

**Parish: Thirkleby High & Low With
Osgoodby**

Ward: Raskelf & White Horse

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Committee Date: 7 July 2022

Officer dealing : Mrs Naomi Waddington

Target Date : 21 April 2022

Extension of time: 11 July 2022

22/00470/MRC

**Variation of conditions attached to Application Reference Number 18/01916/FUL - change of use of agricultural land, demolition of agricultural building for construction of one detached holiday cottage and associated domestic curtilage
At: Old Oak Cottages, High House Farm, Thwaites Lane, Little Thirkleby
For: Mr & Mrs Tattersall**

This item is presented to the Planning Committee as the proposal requires consideration of the Planning Balance in the light of the new Local Plan.

1.0 Site, context and proposal

- 1.1 The application site comprises a detached building which is under construction, located approximately 175 metres to the east of High House Farm, located to the east of the village of Little Thirkleby. The building is accessed from the farmstead and range of existing holiday cottages by an existing access track and the wider complex is served from Thwaites Lane. A cluster of buildings at High House Farm have previously been converted into holiday accommodation, forming 8 cottages with associated facilities including an outdoor tennis court, indoor pool, spa bath, sauna and gardens. These cottages can accommodate 44 guests.
- 1.2 Planning permission was granted in 2018 for the demolition of an agricultural building constructed of brick under a corrugated sheet metal roof, and its replacement with an L-shaped part single part two storey brick/clay pantile building of traditional appearance, for use as holiday cottage. The proposal was considered to represent an exceptional case under planning policies in force at the time as a tourism use, and permission was granted subject to conditions, including condition 3 an occupancy condition which reads:-

‘The development hereby approved must comply with the following requirements that:

- (i) the accommodation shall not be occupied other than for holiday purposes;
- (ii) the accommodation shall not be occupied as a person's sole, or main place of residence;
- (iii) the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of the accommodation, and of their main home addresses.

The owner/operator shall advise the Local Planning Authority of the name and address of the holder of the records and shall make the information on the register available at all reasonable times to the Local Planning Authority.’

The reason for the condition reads ‘To ensure that the approved accommodation is not used for unauthorised permanent residential

occupation and can thereby contribute to the economy without undue demands on local schools, social and health services etc., and in accordance with the objectives of the Hambleton Local Development Framework Policies CP15 and DP25'.

- 1.3 The current application seeks to amend condition 3 to enable the building to be occupied for either holiday purposes or by a person employed or last employed in the business operating at the site known as Old Oak Cottages, Little Thirkleby (and any subsequent name) and their dependents.
- 1.4 The application is submitted with a supporting statement. This advises the holiday cottages are run by the applicants who also farm the 400 acres of land and live on site. The applicant's daughter is to take over the running of the holiday cottages, she currently lives off site 25 miles away and travels to the site daily. The daily routine encompasses welcoming guests, providing access to the cottages, maintenance of the cottages and grounds, cleaning of the cottages between visits, and maintenance of the swimming pool. Peak activity is at change over time which can vary as the length of stays are not defined. The applicants ensure someone is always on site to help with any requirements from visitors, day and night. It is intended the applicant's daughter will take over the management of the family business in the near future with Mr and Mrs Tattersall stepping back and ultimately retiring. It is proposed to amend condition 3 to allow their daughter to use the cottage as her full-time permanent residence. Other than the main farmhouse which is occupied by the applicants, there are no other suitable open market dwellings at the site. No physical changes are proposed to the building.

2.0 Relevant planning and enforcement history

- 2.1 The wider complex has been the subject of various planning applications which have enabled the conversion of the various agricultural buildings to form eight holiday cottages, most recently in 2009 under application reference: 09/00432/FUL for the formation of 2 holiday units.
- 2.2 17/00071/MBN In terms of the building forming the subject of the application, prior approval was refused for the conversion and alteration of the building to form a dwelling. The reason for refusal was: The proposal involves extensive building operations as the building lacks the physical properties that enable the building to function as a dwelling. The works proposed are disproportionate in relation to the existing fabric of the building and is therefore beyond the scope of the permitted development rights under the provisions of Class Q. REFUSED 07.03.2017
- 2.3 18/01916/FUL Change of use of agricultural land, demolition of agricultural building for construction of one detached holiday cottage and associated domestic curtilage APPROVED 09.11.2018
- 2.4 18/01916/DCN Application for details reserved by condition to previously approved application 18/01916/FUL APPROVED 24.11.2020

