

**Parish: Kirkby**  
Ward: Stokesley  
**4**

Committee Date : 29 July 2021  
Officer dealing : Mr Nathan Puckering  
Target Date: 8 June 2021  
Date of extension of time (if agreed): 30 July 2021

**21/00952/FUL**

**Change of use from agricultural to equestrian and construction of an equestrian barn and riding arena.  
At Westlea Hill Road Kirkby In Cleveland North Yorkshire  
For Mr & Mrs A & S Walker.**

## **1.0 Site context and proposed development**

- 1.1 The site in this instance is a parcel of land located on the south western edge of Kirkby In Cleveland. It is to the rear of the detached dwelling, Westlea, which is also under the ownership of the applicant. The southern boundary of the Kirkby Conservation Area runs along the northern edge of the curtilage of this dwelling, with the site being just outside of the boundary.
- 1.2 At present the site is a grassed, paddock-like field which is not serving any real agricultural purpose. The field in question stretches approximately 190m westwards, with this application only concerning the north eastern-most section. The northern boundary is lined by a substantial hedge and several large trees, with a PROW running east-west along the other side of this boundary. Similarly, the western edge is heavily landscaped with large mature trees. To the south are similar parcels of agricultural land. Part of the eastern boundary abuts the curtilage associated with the neighbouring dwelling - Cranimoor.
- 1.3 This application is seeking permission for the change of use of the land and the construction of a menage. This will measure 60m x 20m and will be bound by a 1.5m high post and rail fence. Furthermore, a stable and storage building is proposed directly to the north east of the menage. This will measure 173sqm and will have a maximum height of 3.9m and will be constructed using concrete panels and Yorkshire timber boarding. The applicant competes in dressage at a high level and this will provide a training facility, however, it should be stressed that it will be used only for private use.

## **2.0 Relevant planning and enforcement history**

- 2.1 None relevant

## **3.0 Relevant planning policies**

- 3.1 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 out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

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 DP8 - Development Limits  
Development Policies DP9 - Development outside Development Limits  
Development Policies DP28 - Conservation  
Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP32 - General design  
Hambleton Emerging Local Plan  
The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>. The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

## **4.0 Consultations**

- 4.1 Parish Council - object for the following reasons:
- the design and materials for the barn are inappropriate for the setting so close to residential properties
  - the barn would introduce an unsightly element into the views of the Cleveland Hills
  - the northern boundary is lined by a substantial hedge, with a PROW running east-west along the other side of this boundary
  - a modern development would ruin the setting of the Conservation Area and the "quiet rural agricultural landscape"
  - the skylights will cause light pollution
  - concerns that it will be used as part of a business and the knock-on impact on highway safety
  - the material used for the menage will be churned up and harm air quality and harm residents and users of the PROW
  - the horses may be startled by dogs using the PROW and cause an accident
  - concerns with manure management
- 4.2 NYCC Highways - Concern must be expressed in relation to the access to the site from Hill Road. Presently the land has an agricultural status and as such if planning permission was not granted for the equestrian use then the fall-back position of the land could be for some form of farming enterprise be it raising livestock or some form of crop. Both of these agricultural operations would require some form of larger vehicles to use the access and it is likely that this will have happened in the past. The present application is for a private equestrian use and it is advised that this will be fortnightly deliveries of hay and collections of muck taken away using a preloaded trailer. A horsebox which the applicants already own will be used 1 or 2 times a week as required. Information from the applicant's agent also suggests that there is enough parking and turning within the site to enable vehicles to exist the site in a forward gear. As such it is considered that a highway refusal would be difficult to sustain.

- 4.3 Environmental Health - no objections.
- 4.4 NYCC Footpaths - include informative regarding the applicant's duties should the PROW be impacted, either permanently or temporarily.
- 4.5 The Ramblers Association - no objection to the proposal.
- 4.6 Northumbrian Water were consulted but submitted no comments.
- 4.7 Site Notice & Neighbour Notification - 17 letters of objection received citing reasons:
- the barn is too big will restrict views from the adjacent dwellings and harm village life
  - increase traffic through the village and detrimental impact on highway safety
  - concerns the use will not simply be private
  - the barn could be converted to a dwelling in future
  - the scale is excessive
  - the building will have a negative visual, noise and pollution impact
  - concern with the orientation of the building and the impact on the animals
  - the area to the north and east is located in the Sandstone Moors Foothills character area which is characterised as being undeveloped and open
  - the proposed materials for the barn are unsympathetic
  - concern with manure management and vermin
  - light pollution
  - could give way to a rise in crime in the area
  - due to land levels the fence will be visible, along with riders
  - hazardous materials used for the surface of the arena
  - the proposal fails to comply with the Emerging Local Plan
  - detrimental impact on the value of adjacent properties
  - detrimental impact on the character and appearance of the open countryside
  - concern with drainage impact and water running off the arena

