

Parish: Huby
Ward: Huby
7

Committee Date: 18 November 2021
Officer dealing: Marc Pearson
Target Date: 29 September 2021

21/01643/FUL

**Application for construction of 1no detached dwelling and a pair of semi-detached dwellinghouses with a triple garage block to the rear (within red line boundary of previously approved application 19/02169/FUL but with change of house types)
At: Land to the north of The Forge Tollerton Road Huby North Yorkshire
For: Hubylee Ltd**

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

1.0 Site description and proposal

- 1.1 The application is located on the western edge of the village to Huby on the north side of Tollerton Road. The access to the site is via a field gate and the boundaries of the site are defined by hedgerows, trees and timber fencing. The surrounding context is defined by a variety of modern residential properties to the east located on both sides Tollerton Road. This includes a further planning permission for the construction of a detached dwelling yet to be implemented on the south side of Tollerton Road (ref. no. 20/01600/OUT).
- 1.2 In July 2020 planning permission was granted for the construction of a short terrace of 3 two storey dwellings accessed via single access point with garaging for all properties located to the rear (ref no. 19/02169/FUL). The original submission was for 4 dwellings but this was reduced to three dwellings and also included a s.106 agreement for tree planting on land to west of the approved dwellings (on the land where the “fourth dwelling” was sited and subsequently omitted).
- 1.3 This application seeks an alteration to the approved development through the development of one detached property and formation of a semi-detached pair. The generic scale, form, design and appearance of the dwellings together with the access and parking arrangements remain as per the approved development.
- 1.4 It is important to note that a concurrent planning application (ref no. 21/00623/FUL) has also been submitted for single detached dwelling on land to west of the application site which is identified for the purposes of this report as the “fourth dwelling”. This concurrent application forms the area subject to the s.106 agreement for tree planting (ref no. 19/02169/FUL). This application is pending consideration and is scheduled to be heard at same planning committee meeting as this application.
- 1.5 As a consequence of the application for the “fourth dwelling” the area of tree planting has been amended to provide the majority to the north of the application site together with a narrow strip along the western edge of the concurrent application for the “fourth dwelling”. The applicant has agreed to provide the planting through the provision of a s.106 agreement to accommodate the provision of the “fourth dwelling”.

2.0 Relevant planning and enforcement history

- 2.1 18/01367/FUL - Construction of five dwellings with landscaping, access arrangements and associated infrastructure. Refused September 2018 and dismissed at appeal ref. APP/G2713/W/18/3213272
- 2.2 19/02169/FUL - Development of 3 three bed terraced houses with garages. Approved July 2020.
- 2.2 21/00623/FUL - Application for the construction of 1No. detached house and double garage. Pending 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. The relevant policies are:

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
Core Strategy Policy CP21 - Safe response to natural and other forces
Development Policy DP1 - Protecting amenity
Development Policy DP3 - Site accessibility
Development Policy DP4 - Access for all
Development Policy DP8 - Development Limits
Development Policy DP9 - Development outside Development Limits
Development Policy DP10 - Form and character of settlements
Development Policy DP30 - Protecting the character and appearance of the countryside
Development Policy DP32 - General design
Development Policies DP31 – Protecting natural resources: biodiversity/nature conservation
Development Policy DP33 - Landscaping
Development Policy DP43 - Flooding and floodplains
Interim Guidance Note - adopted by Council on 7th April 2015
National Planning Policy Framework
Size, Type and Tenure of New Homes SPD - adopted September 2015

The Hambleton 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 Development Plan for Hambleton is the Local Development Framework and the emerging Local Plan is no more than a material consideration. 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 Huby Parish Council – Object, noting the relationship of the proposal [this scheme and the “fourth dwelling” and the woodland planting proposal] the inability to provide the tree planting previously shown and that the proposed row of houses is still at the same angle to the road as was the original block, to which the Parish Council objected.
- 4.2 NYCC Highways - no objection, subject to conditions regarding the discharge of surface water, construction of private access and verge crossings, visibility splays, delivery of off-site highway works, provision of approved turning and parking areas, a construction management plan.
- 4.3 Contaminated Land Officer – PALC now submitted, final response awaited
- 4.4 Environmental Health – no response received (expired 1.9.2021)
- 4.5 Yorkshire Water - no objection subject to conditions relating to separate foul and surface water drainage and protection of the water supply that crosses the site.
- 4.6 Yorkshire Wildlife Trust - no response received (expired 1.9.2021)
- 4.7 Natural England – No observations.
- 4.8 Kyle and Upper Ouse Internal Drainage Board – No objection subject to a condition on surface water disposal.
- 4.9 Site notice and neighbour notification – Two observation objecting to the proposal as summarised below:
 - Concern regarding the relationship and proximity of the proposed building line to the highway.
 - Removal of the large tree roadside would result in loss of privacy for existing houses opposite.
 - Concern about highway safety given the speed of vehicles in the 30mph zone, bend in the road and heavily trafficked route along Tollerton Road. The road is extremely busy with cars, farm machinery & lorries along with cyclists, horse riders & walkers. Given other developments to the east on street parking is becoming an issue creating a slalom effect.
 - Unclear why the proposed pavement continues pass the entrance for the proposed driveway. This will result in the removal of the current verge bollards and will encourage people to use this as overflow parking, making it unsightly and cause visibility issues for users of the new access point.
 - In sufficient parking for the number of vehicles per property, the front area is only for turning purposes not parking.