3.0 Relevant planning policies:

- 3.1 The relevant policy of the Development Plan and any supplementary planning policy advice are as follows:-

Policy S 1 - Sustainable Development Principles
Policy S 3 - Spatial Distribution
Policy S 5 - Development in the Countryside
Policy EG7 - Businesses in Rural Areas
Policy HG4 Housing Exceptions
Policy HG 5 - Windfall Housing Development
Policy E 1 - Design
Policy E 2 - Amenity
Policy E 7 - Hambleton's Landscapes
Policy CI 1 – Infrastructure Delivery
Policy CI 2 - Transport and Accessibility
Policy RM 2 - Flood Risk
Policy RM 3 - Surface Water and Drainage Management

4.0 Consultations

- 4.1 Thirkleby High & Low with Osgodby Parish Council – No response received (expired 23.03.22)
- 4.2 NYCC Public Rights of Way – Comments made in relation to public bridleway which runs along the access track to the south of the site
- 4.3 Site notice posted and expired 01.04.2022.
- 4.4 Public comments – Site notice displayed and neighbours consulted. No public representations have been received.

5.0 Analysis

- 5.1 The main issues for the planning application are i) the principle of residential development in this location, ii) Residential amenity, iii) Access/highway safety/infrastructure/drainage, iv) Conditions v) Deviations from approved design

The principle of residential development in this location

- 5.2 Policy S1 sets out Sustainable Development Principles. Policy S3 Spatial Distribution identifies Little Thirkleby as a small village. Policy S5 relates to development in the countryside and defines countryside as 'land outside the existing built form of a settlement identified in the settlement hierarchy in policy S3: Spatial Distribution'. Policy S5 defines the built form as 'the closely grouped and visually well related buildings of the main part of the settlement and land closely associated with them'. The policy lists exclusions to "built form" which include:
 - a. any individual building or group of dispersed buildings or ribbon developments which are clearly detached from the main part of the settlement;
 - b. any ribbon development attached to the main part of the settlement where the buildings relate more to the surrounding countryside than to the main part of the settlement;

c. gardens, paddocks and other undeveloped land on the edge of the settlement where this land relates more to the surrounding countryside than to the main part of the settlement’.

5.3 Policy HG5 relates to windfall housing and supports proposals for housing development within the main built form where the site is not protected for its environmental, historic, community or other value, or allocated, designated or otherwise safeguarded for another type of development. The policy also offers support to housing development adjacent to the built form of Service, Secondary and Small Villages where the proposal demonstrates that:

a. a sequential approach to site selection has been taken where it can be demonstrated that there is no suitable and viable previously developed land available within the built form of the village; and

b. it will provide a housing mix in terms of size, type and tenure, in accordance with the Council’s Housing and Economic Development Needs Assessment (HEDNA) and Strategic Housing Market Assessment (SHMA) or successor documents.

This support is providing the proposals represent incremental growth of the village that is commensurate to its size, scale, role and function, do not result in the loss of open space that is important to the historic form and layout of the village; and have no detrimental impact on the character and appearance of the village, surrounding area and countryside or result in the loss of countryside that makes a significant contribution to the character or setting of that part of the village

5.4 The site lies neither within nor adjacent to the built form, and the use of the building for residential purposes in this location is contrary to the provisions of policies S1, S3, S5 and HG5 of the Hambleton Local Plan. However the proposal relates to the conversion of near complete holiday unit rather than a new build, and consideration of the business impacts are also required.

5.5 Policy EG7 relates to businesses in rural areas and supports employment generating development where:-

a. the expansion of an existing business where it is demonstrated that there is an operational need for the proposal that cannot physically or reasonably be accommodated within the curtilage of the existing site; or

b. the re-use of an existing building of permanent, structurally sound construction that is capable of conversion without the need for substantial extension, alteration or reconstruction and can accommodate the functional needs of the proposed use including appropriate parking provision: or

c. a new building provided that it is well-related to an existing rural settlement and where it is demonstrated that the proposal cannot be located within the built form of a settlement or an identified employment location; or

