

Parish: Kirkby Fleetham With Fencote
Ward: Morton on Swale
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Panel Date : 21 October 2021
Officer dealing : Mr Andrew Cotton
Target Date: 3 May 2021
Date of extension of time (if agreed): 29 September 2021

21/00582/OUT

**Outline planning application (some matters reserved) for the construction of 5 No. residential dwellings with access from Lumley Lane.
At: Land at Friars Garth Lumley Lane Kirkby Fleetham North Yorkshire
For: Greensit.**

The application has been referred to Planning Committee by the Planning Consultative Panel

1.0 Site, Context and Proposal

1.1 The application site lies to the west of Kirkby Fleetham on the northern side of Lumley Lane. The application site, measuring approximately 0.55 hectares, forms a small section in the south eastern corner of a wider open agricultural field which comprises part of the agricultural holding at Friars Garth Farm.

1.2 The proposal is in outline considering access and layout for the construction of 5 detached dwellings. A new vehicle and pedestrian access would be created from Lumley Lane.

1.3 The site lies outside of the defined settlement boundary of Kirkby Fleetham and just beyond the national speed limit signs on Lumley Lane. The site is not in the village conservation area.

2.0 Relevant Planning and Enforcement History

2.1 None relevant

3.0 Relevant Planning Policies

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 CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP8 - Type, size and tenure of housing

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 DP3 - Site accessibility
Development Policies DP4 - Access for all
Development Policies DP10 - Form and character of settlements
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
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/homepage/60/new-local-plan-examination>.
The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.
National Planning Policy Framework

4.0 Consultations

- 4.1 Parish Council - Concerns regarding surface water disposal from the site, flooding issues due to water run off from higher land at the rear, potential light pollution, uncertain adequacy of sewage capacity in the existing system. As regards the design of the outline plan it was suggested a smaller linear development might be preferable, although discussion identified advantages for a cluster development as outlined.
This application is seeking approval under the IPG and it is an important site for the future of Kirkby Fleetham. Therefore, whilst the Parish Council has minuted its initial response, it has also requested from Hambleton District Council an extension to its response period from April 13th until after its next meeting on the 15th when further comments could be added to our response.
Updated comments 22/9/21 - No further comments following the archaeological evaluation.
- 4.2 NYCC Highways - No objection subject to conditions.
- 4.3 NYCC Heritage Services - Objection. Insufficient information to determine the heritage impacts of the proposal, further information would be required prior to determination in accordance with paragraph 189 of the NPPF.
Updated comments 15/9/21 - Following further archaeological evaluation no objection subject to conditions.
- 4.4 MoD - No safeguarding objection at this stage.
- 4.5 Yorkshire Water - No objection subject to conditions.
- 4.6 Public comments - Two objections making the following comments:
- o Development is outside of development limits;
 - o No need identified for additional housing within Kirkby Fleetham;
 - o Access would be taken from a 60mph speed limit road with no pavement or streetlighting and as such could be hazardous;
 - o Highways safety concerns;

- o Light pollution which would be exacerbated due to the layout extending into the field rather than being linear in form;
- o Up to date need assessment should be carried out before any future proposal for housing are considered; and
- o The site is not allocated in the emerging local plan, nor are there any housing allocations within Kirkby Fleetham.

Four neutral representations raising the following points:

- o The application site is outside development limits/village boundary;
- o The front of the site and Lumley Lane floods, while there has been an attempt to remedy this it has not been successful;
- o Surface water drainage problems from increased run off;
- o Neighbouring stables and muck heap not shown on the site plans;
- o Impacts from additional streetlighting and the light pollution this would cause;
- o This is a 60mph road at this point with no footpaths into the village;
- o Loss of privacy/inadequate privacy for future occupiers due to orientation of plot 4;
- o No clear explanation of the demographic this development will be marketed towards;
- o Sewage issues as a result of the local network operating at capacity;
- o Visual amenity impacts as a result of a loss of the view of the ridge and furrow formation in the field from Lumley Lane;
- o Layout is similar to a typical farmstead and as such would be sympathetic to its location on the edge of the village; and
- o 2-3 bed homes would encourage families to the area but larger executive type homes are not needed in Kirkby Fleetham.

One letter of support raising the following points:

- o Houses proposed as a mix of houses and low cost housing not successful;
- o People need places to live and this will be a small but significant area overlooked in the past.

5.0 Analysis

- 5.1 The main issues to consider are: (i) the principle of development in this location; (ii) the impact on the character and appearance of the surrounding area; (iii) the impact on the amenity of neighbouring occupiers; (iv) highway safety; (v) heritage; and (vi) ecology.

Principle

- 5.2 The site is beyond the Development Limits identified in the Local Development Framework (LDF) for Kirkby Fleetham. Therefore, development is only considered acceptable under LDF policies in exceptional circumstances, set out in Policy CP4. The applicant does not claim any of the exceptional circumstances identified in that policy and as such the proposal is a departure from the Development Plan. However, it is also necessary to consider more recent national policy in the form of the NPPF. Paragraph 78 of the NPPF states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. 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".