- The addition of more houses would eventually appear down Tollerton Road, removing the open & rural character of the village.
- Concern about localised flooding of the highway and the development of the site will add to the issue.
- Loss of views of countryside and skyline from existing properties in the vicinity of the site.
- Concern about loss of more verge for footpath that would be used as parking creating further highway concerns.
- Concern regarding the impact of the development on the existing and ageing infrastructure that supports the community with a particular concern about internet connectivity.
- Concern about the impact of the proposal during construction in regard to working hours, noise and dust and contractor parking.

5.0 Analysis

- 5.1 The main issues to consider are: (i) the principle of development; (ii) housing, size, type and tenure; (iii) the impact on the character of the village and countryside and natural environment; (iv) residential amenity; (v) highway safety and (vi) flood risk and drainage.

Principle of Development

- 5.2 Policy CP4 of the Local Development Framework restricts development located in the open countryside. However, following the publication of the National Planning Policy Framework (NPPF), the Council adopted Interim Policy Guidance (IPG) to allow for limited growth in smaller settlements. The IPG allows for a limited amount of new residential development in or abutting existing villages in the countryside, provided certain criteria are met. A revised Settlement Hierarchy now includes Huby within the sub category of "Service Villages". The IPG states "Small scale housing development will be supported in villages where it contributes towards achieving sustainable development by supporting the functions of the local community AND where it meets ALL of the following criteria:
- Development should support local services including villages nearby;
 - Development must be small scale, reflecting the existing built form of the settlement;
 - Development must not have a detrimental impact upon the natural, built and historic environment;
 - Development should have no detrimental impact upon the open character and appearance of the surrounding countryside or lead to the coalescence of settlements;
 - Development must be capable of being accommodated within the capacity of existing and planned infrastructure; and,
 - Development must conform with all other relevant LDF policies.

- 5.3 The principle issue to be determined relates to criterion i), which only allows new development outside Development Limits if it supports local services and as such contribute to sustainable development. Huby is considered to be a secondary village and therefore the proposal is considered to satisfy criterion 1. With regard to the emerging Local Plan Huby is allocated as a secondary village within Policy S3 and therefore the principle of residential development would still be considered acceptable under the emerging policy.

Housing Size, Type and Tenure

- 5.4 The previously approved planning application (19/02169/FUL) on the site comprised three x 3-bed dwellings and the proposed development would provide the same housing mix. On this basis the proposal is considered to comply with the Size, Type and Tenure of New Homes SPD, the SHMA and LDF Policy DP13. The mix of housing would also be conditioned and therefore can satisfy Criterion 2 of the IPG. With regard to the emerging Local Plan, subject to the imposition of a condition on the housing mix, the proposal could satisfy the need for smaller homes and comply with the requirements of Policy HG2 contained within the emerging Local Plan.

Character of the Village, Impact on Countryside and impact on natural environment

- 5.5 With regard to criterion 2 of the IPG, development must reflect the existing built form and character of the village. The aim of the IPG is to allow organic growth which reflects the historic development of the village. With regard to the scale of the development, the proposal for 3 dwellings is considered to be appropriate to satisfy the requirements of the IPG when viewed in isolation. It is noted that the previous application did not receive officer support on the basis of the context of the surrounding approvals for eight dwellings (already built out), the addition of a further three dwellings (eleven in total) in this part of Huby was not considered to be gradual or incremental growth that is small in scale. However, the application was approved by the planning committee and thus the principle for three dwellings has been established and is a fall-back position. Furthermore, the layout scale, form, design and appearance of the proposals are similar to that of the approved development, with the only alteration being a minor change to the layout to provide a detached dwelling with less driveway adjacent to the highway. Public observations and comments from the Parish Council refer to the alignment of the building line. The proposed layout reflects the approved development and is reflective of other development in the context. Furthermore, the roadside tree is to be retained as part of the layout. It is noted that the extent of the proposed layout is similar to the approved development (19/02169/FUL) and thus raises no concerns in terms of impact on the countryside because the development sits adjacent to existing housing to the east and opposite housing to the south.
- 5.6 With regard to criterion 3 of the IPG notes that development must not have a detrimental impact upon the natural environment. It is noted that the existing hedgerow and tree provides a visual edge to the highway and these are proposed to be retained with the exception of the new vehicle access point. During the course of the application, the extent of footpath across the site frontage was reduced because the full extent of footpath is only required if the "fourth dwelling" is approved and the provision of a footpath to connect to the existing footpath would be conditioned to that application. In any event, the previously approved application

provided a footpath across the entire site frontage and this raises no landscape impact concerns.

