



Report Reference Number: 2020/0475/FUL

To: Planning Committee
Date: 12 August 2020
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0475/FUL	PARISH:	Wistow Parish Council
APPLICANT:	Mr Lee Hirst	VALID DATE:	15th May 2020
		EXPIRY DATE:	10th July 2020
PROPOSAL:	Conversion of the existing barn into a dwelling house after Class Q permitted approval (retrospective)		
LOCATION:	Lodge Farm Wistow Lordship Wistow Selby North Yorkshire YO8 3RS		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposal is contrary to the requirements of the development plan (namely Criterion 1 of Policy H12 of the Selby District Local Plan) but it is considered there are material considerations which would justify approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of Wistow and therefore located within the open countryside.
- 1.2 The application site consists of an existing redundant brick built agricultural barn, which originally belonged to Lodge Farm. The building is of a traditional style, two storeys in height constructed of a range of traditional brick and under a pantile roof.
- 1.3 The application site already benefits from planning permission to convert the building in question to a dwelling under application reference, 2019/0112/ATD. This was

permitted under class Q of the General Permitted Development Order prior approval procedure.

The Proposal

- 1.4 The proposals are for the conversion of an existing agricultural barn into a dwelling house.
- 1.5 The proposals make minor changes to originally approved application reference 2019/0112/ATD. These include a number of changes to openings on the north, east and west elevations. It is noted that the new openings have already been cut out and therefore the proposals are part retrospective.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
 - 2019/0900/S73, Section 73 application for prior notification for the change of use of 2no agricultural building to 2no dwellings without complying with condition 02 of approval 2019/0112/ATD dated 30 May 2019. WDN 21-MAY-20
 - 2019/0783/DOC, Discharge of conditions 3 (materials) and 5 (drainage) of approval 2019/0112/ATD Prior notification for the change of use of 2no agricultural building to 2no dwellings, Decision: COND, Decision Date: 15-OCT-19
 - 2019/0112/ATD, Prior notification for the change of use of 2no agricultural building to 2no dwellings, Decision: PER, Decision Date: 30-MAY-19
 - 2016/0163/ATD, Prior notification for the change of use of agricultural building to 2 dwellings (Use Class C3) and associated operational development, Decision: PER, Decision Date: 07-APR-16

2. CONSULTATION AND PUBLICITY

- 2.1. **Landscape Consultant** – The landscape architect has raised no objections to the proposed development.
- 2.2. **NYCC Highways Canal Rd** – NYCC Highways have raised no objections to the proposed development subject to the following conditions: (1) Altered Private Access and Verge Crossing, (2) Provision of Approved Access, Turning and Parking Areas.
- 2.3. **The Ouse & Derwent Internal Drainage Board** – The IDB have raised no objections to the proposed development subject to a number of standard conditions relating to: (1) soakaways, (2) mains sewers, (3) ordinary water courses, (4) obstructions and (5) main rivers.
- 2.4. **Land Use Planning Yorkshire Water Services Ltd** - No response within the statutory consultation period.
- 2.5. **Environmental Health** – The Environmental Health Officer has raised no objections.
- 2.6. **Natural England** - Natural England have raised no objections to the proposed development.

2.7. **North Yorkshire Bat Group** - No response received.

2.8. **Yorkshire Wildlife Trust** - No response received.

2.9. **County Ecologist** – The Ecologist has noted that application is to allow alterations to the previously-converted building. Therefore, has concluded that, if this is the case and no significant structural works to the roof are involved, then no ecological surveys are required.

2.10. **The Environment Agency (Liaison Officer)** – The EA Officer has raised no objections to the proposed development subject to compliance with details provided within the flood risk assessment. Comments have also been provided regarding the potential requirement for an environmental permit from the EA in respect of drainage.

2.11. **Contaminated Land Consultant** – The Contaminated Land Consultant has raised no objections subject to a standard condition relating to the reporting of unexpected contamination.

2.12. **Parish Council** - Wistow Parish Council have raised no objections to the proposed development. However, have raised concerns about the sewage drainage arrangements.

2.13. **Neighbour Summary** - All immediate neighbours were informed by letter and a site notice was erected. Resulting in no letters of objection being received.

3. **SITE CONSTRAINTS**

Constraints

3.1. The application site is located outside the defined development limits of Wistow and therefore is located within open countryside. The application site is located within Flood Zone 3, which has a high probability of flooding.

