

**Parish: Welbury**  
Ward: Appleton Wiske and Smeatons

**2**

**20/02464/FUL**

Committee Date : 29 September 2022  
Officer dealing : Mr Andrew Cotton  
Target Date: 28 December 2020  
Date of extension of time: 11 February 2021

**Construction of 2no detached dwellings for use as short-term holiday lets with associated parking spaces.**

**At: Land to the rear of The Duke of Wellington Welbury North Yorkshire**  
**For: Mr Stephen Watson.**

**This application is referred to Planning Committee at the request of a Member of the Council.**

### **1.0 Site, Context and Proposals**

- 1.1 The application site forms part of the car park and garden to the rear of the Duke of Wellington Public House. The site runs out from the rear of the public house at grade before a relatively steep slope down to the remaining area of the rear garden. The site is bounded to one side by the rear garden of Rosedene and to the other by partially redundant farm buildings. To the rear of the site the area runs out to open countryside.
- 1.2 The application is for the formation of two holiday letting units on the lower ground level to the rear of the public house.
- 1.3 The accommodation now comprises a family lounge and kitchen with drawing room, utility and hot tub room at ground floor and three bedrooms, one with ensuite and a bathroom at first floor. The two properties are laid out in an 'L' plan.
- 1.4 Parking is provided within the new area of the development, with access through the existing car park. 13 spaces are shown retained in the existing rear car park in addition to 6 car parking spaces for the new development. 9 spaces are shown to the front of the public house.
- 1.5 The massing and design of the proposed development has been significantly changed through the course of the application. The massing has been much reduced and now incorporates a variety of height elements with one, one and a half/two storey elements through the development.

### **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 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.

Local Plan Policy S1: Sustainable Development Principles  
Local Plan Policy S2: Strategic Priorities and Requirements

Local Plan Policy S5: Development in the Countryside  
Local Plan Policy EG1: Meeting Hambleton's Employment Need  
Local Plan Policy EG2: Protection and Enhancement of Employment Land  
Local Plan Policy EG7: Businesses in Rural Areas  
Local Plan Policy EG8: The Visitor Economy  
Local Plan Policy E1: Design  
Local Plan Policy E2: Amenity  
Local Plan Policy E3: The Natural Environment  
Local Plan Policy E7: Hambleton's Landscapes  
Local Plan Policy IC2: Transport and Accessibility  
Local Plan Policy IC4: Community Facilities  
Local Plan Policy RM1: Water Quality, Supply and Foul Drainage  
Local Plan Policy RM2: Flood Risk  
Local Plan Policy RM3: Surface Water and Drainage Management  
National Planning Policy Framework  
National Planning Practice Guidance  
National Planning Policy Framework

#### **4.0 Consultations**

- 4.1 Yorkshire Wildlife Trust – No comments to make.
- 4.2 Environmental Health (Contaminated Land) – No objections subject to conditions.
- 4.3 NYCC Highways – No objections subject to conditions.
- 4.4 North Yorkshire Police – No objections raised.
- 4.5 Environmental Health - I have reviewed the amendment of the application from previous construction of two residential dwellings, to the amended application of two detached dwellings for use as short-term holiday lets, and I am minded to conclude that my previous concerns still apply.

The holiday let accommodation is under separate ownership to that of the working farm at Oak Tree Farm. There is still likely to be an adverse impact to the occupants of the dwellings through odour, flies and noise from Oak Tree Farm due to the nature and proximity of activities associated with a working farm, particularly the slurry pit and effluent pond which is <40m from the proposed dwellings. I cannot see how this can be overcome to ensure no impact on the occupiers of the dwellings and without potential restriction on Oak Tree Farm from future complaints. I still recommend this application be refused.

- 4.6 Natural England – No Comments.
- 4.7 Parish Council – Welbury Parish Council wishes to object to the plans for the construction of 2 x 5 bedroom dwellings on the land at the rear of the Duke of Wellington public house.
- We feel the development compromises planning policy DP5 in that if it were to go ahead it may jeopardise the future sustainability of the Duke

of Wellington as an asset of community value by restricting the future use of the site.

