

**Parish: Kirby Sigston**

Ward: Osmotherley

**4**

Committee date: 26<sup>th</sup> August 2021

Officer dealing: Kate Williams

Target date: 27<sup>th</sup> August 2021

**21/01397/FUL**

**Change of use of agricultural land to domestic use and construction of an ancillary building with associated external facilities**

**At: Kirby Sigston Manor, Chester Lane, Kirby Sigston, Northallerton, North Yorkshire**

**DL6 3RD**

**For: Mr C Hodges**

**This application is referred to planning committee as the agent is the applicant and is related to an HDC staff member.**

**1.0 Site context and proposed development**

- 1.1 The application site is associated with the residential property at Kirby Sigston Manor. Kirby Sigston is a small hamlet which is predominantly sited in the proximity of Chester Lane from which the application site is accessed.
- 1.2 The Manor House is a Grade II Listed property. There is a gradual slope down towards the application site from the garden area at the rear of the Manor House. The Manor House, its grounds and neighbouring properties and buildings are set within an agricultural landscape, but the envelope of land within which the application site is proposed is enclosed and well screened to the west by a tree belt. There is also good tree screening along the road and within the site to the north of the proposed development site. To the west is Chester lane and various buildings are sited at a higher level than the application site. To the south of the application site is a small lake associated with the residential land at the Manor House, which is also surrounded by trees and beyond that the footpath which leads to St Lawrence's Church, which has an elevated position to the south east of the site.
- 1.3 Access to the site is gained from an existing gated access from the Manor House garden and is sited a short distance where the slope levels. The proposals comprise the extension of the residential curtilage, construction of a stone building to accommodate a gymnasium/ swimming pool, an outdoor tennis court and fencing and associated landscaping. A wildlife area will be created to the east of the site. A 6m buffer of native trees and shrubs will be planted within the north and east boundaries.

**2.0 Relevant planning and enforcement history**

- 2.1 98/50693/L - Application for Listed Building Consent for alterations to existing dwelling as amended by plans received by on 5th November 14th and 23<sup>rd</sup> December 1998; Granted 1999.
- 2.2 00/50777/P - Construction of a greenhouse as amended by plan and letter received by Hambleton District Council on 31st May 2000 and letter received on 2nd June 2000; Granted 14.06.2000.

- 2.3 02/01726/FUL - Construction of a boundary wall and provision of replacement access gates as amended by plan as received by Hambleton District Council on 24th October 2002; Granted 13.11.2002.
- 2.4 02/01727/LBC - Application for Listed Building Consent for the demolition of existing boundary wall, construction of a replacement boundary wall and provision of replacement access gates amended by plan received on 24<sup>th</sup> October 2002; Granted 13.11.2002.
- 2.5 5/02450/FUL - Replacement gates to existing boundary wall; Granted 20.01.2006.
- 2.6 05/02451/LBC - Application for Listed Building Consent for two replacement gates and alterations to three existing boundary walls; Granted 20.01.2006.
- 2.7 07/01015/LBC - Application for Listed Building Consent for replacement windows; Refused 25.05.2007.
- 2.8 07/01750/FUL - Construction of a detached domestic garage - Granted 06.08.2007
- 2.9 16/01760/LBC - Listed Building Consent for the creation of ancillary guest accommodation.
- 2.10 16/01759/FUL- Proposed creation of ancillary guest accommodation – Granted 14.10.2016

### **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 CP4 - Settlement hierarchy
  - Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
  - Core Strategy Policy CP17 - Promoting high quality design
  - Core Strategy Policy CP21 - Safe response to natural and other forces
  - Development Policies DP1 - Protecting amenity
  - Development Policies DP8 - Development Limits
  - Development Policies DP9 - Development outside Development Limits
  - Development Policies DP28 - Conservation
  - Development Policies DP30 - Protecting the character and appearance of the countryside
  - Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation
  - Development Policies DP32 - General design
  - Development Policies DP33 – Landscaping
  - Development Policies DP43 - Flooding and floodplain
  - National Planning Practice Guidance 2021

