

**22/00509/MRC**

**Removal or variation of condition 4 from previously approved application  
16/01716/FUL - Change of use of agricultural land and the construction of a  
replacement dwellinghouse with associated parking and landscaping**

**At: Foxhall Farm, Knayton, Thirsk, North Yorkshire, YO7 4BR**  
**For: Mr Julian Potter**

**This item is presented to the Planning Committee at the request of Cllr  
Robinson**

**1.0 Site, context and proposal**

- 1.1 The application is located approximately 1.5km to the east of Knayton, occupies a countryside location and comprises part of an isolated cluster of development, including a modern replacement dwelling, an older original dwelling and a range of former agricultural buildings which are in the process of being converted to a dwelling. These former agricultural buildings are in separate ownership to the two houses. The site is accessed off Moor Road along an access track of some 300m in length. The land is undulating and the modern replacement dwelling and original dwelling are readily visible from Moor Road, with the new dwelling occupying a visually prominent position forward of the original dwelling. There are existing pylons and a telecommunication mast which are prominent in the immediate landscape.
- 1.2 Planning permission was granted in 2016 for the change of use of agricultural land and the construction of a replacement dwellinghouse with associated parking and landscaping. The permission was granted subject to conditions, including condition 4 which reads:-
- ‘Within three months of the first occupation of the dwelling hereby approved, demolition of the existing house (shown on drawing 2540-03-04A) shall be commenced. Demolition work shall be completed and the land restored to a tidy state within nine months of the first occupation of the new dwelling.’
- The reason for the condition reads ‘In order to prevent the proliferation of buildings in the open countryside, to set a reasonable timetable for the demolition of the existing house and to ensure that dwellings in this isolated location, are only provided for the essential need of agriculture.’
- 1.3 The current application proposes the removal of the condition to allow the original dwelling to be retained. The application form advises the development started in 2017, is not yet complete. At the time of the case officers site visit in

March 2022 the replacement dwelling was occupied, although a caravan and detached building used as an office were also on site.

- 1.4 The application is submitted with a supporting statement. This advises the applicant bought the property after the replacement dwelling had been constructed. The original dwelling is said to be structurally sound, could be repaired and renovated to provide a good standard of accommodation, and makes no practical sense to demolish the property in order to comply with the condition. The applicant wishes to create additional living accommodation at the site for family members and prefers to repair and restore the old farmhouse rather than extend the new house or construct a new detached building.
- 1.5 The statement advises the farmhouse makes a valued contribution to the setting of the farmstead, is structurally sound and capable of re-occupation without significant structural work, would not result in isolated or unsustainable development, and the proposals would be more favourable to alternative ways to deliver the additional accommodation through permitted development. The replacement dwelling has the benefit of permitted development rights and could construct a total additional floorspace of attached extensions of 140.65m<sup>2</sup>, as well as a detached building of 40m<sup>2</sup> totalling 180m<sup>2</sup> of floorspace. The original farmhouse is smaller than the replacement dwelling and has a footprint of around 91.3m<sup>2</sup>, based on a footprint of 11m x 8.3m (measured externally). Including the first floor accommodation at the same size, this is likely to result in a total floorspace of around 182 m<sup>2</sup>. Permitted development rights would therefore allow the same volume of development with the original farmhouse removed, and the extension of the dwelling under permitted development rights would have greater visual impact than retaining and utilising the old farmhouse. The applicant is happy to accept a condition removing permitted development rights to both dwellings. The applicant states that the proposals are unusual and there are no policies within the development plan that specifically relate to the nature of development proposed.
- 1 6 In addition a structural survey is submitted which advises the building is generally in a good-fair condition with no significant structural defects to note. Remedial works are recommended

## **2.0 Relevant planning and enforcement history**

### **(i) Application site:-**

- 2.1 95/50809/TC Notice of proposed development for erection of 15m mast, three dual polar antennae, 2 dish antenna, one radio equipment cabin Refused 13.12.1995
- 2.2 96/50746/TC Prior notification of a proposal to erect a 15 metre high steel tower, 3 dual polar antennae and a portable cabin Approved 05.11.1996
- 2.3 00/50816/TC Prior approval of additional 2 dual polar antennas, 2 dishes and new equipment cabin Approved 01.11.2000

