

Kilburn High And Low
Ward: Raskelf and White Horse

Committee Date : 5 March 2020

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Officer dealing : Miss Ruth Hindmarch

Target Date: 1 January 2020

Date of extension of time 10 February 2020

19/02356/FUL

**Revised application for the construction of 4 dwellings.
at Village Farm Kilburn North Yorkshire YO61 4AG
for Messrs T W Thompson & Sons.**

**This application is referred to Planning Committee as the proposed development
is a departure from the Development Plan**

1.0 Site, context and proposal

- 1.1 The site, to the west of the main buildings of Village Farm, is positioned in an elevated position to the west of main village of Kilburn. The site is also elevated above the highway that leads to Osgoodby Bank/Butter Hill which runs to the north of the site and provides clear views over the site. There is an approximate height gain of 10m between Kilburn Main Street and the site.
- 1.2 The site contains a steel portal frame agricultural shed and a silo. There is an additional agricultural shed abutting the southern boundary of the site; this is marked on the proposed block plan as "barn for straw storage". The site extends down the hillside to meet the highway which runs from the village to Balk and Bagby. Access to the site is to be off the existing access that serves Village Farm and neighbouring property; Panorama. There is another existing access off Butter Hill but this is to be retained for agricultural traffic and not proposed to be used for the residential development.
- 1.3 The land is currently in agricultural use and precludes the site being considered as previously developed land. The NPPF's definition of previously developed land excludes land that is occupied by agricultural buildings; therefore this site is treated as though it is a greenfield site without any built development.
- 1.4 The nearest listed building is Pheasants Hill, on the opposite side of the highway. The Old School House, is also listed and is located approximately 67m to the south east of the site. Part of the south east corner of the site is within the Kilburn Conservation Area, and the Article 4 area jointly designated with the North Yorkshire Moors National Park.
- 1.5 This application seeks permission for the construction of four dwellings. These are shown as three x 3bed units, and 1 x 4 bed unit. The general design of the development is to construct a principle detached farmhouse at the south east of the site. This is a traditionally styled two storey, three bay property, with an attached single storey garage. There is then a further detached dwelling to the north west of this, which has the appearance of a converted granary with subservient single storey element to its north eastern elevation. The two further dwellings are designed as a barn conversion. This design features double height glazed openings, brick pattern detailing and ventilation openings on the ground floor, to

imitate agricultural features. All properties feature traditional materials, of stone and slate for the main farm house and brick and pantile for the agricultural style properties. All properties are shown with natural stone headers and cills, and timber window frame and doors.

- 1.6 The agricultural style properties have detached garages opposite the properties. The rear of the properties, which would be most visible from Osgoodby Bank, are shown on the proposed block plan as having a dry stone wall as a northern boundary treatment. The plan also shows some supplementary planting within the existing boundary to the highway, however this is outside the red line boundary.
- 1.7 This is a revised proposal seeking to address the previous reasons for refusal detailed in 19/01183/FUL. The proposal has not changed with the exception of changes to the access and the removal of an area of the banking next to the access with a new hedge planted. The applicant has submitted further supporting information seeking to overcome the reasons for refusal.

2.0 Relevant planning and enforcement history

- 2.1 18/00428/FUL Construction of a portal framed general purpose agricultural building and for the storage of farm manure; planning permission granted 8th January 2019
- 2.2 19/01183/FUL Construction of 4 dwellings; refused 19th July 2019

3.0 Relevant planning policies:

- 3.1 The relevant policy of the Development Plan and any supplementary planning policy advice are as follows;

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

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

Core Strategy Policy CP17 - Promoting high quality design

Development Policies DP1 - Protecting amenity

Development Policies DP3 - Site accessibility

Development Policies DP8 - Development Limits

Development Policies DP9 - Development outside Development Limits

Development Policies DP10 - Form and character of settlements

Development Policies DP28 - Conservation

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

Interim Guidance Note - adopted by Council on 7th April 2015

National Planning Policy Framework

- 3.2 Hambleton emerging Local Plan - As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The

law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990. The Hambleton Local Plan Publication Draft July 2019 has completed the 'Representations' period (30th July 2019 to 17th September 2019). The Development Plan for Hambleton is the Local Development Framework and the emerging Local Plan at this time is no more than a material consideration to which only limited weight can be afforded.