- 5.7 The Ecological Impact Assessment from the previous proposal is also being used for this application although the previous report is over a year old it is considered that the results would be unlikely to have changed and is suitable for the purposes of this application. No records are evident of great crested newts (GCN) within 2km. Four ponds exist within 500m of the proposed development. Pond 1 and 2 are separated from site by a main road. Ponds 3 and 4 were assessed with Habitat Suitability Index (HIS), both classified as 'below average' suitability'. On this basis the proposal raises no ecology concerns.
- 5.8 On the basis of the above it is considered that the proposal would satisfy criterion 2 and 3 of the IPG and would satisfy policies DP32 and DP33 of the LDF. With regard to the emerging Local Plan the proposal is considered to satisfy the relevant parts of Policies S1, HG5 and E1.
- 5.9 Criterion 4 of the IPG notes development should have no detrimental impact on the open character and appearance of the surrounding countryside or lead to the coalescence of settlements. Given the location of the application site the development for 3 dwellings would not lead to the coalescence of settlements and would be far enough away from the property to the west (Oaklands) not to cause concern. As part of the proposals for the previously approved scheme (19/02169/FUL) a landscape tree belt to the west of the application site boundary was secured by a s.106 agreement. This would provide a visual marker to the extent of the village and would help to assimilate the approved development into the countryside. It is important to note that this application proposes a change to the extent and location of the tree belt in order to accommodate the "fourth" dwelling that is subject of a concurrent separate application (21/00623/FUL). The majority of the tree belt is now proposed on land to the north of the application site, together with a strip along the western parcel of the site area associated with "fourth" dwelling. The applicant has agreed to enter into a s.106 agreement to secure the new location of the tree belt planting. On this basis the proposal is considered to satisfy criterion 4 of the IPG or LDF policies DP30 and DP32. In terms of the emerging Local Plan the proposed development would satisfy Policies HG5, E1, E3 and E7.

Residential Amenity

- 5.10 The proposed site layout indicates that the primary elevations would be orientated to face Tollerton Road. Given the separation distance to the properties on the opposite side of the highway and the property to the east the proposal does not raise any amenity concerns. On the basis of the above, it is considered that the proposals do not raise any amenity concerns would therefore protect amenity in accordance with LDF Policy DP1. In terms of the emerging Local Plan the proposal is considered to satisfy Policies E1 and E2.

Highway Safety

- 5.11 Criterion 5 of the IPG states that development must be capable of being accommodated within the capacity of existing or planned infrastructure. It is noted that NYCC Highways Authority recommends conditions regarding a requirement for

the visibility splay, access, parking and turning details and provision of a footpath along site frontage. It is also noted that a number public observations relate to highway concerns regarding vehicle speeds along a heavily trafficked route, concern about roadside parking to the east of the site, concern about visibility should vehicles park adjacent to application site, concern about vehicles parking on the verge/new pavement and removal of the roadside bollards and comments relating to construction traffic. NYCC Highways raise no concerns regarding the provision of a footpath or the loss of bollards. In terms of comments relating to the potential parking issues on the roadside and pavements this is a behavioural issue beyond planning control. In any event it is considered there is sufficient space to the front and rear of the site layout to accommodate vehicles for the residents and any visitors. Furthermore, NYCC Highway raises no concerns regarding vehicle speeds or visibility splays. On this basis the proposal is considered to satisfy Criterion 5 of the IPG, through the imposition of suitably worded conditions relating to highway safety, the application would satisfy requirements of LDF Policies DP3 and DP4. In terms of the emerging Local Plan the proposal would satisfy Policies CI 1 or CI 2.

Flood Risk and Drainage

- 5.12 The application site is located in Flood Zone 1 where land is assessed as having a less than 1 in 1000 annual probability of river or sea flooding (low probability). In addition, the Environment Agency surface water mapping does not illustrate any issues with the application site or highway despite references in a public observation. The Internal Drainage Board also raises no concern subject to a condition regarding surface water. It is also noted that public observations refer to issues with foul sewers in the village. Yorkshire Water do not raise any concerns relating to the proposal subject to conditions on the disposal of foul and surface water. In addition, Yorkshire Water notes an easement to be protected and recommends a condition to cover this matter. Therefore, the proposal is not considered to raise any flood risk or drainage concerns subject to the imposition of conditions recommended by Yorkshire Water. It is therefore considered to satisfy flood risk Policy DP43 of the LDF and emerging Local Plan Policies RM1 and RM2.