## 5.0 Analysis

- 5.1 The main issues for consideration in this instance are i) the principle of the development, ii) the impact on the setting of the Kirkby Conservation Area iii) design and the impact on the character and appearance of the open countryside, iv) highway safety, v) amenity and vi) any other issues raised in public representations.

### The Principle

- 5.2 Policy CP4 criterion i) of the Core Strategy states that development will be supported outside development limits and within the smaller villages where the development is:

*“necessary to meet the needs of farming, forestry, recreation, tourism and other enterprises with an essential requirement to locate in a smaller village or the countryside and will help to support a sustainable rural economy.”*

- 5.3 The site is just outside of the development limit for Kirkby In Cleveland, the boundary of which runs along the western boundary of the domestic curtilage of Westlea. Policy DP9 dictates that development outside of the defined development

limits must comply with one of the exceptional circumstances set out in policy CP4. None of these exceptions are being claimed in this instance. However, these types of private equestrian use are generally located in rural locations, either directly adjacent to rural villages or established rural dwellings. As a result, the proposed development is considered to be an appropriate use of land on the edge of a rural settlement and as such the principle of the development is considered acceptable.

#### The Impact on the Setting of the Conservation Area

- 5.4 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 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 at paras 195 and 196 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset. Any identified harm to the significance of the Conservation Area must be given great weight in the determination of the application. Identified harm can only be off-set by public benefits of the development.
- 5.5 The Kirkby Conservation Area effectively covers the historic core of the village. This surrounds the area around the crossroads in the centre of the village. Kirkby expanded outwards from this core, with most development dating from the mid-20th century, creating the distinctive crucifix shape which exists today.
- 5.6 As a result of this, the 20th century development somewhat encases the historically important aspects of the conservation area - especially to the south, east and west. The northern edge of the village is the exception to this rule and has been altered to a lesser extent. This means that as far the setting of the conservation area is concerned, the vast majority of the significance is derived from the views as one travels south down Kirkby Lane and enters the village. It is here that one gains the best understanding of the historic origins of the village, with a high number of the 19th century stone built cottages.
- 5.7 Clearly, this proposal does not impact this element of the setting as it is located at the opposite end of the conservation area. There will be an impact on the long distance views of the village but these views from the south contribute nothing to the significance of the setting of the conservation area overall. Consequently, the proposal is considered to result in no harm to the significance of the conservation area and the development is considered acceptable on heritage grounds and passes the test set out in the NPPF for proposals impacting heritage assets and complies with policy DP28.

#### Design and the Impact on the Open Countryside

- 5.8 Policies CP17 and DP32 of the Local Development Framework concern the design of development and dictate that development must be of a high quality design which is in keeping with local character and context. Also relevant, given the location of the site, is policy DP30 which concerns development in the open countryside and dictates that such development must protect the open nature and intrinsic character of the District's landscape.

- 5.9 Whilst the site is part of the open countryside, it is closely linked with the village and as one is stood on site it feels part of the village rather than the open countryside. This is due to the heavy landscaping which defines its boundaries and somewhat detaches it from the rolling open countryside to the west, as well as the fact that it is clearly closely related to Westlea and is intrinsically linked with the dwelling rather than being an isolated part of the countryside.
- 5.10 The proposed stable/barn is located in the north eastern corner of the site and as such will appear as part of the built form of the village to the east, rather than an isolated, alien feature within the landscape - especially when viewed from afar.
- 5.11 As the land moves north, it does rise quite considerably and as such the dwellings to the north look down onto the site to an extent, which could lead to the proposed development having an impact on the landscape character when viewed from this direction. However, the substantial hedge which runs the length of the northern edge of the site successfully negates against this impact and provides an adequate natural buffer which will soften the visual impact. Clearly, the top of the building may be visible but this will be a small proportion and cannot be said to be harmful. Indeed, it is important to note that the building is typical of what one would expect to see on the edge of rural settlements and are evident throughout the District.
- 5.12 The menage aspect will be flat and as such views of it will be limited. Limited long range views may be possible from the south but these views will be fleeting and due to the location of the menage, it will simply be viewed as part of the village and not an isolated feature.
- 5.13 The design of the proposed barn is considered to be appropriate for the proposed use. It will utilise widely used materials on this kind of building. Whilst the footprint of the building will be relatively large, the overall scale of the building is modest and not harmful in and of itself - especially when the above landscape impact is considered.
- 5.14 Overall, it is considered that the proposal is of an acceptable design and will have an acceptable impact on the character and appearance of the surrounding open countryside. Therefore, the proposed development complies with the requirements of policies CP17, DP30 and DP32.