- 3.2 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.
- 3.3 The most relevant policies of the emerging Hambleton Local Plan are as follows;  
S1: Sustainable Development Principles  
S5: Development in the Countryside  
S7: The Historic Environment  
E1: Design  
E2: Amenity  
E3: The Natural Environment  
E5: Development Affecting Heritage Assets  
E6: Nationally Protected Landscapes  
E7: Hambleton's Landscapes  
RM2: Flood Risk  
RM3: Surface Water and Drainage Management

#### **4.0 Consultations**

- 4.1 Osmotherley Parish Council - Support the application
- 4.2 Local Highway Authority - There are no local highway authority objections to the proposed development.
- 4.3 Environment Agency – No objection. They withdrew their earlier objection provided that a pollution prevention method statement and contingency plan is attached to any planning permission.
- 4.4 Yorkshire Gardens Trust - They do not wish to comment on the proposals. They emphasise that this does not in any way signify either approval or disapproval of the proposals.
- 4.5 Yorkshire Water - No comments to make. The proposals comprise foul to private package treatment, and surface water to soakaway. There is no public sewer network available in the area and public water mains in the area are not affected.
- 4.6 Environmental Health - The Environmental Protection Team have no objections in principle, however in the interest of nearby occupiers the Environmental Protection Team would recommend conditions relating to construction hours, noise and dust. From a contaminated land perspective there are no objections to this scheme.
- 4.7 Natural England - Natural England has no comments to make on this application. Natural England has not assessed this application for impacts on protected species. The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

- 4.8 Yorkshire Wildlife Trust - We expect to see the results of these surveys within the ecological impact assessment as part of the planning application. They support the development of a wildlife area including the planting of native trees and shrubs and recommend a landscaping scheme/planting mix should be conditioned. They agree with the proposed measures to prevent pollution measures which can be secured by condition. To advise; it would be beneficial if the development made clear through application of the Defra metric how 10% net gain for biodiversity will be achieved on site.
- 4.9 Ministry of Defence – No safeguarding objections.
- 4.10 NYCC Principal Archaeologist – No objections.
- 4.11 The application was subject to neighbour notification, press notice and site notice. These notices have now expired. No third-party comments were received.

## **5.0 Analysis**

- 5.1 Core Strategy Policy CP1 is an overarching policy which seeks sustainable development. It states that the use and development of land will be assessed against the community's housing, economic and social requirements, protection and enhancement of the natural and built environment and minimisation of energy consumption and the need to travel. Taking into account the above policy, the main issues in respect of this application are considered to be:

(i) Principle; (ii) Impact on the character and appearance of the countryside  
(iii) Impact on Heritage Assets; (iv) Flood risk and drainage; (v) Ecology;  
(vi) Amenity; (vii) Planning Balance and conclusion

### Principle

- 5.2 CP4 sets out the settlement hierarchy within the District. Kirby Sigston is a small hamlet where the current Development Plan states that development will only be supported when an exceptional case can be made for the proposal. It lists 6 criteria which relate to farming, environmental improvement, affordable housing, reusing existing buildings, renewable energy and social and economic regeneration. Similarly, policy DP9 reflects the above requirements.
- 5.3 Whilst there are no direct provisions within the above policies for extensions to domestic curtilage or additional residential facilities, the extension of residential curtilages are common where they are not considered harmful to the character of the countryside or the form of the settlement and as otherwise compliant with the Development Plan. The emerging Local Plan Policy S5 and E1 is more consistent with the National Planning Policy Framework 2021 (NPPF). Chapter 4 of the NPPF sets out that local planning authorities may give weight to relevant emerging policies in emerging plans.
- 5.4 The emerging policies seek to permit development in the countryside where it is in accordance with national planning policy or other policies of the development plan and would not harm the character, appearance and environmental qualities of the area in which it is located. Policy E1 of the emerging Local Plan in particular references proposals which seek to extend the curtilage of properties. The

emerging policies seek to permit appropriate development where it avoids significant effects and adverse visual and other effects are avoided. Emerging Local Plan policies are considered to be consistent the NPPF, particularly the guidance within chapter 15.

