

Parish: Yearsley

Ward: Huby

Committee Date :

27 October 2022

Officer dealing :

Mr T J Wood

8

Target Date:

14 March 2018

Date of extension of time (if agreed): 4 March 2019

18/00097/OUT

Outline Application (with all matters reserved) for the conversion of agricultural buildings to provide up to 3 residential dwellings.

At: High Lions Farm Yearsley North Yorkshire YO61 4SN

For: Newburgh Priory Estate.

The report is for consideration by the Planning Committee as the previous resolution for approval was made prior to the adoption of the Hambleton Local Plan 2022 and proposal is for enabling development that was a departure from the policies of the Development Plan.

1.0 Site context and proposal

- 1.1 This application has previously been considered by the Planning Committee in August 2019. Since the resolution of approval work has been undertaken to complete a planning obligation (section 106 agreement) as set out later in this report to enable works to listed buildings at Newburgh Priory. As the application was previously considered under the policies of the Local Development Framework it is necessary to reconsider the application with regard to the Hambleton Local Plan February 2022.
- 1.2 High Lions Farm site is located approximately 1.3km northwest of the village of Yearsley and 3.0km east of Oulston. The site within the Newburgh Priory Estate but is located 3.6km from the core Newburgh Priory Estate buildings at Newburgh Priory. The site covers 0.65 hectares of vacant agricultural land, including the buildings that lie to the south of High Lions' Lodge.
- 1.3 The site comprises of three large farm buildings: including 2 modern steel portal frame buildings and 2 traditional stone agricultural buildings. The site is not actively used, and has fallen into a state of disrepair, which detracts from the setting. The steel portal-frames are proposed to be removed and the stone buildings are proposed be converted.
- 1.4 The site is also located within the Howardian Hills Area of Outstanding Natural Beauty (AONB) and is adjacent to Newburgh Priory Grade II Registered Park and Gardens. There is a public right of way which passes through the site.
- 1.5 Four burrows (burials mounds) located in fields neighbouring the site are protected as Scheduled Monuments, with the closest lying 200 metres to the south-west of the site, separated by dense tree cover. The site boundary to the west is mostly open arable land, with areas to the north, south and west bound by mature trees and foliage.

- 1.6 The proposal seeks outline permission (with all matters reserved) for the conversion of agricultural buildings to provide up to 3 residential dwellings. The buildings comprise of three large farm buildings, including two large portal-frame structures and 2 stone farm buildings. The stone buildings are the subject of this application.
- 1.7 The indicative site layout plan shows 3 units; 2 x 5 bedroomed dwellings and 1 x 3 bedroomed dwelling in the form of a rural "courtyard" development. The agent has advised that the indicative layout maximises the availability of open space, with each plot having an appropriate amount of private outdoor amenity space. Access is by a track from Yearsley Moor Bank.
- 1.8 Permission was granted in 2016 by the Council for the change of use and conversion of a stable block and coach house, and swimming pool building for a wedding business at Newburgh Priory, a grade II listed former priory and accompanying grade II listed ancillary buildings. This application is one of two submitted to Hambleton District Council, as part of an "enabling development" scheme. The other is planning application 18/00144/OUT Oulston Hall for the redevelopment of the agricultural site for 9 dwellings. Two applications have been submitted to North Yorkshire Moors National Park, also under the premise of "enabling development". Both of these applications are in Coxwold; one is for four open market houses (NYM/2018/0039/FL), and the other for 3 affordable houses (NYM/2018/0037/OU). It is considered by the applicant that these affordable houses fulfilled the quota for the four sites; a total of approximately 15% affordable housing contribution.
- 1.9 The intention of the applicant is to secure permission at all three sites and the sites to be sold onto a developer. There is no intention by the applicant to develop the sites out; and the applicant wishes to have the applications considered in outline form only.
- 1.10 The two applications in the village of Coxwold, lodged with the North Yorkshire Moors National Park, currently outstanding as additional information is being sought by that planning authority.

2.0 Relevant planning and enforcement history

- 2.1 There is no relevant planning or enforcement history at the application site.