- The parish council in conjunction with the Welbury Community Benefit Society has developed a business model which could see the pub and its associated services becoming a sustainable business, in its current form, serving the local community.
- We are unclear as to the exact mechanism where proceeds from the sale of any development of the site would be directly linked to the pub's sustainability. The level of support required can only be accurately assessed by the applicant completing a full business operability study.
- The current access to the rear of the pub is too narrow and constrained to accommodate additional traffic and would not allow service and emergency vehicles to reach the proposed houses.
- The reduction in useable carparking space that would happen as a result of the "neutral access strip" is unacceptable and may lead to further on-street parking congestion.

Following Revisions:

We continue to **Object** to this application on similar grounds to our previous objection which in summary are that we believe the access is too narrow and restricted to allow emergency service vehicles and other delivery vehicles to reach the proposed properties. There is no evidence provided by the applicant as to how the proposed developments rental income would be shared to support the sustainability of the Duke of Wellington public house. The community believe there are alternative uses for the land at the rear of the Duke of Wellington which would better support the sustainability of the pub. The Parish Council maintains its position as a potential acquirer of the property.

4.8 Representations – 12 Representations have been received, 10 objecting to the proposed development. The objections are summarised below:

- Proposals will have no benefit to the public house
- Additional en-suite letting rooms may help the pub
- Access to the rear of the pub is a major issue
- Loss of privacy
- Overshadowing
- Overdevelopment of the site
- Access is not owned by the public house but the neighbouring dwelling
- Noise intrusion
- Inadequate parking – results in overspill
- Difficulty in accessing private access owing to vehicles blocking the road
- Health and safety risks
- Drainage
- Flood risk from well
- Impact on boundary hedge and trees

- Smell and disturbance from neighbouring farm
- Residents of the proposed development will not have a sufficient level of amenity
- This is backland development
- Proposed development does not fit with the local pattern of development
- Failure to comply with local policy requirements
- Development does is not locally distinctive

#### Support

- Holiday lets are a good idea and will help the pub
- The guests are likely to use the pub and the additional income is much needed

## 5.0 Analysis

5.1 Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, applying all relevant Development Plan policies, and considering all other policy and guidance (including the NPPF and PPG) and all other material planning considerations, including representations received, it is considered that the main planning considerations raised in relation to the determination of this application are as follows:

- Principle of development;
- Impact on the character, appearance and visual amenity of the area;
- Highway safety and access;
- Flooding and drainage;
- Impact on neighbour amenity;
- Ecology;

#### Principle of development

5.2 Policy contained within the recently adopted Local Plan is generally supportive of tourism development. In this case whilst the application is considered on its own merit there is a relationship to the existing public house business and as such the examination of the principle of the development also looks at the benefit to the existing business.

5.3 Policy S1 sets out the strategic position and seeks to ensure that development makes a positive contribution to the sustainability of communities and enhances the environment.

5.4 Welbury is a Small Village as set out in the current settlement hierarchy and as such is considered to be a generally sustainable location for development on this scale. The proposals are (subject to discussion on character of the settlement) generally within the settlement. It is considered that the requirements of policy S1 are generally met.

5.5 Policy EG2 seeks to protect areas of land and buildings that are currently in employment use. Policy EG7 is supportive of businesses in rural areas. In this case the development site forms part of an existing employment site,

effectively the garden associated with the public house. The garden is somewhat divorced from the public house by the car park and is not understood to currently contribute significantly to the use of the pub. The provision of holiday accommodation adjacent the public house is considered to constitute a small benefit to the pub as it is likely that occupiers of the development would utilise the services provided by the pub. However, the connectivity is limited as the proposed development would not be in the direct control of the public house.