#### Design and Impact on the character and appearance of the countryside

- 5.5 Policies CP16 and CP17 set out the need to preserve and enhance the district's natural assets and achieve a high-quality design and landscape. DP30, DP32 and DP33 set out how these objectives shall be achieved. Emerging policies E1 and E7 have similar requirements. The site lies within the landscape character area 15: Bullamoor Farmland. This is a varied topography, comprising a localised west-facing, rounded ridge in the west, directly overlooking Northallerton, and the incised river valley of Cod Beck in the east, with areas of woodland and an open and undulating landscape.
- 5.6 The proposed single storey 'L' shaped structure would be formed of stone walls, with a welsh slate roof, timber and aluminium doors and windows, and conservation style roof lights. Its external appearance, form, scale and massing reflect the scale and appearance of a subservient building to the host dwelling, which is generally considered appropriate for this rural site.
- 5.7 There is a single access to the site from the Manor House with the path from the garden provided and constructed from grasscrete. This would lead to an area of paving. The tennis court and fencing proposed, whilst not uncommon for a property of this type, by its nature is an uncharacteristic landscape feature. However, the proposed tennis court and fencing would be largely obscured by the proposed building, topography of the area and existing and proposed planting and as such are not considered to result in an unacceptable harmful impact.
- 5.8 The building, being single storey, would be of a sufficiently low profile to not be overly visible from any nearby publicly accessible land and is otherwise generally well screened by mature trees. The proposed building and tennis court would not be sited on the skyline and the additional landscape planting proposed will enhance the existing landscape features and help to soften and obscure views of the development. The site is quite closely linked to the lake, and garden area which is more domestic in character and appearance.
- 5.9 It is considered that the overall impact upon landscape character and the appearance of the area would be acceptable. The proposed development because of the suitably designed building, proximity to existing buildings, enclosed nature of the site and existing and proposed landscape features would maintain the current character and visual appearance of the area therefore fulfilling the requirements of the policies CP16, CP17, DP30, DP32, DP33 and emerging Local Plan Policies E1 and E7 and the guidance within chapter 15 of the NPPF.

## Impact on Heritage Assets

- 5.10 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining a planning application for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Considerable importance and weight must be given to the desirability of preserving the setting of listed buildings.
- 5.11 Chapter 16 of the NPPF (2021) requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset and requires that harm should be weighed against the public benefits of the proposal, including securing the optimum viable use of the building. Similarly, Core Strategy Policy CP16, DP28, DP29 and emerging Local Plan policy E2. requires development within or affecting the setting of a heritage to seek to preserve or enhance the significance of the assets.
- 5.12 There are two listed buildings within the general vicinity of the proposed development. These are The Manor House, in whose grounds the proposals lie, and the Church of St Lawrence to the south-east, in brief these are set out below.
- 5.13 The Manor House is a Grade II House. Dated 1826 with 20<sup>th</sup> century additions. It has roughcast, stone dressings with a graduated stone slate roof. The Manor House lies c.105m to the south-west of the proposed development.
- 5.14 The Church of St Lawrence is Grade I, a 12th century church with 13th and 18/19th century additions/alterations. It comprises coursed ashlar under a graduated stone slate roof. St Lawrence lies c.160m to the south-east of the proposed development.
- 5.15 The proposed site is within proximity of the remains of the deserted medieval settlement earthworks of Kirby Sigston (which are just to the south of St. Lawrence's Church). There is a paddock of ridge and furrow to the west of the application site and it is presumed that this would once have been more extensive and is likely to have extended into the application area before being levelled as parkland/garden.
- 5.16 The Heritage Statement also identifies that the proposals would have a minimal impact on the setting of the listed building. However, although the Heritage Statement acknowledges that there would be a minor visual impact it considers this is overall a neutral impact due to a combination of the siting of the proposed development and being well screened by existing vegetation.
- 5.17 Officers also concur with the view in the Heritage Statement that it would have a neutral impact. It is considered that the setting of the listed building is derived from the siting of the Manor House within agricultural land, and therefore it is considered appropriate that the proposed new building has been designed to reflect a stone built ancillary building that has undergone renovation and modification. The inter-visibility of the proposed development and the Manor House is also limited as this subservient building would also be largely screened by existing vegetation, the topography and garden boundary wall. The proposed site is within an enclosed envelope of agricultural land where agricultural buildings,