4.0 Consultations

- 4.1 Parish Council – supportive of the proposals but raise concern over the access. A condition is requested to ensure the existing agricultural barn is not used for livestock and it is also stated there is no bus service in Kilburn.
- 4.2 NYCC Local Highway Authority – No response received.
- 4.3 Environmental Health Officer – A formal response has not been received however concern has been raised regarding the compatibility of the proposed dwellings and the agricultural buildings that will remain within close proximity to the site.
- 4.4 North Yorkshire Moors National Park Authority - Object to the proposed development, as the proposed dwellings would be site on lane that is significantly higher than road level and would result in sporadic residential development that would have an urbanising and adverse impact on the setting of the National Park and important views from within it.
- 4.5 Yorkshire Water – No response received.
- 4.6 Public comments – Two letters of representation have been received, one supportive and one objecting to the proposal. The letter supporting states the village is in need of new housing however concern is raised regarding the access. The objection raises the following concerns;
 - Highway safety and visibility issues
 - Noise and disturbance, particularly from use of the proposed access
 - Impact on the land drain located within the highway to the front of the site

5.0 Analysis

- 5.1 The main issues to consider are: (i) the principle of development; (ii) the effect of the development on the character and appearance of the surrounding rural landscape and Kilburn Conservation Area; (iii) residential amenity, and (iv) any highway issues

Principle of development

- 5.2 Kilburn is categorised as an "other settlement" in the Settlement Hierarchy published in the 2007 Core Strategy, therefore the village has no Development Limits. For that reason any new housing in this location is contrary to the development plan unless it benefits from an exception as set out in Core Policy CP4. No such exception is claimed in this case. The village continues to be designated an "other settlement" in the updated Settlement Hierarchy published with the Council's Interim Policy Guidance (IPG), which only allows for small-scale

development to be considered within the village where it is considered as a cluster with other, near-by villages.

- 5.3 The National Planning Policy Framework (NPPF) states, in paragraph 78, "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby".
- 5.4 The IPG was adopted to enable consistent decision-making in respect of small-scale development in villages with due regard to the NPPF and the spatial principles of the Local Development Framework. It states that "Small scale housing development will be supported 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:
- i. Development should be located where it will support local services including services in a village nearby.
 - ii. Development must be small in scale, reflecting the existing built form and character of the village.
 - iii. Development must not have a detrimental impact on the natural, built and historic environment.
 - iv. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
 - v. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
 - vi. Development must conform with all other relevant LDF policies.
- 5.5 The village is classified as an "other village". It is considered that the village has insufficient services and facilities to be included within the settlement hierarchy. The IPG advises that cluster villages should be within about 2km of one another, be linked to each other by convenient public transport, walking or cycling and be capable of sharing facilities such as a school, post office, health facility or village shop. Kilburn has a pub (although following fire damage it is currently closed until further notice), a church and the Mouseman visitors centre, which includes a café which opens most days from Easter to October with reduced opening hours in November and December and is then closed until Easter. Coxwold is 2.7km to the south east of Kilburn, and has no additional services or facilities which are not offered in Kilburn. The road to Coxwold is winding, undulating (relatively steep in places) with no footpath, cycle lane or illumination. Bagby and Sutton-under-Whitstonecliffe are both approximately 5km to the north west.
- 5.6 The applicant has put a case forward stating Kilburn is sustainable and details the location of services/facilities within the village and the closest services/facilities that are not available within the village. This shows that facilities such as a primary school, convenience store and recreation/sports facilities are all located almost 5km away in Husthwaite, this is a significant amount over the distance recommended for

clustering and with no public transport or sustainable travel links Kilburn is not a sustainable location in its own right, and is not capable of clustering with any nearby villages. For this reason the proposal would not be in accordance with the aims of sustainable development, and is contrary to criterion 1 of the IPG.