- 2.4 01/50477/TC Application for prior approval to construct additional UHF cellular screened collinear antennas and two 0.6m link antennas at 12 metres on existing tower and installation Approved 30.04.2001
- 2.5 03/00293/APN Application for prior notification of new hen house Approved 17.03.2003
- 2.6 04/01432/FUL Change of use of existing agricultural building to kennels Approved 26.08.2004
- 2.7 16/00746/FUL Two storey side/rear extension and single storey rear extension to existing dwelling and alterations to existing windows/door Approved 25.05.2016
- 2.8 16/01716/FUL Change of use of agricultural land and the construction of a replacement dwellinghouse with associated parking and landscaping. Approved 06.10.2016

i) Adjacent farm buildings:-

- 2.9 18/02250/MBN Notification for Prior Approval for a proposed change of use of agricultural building to a dwellinghouse with associated operational development Approved 17.01.2019
- 2.10 21/00590/DPN Application to determine if prior approval is required for the proposed demolition of a timber hay barn with corrugated metal roof. Approved 07.04.2021
- 2.11 21/00695/FUL Alteration and rebuilding of stone barns with a glazed link extension to create 1No. residential dwelling and construction of a detached double garage with car port Approved 27.07.2021

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 HG4: Housing Exceptions

Policy HG5 - Windfall Housing Development

Policy E 1 - Design

Policy E 2 - Amenity

Policy E 7 - Hambleton's Landscapes

Policy CI 2 - Transport and Accessibility

4.0 **Consultations**

- 4.1 Knayton Parish Council – Objects to this application on the grounds that the property was purchased with the knowledge that the original house had to be

demolished and the condition should be met and that this planning application should be taken to committee.

4.2 Site notice posted and expired 01.04.2022.

4.3 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) any necessary planning conditions.

i) The principle of residential development in this location

5.2 The purpose of Local Plan S1 is to set out the central role that sustainable development plays in meeting the growth requirements for Hambleton, and to set out the ways and the expectations in which the Council will seek to achieve sustainable development.

5.3 Policy S2 sets out the Council's housing requirement and it identifies that the housing figures are based on existing commitments and sites allocated for development in this local plan. Housing development that comes forward during the plan period will be an important additional supply of homes and will be supported as set out in policies including HG5 : Windfall Housing Development.

5.4 Policy S5 sets out what constitutes the built form of a settlement, land outside it is defined as countryside. The application site does not fall within the built form of Knayton and therefore is in the countryside. Development in the countryside will only be supported where it is in accordance with national planning policy or other policies of the development plan and would not harm the character, appearance and environmental qualities of the area in which it is located. The policy offers support to the conversion of existing rural buildings, subject to the following criteria

(f). the building is:

- i. redundant or disused. – The building is disused
- ii. of permanent and substantial construction. The building is stone built.
- iii. not in such a state of dereliction or disrepair that significant reconstruction would be required. The proposal would meet this
- iv. structurally capable of being converted for the proposed use. The submitted structural survey suggests the proposal would meet this

(g). the proposal:

- i. would enhance the immediate setting. The removal of permitted development rights to the replacement dwelling would assist in achieving this. Whilst the replacement dwelling was larger than the original dwelling it may have been considered unreasonable to remove permitted development rights when the replacement dwelling was approved as the original dwelling had the benefit of such rights.

- ii. any extension or alteration would not adversely affect the form, scale, massing or proportion of the building. The removal of permitted development rights to the replacement dwelling and from other works within the curtilage would assist in achieving this.
- 5.5 Policy S5 also refers to replacement building in the countryside, including dwellings, supporting them where of permanent and substantial construction is of a high-quality design, being sympathetic with its surroundings, taking opportunities to enhance the immediate surroundings, only limited increases in floorspace will be supported, development proposals must be proportionate to the building(s) that they replace, and sited least possible adverse impact on the immediate surroundings, the wider landscape and the amenity of the users of existing buildings ne dwellings. The justification advises the Council will remove permitted development rights where it is considered appropriate.
- 5.6 Local Plan policy HG5 provides support for windfall housing development. HG5 states that a proposal for housing development on a site adjacent to the built form of a defined village. The site is neither within nor adjacent to built form and is within the countryside.
- 5.7 Policy HG4 relates to Housing Exceptions advising a proposal for the replacement of an existing dwelling will be supported where the requirements of policy 'S5: Development in the Countryside' relating to the replacement of rural buildings are met
- 5.8 At the time of the consideration of the application for the replacement dwelling in 2016 the case officers report states
 

“The applicant supports the application with a planning statement, it is stated although habitable, the existing house has been vacant for some 2 years. Following the recent grant of planning permission to extend the house, a detailed inspection was carried out of the existing fabric which revealed a number of structural and other faults. It was therefore more cost effective to demolish the existing house and rebuild the house... The new dwelling now proposed is some 27m2 larger than the existing house plus approved extension... It is necessary to ensure that the demolition of the existing house occurs to ensure that there is not more than one dwelling on the site which has not been justified as needed for the essential needs of agriculture.”