activity and domestic properties and wide ranging and undefined garden curtilage associated with the lake already feature. Therefore, activity and limited development within this immediate area is already established and is not out of character and the visual impacts and design are acceptable. The siting of the building and presence of trees will obscure the tennis court and fencing. It is also considered that there would be neutral impact from these elements of the development upon the significance of heritage assets, the prominence and experience of the church would not be affected by the proposed development.

- 5.18 The Heritage Statement also advised that the proposal may potentially have an impact on any surviving, buried evidence for ridge and furrow cultivation. The NYCC archaeology section has identified this requires no further assessment. The NYCC archaeologist agrees that there is no evidence to suggest any particular archaeological potential. They advised there would be no new gain of knowledge by investigating ploughed-flat ridge and furrow. They have added the Heritage Statement to the Historic Environment Record.
- 5.19 There would be no significant archaeological impacts and the proposed structures are considered appropriate for the character and setting of the listed building and therefore considered to preserve its setting. The proposal is therefore considered to fulfil the aims of policies CP16, DP28 and DP29, emerging Local Plan Policy E5 and the policies within the NPPF chapter 16.

Flood Risk, drainage and pollution prevention

- 5.20 Policies CP21, DP43 and emerging Local Plan policies RM2 and RM3 seek to ensure surface water and drainage details related to development are satisfactory and do not lead to pollution or increase flood risk elsewhere. The development area has two small watercourses near the boundary of the site, both of which discharge towards Cod Beck. The site is predominantly located in Flood Zone 1 (low probability of flooding).
- 5.21 The Environment Agency initially raised concerns about the management of pollution from the swimming pool effluent and non-mains drainage system not being sufficiently demonstrated. The amended details show the location of the package treatment plant and the discharge point along with the outfall soakaway. The proposed package treatment plant will be a Klargestar bio disc package treatment plant which will be suitable for the proposed development. The swimming pool effluent will be managed and removed by a specialist pool contractor.
- 5.22 There are 'General binding rules' which relate to new package treatment plants and they also require Building Regulation Approval. The NPPF advises that Planning decisions should assume that these regimes will operate effectively. The applicants will provide a method statement setting out appropriate measures to minimise the risk of pollution during the construction phase secured by condition.
- 5.23 The proposed development will be built in accordance with the submitted Flood Risk Assessment. The development will be located outside of flood zone 3, which the EA considered to be acceptable.

- 5.24 The development could proceed without being subject to significant flood risk. Moreover, the development will not increase flood risk to the wider catchment area as a result of suitable management of surface water runoff discharging from the site via soakaway. Measures will be provided to control construction impacts and therefore the development would accord with CP21, DP43 and emerging Local Plan Policies RM2 and RM3 and the policies within chapter 14 of the NPPF as the site is suitable for the proposed use and will provide appropriate mitigation.