#### Highway Safety

- 5.15 Due to the change in use of the land and the potential change in the use of the access and the nature of the vehicles using the access, NYCC Highways Department were consulted to ensure that there would be no detrimental impact on highway safety. Clearly, the existing use of the land is agricultural and therefore it could be cultivated which would potentially mean tractors and large vehicles would use the access.
- 5.16 The Highways Officer requested further details on the potential vehicle movements to and from the site should the permission be granted. Given the proposal is simply to be used on a private basis, these movements will be very limited. This will include the horsebox coming and going once or twice a week and fortnightly deliveries of hay, whilst the manure will also be removed on a pre-loaded trailer, using the

existing driveway and access. On this basis, the highways officer did not object subject to conditions. As a result, the proposal is considered acceptable on highways grounds.

#### Amenity

- 5.17 Policy DP1 precludes any development which would have a detrimental impact on amenity. A number of public objections refer to concerns regarding light and noise pollution arising from the development, as well as concerns about potential carcinogens contained in the proposed surface material of the menage.
- 5.18 Environmental Health were consulted on the application and submitted no objections on the grounds of there being no detrimental impact on amenity. This conclusion is accepted.
- 5.19 There are no external floodlights but there will be an external security light. This will not lead to light pollution and hence this is not a reason for refusal in this instance. Similarly, in terms of noise and disturbance, the use of a menage which is some 90m to the nearest dwelling cannot be said to give way to a harmful level of noise which would lead the proposal to conflict with policy DP1.
- 5.20 In the interests of completeness, Environmental Health were re-consulted on the concerns raised due to the supposed carcinogenic nature of the proposed surface materials. Whilst it is noted that the use of silica in industrial processes is controlled due to the potential harm it can cause, the proposed menage will pose an extremely low risk to the residents of the village and due to our damp climate, this risk is considered to be non-existent for most of the time. As a result, this issue is not considered to be a reason for refusal on this occasion.

#### Other matters

- 5.21 A number of the public objections refer to the loss of views from the dwellings to the east and the knock-on effect in terms of the value of the property. Whilst landscape impact is a main consideration and has been thoroughly assessed in the context of this application, an individual's right to a view, or lack thereof, is not a material planning consideration. Similarly, loss of value to a property is also not something which is taken into account.

#### Planning Balance

- 5.22 The proposal in this instance has been assessed as having an acceptable impact on the setting of the Kirkby Conservation Area, the character and appearance of the open countryside and the amenity of surrounding residents. The highways implications are also assessed as being acceptable. Approval is recommended on that basis.

## 6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **GRANTED** subject to the following condition(s)

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 110-05 Rev C and 110-03 Rev A received by Hambleton District Council on 10.05.2021 and 08.06.2021 unless otherwise approved in writing by the Local Planning Authority.
3. The development hereby approved shall be limited to use by the owner/occupier of Westlea, Kirkby In Cleveland and shall not be used as part of a trade or business.
4. No part of the development must be brought into use until the parking, manoeuvring and turning areas for all users have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.
5. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works: 1. details of any temporary construction access to the site including measures for removal following completion of construction works; 2. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway; 3 the parking of contractors' site operatives and visitor's vehicles; 4. areas for storage of plant and materials used in constructing the development clear of the highway; 5. details of site working hours; 6. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
6. No lighting shall be installed except in accordance with a lighting scheme which has been submitted to and approved by the Local Planning Authority. Any lighting shall then be installed and maintained in accordance with the approved details.

The reasons 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) CP17, DP30 and DP32.

3. In order to ensure that any the impact of any intensification of use on amenity and highway safety can be assessed fully by the Local Planning Authority.
4. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
5. In the interest of public safety and amenity.
6. In order to protect the character and amenity of the area and comply with DP1 and DP32 of the Local Development Framework.