5.3 To ensure consistent interpretation of the NPPF alongside Policies CP4 and DP9, the Council adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in the Rural Areas. This guidance is intended to bridge the gap between CP4/DP9 and the NPPF and relates to new housing in villages.

5.4 The IPG states that the Council will support small-scale housing development in villages where it contributes towards achieving sustainable development by maintaining or enhancing the vitality of the local community and where it meets all of the following criteria:

1. Development should be located where it will support local services including services in a village nearby.
2. Development must be small in scale, reflecting the existing built form and character of the village.
3. Development must not have a detrimental impact on the natural, built and historic environment.
4. Development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements.
5. Development must be capable of being accommodated within the capacity of existing or planned infrastructure.
6. Development must conform with all other relevant LDF policies.

5.5 In the Settlement Hierarchy reproduced in the IPG, Kirkby Fleetham is identified as an 'Other Village'; however it is also identified as part of a cluster of villages with Kirkby Fleetham and Great Fencote and is therefore considered a sustainable location for development. As such, the proposal satisfies criterion 1 of the IPG that development must provide support to local services including services in a village or villages nearby.

Character and appearance

5.6 IPG criterion 2 requires development to be small scale. The guidance indicates this is normally up to five dwellings. However, that does not automatically mean that five dwellings would be appropriate in every settlement. In this case 5 dwellings are proposed.

5.7 Along with the remainder of criterion 2; criteria 3 and 4 require consideration to be given to the impact of the development on the surrounding natural environment and physical built form. This is consistent with other policies in the LDF. In making this assessment it is noted that the application is in outline considering access and layout only with all other matters reserved.

5.8 The application site comprises a roughly L-shaped piece of agricultural grazing land with Lumley Lane running to the south, a field access and 26

Lumley Lane to the east and open countryside to the north, west and south (with the exception of 2 properties located further to the south) beyond Lumley Lane. The site is physically separated from the settlement by an established boundary hedge to the eastern boundary with the field access and 26 Lumley Lane, which itself lies outside of the settlement boundary, further to the east. A small wooden fence defines the southern boundary of the site from Lumley Lane. However, the site is relatively open to the north and west and wider open countryside beyond. The built form of Friar Garth with its large agricultural buildings and silo typical of this type of agricultural site are visible further to the west. The site is set away from the historic core of the settlement.

- 5.9 The proposed layout would result in the creation of the access road perpendicular to Lumley Lane with the development plots set out in a non-uniform layout, which while visibly different from the linear layout of the closest residential properties to the east on Lumley Lane, it would create a small cluster of buildings with an agricultural 'farm yard' feel which would relate well to its wider surroundings. Additionally, it is noted the form of the village is not entirely linear, given the relatively large 1980's development of Village Way/Village Fold, and as such is considered not to result in a detrimental impact on the existing built environment and be reflective of the built form and existing character of the village.
- 5.10 The proposed introduction of 5 dwellings is considered to be appropriate for this location just outside of the settlement boundary, resulting in a small extension of the built form of the village in a manner which would not result in harm to the character and appearance of the surrounding natural landscape.
- 5.11 Careful consideration should be given to the scale and design of the dwellings within this location, given its relationship with the open countryside.
- 5.12 On balance the proposal is considered to accord with criteria 2, 3 and 4 of the IPG.

Neighbour Amenity.

- 5.13 The nearest residential property is located to the east, 26 Lumley Lane. Given the size of the site it is considered that there is scope for a design to be achieved that would not result in an adverse impact to residential amenity for exiting occupiers and accord with Policy DP1. However, it must be considered there is an existing stable and midden located to the rear of 26 Lumley Lane which is in relatively close proximity to plot 4 in particular, which could give rise to adverse impacts upon the amenity of future occupiers.

Highways

- 5.14 The Highway Authority has no in principle objection to the proposed development subject to a number of conditions. It is considered the proposed access arrangement would not have detrimental impact upon highways operation or safety. The proposed development is considered to comply with policy DP4 in these terms.

