and to their retention, where these constitute important contributions to the quality of local community life and maintenance of sustainable communities.
- 5.12 This local policy is reflected in Section 3 of the NPPF, which states that planning policies should support sustainable rural tourism and leisure development that benefits businesses in rural areas, communities and visitors, and which respect the character of the countryside; and perhaps more importantly, promote the retention and development of local services and community facilities in villages, such as local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.
- 5.13 The supporting planning statement sets out how the public house has been marketed by two different estate agents. The first was Hilton Smyth, with no interest shown. The pub was then marketed by James A Baker, a national pub specialist. This resulted in only 4 viewings with no follow up. It is suggested that alongside the decline in the pub industry, a reason for the lack of interest was due to the level of investment required to bring the property back to a modern standard. As a result of the marketing the property was purchased by the current applicant. They originally explored converting the public house to residential. However, due to what they saw as a high local demand to retain the public house, they explored alternative options, resulting in the current proposal.
- 5.14 In the balance of considerations, some weight is given to the increased likelihood that the public house will be brought back into beneficial use for the community, although as stated previously it is not possible to guarantee that this will happen.

Character and Appearance

- 5.15 IPG criterion 2 requires development to be small scale. The guidance indicates this is normally up to five dwellings; however that does not automatically mean that five dwellings would be appropriate in every settlement. In this instance a net increase of three dwellings is proposed, which is considered to be an acceptable scale, particularly when considering that the site is located at the centre of the settlement. The question of the cumulative growth of the village also requires consideration. There have been other residential developments approved in Thornton le Moor since the adoption of the Interim Planning Guidance. However these have related to the western edge of the village and are not viewed in the same context as the application site. Therefore the cumulative housing growth is not considered to be harmful.
- 5.16 Along with the remainder of criterion 2, criteria 3 and 4 require consideration to be given to the impact of the development on the surrounding natural environment and physical built form. This is consistent with other policies in the Local Plan.
- 5.17 As set out in the introduction, there was concern with the original plans, as they did not respond positively to the built form of the area. The amended plans are considered to be a significant improvement. Most notably the design has been amended to better reflect the back-land character of the site; with a reduction in ridge

height and alternative approach to the design, making use the roof-space, which helps reduce the mass of the development.

Design

- 5.18 One of Hambleton's strategic planning objectives, set out in The Core Strategy Local Development Document (2007), is "To protect and enhance the historic heritage and the unique character and identity of the towns and villages by ensuring that new developments are appropriate in terms of scale and location in the context of settlement form and character."
- 5.19 Policies CP17 and DP32 require the highest quality of creative, innovative and sustainable design for buildings and landscaping that take account of local character and setting, promote local identity and distinctiveness and are appropriate in terms of use, movement, form and space.
- 5.20 Improvements have been sought to the design, as set out earlier in this report. The result is a simple, but traditional design that responds to back-land setting. In addition to the low eaves and ridge height, architectural detailing such as brick relieving arches, dentilation and barn/workshop openings have been incorporated. This design approach softens the potential conflict with the predominantly linear nature of development in the area. Having also taken into consideration the existing use of the site as a car park, with a caravan park to the rear, the overall design is considered to be acceptable. The surrounding land uses also minimises any impact on the wider countryside to the south of the site.
- 5.21 The proposed works to the public house will result in an overall improvement to the appearance of the site and the public house itself.
- 5.22 Having established that the proposed development will increase the likelihood that the public house will be brought back into beneficial use for the community, it is concluded that whilst the position of the site is not ideal in terms of its relationship to the built form, it is considered that the combination of the wider benefits of the scheme, the improved design that responds more positively to its immediate context, and its existing relationship with the wider countryside, the proposal would not result in a level of harm to the surrounding natural and built environment that would warrant a recommendation of refusal.

Residential Amenity

- 5.23 Several letters of objection have been received in respect the impact of the development on residential amenity. This is in respect of both the alterations to the public house; and the new build residential development.
- 5.24 The alterations to the public house are not introducing a new use to the area, but the proposed intention is to bring it back into use. The plans identify a beer garden and smoking area to the side and rear, enclosed by a fence. Environmental health have commented on the application and have advised that there is some potential for a nuisance to be caused and have therefore proposed conditions on the use of the outdoor areas, the playing of music, delivery times and use of bottle bins, extract facilitates and outdoor lighting. In addition they have advised that the boundary fencing around the beer garden should be close boarded timer to help reduce noise levels.
- 5.25 The first floor extension to the public house is sited away from the boundary with the neighbouring property in order to accord with the 45 degree rule daylighting requirement in relation to the neighbouring residential property.

