

**Parish: Husthwaite**  
Ward: Raskelf & White Horse  
**6**

Committee Date : 21 October 2021  
Officer dealing : Mr Craig Allison  
Target Date: 15 June 2021  
Extension of Time (if agreed): 25 June 2021

**21/01017/MRC**

**Variation of application 18/02661/MRC - Variation of Conditions attached to Planning Consent 16/01987/OUT - Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017**

**At: Former the Garage, Low Street, Husthwaite**  
**For: Mr & Mrs Walker**

**The proposal is presented to Planning Committee as the site is of significant public interest**

- 1.0 Site, context and proposal
- 1.1 The site lies on the north side of Husthwaite village. The land previously was a mixture of domestic and commercial use and has a short frontage, about 12 metres to Low Street, the site is deep extending 100 metres and widens out as it extends to the north. Part of the proposal would involve work on or very close to the boundary with the neighbouring dwelling, Carlbury, that stands to the east of the site.
- 1.2 The neighbouring properties are to the west the public house, and to the east a residential property as noted above, 'Carlbury'. The land to the north is in agricultural use. To the south across the village street are residential properties.
- 1.3 The site lies within Husthwaite Conservation Area. The front of the site is within the Development Limits however much of the site is beyond the Development Limits.
- 1.4 Following an enforcement investigation, it became evident that Plot one had been constructed southwards (further forward) by 160mm; moved westwards (away from the neighbouring property Carlbury) by 620mm; the rear garden of plot one increased in size; and the double garage and parking repositioned to be shared with Plot three. With the parking position now located adjacent to plot three rather than adjacent to plot one.
- 1.5 Plot three the finished floor levels were raised by 380mm; the double garage and parking repositioned to be shared with Plot one; and roof lights on the front and rear elevations have been moved down the roof slope. These works have already been undertaken on site and therefore the applicant is seeking retrospective planning approval for these works, by subsequently varying condition 14 of planning approval 18/02661/MRC. The initially planning approval was for three dwellings, and two of the dwellings have been completed, Plot one and Plot three with Plot two work yet to start on the construction of this dwelling.

## 2.0 Relevant planning history

- 2.1 16/01987/OUT - Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017 – Approved 26 January 2018
- 2.2 18/02661/MRC - Variation of Conditions attached to Planning Consent 16/01987/OUT-Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017 – Approved 15 February 2019. This approval granted amendments to the layout of the site, and changes to the position of windows on the various plots on the site.
- 2.3 19/01328/REM - Application for the approval of reserved matters considering landscaping relating to planning application 18/02661/MRC - Variation of Conditions attached to Planning Consent 16/01987/OUT-Outline application (considering appearance, access, layout and scale) for the demolition of buildings and the construction of 3 dwellings as amended by details received by Hambleton District Council on 25th May 2017 – Approved 24 September 2019

## Planning Enforcement History

- 2.4 The allegation of the development not being built in accordance with the approved plans was raised with the Council on the 15 December 2020
- 2.5 The site was visited on the 17 December 2020, at that time the dwellings were almost complete, however further investigative work would be required. The site was re-visited on the 6 January 2021 and the site was measured and from the measurements taken on site it was evident that the development had not been constructed in accordance with the approved plans. The owners disputed the findings and the Council's surveyors in the Corporate Services team visited the site to undertake further measurements. This again confirmed that the site was not in accordance with the approved plans. The owners still did not concede to this fact and appointed their own surveyor to undertake measurements on the site, this concluded that there was also a breach and subsequently this application was submitted before the Council for consideration.

## 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 at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.
- 3.2 Relevant policies 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 DP4 – Access for all  
Development Policies DP6 – Utilities and infrastructure  
Development Policies DP9 - Development outside Development Limits  
Development Policies DP10 – Form and character of settlements  
Development Policies DP17 – Retention of employment sites  
Development Policies DP28 – Conservation  
Development Policies DP29 - Archaeology  
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

- 3.3 Hambleton emerging Local Plan was considered at Examination in Public during Oct-Nov 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 Hushwaite Parish Council wish to see the application refused for the following reasons:
- Various amendments were agreed during the course of the original application which meant the reduction in height of the proposed dwellings and consideration given to neighbours concerns. However, the further amendments shows that this has been totally disregarded.
  - Also by moving Plot 1 nearer to Cleveland House, the Parish Council are concerned that emergency vehicles will be unable to access Plots 2 & 3 through the reduced entranceway.
- 4.2 North Yorkshire County Council (Highways) have commented on the application and recommended that condition 13 imposed on the original application is re imposed if planning permission is granted.
- 4.3 Yorkshire Water have no comments to make in regard to the application as the details of drainage have already been agreed under planning reference 18/02661/MRC.