- 5.7 The development is considered small scale at 4 dwellings. The site is elevated above the main village, and whilst there is some development here, it would not be acceptable to add to this, further urbanising and hardening the hillside. The site is not previously developed land. This site would not provide a natural infill or logical extension to the existing settlement given its separation from the main form of the village, and development would not reflect the existing built form and character of the village.
- 5.8 The design of the dwellings is traditional, and could create an attractive and interesting development, with character, however this is not the proper location for development. As part of the site is within the Conservation Area and the whole, undeveloped site contributes to the setting of the Conservation Area, construction of four dwellings at this sensitive, hilltop location would result in a detrimental impact on the natural and historic environment.
- 5.9 The submitted Landscape and Visual Impact Assessment concludes
- “that in landscape and visual terms the demolition of an existing modern agricultural barn, silo and store building and the construction of a row of four dwellings, in a settlement edge location that is already influenced by existing built form, that has limited visibility from the surrounding area would not significantly affect the amenity of the area. The design of the proposal positively responds to its location by positioning the new houses at a similar elevation to other properties along the western valley side above Low Kilburn, along the alignment of Back Lane, a landscape feature that has shaped the pattern of settlement within Low Kilburn. Furthermore, the existing built form on the site and adjacent to it means that the proposed site does not contribute to the openness of the countryside as it already contains a building and is strongly influenced by the its settlement edge location”.*
- 5.10 Whilst the LVIA and conclusion are noted Officers disagree with the conclusions made. The proposal continues to be contrary to IPG criteria, as development of this site would unacceptably impact on and be detrimental to the open character and appearance of the surrounding countryside. This site currently has the appearance of an agricultural unit; additional construction here would strengthen the developed appearance of the site, pushing residential use into the countryside and eroding the agricultural fringes of the village which provide such an important introduction to the village. It is accepted that the design is intentionally agricultural and of a more traditional design than the steel portal framed building on site, however the residential use would result in developed land. It is most appropriate and sympathetic to the open character and appearance of the country side, as well as the rural setting of the Conservation Area to ensure it remains undeveloped.
- 5.11 In conclusion it is considered that a dwelling in this location does not meet the tests of the Interim Policy Guidance, criteria i, ii, iii, and iv in that the elevated position, within the unsustainable location, does not reflect the existing built form and character of the village; and allowing development on the site would result in detrimental impact on the natural and historic environment in that it will push

development out into the countryside, in a location which is divorced from the main residential areas of the village. Development will cause substantial harm to this sensitive area which steeply rises above the village.

Character and appearance of the countryside and Conservation Area

- 5.12 As a small part of the site is within the Kilburn Conservation Area there is a requirement under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 "that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas". The National Planning Policy Framework from paragraphs 189 to 194 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset.
- 5.13 Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.14 The designated heritage asset which will be affected by this proposal is the setting of the Kilburn Conservation Area. A Conservation Area is an area which has been designated because of its special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. There are no listed buildings or non-designated historic assets which will be affected by this proposal.
- 5.15 The original Kilburn Conservation Area report, dated 1995, describes the village as a linear settlement with mainly stone cottages either side of the main street. Visually, it is clear that development follows the main street through the village with little development to the rear of these properties fronting onto the highway.
- 5.16 The agricultural buildings within the application site, along with the neighbouring property Panorama, are highly visible in the landscape from both direction of travel. The agricultural buildings are an indication of the agricultural uses which traditionally occur on the fringes of villages, and signify the arrival at a rural settlement.
- 5.17 The NPPF at paragraph 190 requires the Local Planning Authority to identify and assess the particular significance of any heritage asset that may be affected by a proposal. The significance of the heritage asset lies in its special architectural or historic interest. The aim of the Conservation Area at Kilburn, at the time of designation, was to and remains to protect the features such as the trees, open spaces, buildings and building patterns which give the area its special attraction. Officers consider that the significance of this area in and abutting the Conservation Area, lies in the historic layout of the village, the protection of key views and vistas from the village upwards and from Butter Hill downwards into the village, as well as the use of traditional high quality materials. In order to preserve and maintain this significance of the Conservation Area the openness of the land, the unobstructed views and agricultural appearance needs to be maintained whilst ensuring that the site is put to its optimum viable use.
- 5.18 The significance of the heritage asset affected by the proposal is the space which is currently read as agricultural land on the edge of a village and that is typical of the traditional character of the settlements in the area, albeit lost in many cases. Whilst

the agricultural building on the site is not of any architectural merit and does not positively contribute to the setting of the Conservation Area this is not a reason to allow it to be replaced with alternative, inappropriate development. The space is read as the fringe of the village, where agricultural use is acceptable in the countryside. The development of the site would urbanise this area, impacting on the setting of the Conservation Area by extending residential uses beyond the main linear form of the village and creating a concentration of development on top of the hill, which would be highly visible from several points.