Oulston Hall, Oulston

- 2.2 18/00144/OUT Outline application for the redevelopment of the site for up to 9 residential dwellings (Class C); pending consideration.

Newburgh Hall

- 2.3 16/02144/FUL Alterations and change of use of existing stables, back courting buildings and extension and conversion of swimming pool building to create new function suite and accommodation for weddings, parties, corporate events, storage and Estate office, alteration to main building to include new gates and modification of existing Estate Office to create reception area and creation of service area car park to rear of back courting; approved January 2017.

- 2.4 16/02145/LBC Listed Building Consent for alterations and change of use of existing Stables, Back Courting buildings and extension and conversion of Swimming Pool Building at Newburgh Priory to create new function suite and accommodation for weddings, parties, corporate events, storage and Estate office. Alteration of Newburgh Priory main building to include new gates and modification of existing Estate Office to create reception area. Creation of service area car park to rear of Back Courting; approved January 2017.

Coxwold

- 2.5 NYM/2018/0037/OU Outline application for construction of up to 3 no. affordable dwellings (all matters reserved); approved 1 May 2020.
- 2.6 NYM/2018/0039/FL Construction of 4 no. open market dwellings with associated access, parking, garage/car ports, amenity space and landscaping works; following consideration at the NYM Planning Committee on 21 May 2020 awaiting completion of the section 106 to provide both affordable housing and a sum to contribute to “enabling” works to the listed buildings at Newburgh Priory. The minute states: Resolved to be approved as recommended. Members requested that the wording of the Section 106 Agreement requires repair work to the culvert to the satisfaction of the Lead Flood Authority and its maintenance in perpetuity and that the funding generated is dedicated to the works to the structure and fabric of the Grade 1 Listed Building(s) at Newburgh Priory.

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.

Local Plan Policy S1: Sustainable Development Principles

Local Plan Policy S3: Spatial Distribution

Local Plan Policy S5: Development in the Countryside

Local Plan Policy HG4: Housing Exceptions

Local Plan Policy HG5: Windfall Housing Development

Local Plan Policy E1: Design

Local Plan Policy E2: Amenity

Local Plan Policy E3: The Natural Environment

Local Plan Policy E5: Development Affecting Heritage Assets

Local Plan Policy E6: Nationally Protected Landscapes

Local Plan Policy E7: Hambleton's Landscapes

Local Plan Policy IC2: Transport and Accessibility

Local Plan Policy RM1: Water Quality, Supply and Foul Drainage

Local Plan Policy RM3: Surface Water and Drainage Management

Local Plan Policy RM5: Ground Contamination and Groundwater Pollution

4.0 Consultations

- 4.1 Yearsley Parish Council - no observations to make.

4.2 Natural England – Provide advice and raise no objection.

4.3 Howardian Hills AONB - comments on the proposal include:

1. A Public Footpath runs through the development site and the route of this would need to remain unobstructed at all times or be formally diverted.

2. In terms of the visual aspect of the proposed conversions I don't feel that they would have an adverse visual impact on the AONB landscape. The Registered Park & Garden of Newburgh Priory wouldn't be affected, nor do I feel its setting.

3. In terms of policy, these open-market dwellings would be in a location that would normally be considered unsustainable and contrary to the Local Plan's Settlement Hierarchy. The part that this development plays in the implementation of the Newburgh Priory Estate Plan, with its long-term goal of providing revenue to maintain the Grade I Listed Buildings, is however important.

4. The principle of Enabling Development is one that all the large Estates in the AONB will be considering, to address the significant conservation deficits that exist for the repair and maintenance of their Grade I Listed buildings and parklands. These buildings and parklands form one of the most visible Special Qualities for which the Howardian Hills AONB was designated.

5. As such I would not wish to object to the proposal, as long as it is absolutely tied by legal agreement to the Affordable Housing being proposed in Coxwold, and the repair and maintenance of the heritage assets of Newburgh Priory.