- 4.4 Environmental Health (Contamination) has no comments to make in regard to this application.
- 4.5 A site notice was posted, and neighbours were consulted. Eight letters of support have been received with their comments summarised below:
- The changes to the scheme are minimal and do not impact the overall development significantly
  - The build has been completed to a high standard and is better than what was previously on the site
  - In regard to Plot one, the small degree of movement to the south is so small as to be inconsequential. The move to the west, whilst more significant, it creates a more comfortable gap to the adjacent property of Carlbury
  - Although reduces the gap between Plot One and Cleveland House, it has a clearance of 4.2 metres which is more than adequate
  - The revision of garden space, garaging and parking for both plots does not notably affect the amenity of either property or affect the character of the scheme
  - In regard to Plot 3, the land slopes progressively downwards to the north, plot 3 is notably lower than plot 1, Cleveland House and Carlbury. In fact Carlbury is very much elevated in respect of Plot 3 as the land rises up the village street frontage to the east. Therefore, there is no overshadowing or intrusion of plot 3 to any of the properties in the vicinity.
  - For the street scene generally the move of plot one does not change the overall character of the scheme and the glimpsed view of plot three from the highway is typical of many similar rear plot developments elsewhere in the village.
- 4.6 One letter of objection has been received with their comments summarised below:
- The building on plot one is substantially higher than was represented by the application at the time of the original outline planning application. It is higher than the pre-existing barn by more than metre
  - The building has been built significantly further forward and even higher than originally approved, which has resulted in loss of light to existing side windows in the adjacent property.
  - Plot three has been built significantly higher which has resulted in a detrimental impact on Carlbury and the enjoyment of the property adversely affected.
- 4.7 Following the comments received above, the Council sought further clarity and further detailed plans to demonstrate the change from the previously approved scheme against what has been constructed on site. Following receipt of these amended plans a further consultation took place.
- 4.8 No further comments were received from North Yorkshire County Council (Highways) and Husthwaite Parish Council.

- 4.9 Yorkshire Water have no further comments in regard to this application
- 4.10 Environmental Health (Contaminated Land) have no further comments regarding this application
- 4.11 One letter of objection has been received regarding the application with their comments summarised below:
- The amended details provided are still not an accurate reflection of what is currently on site, and there are errors in the plans and not a fair reflection of what is currently constructed on site.

## 5.0 Analysis

- 5.1 The key determining issues are the principle of development; whether the proposed amendments are acceptable; impact on the character of the area; impact on heritage assets; and impact on residential amenity.

### The Principle of Development

- 5.2 The principle of residential development on the land has been established and there is an extant consent. Under this application, the Local Planning Authority may amend or remove conditions but may not amend any other part of the permission.

### The Impact on the Character of the Surrounding Area

- 5.3 The proposed amendment will have a minor impact on the appearance of plots 1 and 3. Given the scale of the changes it is considered the amendments are acceptable in this respect as they are neither positive or negative and the impacts are neutral. It is therefore considered that the development does not affect the character and appearance of the area and is accordance with Policy CP17 and DP32 of the Council's Local Plan Policies.

### Heritage Assets

- 5.4 The application site is situated within the Husthwaite Conservation Area and in close proximity to the Grade II\* Listed Church of St Nicholas and has the potential to impact upon the setting of the Conservation Area and the setting of the listed building.
- 5.5 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining applications 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.
- 5.6 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

- 5.7 The National Planning Policy Framework at paragraph 202 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. In this case the proposal does alter some minor changes to the height of the building alongside and the position of the front property and therefore has the potential to impact upon the setting of the Conservation Area.
- 5.8 Policy DP28 states that conservation of the historic heritage will be ensured by preserving and enhancing listed buildings. Development within or affecting the feature or its setting should seek to preserve or enhance all aspects that contribute to its character and appearance. This is further reiterated within Policy CP16 which states that development or initiatives will be supported where they preserve and enhance the District's natural and man-made assets.
- 5.9 When the development was originally approved in 2017 considerable importance and weight was given to the desirability of preserving and enhancing the character and appearance of the heritage asset. It has been found that the scheme will protect and enhance the Conservation Area and setting of the Listed Church of St. Nicholas. As it is considered that the proposed changes to the properties are minor in nature it is considered that no harm would be caused to the heritage assets and is in accordance with the overarching principles of the NPPF.