Heritage

- 5.15 Heritage assets, as stated within paragraph 184 of the NPPF, are an irreplaceable resource that should be conserved in a manner appropriate to their significance.
- 5.16 The NPPF at paragraph 189 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 (or site). Paragraph 193 of the NPPF states that great weight should be given to the asset's conservation.
- 5.17 No supporting information was initially submitted with reference to heritage and archaeology. NYCC Heritage Services Principal Archaeologist commented on the application stating that the site is at the western end of the medieval settlement of Kirkby Fleetham. The field in question contains earthwork remains. The northern part of the site contains ridge and furrow, which is broad and gently curving, suggesting a medieval date. The frontage of the site along the road does not contain ridge and furrow and there are hints of other earthworks. The ridge and furrow terminates at a distinct embankment. The break in the ridge and furrow between this embankment and the street frontage suggests that this part of the site may have contained a part of the medieval settlement which subsequently became deserted. This pattern of growth and contraction of medieval settlement is noted across Yorkshire from the 14th century onwards due to factors such as plague, crop failure and war.
- 5.18 Additional information was requested and submitted in based on archaeological trial trenching, heritage assessment and combined geophysical and earthwork survey at the site.
- 5.19 NYCC Heritage Services Principal Archaeologist subsequently commented that the trial trenching has demonstrated that the earthworks present on site are either natural or agricultural in origin and do not form a constraint on the development. The trial trenching did note an organic peat soil horizon that is likely to be early prehistoric in date. The report for the work states that a sample of peat from the site has been sent for analysis to inform of its significance and the results of this would inform whether or not any further peat sampling or analysis of existing samples would be beneficial. This minor piece of outstanding work could be secured by a planning condition as the peat deposit is of research interest rather than forming a constraint on the development.
- 5.20 In conclusion, subject to an appropriately worded condition there are no archaeological constraints to the site being developed.

Ecology

- 5.21 Policy DP31 of the Development Policies DPD states that 'Permission will not be granted for development which would cause significant harm to sites and habitats of nature conservation...Support will be given...to the enhancement and increase in number of sites and habitats of nature conservation value'.

5.22 An Ecological Appraisal has not been carried out. However, given that the site is currently agricultural land and as such could be grazed or given over to the plough at any time, it is not considered that an ecological appraisal is required at this stage. However, while it is noted that the site comprises semi-improved grassland which is likely of low ecological value, the loss of an open pasture to built development, including the introduction of made surfaces could likely have some ecological impacts and a preliminary ecological appraisal and biodiversity enhancements could be secured through an appropriately worded condition. The council recommends that in accordance with NPPF para 175d, proposals should demonstrate a 'measurable' net gain in biodiversity. This is transposed to local policy and the emerging Environment Bill which is expected to put a requirement for all proposals to achieve a 10% net gain in biodiversity.

Planning Balance

5.23 In summary the proposal would create additional dwellings in a sustainable location without causing harm to the form and character of the village and without harm in terms of residential amenity or highway safety. The scheme is found to result in social gains through the provision of new housing, the economic impact of the development would be small but positive and the environmental impacts as a consequence of the development are on balance found to be positive. No other material considerations would preclude a grant of planning permission. The proposed development is found on balance to be acceptable.

6.0 Recommendation

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

1. Application for the approval of all of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: i) Three years from the date of this permission ii) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

2. The development shall not be commenced until details of the following reserved matters have been submitted to and approved by the Local Planning Authority: (a) the design and external appearance of the building, including a schedule of external materials to be used; (b) the landscaping of the site (including tree survey, method statement and tree protection measures); (c) the scale of the proposed buildings and spaces including parking and any external storage areas.

3. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) labelled '5 New Dwellings' as received by Hambleton District Council on 8th March 2021 unless otherwise approved in writing by the Local Planning Authority.

4. Prior to their use on the site, details and samples of the materials to be used in the external surfaces of the development, hereby approved, shall be provided on site for the inspection and written approval of the Local Planning Authority.
5. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.
6. The development must not be brought into use until the access to the site at Lumley Lane has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:
 - o Any gates or barriers must be erected must not be able to swing over the existing or proposed highway.
 - o Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed and maintained thereafter to prevent such discharges.
 - o The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
 - o Measures to enable vehicles to enter and leave the site in a forward gear. All works must accord with the approved details.
7. There must be no access or egress by any vehicles between the highway and the application site at Lumley Lane, Kirkby Fleetham until splays are provided giving clear visibility of 215 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
8. There must be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) at Lumley Lane, Kirkby Fleetham until full details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - o vehicular, cycle, and pedestrian accesses;
 - o vehicular and cycle parking;
 - o vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and;
 - o loading and unloading arrangements.

9. 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. details of the measures to be taken for the protection of trees; and 7. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue and/or queries received from members of the public.

10. The development hereby approved shall be for up to five dwellings only.

11. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

12. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

13. Prior to commencement of development, a Preliminary Ecological Appraisal shall be submitted to and approved in writing by the Local Planning Authority.

The reasons for the above conditions are:-

1. To ensure compliance with Section 92 of the Town and Country Planning Act, 1990

2. To enable the Local Planning Authority to properly assess these aspects of the proposal, which are considered to be of particular importance, before the development is commenced.

3. 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) DP23.

4. In the interest of visual amenity.

5. To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.

6. To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.
7. In the interests of highway safety.
8. To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.
9. In the interest of public safety and amenity.
10. For the avoidance of doubt and to ensure that the scale of development is appropriate to the location and to accord with policies DP30 and DP32.
11. In the interest of satisfactory and sustainable drainage.
12. To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.
13. To provide adequate safeguards for the protection of any protected species or habitats existing on the site in accordance with policy DP31.