- 5.26 The proposed new dwellings have been sited approximately 23-26 metres away from the rear of the main elevations of the adjoining public house, although there are out-buildings and extensions that are sited closer, which tend to include garages. The amended design has reduced the scale of development, with 1 ½ storey elements been sited closest to the neighbouring properties and the 2 storey element being sited directly behind the public house. It is therefore considered that the proposed development would not unacceptably impact upon the amenity of neighbours and as such accords with Policy DP1.

Highway Safety

- 5.27 The proposal will result in a reduction in the total on-site car parking spaces. The agent has highlighted the proposed removal of the restaurant and bed and breakfast elements from the public house, which they considered to be the main traffic generators.
- 5.28 The houses will be accessed via the existing access to the side of the public house, which also serves the caravan park beyond. Significant concerns have been raised by neighbours over the impact on their existing access arrangements. However, it is accepted that there is a degree of overlap between private ownership rights and planning considerations. In this instance the proposed layout provides sufficient on-site car parking and manoeuvring space for the proposed development. The specific matters relating to legal access issues are not considered to be material to the consideration of the application.
- 5.29 The local highway authority has given consideration to the application and raised no objection, subject to conditions.

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 this permission.
 2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 129:15/02 Rev D, 129:15/03 Rev A received by Hambleton District Council on 15 May 2017 unless otherwise approved in writing by the Local Planning Authority.
 3. No above ground construction work shall be undertaken until details and samples of the materials to be used in the construction of the external surfaces of the development have been made available on the application site for inspection (and the Local Planning Authority have been advised that the materials are on site) and the materials have been approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials in accordance with the approved method.
 4. No work shall commence on the approved dwellings until all the proposed works to the public house shown on plan ref: 129:15/02 Rev D have been completed as detailed in the schedule of condition report dated 11 October 2015 prepared by Barrington Wearmoth Commercial Chartered Surveyors and quotation of work dated 5 November 2015 provided by Shaun Lincoln Builders, both received by Hambleton District Council on 18 August 2016.

5. 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.
6. 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 5 above.
7. The hours of use of the beer garden are restricted to 11.00am to 10.00pm daily.
8. No music shall be played through external speakers in the beer garden.
9. Use of bottle bins are restricted to 11.00am to 10.00pm daily.
10. Deliveries to public house are restricted to between 7.00am and 8.00pm daily.
11. Details of any ventilation and fume extraction systems to be installed, including details of the emissions, methods of treatment to remove odour, particles or droplets and discharge points shall be submitted to and agreed in writing by the Local Planning Authority prior to their installation.
12. 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.
13. If contamination is found or suspected at any time during development that was not previously identified all works shall cease and the LPA shall be notified in writing immediately. No further works (other than approved remediation measures) shall be undertaken or the development occupied until an investigation and risk assessment carried out in accordance with CLR11, has been submitted to and approved in writing by the LPA. Where remediation is necessary a scheme for the remediation of any contamination shall be submitted and approved by the LPA before any further development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.
14. Soils shall not be imported or re-used on the development site unless they have been subject to sampling and chemical analysis that demonstrates they are suitable for use on the site. Before importation or re-use commences a soil sampling and analysis scheme, specifying the location, number of samples to be taken and parameters tested, shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved soil sampling and analysis scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.
15. No part of the development shall be brought into use until the approved vehicle parking, manoeuvring and turning areas have been constructed and marked out in accordance with the submitted drawing (Reference 129:15/02 Rev.D). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
16. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 or any subsequent Order, the garage(s) shall

not be converted into domestic accommodation without the granting of an appropriate planning permission.

17. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of: a. on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway b. on-site materials storage area capable of accommodating all materials required for the operation of the site. c. The approved areas shall be kept available for their intended use at all times that construction works are in operation.
18. Details of any external lighting to the rear of the public house site shall be submitted to, and approved in writing by the Local Planning Authority prior to their installation and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting into the residential premises to the rear of the public house.

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 Policy(ies) .
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. To ensure the works to the public house are completed and the potential community benefits secured before development on the houses commence.
5. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43.
6. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43.
7. In order to protect the amenities of residential property in the locality in accordance with policy DP1.
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12. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
13. In order to take proper account of the risks to the health and safety of the local population, builders and the environment and address these risks in accordance with Hambleton Local Development Framework CP21 and DP42.
14. In order to take proper account of the risks to the health and safety of the local population, builders and the environment and address these risks in accordance with Hambleton Local Development Framework CP21 and DP42.
15. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
16. To ensure the retention of adequate and satisfactory provision of offstreet accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.
17. To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
18. In order to protect the amenities of residential property in the locality in accordance with policy DP1.

Informative

1. 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 Hambleton District Council - Waste and Streetscene.

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.