- 5.19 At NPPF paragraph 191, consideration is given to deliberate acts of neglect or damage. It is considered that there has not been a deliberate neglect of, or damage to, the heritage asset in the form of deliberate neglect of, or damage to the site.
- 5.20 The NPPF at paragraph 192 states that LPAs should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
 - b) the positive contribution that conservation heritage assets can make to sustainable communities including their economic vitality, and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 5.21 The design of the development has the potential to make a positive contribution to the local character and distinctiveness, however it is considered that the development of the site, by virtue of its elevated position and therefore, highly visible location, will not sustain or enhance the significance of the setting of the Conservation Area.
- 5.22 At NPPF paragraph 193 the test states that great weight and importance is to be given to the assets conservation. Applying the test of whether the scheme would give rise to harm it is considered that from "no harm", to "less than substantial harm" to "substantial harm" is a continuum. The development proposed is considered to be at the lower end of the scheme of less than substantial harm. In order to outweigh that "less than substantial harm" requires public benefits. However the benefits would not be required to be as great as would be required if the harm was close to the 'substantial harm' end of the scale. The proposal has been found to cause "less than substantial harm".
- 5.23 NPPF paragraph 194 states that: "Any harm to or loss of the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification."
- 5.24 Paragraph 196 states that "where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."
- 5.25 There will be less than substantial harm caused to the significance of the heritage asset. The public benefits of the scheme identified by officers are:
- Addition of locally distinctive and high quality development;

- Contribution to the aims of the NPPF of sustainable development through a social gain of the provision of a four high quality designed dwellings; and
- A limited economic benefit from the initial construction of the dwelling and subsequent additional households in the village; accessing services in the district.

- 5.26 The public benefits must be balanced against, and outweigh the harm to the Conservation Area. It is considered that the development will cause harm to the setting of the Conservation Area whilst this is “less than substantial” there will be an impact on how the Conservation Area will be experienced by those entering the village from Butter Hill and Osgoodby Bank and by those looking up at the site from the main street. The public benefits of the scheme, outlined above, do not outweigh the harm.
- 5.27 It is considered that the scheme would not be in accordance with NPPF paragraph 192, that the proposal will not sustain the significance of the setting of the Conservation Area, and will not ensure that this new development will make a positive contribution to the local character and distinctiveness.
- 5.28 The site is capable of accommodating this size of development in terms of physical space on site for the built form. The designs of the dwellings are traditional, and the design of the overall development is in keeping with a rural location, which would be befitting of a central village location, in a sustainable settlement. The proposal includes the use of high quality materials which are expected within a Conservation Area.

Residential Amenity

- 5.29 The nearest neighbour is to the south east, Panorama. There is a separation distance of 29m between the side elevation of plot 1's garage and the neighbouring property. The neighbour at Pheasants Hill is some 50m to the north east. Plot 1 is orientated so that the front elevation is facing downhill. It is considered that the privacy of existing neighbouring properties has been suitably addressed and the scheme would not unacceptably impact on this privacy.
- 5.30 There is an existing agricultural building and farm access close to the site of the proposed dwellings that is to be retained. Should the building be used for livestock, this could impact on all proposed plots, in terms of odour and noise. There is no record of any planning permission for this agricultural building and so no condition restricts the use of the barn. The agent has stated the applicants would accept a condition stating that no livestock or manure will be stored in the existing building. The barn is marked on the proposed block plan as a straw barn, but is not restricted to this use.
- 5.31 In January 2019 the LPA granted planning permission for the construction of a portal framed general purpose agricultural building and for the storage of farm manure at Village Farm. The approved siting of this building is not within the redline boundary of this application, however it is in close proximity to it; the eastern corner of the building is shown on the approved plans as about 30m from the proposed dwellings. A condition was placed on the approval restricting the use of housing livestock; and a condition requiring a fly management plan as a result of the building being used to store farm manure to safeguard amenity of dwellings in the village.