Other Matters

- 5.13 A public observation notes that the proposal would result in the loss of views of countryside and skyline from existing properties in the vicinity of the site. The planning system does not afford a "right to a view" and is not a matter to be considered in the determination of this application.
- 5.14 Concern has been raised regarding the impact of the development on the existing and ageing infrastructure that supports the community with a particular concern about internet connectivity. This is a matter to be addressed by the internet providers or telecoms regulator and could not justify a refusal of this planning application.

Planning Balance

- 5.15 The site is considered to be in a sustainable location and would satisfy the requirements of the Interim Policy Guidance. It is considered that the proposed development complies with the relevant Local Development Framework policy in

terms of the principle of development, access, design, amenity, highways, ecology and drainage and is otherwise in accordance with local and national policy requirements.

6.0 Recommendation

6.1 That subject to (a) the satisfactory prior completion of a planning obligation to secure the provision of tree planting and (b) any outstanding consultations permission is **GRANTED** subject to the following conditions:

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 HBL1A (strretscene) HBL3A (site plan), HBL4 and 5 (Plot 1 elevations), HBL6 (plot 1 floor plans), HBL7 and 8 (plots 2 and 3 elevations), HBL9 and 10 (plots 2 and 3 floor plans) to HBL11(garage floor plans and elevations) received by Hambleton District Council 29th October 2021 unless otherwise approved in writing by the Local Planning Authority.

3. No above ground construction work 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. Above ground construction of dwellings shall not be commenced until a detailed landscaping scheme indicating the type height, species and location of all new trees and shrubs has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied after the end of the first planting and seeding seasons following the approval of the landscaping scheme, unless those elements of the approved scheme situated within the curtilage of that dwelling have been implemented. 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. Above ground construction shall not be commenced until details relating to boundary walls, fences and other means of enclosure for all parts of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

6. There must be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway

Authority. The works shall be implemented in accordance with the approved details and programme.

7. The development must not be brought into use until the access to the site has been set out and constructed in accordance with the following requirements:

- The crossing of the highway verge and footway shall be constructed in accordance with the approved drawing reference HBL3 Revision A and Standard Detail number E50.
- The final surfacing of any private access shall not contain any loose material that is capable of being drawn on to the existing public highway.

All works must accord with the approved details.

8. There must be no access or egress by any vehicles between the highway and the application site until splays are provided giving clear visibility of 43 metres measured along both channel lines of the major road from a point measured 2 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.

9. The following schemes of off-site highway mitigation measures must be completed as indicated below:

- Provision of a 1.5 metre wide footway across the site frontage linking with the existing footway on Baston Lane prior to the development being brought into use.
- Relocation of highway signs as required prior to the development being brought into use.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority. Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

10. The development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition 9:

Provision of a 1.5 metre wide footway across the site frontage linking with the existing footway on Baston Lane and relocation of highway signs as required.

11. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the approved drawing reference HBL3 Revision A. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

12. 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:

- details of any temporary construction access to the site including measures for removal following completion of construction works;
- wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
- the parking of contractors' vehicles;
- areas for storage of plant and materials used in constructing the development clear of the highway;
- erection and maintenance of hoardings and security fencing on/over the highway verge & carriageway;
- measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
- contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

13. Prior to development commencing details of the existing ground and floor levels of site and neighbouring buildings and the proposed ground and finished floor levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The levels shall relate to an identified fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.

14. Land contamination final recommendation awaited

15. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

16. 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.

17. No building or other obstruction including landscape features shall be located over or within 6 (six) metres either side of the centre line of the public water main i.e. a protected strip width of 12 (twelve) metres, that crosses the site. If the required stand-off distance is to be achieved via diversion or closure of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

The reasons for the above conditions 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 and DP32.
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) CP17 and DP32.
4. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
5. To protect the amenity of the neighbouring residents and to ensure that the development is appropriate to the character and appearance of its surroundings.
6. In the interests of highway safety.
7. To ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.
8. In the interests of highway safety.
9. To ensure that the details are satisfactory in the interests of the safety and convenience of highway users.
10. In the interests of the safety and convenience of highway users.
11. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
12. In accordance with policy DP4 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.
13. To ensure that the development is appropriate to landscape context in accordance with the Hambleton Local Development Framework Policies CP1, CP4, CP16 and DP30.
14. Land contamination final recommendation awaited
15. In the interest of satisfactory and sustainable drainage.
16. To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.
17. In order to allow sufficient access for maintenance and repair work at all times.