d. other proposals specifically requiring a countryside location

- 5.6 Policy HG4 relates to Housing Exceptions and includes a section in relation to Homes for Rural Workers which states a proposal for a new dwelling to meet the essential needs for a rural worker to live permanently at or near their place of work in the countryside will be supported where:
- i. there is a clearly established functional need for a continuous on site presences that can only be met by the new dwelling;
 - j. the need relates to a full-time worker;
 - k. the rural enterprise has been operational for a minimum period of three years and is demonstrated to be commercially viable and has clear prospects for remaining so;
 - l. the need could not be met by another existing dwelling or through conversion of a suitable building on the operational unit, or any other existing accommodation in the area which is suitable and available for occupation by the worker(s) concerned; and
 - m. the new dwelling is of a size which is commensurate with the established functional requirement of the enterprise.
- 5.7 The policy HG4 advises where a rural enterprise has been established for less than three years, but the proposal fulfils all the other requirements above, accommodation will only be supported on a temporary basis to allow time for the enterprise to prove it is viable, and any permission granted will be subject to an occupancy condition restricting the use of the dwelling for the required purpose. The removal of an occupancy condition will only be supported where it can be demonstrated that there is no longer a need for the accommodation in the locality.
- 5.8 Having regard to policies EG7 and HG4 there is support to expand an existing business and to house a rural worker. The proposal would represent the expansion of an existing business with an established functional need for a continuous on-site presence for a full-time worker, the rural enterprise has been operational in excess of 3 years and is commercially viable, the need could not be met by another existing dwelling or conversion of another building, and the size as a three bedroomed dwelling is commensurate with the established functional requirement of the enterprise. In addition, the proposal seeks to retain an occupancy condition, seeking to include both holiday purposes or occupation by a person employed or last employed in the business.
- ii) Residential amenity
- 5.9 Policy E2 requires proposals to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings. Paragraph 127 of the NPPF requires a high standard of amenity for existing and future users of development.
- 5.10 The new build is approved as holiday accommodation which sometimes has a lower level of residential amenity than a permanent dwelling. In this instance the size of dwelling, bedroom sizes, and curtilage are suitable for permanent residential use. If

the building were to be used as permanent accommodation by a person employed in the business, that person and family would be afforded an acceptable level of residential amenity. The location is remote from other dwellings and would not result in loss of amenity to third parties.

iii) Access/highway safety/infrastructure/drainage

- 5.11 These issues are unchanged from the previous approval and were found to be acceptable, there would be no significant change in the demand upon the highways, power, drainage or other services from the previously consented holiday uses. There is no policy conflict on any of these issues.

iv) Conditions

- 5.12 The conditions imposed in the planning decision are required to be restated on this new decision where still applicable, along with any new/varied conditions to allow occupation either as a holiday unit or the manager of the holiday units.

v) Deviations from approved design

- 5.13 The design of the holiday cottage currently under construction differs from the approved scheme in terms of the fenestration to the west and south elevations. The agent has been advised it will be necessary to submit an application for a Non-Material Amendment to regularise these alterations.

Planning Balance

- 5.14 The application site is located outside of the built form of a defined settlement within a countryside location and is not adjacent to the built form. Residential development in this location would be contrary to the principles of sustainable development, and contrary to the provisions of policies S1, S3, S5 and HG5 of the Hambleton Local Plan. However, this must be balanced against the support given by policies EG7 and HG4 to expand an existing business and to house a rural worker. On balance the proposal is considered acceptable.

6.0 Recommendation:

- 6.1 That subject to any outstanding consultations the application be **APPROVED** subject for the following conditions(s)

1. The permission hereby granted shall not be undertaken other than in complete accordance with the Site Location Plan, Proposed Holiday Accommodation Elevations and Floor Plans JAT/1/4/18-01 and Proposed Holiday Accommodation Elevations JAT/1/4/18-02 received 6th September 2018, unless otherwise agreed in writing by the Local Planning Authority.

2. The development hereby approved must comply with the following requirements that:

(i) the accommodation shall not be occupied other than for holiday purposes or by a person employed in the holiday accommodation business of Old Oak Cottages, Little Thirkleby (and any subsequent name) or last employed by the business operating at the site known as Old Oak Cottages, Little Thirkleby (and any subsequent name) and their dependents.

(ii)The owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of the accommodation when in use as holiday accommodation, and of their main home addresses. The owner/operator shall advise the Local Planning Authority of the name and address of the holder of the records and shall make the information on the register available at all reasonable times to the Local Planning Authority

3. No above ground construction work shall be undertaken other than in accordance with the details of the materials approved on 24.11.2020 or until alternative 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.

The reasons are:-

1. 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 Hambleton Local Plan Policies E1 and E2 and National Planning Policy Framework.
2. To ensure that the approved accommodation is not used for unauthorised permanent residential occupation and can thereby contribute to the economy without undue demands on local schools, social and health services etc., and in accordance with the objectives of the Hambleton Local Plan Policies EG7 and HG4.
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 Hambleton Local Plan Policies E1 and E2.