#### Impact on of Amenity of the Area

- 5.10 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.
- 5.11 The policy outlines that development must not unacceptably reduce the existing level of amenity space about buildings particularly dwellings, and not unacceptably affect the amenity of residents or occupants. As the amendments to the scheme are likely to cause most impact to the residential property of Carlbury then particular assessment has been made on the impact to this property. During the application, the Planning Officer visited the residential property of Carlbury to assess the impact the development is having on this property.

#### Plot one

- 5.12 As stated previously the alterations to plot one included moving the property further forward by 160mm and moving the property further away from Carlbury by 620mm. It is noted by moving the property further forward this brings the property in front of 2 windows of the Carlbury.
- 5.13 Within the property of Carlbury there are two windows within two rooms which this affects, the first being on the ground floor used as a utility room. This is not a principal room and it is considered the position of the property of Plot One causes no significant harmful impact on neighbouring residential amenity.

- 5.14 The second window is on the first floor and serves a bedroom. The bedroom has three windows, one window is affected by the development; a second window on the same elevation but further away from the development; and a window to the rear of the property looking over the rear garden of Carlbury are not affected.
- 5.15 It is considered that the main window affected would result in some loss of light to the main property, however since the same bedroom has a further two windows this would not result in a significant loss of light to the bedroom. It is considered that the revised position of the new dwelling does not result in a significant harmful loss of light to Carlbury.
- 5.16 Bringing the building on Plot One further forward results in a loss of outlook. Bringing the building forward and further away from the Carlbury this loss of outlook is greater than the previously approved scheme. However, the window does have an outlook and the view is not completely blocked by the adjacent property, only a minimal loss of outlook has occurred. A balanced judgement must be made, it is found that the minimal changes are not significantly harmful, the proposal adequately protects the amenity of neighbours as required by LDF Policy DP1 and refusal of the application cannot be justified.

#### Plot Three

- 5.17 In regard to Plot Three the main issues of concern are in regard to the raised floor levels of the property by 380mm and the repositing of roof lights facing Carlbury. This property is located to the rear of the site. When viewed from Low Street the property is not highly visible. However, plot three is visible from the first floor of Carlbury with plot three positioned approximately 20 metres away from the rear wall of Carlbury. Calbury's rear garden is positioned adjacent to the development site. The raised finished floor level of the property has a greater impact on the neighbouring residential property than the approved scheme.
- 5.18 The level of the site from Low Street, rises to plot one and then the land slopes downwards towards Plot three. Prior to the construction of the dwellings, a garage on the site had a ridge height of 72.92 (above sea level). The newly constructed dwelling has a ridge height of 73.15. Therefore, plot three is approximately 20cm higher than what was previously situated on site and is subsequently 40cm higher than what was previously approved on the site. Also, within the roof of plot three additional roof lights have been added which can also be viewed from Carlbury. The increased height, whilst higher than approved has very little impact on outlook from Carlbury as Carlbury is approximately 20 metres away from the neighbouring property and the roof lights would not affect privacy.
- 5.19 As the Plot 3 is located adjacent to the garden of Carlbury the increased levels have an impact on the enjoyment of the garden. However, substantial planting has been undertaken along this boundary edge (albeit by the neighbour), this planting provides a significant screen to the development. It is considered that even though the planting does provide screening, the development does still cause some overbearing impact on the occupiers of Carlbury. However, the increased height does not result an overbearing impact that is so significant that

it can affect the amenity of the occupiers of Carlbury to breach the terms of LDF Policy DP1 to adequately protect amenity.

View of previous conditions from 18/02661/MRC

- 5.20 Where conditions are needed to continue to control the development they are to be reimposed. This requires the following conditions to be reimposed from the earlier permission regarding archaeology, obscure glazing, landscaping, arboriculture method statement, visibility splays, parking, construction management plan, external lighting, boundary treatments, and the approved plans which should be varied as subject to this application.