#### Ecology

- 5.25 Core Strategy Policies CP16, DP31 and emerging Local Plan policy E3 seek to prevent significant harm to bio-diversity and nature conservation. There are no internationally or nationally designated statutory sites in or partly within the application area.
- 5.26 An ecological appraisal comprising a data search and extended Phase 1 habitat survey, was however undertaken. The development will result in the loss of poor semi-improved grassland where the development is located. There are Ash trees with Ash dieback and a Scots Pine to be removed. This is not a significant impact; the species are not notable being within a vegetated area with tree coverage with additional tree planting proposed. These losses will be mitigated by the native species planting around the site.
- 5.27 The Habitats on the development site have been identified as sub-optimal for great crested newts as the field is grazed short and contains no suitable refugia for them, additional mitigation will be required as the development may make the site more optimal for them, and works should follow reasonable avoidance measures which will be conditioned. The trees to be removed will be subject to additional bat and bird survey checks, albeit they are considered to have a low potential for bat roosting. The overall approach to the surveys and mitigation is considered proportionate for the extent and type of development proposed.
- 5.28 The ecological and bio-diversity enhancement would provide additional native trees and shrubs and bio-diversity enhancement features. The ecology appraisal advises that the development will secure positive gains for bio-diversity. This has not been quantified by the Defra metric at this time as suggested by the Yorkshire Wildlife Trust. This is not required by existing or emerging policies at this time.
- 5.29 The implementation of the mitigation and compensation strategies described will ensure that potential negative effects of the development on biodiversity are reduced to neutral or positive levels and can be secured via a condition. These have been specified within the ecological report and can be conditioned. The proposal is therefore considered to accord with CP16, DP18 and E3 and the policies within the NPPF chapter 16 as the impacts, mitigation and bio-diversity enhancements are acceptable.

#### Amenity

- 5.30 Policy CP1 and DP1 and emerging Local Plan policy E2 expect all proposals to provide and maintain a high standard of amenity for all users and occupiers, including users of neighbouring land and buildings, in particular those in residential use.



5.31 Whilst there are neighbouring residential properties in the area, they are sited in excess of 100m from the proposed development. Neighbours would not be affected by loss of daylight, privacy or overshadowing and lighting is subject to additional conditions. Plant and equipment for the ancillary facilities are within the proposed building. The proposal is considered to fulfil the requirements of CP1, DP1 and emerging policy E2 and chapter 8 of the NPPF.

#### Planning Balance and Conclusion

5.32 Applications for planning permission are to be determined in accordance with the development plan, unless material considerations indicate otherwise. Whilst policies CP4 and DP9 are more restrictive, the emerging Local Plan policies and NPPF do not prevent such development and these are material considerations which support the principle of development under consideration. The emerging policies are considered to be consistent with the NPPF 2021.

5.33 Furthermore, the proposal is in accordance with those policies which consider the impact of the development upon the character and appearance of the countryside, heritage assets, which in the context of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires considerable importance and weight to be given to the desirability of preserving the setting of listed buildings, flood risk, pollution prevention, drainage, ecology, bio-diversity enhancement and amenity and the guidance within the NPPF. Therefore, the proposal is considered to represent sustainable development and is recommended for approval.

### 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 1, 2 and 3 Rev A, and as modified by the conditions of this consent.
3. The development hereby permitted shall not be commenced prior to the submission of a pollution prevention method scheme and contingency plan. The scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include measures for the following:

(A) Silt pollution:

(i) Measures preventing water from entering excavations

(ii) Measures to ensure that the storage of any soil piles will be located at a suitable distance from watercourses and that there shall be no discharge of contaminated site drainage into surface water (or any surface water drains) or groundwater

(ii) Measures to reduce the risk of water contamination due to on-site working and sources of silt such as plant and wheel washing (e.g. ensure that any plant and

wheel washing is carried out in a designated area located at an appropriate distance from the watercourse or any surface water drains).

(iii) If dewatering is required, there shall be no discharge into surface water or groundwater either direct or through soakaways of anything other than clean rain water, without a discharge permit issued by the Environment Agency under EPR 2016.

(B) Oil Storage

(i) Any proposed storage tanks for fuel oils need to comply with oil storage regulations to prevent pollution of the water environment by accidental leaks.