4.4 Historic England - no objection.

4.5 Yorkshire Wildlife Trust - holding objection due to the lack of any ecological information, in particular a bat survey is not included with the application.

Since this consultation response, a Bat Emergence Survey has been submitted to accompany the application.

4.6 Public comments - one comment has been received from a local resident, who expresses their concerns as:

- o the access road that also supplies two existing properties would need to be considerably upgraded and its maintenance responsibility be designated;
- o there are telephone, water and electricity supplies underground which need to be undisturbed;
- o consultation with the electric suppliers would show where the earthing cables are laid as these may go under part of the proposed alterations;
- o there is a large underground tank to the west and close to the single storey dwelling that may cause ground water pollution if soakaways are placed too close;
- o as much of the original stone as possible should be retained, including the stone wall in the NE corner of the fold yard; and
- o It would be good to see the original west side of the open yard reinstated, it would also give the single storey dwelling open views to the west.

5.0 Analysis

- 5.1 The main matters for consideration in this case are
- i) the principle of development,
 - ii) impact on the protected landscape and countryside,
 - iii) impact on neighbouring amenity,
 - iv) impact on highway safety, and
 - v) ecology matters

Principle of development and links to Enabling Development

- 5.2 It is noted that if the buildings were outside the Howardian Hills Area of Outstanding Natural Beauty it would be possible to convert the agricultural buildings to residential use under the provisions of Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The control of the rights to convert buildings in the AONB signals the importance attached by Government to the issue and confirms the care required to assess the impact of the change on the character of the buildings and the landscape.
- 5.3 The site is located in a remote location, approximately 1 mile by road from the village of Yearsley. Yearsley was not recognised as a sustainable location within the Hambleton Local Development Framework Settlement Hierarchy, but in the Hambleton Local Plan is identified as a "Small Village" where development will be supported that is proportionate to the size of the settlement and its level in the hierarchy. However, the site is in the countryside and cannot take support from the status of Yearsley in a "Small Village".
- 5.4 Local Plan Policy S5 allows for development in the countryside and makes reference to the conversion of buildings in the countryside that cannot be dealt with through the "Prior Approval/Notification" procedures. S5 f. and g. set requirements that:
- f. the building is:
 - i. redundant or disused;
 - ii. of permanent and substantial construction;
 - iii. not in such a state of dereliction or disrepair that significant reconstruction would be required; and
 - iv. structurally capable of being converted for the proposed use; and
 - g. the proposal:
 - i. would enhance the immediate setting; and
 - ii. any extension or alteration would not adversely affect the form, scale, massing or proportion of the building.

However, the application has been submitted as part of a larger "enabling development" proposal, and as an exception to the normal policies that restricts isolated homes in countryside. The NPPF 2021 sets out, in paragraph 208, that "Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the dis-benefits of departing from those policies".

- 5.5 Historic England (HE), in 2008, published guidance "Enabling Development and the Conservation of Significant Places". The HE document sets out how applications should be tested, in terms of the legal basis, requiring the justification necessary to determine the application and understanding the financial figures. It is clear that development should be on a level which generates the minimum amount for the upkeep and repair of heritage assets. Monies raised through enabling development should not be spent on non-essentials, such as furnishings.
- 5.6 There has been some disagreement as to whether outline applications can provide a true and accurate estimation of the profit a development will return; the outline application will provide land uplift for the landowner. The value of the uplift (between the value of the land without a planning permission and the value with a planning permission for residential conversion) will then be secured by a legal agreement. In this case a section 106 agreement (S106) between the landowner and local authority is the appropriate mechanism. The agreement will require that the money is to be spent on agreed and specified works to the listed buildings at Newburgh Priory. The disagreement arises due to the difficulty in assessing the value arising from the outline planning permission to the complete converted dwelling.
- 5.7 The section 106 agreement would control the uplift in value resulting from the conversion and controlling how it will be used for the upkeep of the agreed historic asset. Public benefit which arises from the maintenance and upkeep of a historic asset is the reason this development can be acceptable where it may not normally be supported.
- 5.8 Since the first consideration of this proposal by the Hambleton Planning Committee in 2019 there is greater certainty regarding the proposals. The residential scheme in Coxwold has a resolution of approval and a scheme for affordable housing has been in approved. The proposed development in Oulston has also had a resolution of approval following consideration at the Planning Consultative Panel and the works at Newburgh Priory have still an extant consent.
- 5.9 On the basis of the applicants' assessment all four developments will be required to come forward to generate the necessary income for restoration of the heritage asset at Newburgh Priory. The heads of terms of the S106 agreement have prepared to control the enabling funds.
- 5.10 Notwithstanding the complications of the viability and finalising a S106 agreement, the principle of development is acceptable under Policy E5 and paragraph 208 of the NPPF which both support enabling development where the public benefits of the enabling development outweigh any harm.