Conclusion

- 5.21 It is considered that the proposed development of the amendments would not cause any significant impact on the character and appearance of the area and would cause no harm to the heritage assets. However, it can be considered that there would be some harm on neighbouring residential amenity due to the position of Plot One built further forward and impact on side windows of Carlbury but this harm is not significant and does not breach the terms of LDF Policy DP1.

## 6.0 Recommendation

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

1. No development shall take place within the application area until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.
2. The windows on the west elevation of buildings on Plot 1 and Plot 3 shall at all times be glazed with obscured glass.
3. No above ground construction work on the unbuilt plot 2 shall be undertaken until details of the materials to be used in the construction of the external surfaces of the development have been submitted in writing to the Local Planning Authority for approval and samples 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 part of the development shall be used after the end of the first planting and seeding seasons following the approval of the landscaping scheme required by condition 2, unless the approved scheme has been completed. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.



5. The development hereby approved shall be carried out in accordance with the Arboricultural Method Statement ref ARB/CP/1531; dated November 2018.
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 details supplied within 18/02661/DCN.
7. The details required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation, shall be implemented in accordance with details supplied within 18/02661/DCN.
8. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) at 43m until splays are provided giving clear visibility of metres measured along both channel lines of the major road 2.4m from a point measured 1.05m metres down the centre line of the access road. The eye height will be 0.6m and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
9. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing, 'proposed site plan' received 14th February 2019. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
10. The details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site shall be implemented in accordance with details supplied within 18/02661/DCN. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.
11. There approved method statement of construction shall be carried out in accordance with the approved details provided within 18/02661/DCN and the approved areas shall be kept available for their intended use at all times whilst construction works are in operation.
12. No external lighting shall be installed other than in complete accordance with a scheme that has previously been approved in writing by the Local Planning Authority.
13. The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings and as supplemented by the details required by condition 2 of this permission:

Proposed Floor Plan (Drawing Number: 20004-110-C02)  
Proposed Elevation Plan (Drawing Number: 20004-131-C02)  
Plot one and Barn two Elevations (Drawing Number: 210416)  
Site Location Plan  
Proposed Block Plan (Drawing Number: 20004-107-P00)  
Proposed Elevations (Drawing Number: 20004-130-C02)  
Proposed Floor Plan (Drawing Number: 20004-310-C02)  
Proposed Elevations (Drawing Number: 20004-331-C02)  
Landscaping Plan (Drawing Number: 210416)  
Proposed Floor Plan (Drawing Number: 20004-311-C00)  
Proposed Elevations (Drawing Number: 20004-330-C03)  
Proposed Floor Plan (Drawing Number: 20004-111-C01)  
Site Plan (Drawing Number: 20004-105-P00)

All received on the 20 April 2021; and

Survey Site Sections (Drawing Number: 00296-1000)  
Plot one as approved windows (Drawing Number: 20004-SK01)  
Plot 1 As Built Foot Print and Elevation Comparison to approved  
(Drawing Number: 20004-105-P01)

Received on the 5 August 2021.

14. The details relating to boundary walls, fences and other means of enclosure for all parts of the development shall be implemented in accordance with details provided within 18/02661/DCN. The development shall be implemented in accordance with the approved details.

The reasons for the above conditions are:-

1. This condition is imposed in accordance with Section 12 of the NPPF as the site is of archaeological interest and the Hambleton Local Development Framework Policies CP16 and DP28.
2. To safeguard the amenities of occupiers of adjoining residential property in accordance with Local Development Framework Core Strategy and Development Policies CP1 and DP1.
3. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
4. In order to soften the visual appearance of the development and provide any appropriate screening to adjoining properties in accordance with Local Development Framework Policy CP1, DP1, CP16 and DP30.
5. To safeguard the visual amenity of neighbourhood by ensuring the retention of existing trees in accordance with Local Development Framework Policy DP33.

6. In order to avoid the pollution of watercourses and land in accordance with Local Development Framework CP21 and DP43
7. In accordance with Policy CP1 and in the interests of highway safety.
8. In accordance with Policy CP1 and in the interests of road safety
9. In accordance with Policy CP1 and DP1 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
10. In accordance with Policy CP1 and DP1 and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
11. In accordance with Policy CP1 and DP1 and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.
12. In order that the Local Planning Authority can consider the impact of the proposed lighting scheme and avoid environmental pollution in accordance with Local Development Framework Policies CP1 and DP1.
13. 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) CP1, DP1, CP16, CP17, DP28, DP30 and DP32.
14. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.