Once approved the development shall be implemented in accordance with the approved scheme.

4. Prior to the installation of the package treatment plant details of the estimated predicted maximum volume shall be submitted for the written approval of the Local Planning Authority. The details shall demonstrate that is capable of treating waste to a high standard. Once approved the development shall be implemented and maintained in accordance with the approved details and thereafter retained for the lifetime of the development.
5. No construction work shall take place outside the hours of 08:00-18:00 hours Monday to Friday, 08:00-13:00 hours Saturday and not at all on Sundays/Public Holidays without the prior written permission of the Local Planning Authority.
6. The contractor must ensure compliance with current legislation on noise and dust control including the Environmental Protection Act 1990 and the Control of Pollution Act 1974. Relevant Codes of Practice set out procedures for dealing with the control of noise on construction and demolition sites are contained in BS5228: 2009 Noise and Vibration Control on Construction and Open Sites.
7. The development shall commence in accordance with the recommendations for mitigation measures set out in Section 7 of the submitted of the MAB Ecological Assessment Ref: 2020- 1008 January 2021. The mitigation measures shall include the following:
  - (i) measures to prevent silt and pollutant materials getting into watercourses set out in section 7.2.2 or as amended by condition 3.
  - (ii) The reasonable avoidance measures set out in section 7.3.2;
  - (iii) Significant vegetation removal shall avoid the bird breeding season, or shall be in accordance with the recommendations within 7.4.2;
  - (iv) Prior to the felling the trees shall be inspected suitably qualified ecologist and in accordance with the details within 7.5.2.
8. A lighting scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall incorporate the recommendations made within section 7.5.2 of the of the MAB Ecological Assessment Ref: 2020- 1008 January 2021. Once approved the development shall be implemented in accordance with the approved details and thereafter retained for the life of the development.

9. The development shall commence in accordance with the recommendations for ecological enhancements and compensation set out in section 8 of the MAB Ecological Assessment Ref: 2020- 1008 January 2021. These shall be submitted to the Local Planning Authority for approval prior to the commencement of the use and shall include:
- (i) a schedule of the landscape planting including the timing of planting;
  - (ii) the type and location of bird and bat boxes;
  - (iii) details of the timing and completion of pond 2 and 3 reprofiling.

Once approved the development shall be implemented in accordance with the approved details and thereafter retained for the life of the development.

10. No part of the development shall be occupied until the works for the disposal of foul and surface water drainage have been provided in accordance with the approved plans.
11. There must be no discharge of surface or foul water to any ditch or watercourse, other than in accordance with scheme which has been submitted for the written approval of the Local Planning Authority.

Reasons for conditions:

1. As required by Section 91 of the Town and Country Planning Act 1990, 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 Local Development Framework policies CP16, CP17, DP32 and DP33 and for the avoidance of doubt.
3. In the interest of pollution prevention in accordance with Local Development Framework Policies CP21 and DP42.
4. In the interest of pollution prevention in accordance with Local Development Framework Policies CP21 and DP42.
5. In the interest of the amenity of the area in accordance with Local Development Framework policies CP1 and DP1.
6. In the interest of the amenity of the area in accordance with Local Development Framework policies CP1 and DP1.
7. To ensure that the development provides satisfactory mitigation during construction the interest of ecology and pollution prevention in accordance with Local Development Framework Policies CP16, CP12 and DP31 and DP42.
8. In the interests of amenity and the ecology of the area in accordance with Local Development Framework Policies CP1, CP16 and DP1 and DP31.
9. To ensure that the development provides satisfactory mitigation and enhancement of habitats and biodiversity in the interest of ecology in accordance with Local Development Framework Policies CP16 and DP31

10. To ensure satisfactory drainage of the site in accordance with Local Development Framework Policies CP21 and DP42.
11. In the interest of pollution prevention in accordance with Local Development Framework Policies CP21 and DP42.