The planning statement submitted with the application refers to structural and other faults and states the approved planning permission for a two-storey side extension was sited over tree stump and builders advised the ground could not be stabilised. A report from an arborist was submitted to advise on the appropriate siting for a replacement dwelling, which comments it is likely that if new foundations are constructed within a similar location to existing regardless of retention/removal of the tree stump, such foundations will have to be a considerable depth to ensure structural stability. The arborist advises new buildings should be sited well away from tree stumps to avoid the need for expensive foundation works to avoid structural damage later. No structural survey was submitted with the application.

- 5.9 Having regard to the policies set out above, and

- i) the details of the submission advising the existing building is structurally sound;
- ii) that the building is proposed to be used as additional living accommodation rather than a separate dwelling;
- ii) that the applicant proposes to surrender permitted development rights for both dwellings, (albeit the original dwelling would become ancillary accommodation rather than a separate dwelling);
- iii) that any extensions to the replacement dwelling constructed as permitted development would be more visually prominent and intrusive in the landscape than the retention of the original dwelling;
- iv) that retention and repair of the existing building would be more sustainable than its removal and construction of extensions;
- v) that the conversion of the existing building receives some support under policy S5;

On balance it is considered the proposal would not circumvent planning policies seeking to prevent the proliferation of buildings in the open countryside, and to ensure that dwellings in this countryside location are only provided for the essential need of agriculture.'

#### ii) Residential amenity

- 5.10 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.
- 5.11 Since the grant of planning permission in 2016 for the replacement dwelling, planning permission has been granted for the conversion of the courtyard of agricultural buildings to a dwelling, now in separate ownership. The approved conversion buildings are located approximately 15.6m from the east facing elevation of the building proposed to be retained. The location plan submitted with the conversion scheme shows the yard space to front of the dwelling has been subdivided between Foxhall Farm and the barn conversion scheme now known as Spring Farm. Many of the buildings in the single storey west wing of the buildings at Spring Farm are shown as non-habitable rooms although they do have window openings facing towards the application site. The single storey northern wing of Spring Farm has two west facing lounge windows with further windows to this room in its north elevation. The approved west facing windows are positioned immediately further north and at an angle to the facing windows in the building proposed for retention, these appear to be secondary windows to the proposed lounge, and would have a separation distance of approximately 16m. Whilst this is less than the usually recommended separation distance between facing windows of 21m, given the circumstance above, on balance this separation distance is considered acceptable.

#### iii) Access/highway safety/infrastructure/drainage

- 5.12 These issues are unchanged from the previous approvals for the replacement dwelling and barn conversion 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 uses. There is no policy conflict on any of these issues.

iv) Conditions

- 5.13 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 as ancillary residential accommodation and removal of permitted development rights.

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, and HG5 of the Hambleton Local Plan. However, this must be balanced against the support given by policies S5 to convert an existing building to provide additional ancillary living accommodation and the other circumstances set out in paragraph 5.9 above. On balance the proposal is considered acceptable.

**6.0 Recommendation:**

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 drawing(s) numbered 2540-03-01A, 02A, 03A, 04A, and 05A received by Hambleton District Council on 28 July 2016 unless otherwise approved in writing by the Local Planning Authority.
2. The development shall be carried out in accordance with the stone detail and natural slate submitted to the Local Planning Authority on 21 September 2016
3. The existing house (shown on drawing 2540-03-04A) shall not be occupied as a separate independent dwelling and shall remain ancillary to the use of the main replacement dwelling known as Foxhall Farm, Knayton; shall form and shall remain part of the curtilage of the main dwelling as a single planning unit; and shall be used as living accommodation only by members of the family, or the occupiers, of the main dwelling living as a single family unit.
4. Notwithstanding the provisions of any Town and Country Planning General or Special Development Order, for the time being in force relating to 'permitted development', no enlargement, improvement or other alteration shall be carried out to the dwelling, the ancillary unit of residential accommodation or any building, nor shall any structure be erected within or on the boundary of the curtilage of the dwelling hereby approved without express permission on an application made under Part III of the Town and Country Planning Act 1990.

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. 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.
3. In order to ensure that the accommodation remains as an annex to the dwelling and is not used for unauthorised permanent residential occupation so as not to breach the provision of the Development Plan policies S1, S3, and HG5
4. To control the extension or alteration of the development in the interests of the appearance of the site and the amenities of residential property nearby in accordance with Local Plan Policies S1, E1 and E2.