Housing mix

- 5.11 The development proposes up to 3 dwellings. The proposed units to be formed would consist of a mix of 3 and 5 bed dwellings, including 1 x 3 bed bungalow. The plans are indicative at this stage. At reserved matters stage it is expected that this mix would be reflected, however, the size of the dwellings must meet the nationally described space standards. It is also appropriate to seek to achieve a mix in sizes that reflect the needs of the community, however it is acknowledged that smaller dwellings would reduce the value and hinder the delivery of the funds to address the 'heritage deficit' of works to the Priory buildings.

Impact upon the Howardian Hills AONB

- 5.12 The detailed layout and appearance of the site is to be considered at the reserved matters stage. However, the AONB Manager does not consider that the proposal would have an adverse visual impact upon the AONB, given that these are conversions.
- 5.13 It is considered that the removal of the modern large portal framed buildings will improve the character and appearance of the area.

Impact upon neighbouring amenity

- 5.14 There are two dwellings which are accessed from the existing junction off Well Lane. There are no other dwellings nearby. High Lions' Lodge is 54m to the northwest of the nearest building in the site area, and Lion Lodge Bungalow is 125m to the northeast. It is considered that there is sufficient distance from the application site to neighbouring dwellings to ensure that existing and future residents' amenity is adequately protected. The reserved matters application and details can be brought forward in a manner to ensure that the amenity of neighbours is protected in terms of overlooking and privacy. Details of the boundary treatments can also be carefully considered.

Impact upon highway safety

- 5.15 The existing access track from Yearsley Moor Bank will be utilised to access the site. This is shared with 2 other dwellings - High Lions Lodge and Lion Lodge Bungalow. The exact details of this element of the scheme will be considered as part of the reserved matters application but it is expected that a safe access can be achieved. The maintenance liability for the access is a 'civil' matter to be resolved by the landowners, it is not a matter that can be resolved by the Local Planning Authority.
- 5.16 The indicative site layout plans include parking provision and on-site turning for each of the dwellings sufficient to meet the needs of the proposed dwellings.

Ecology

- 5.17 The application has been accompanied by a Bat Emergence Survey undertaken in 2018. The emergence survey has confirmed the presence of multiple small non-breeding common pipistrelle roosts, spread across the site. Small non-breeding roosts of brown long-eared and whiskered bats are also suspected on the basis of remote monitoring. Further, no consistent patterns were noted across the surveys, and it is suspected that roosts comprise of a number of non-breeding bats which move between roost locations across the site and wider area depending on the prevailing weather conditions.
- 5.18 Based on the structure of the barns and results of the emergence survey, it is thought that the roost locations in most instances will be at the wall tops, with many of the bats emerging via the barns interior before leaving via open barn doors.
- 5.19 A licence will need to be secured from Natural England in order to derogate offences arising as a result of the proposed conversion, as the destruction or significant alteration of the roosts will be unavoidable in the context of the current proposals.

5.20 Sufficient survey has been undertaken to inform a planning application. A further pre-commencement survey will be required to establish any further measures that may be required as a consequence in a change in bat activity since the 2018 survey.

5.21 Subject to the further survey works, it is considered that the application would not cause significant harm to habitats of protective species. Additionally measures to provide alternative habitat can be required through planning conditions.