- 5.6 Policy IC4 seeks to protect and support local services. To this end the applicant has provided their understanding of the likely benefits of the proposals to the Public House. This statement also sets out some of the recent history of the pub and its financial difficulties.
- 5.7 The applicant states that on the basis of their assessment of the need for this type of accommodation, they estimate an occupancy of 75% and suggest that occupiers will use the pub restaurant 50% of the time, resulting in approximately £41,000 additional annual income to the pub. The applicant also suggests that the accommodation will be managed and cleaned through a contract with the pub manager, which will pay in the region of an additional £12,000 per annum into the pub business.
- 5.8 It is envisaged that the additional work generated by the holiday accommodation will allow for additional staff to be employed by the pub, making the overall business more sustainable in the long term.
- 5.9 The benefits cited would be a welcome addition for the public house. However, officers are concerned that there is no mechanism for the effective protection of these benefits in the long term, the holiday offer not being in the control of the pub business in any meaningful way. On this basis it is considered that these benefits can only be given limited weight in the planning balance.
- 5.10 Policy EG8 looks more specifically at the visitor economy and supports development for a new or the extension of existing facilities where it can be demonstrated that:
- the scale, form, layout and design is appropriate to its location and would not unacceptably harm the character, appearance or amenity of the surrounding area or wider countryside;
  - it would not cause unacceptable harm to the living conditions of neighbours or prejudice existing land uses;
  - occupation can be limited to holiday purposes only;
  - a proposal for a new, or an extension to an existing, caravan, camping or holiday chalet
  - site is accessible to local services and public utilities; and
  - where a countryside location is proposed, the development cannot be located within or adjacent to the built form of an identified settlement in the settlement hierarchy, see policy 'S3: Spatial Distribution', and it will be accessible by sustainable travel options.

- 5.11 Matters pertaining to amenity are discussed elsewhere in this report. However, in this case owing to the mainly linear character of the settlement, the proposals sitting in the garden to the rear of the public house constitute back land development. The only significant in-depth development in the locality is that of the adjacent farm. It is considered that the proposed development is harmful to the character and form of the settlement along with local residential amenity and as such is unable to comply with the requirements of Policy EG8
- 5.12 In conclusion, the general principle of this type of accommodation within the village is considered to be supported by the thrust of policy contained within the Local Plan. The issues of concern come largely due to the siting of the development in this location behind the main built form and adjacent to neighbouring lawful uses.
- 5.13 Impact on the character, appearance and visual amenity of the area. As has been stated in brief, the main character of the settlement is linear. Policy E1 states that all development should be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and help to create a strong sense of place. All development should have regard to relevant national and local policies, advice or guidance that promotes high quality design, details the quality or character of the area or describes how the area should develop in the future.
- 5.14 The design of the proposed development has changed significantly over time, with a view to create a design more inspired by agricultural forms that might be found in this type of location, behind the main built form. The applicant has sought to retain sufficient footprint and accommodation to make the proposals viable from their perspective.
- 5.15 The massing of the proposals have been reduced and in officer's view the design much improved. However, concern remains with regard to the scale of development in this location to the rear of the main built form of the settlement and it is considered that the development has a harmful impact on the character and appearance of the settlement and as such is unable to comply with the requirements of policy E1.

#### Highway safety and access

- 5.16 Policy IC2 seeks to ensure that all development has an appropriate access. In this case, the Highway Authority has raised no objections to the proposed development in terms of its impact on Highway Safety, subject to conditions. It is noted that the access is not in the ownership of the applicant but the neighbouring property, Rosedene. It is understood that the public house has right of access over this land, accessing the car park to the rear of the public house. This is a civil matter for the applicant and the neighbouring owner to consider and is not of itself considered an impediment to development.
- 5.17 The access is very narrow, particularly past the gable end of Rosedene. Given the nature of the site and its relationship to the Public House, vehicle speeds and considered to be likely to be very low and as such unlikely to result in any significant issue in terms of either vehicular or pedestrian access around the premises.

- 5.18 Questions have been raised about the amount and availability of parking on the site. The application shows 6 parking spaces for the two proposed holiday units. The units each have three bedrooms and the proposed parking is considered adequate. Whilst the access through the existing car park, down to the proposed development result in the removal of parking, the improved layout of the car park overall, results in a limited impact in terms of the overall availability of car parking within the site. It is considered, on balance that the requirements of policy IC2 are met.