- 5.32 The agent has stated that if permission is granted for the dwellings then this new agricultural building would not be constructed. It is noted that the planning permission for the new building was granted following detailed examination of the case for the building and assessment of the landscape impacts. The new agricultural building was approved on a site that minimised the potential harm to the landscape. Other sites were considered to result in unacceptable harm. It cannot be guaranteed that a suitable alternative site for the expansion of the farming business can be found and the development of the residential properties may therefore cause harm to the viability of the farming business.
- 5.33 Given the continuing use of the wider site as a functioning agricultural unit, the limited ability to control the use of the site, and the potential use of the newly approved barn as a manure store it is considered that the potential impact on future residents of the proposed dwellings is unacceptable. The scheme is contrary to Hambleton Local Development Framework policy DP1 in that the proposal does not adequately protect amenity, particularly with regard to noise and odour.

Highway issues

- 5.34 A response has not been received from NYCC Highways as to the suitability of the access off Butter Hill for the additional dwellings, however to achieve necessary visibility splays some removal or levelling of the bank to the north west has been proposed. The removal of this soft landscaping and the subsequent widening of the hard surfacing would unacceptably impact by overly urbanising this sensitive point at the entrance to the village, the Kilburn Conservation Area and the North York Moors National Park.

Conclusion

- 5.35 It is acknowledged this scheme does have its benefits as noted earlier however the principle of development in the village of Kilburn is contrary to policy, due to its unsuitable location. The site, by virtue of the elevated nature of the landscape above the main linear body of the settlement, is considered to have a detrimental impact on the countryside and Conservation Area. For this reason it is considered that the proposal is contrary to policies CP1, DP1, CP16, CP17, DP28, and DP32 as well as the criteria of the interim policy guidance. For these reasons the proposal is recommended for refusal.

6.0 Recommendation:

- 6.1 That subject to any outstanding consultations the application be **REFUSED** for the following reason(s)

1. The proposed new dwellings would adjoin a village identified as an 'Other Settlement' in the revised Settlement Hierarchy for Hambleton. The Council's Interim Policy Guidance, adopted April 2015, sets out 6 criteria to be met in order for new development to be considered to be acceptable, in order to achieve a sustainable community. In this case, given the lack of facilities and services offered in Kilburn, and the excessive distance to the nearest Service Village, it is considered that Kilburn cannot form part of a sustainable cluster in the terms of the Council's Interim Policy Guidance. The proposal also fails to meet any of the exceptional circumstances set out in Policy CP4 of the Core Strategy, that would justify development outside Development Limits. The

development, therefore, is contrary to the Council's Interim Policy Guidance and CP4 of the Hambleton District Council Local Development Framework Core Strategy.

2. The siting of dwellings in this elevated position would be harmful to the openness of this site adjacent to the Kilburn Conservation Area by virtue of the visibility and intrusion on the landscape. The proposal is considered to fail to preserve or enhance the character and appearance of the Conservation Area as stated within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as required by NPPF the harm has been weighed against the public benefits of the scheme and it is found that the harm to the significance of the Conservation Area is not outweighed by the public benefits. As such the proposal is contrary to criteria iii of the Interim Policy Guidance and Hambleton District Council Local Development Framework Core Strategy policy CP16 and Development Policy DP28 and the NPPF.
3. As a result of the uncontrolled usage of the adjacent agricultural building there is an unacceptable risk of noise, odour, dust and flies which may cause unacceptable harm to the amenities of any future occupants which is contrary to Hambleton District Council Local Development Framework Core Strategy policy CP1 and Development Policy DP1.
4. To achieve visibility splay to create a safe access to the site would result in a harmful urbanising impact on the local rural landscape due to the need to alter land levels on the highway verge on Butter Hill, contrary to Hambleton District Council Local Development Framework Policy CP1, CP16, DP30 and DP32.