Biodiversity net gain

5.22 The Hambleton Local Plan Policy E3 introduces the requirement to achieve a net gain in biodiversity. The immediate surroundings to the application site, is land in the control of the applicant (Newburgh Priority Estate) and provides opportunity to achieve a net gain. A planning condition can be imposed to require the scheme to be prepared for approval and implemented.

Planning Balance

5.23 This scheme seeks permission for residential development that will help to enable the restoration of listed buildings. The site is in a remote position and will result in additional journeys by private motor vehicles. The residential development will result in a small amount of economic activity through the creation of a mix of additional homes and spending of future residents and will result in the visual improvement of the immediate environment by way of developing and re-using the derelict buildings. As a result of these benefits, set out above, alongside the securing of a sum of monies by way of legal agreement, to be used in the essential repair of a designated heritage asset, it is considered that the scheme, on balance, is found to be sustainable development in the terms of the NPPF.

6.0 Recommendations:

6.1 That subject to any outstanding consultations, the application be **GRANTED** subject to the completion of a planning obligation to secure a sum of monies to be used in the essential repair of a designated heritage asset at Newburgh Priory and the following planning conditions.

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 layout, scale and appearance of each building, including a schedule of external materials to be used; (b) the means of access to the site; (c) the landscaping of the site.

3. Before the commencement of development a bat survey shall be undertaken and any necessary mitigations measures are to be put in place in accordance with a scheme to be approved. As a minimum the development

hereby approved shall not be brought into use until the bat boxes, shown in a plan, to be submitted and approved in writing by the Local Planning Authority, have been put in place.

4. This approval allows for no more than 3 dwellings, the sizes of which must meet the Nationally Described Space Standards and that the housing mix achieves the requirements of the adopted Policy HG2 and Housing SPD.

5. No external lighting shall be installed other than in complete accordance with a scheme that has previously been approved in writing by the Local Planning Authority.

6. 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 or 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.

7. Prior to the commencement of development a landscaping and biodiversity net gain scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide a) a landscape scheme including details of any change in surfacing materials and any planting schemes and shall show the retention of any significant existing landscape features and shall provide b) details to show how a 10% net gain of biodiversity will be achieved on site using the DEFRA biodiversity metric 3.1 (or the latest published version) and include a programme of work and subsequent maintenance arrangements. The development shall thereafter be carried out in accordance with the approved scheme.

8. If any contamination be suspected or encountered during development all works shall cease and the Local Planning Authority shall be notified in writing. No further works (other than approved contaminated land remediation measures) shall be undertaken or the development occupied until a Remediation Strategy Report has been submitted to and approved in writing by the Local Planning Authority and the approved remediation measures have been implemented in accordance with the timescales in the approved Strategy. No further works shall be undertaken or the development occupied until a Validation Report has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy and Validation Report shall be prepared in accordance with Contaminated Land Research Publication 11 (Defra/Environment Agency, 2004. CLR11 Model Procedures for the Management of Land Contamination), Planning Policy Statement 23 Planning and Pollution Control and the Council's guidance note "Contaminated Land - A Guide to Developers."

The reasons are:-

1. To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

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. To ensure that habitat is provided to support protected species within the development site in accordance with the Local Plan Policies S1 and E3.
4. To ensure that the development does not exceed the scope of the application and that the dwellings provided meet the requirements of the NDSS to achieve a suitable standard of residential space.
5. In order that the Local Planning Authority can consider the impact of the proposed lighting scheme and avoid environmental pollution in accordance with Local Plan Policies S1 and E2.
6. In order to control the future alteration to the buildings to safeguard the design qualities of the scheme including impacts on residential amenity, ecology and landscape.
7. To ensure that a suitable landscaping scheme is achieved for the development and that a net gain in biodiversity is achieved in accordance with the Hambleton Local Plan policies S1, E1, E3 and E7.
8. In order to take proper account of the risks to the health and safety of the local population, builders and the environment and address these risks and in accordance with Hambleton Local Plan Policies S1 and RM5.