#### Flooding and drainage

- 5.19 Concerns have been raised about the local foul drainage capacity and the potential for the development to impact on a neighbouring well. The application is for two additional holiday letting units. This number of units is considered to have a minimal impact in terms of the additional foul flows. Surface water would be dealt with separately and would not contribute to additional flows to the foul sewer. It is considered that should the application be approved, drainage matters could be dealt with by condition.

#### Impact on neighbour amenity

- 5.20 Policy E2 states that all proposals will be expected 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.
- 5.21 In this case the application raises a number of questions in terms of amenity and compliance with policy E2.
- 5.22 Concern has been raised in representations about privacy and overshadowing resulting from the development. The revised scheme has significantly reduced the overall massing of the development. The development sits relatively closely to the boundary with the garden of Rosedene and has the potential impact on residential amenity from this perspective. Whilst the proposals do still have a small, measurable impact in terms of overshadowing, this is mitigated by the height and form of the boundary hedge and planting and also the significant scale of the rear garden of Rosedene. The conclusion is that the development would have a limited impact in terms of overshadowing.
- 5.23 In terms of privacy, the design has been controlled in order to limit any direct overlooking and results in no direct impact on amenity in this respect. The development will result in a change owing to the introduction of activity to the area adjacent the neighbouring garden, which would be perceived by a resident of Rosedene. The expectation of this is that holiday makers are slightly more likely to create a noise disturbance that a permanent resident owing to their lack of connection to the village and its residents.
- 5.24 The use of the access past Rosedene will increase as a result of the proposed development. The access runs immediately adjacent to the gable wall of Rosedene and the use of this has the potential to impact on residential amenity through an increase in noise and disturbance.

- 5.25 The access to the rear car park already runs along this route and as such the question would be whether the additional use of the access would result in a loss of amenity, over and above the existing use. Given the narrow nature of the access, the relationship to the neighbours access to their parking and garden, it is considered that the additional use of the access over and above the parking for the public house, in part owing to the change in nature of the use by holiday makers as opposed to those only visiting perhaps at lunch time or for an evening meal, is considered to result in an additional level of impact on the amenity of the neighbouring occupier.
- 5.26 The impact of the proposed development on other lawful uses in the vicinity must be considered. To the east of the site is a farm operation and the operators have raised concerns that their lawful use could be prejudicial to the amenity of occupiers of the development. Had the farm been in the same ownership and control as the application this would have simply been a matter for the operator. However, in this case the issue of Agent of Change must be considered and this has been specifically raised as a concern by the Environmental Health Officer. In short, any complaints raised by occupiers of the development have the potential to result in enforcement against the neighbouring farm in terms of noise or smell disturbance. It is difficult to see how this issue could be mitigated.
- 5.27 In conclusion, the proposed development is considered to have a harmful impact on the residential amenity of the occupier of Rosedene and the lawful use of the neighbouring farm and as such fails to comply with the requirements of policy E2.

#### Planning Balance

- 5.28 The principle of holiday accommodation is supported in Welbury and the ongoing use of the public house is considered to be a priority. In this case, other than residents of the development utilising the public house's services, there appears to be little connectivity between the proposals and the long term sustainability of the public house. As such little weight is given to the development in these terms.
- 5.29 The development is considered to have adverse impacts in terms of the character and form of the settlement and the amenity of the occupiers of the neighbouring development, both through the change to the occupancy of the area of the application site and the use of the access.
- 5.30 In conclusion, it is considered that the benefits of the proposals do not outweigh the harm. The development fails to comply with the requirements of the Local Plan policy.

## 6.0 Recommendation

6.1 That subject to any outstanding consultations the application be **REFUSED**, for the following reasons:

1. It is considered that the proposed development has a harmful impact on the character and form of the settlement and the amenity of neighbouring occupiers. The proposed development does not accord with the requirements of policy E1 and E2 in this respect.
2. The proximity of the proposed accommodation to the neighbouring farm operation is likely to result in complaints on amenity grounds. On the basis of the principle of the Agent of Change, the proposed development is likely to have a prejudicial impact on the neighbouring lawful development. Additionally, the proposed development is considered to have a harmful impact on the residential amenity of the neighbouring residential property at Rosedene and as such fails to comply with policy E2.