4. **POLICY CONSIDERATIONS**

4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

4.2. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

4.3. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

4.4. The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

4.5. Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework –

“213.existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

Selby District Core Strategy Local Plan

4.6. The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP19 - Design Quality
- SP15 - Sustainable Development and Climate Change
- SP16 - Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

Selby District Local Plan

4.7. The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development.
- ENV2 – Pollution and contaminated land
- T1 - Development in Relation to Highway
- T2 - Access to Roads
- H12 – Conversion to residential use in the countryside

5. APPRAISAL

5.1. The main issues to be taken into account when assessing this application are:

- Principle of the Development
- Conversion to Residential Use in the Open Countryside
- Impact upon Residential Amenity
- Flood Risk and Drainage
- Contamination
- Nature Conservation and Protected Species
- Affordable Housing

The Principle of Development

- 5.2. The application site lies to the west of Lordship Lane set within a cluster of agricultural buildings. The buildings originally formed part of Lodge Farm but some of these have now been sold off separately.
- 5.3. The application site lies outside of any defined development limits and therefore is located within open countryside. The building to be converted is an old brick-built agricultural barn, which was redundant and is now currently being converted under application, 2019/0112/ATD.
- 5.4. The principle of the re-use of rural buildings for residential use is supported by Core Strategy Policy SP2 and its commentary (para 4.31). Policy SP2A (c) of the Core Strategy states that “Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances .”
- 5.5. The re-use of redundant or disused buildings is seen as an exception to avoiding isolated new homes and the commentary to the policy includes that it would lead to an enhancement to the immediate setting. Policy SP2 (c) qualifies the re-use as ‘preferably for employment purposes’. However, paragraph 79 of the NPPF has no such qualification and allows for residential conversions if the development would re-use redundant or disused buildings and enhance its immediate setting.
- 5.6. Overall, it is noted that the use the building in question as residential has already been established as acceptable under application reference, 2019/0112/ATD. Furthermore, the proposed amendments to the originally approved plans and drawing by way of new openings are considered acceptable in principle.

Conversion to Residential Use in the Open Countryside

- 5.7. The principal tests in SDLP Policy H12 of relevance here are summarised below together with Officer comments.
- 5.8. In respect of criterion one, “*Unsuited for business use*” a lack of information has been submitted in order to demonstrate that the building is unsuitable for business use. Though it is noted that Policy H12 (1) of the Selby District Local Plan requires that the conversion of rural buildings to residential use in the open countryside will only be permitted where (amongst other criteria) it can be demonstrated that the building or its location is unsuited to business use or there is no demand for buildings for those purposes in the immediate locality. It is noted that, this is not a requirement of paragraph 79 of the NPPF, which is a material planning consideration.
- 5.9. In respect of criterion two, “*Best reasonable means of conserving a building of interest and would not damage the fabric and character of the building.*” The building is not of any significant architectural or historic interest and given external changes are limited to new openings, it is not considered that the proposals would damage the fabric and character of the building.

- 5.10. In respect of criterion three, “*Structurally sound and capable of re-use without substantial rebuilding*”. From a site visit it was evident that the building in question is structurally sound and subsequently the current proposal involves no rebuilding further than those already approved via application reference, 2019/0112/ATD. Overall, it is considered that the building is structurally sound and is capable of reuse without substantial rebuilding.
- 5.11. In respect of criterion four, “*The proposed re-use or adaptation would generally take place within the fabric of the building and will not require extensive alteration/rebuilding or extension.*” Some external works are required such as the removal of the outside steps in order to construct at the appropriate floor levels. However, it is not considered that this would be extensive. Further to this, there would be limited external works to the existing buildings which include the insertion of a number of new openings.
- 5.12. In considering the differences the proposals would create compared to the fall back, 2019/0112/ATD. On the north elevation there would be one less window at ground floor level and one additional window at first floor level. There are no proposed changes to the east elevation to those already approved. On the south elevation there would be one additional ground floor window on the gable end, amendments to the other ground floor openings to introduce floor length glazing and alterations to two of the first-floor windows. On the west elevation there would be the introduction of a Juliet balcony and the removal of a ground floor window.
- 5.13. In respect of criterion five, “*The conversion off the building and ancillary works, would not have a significant adverse effect on the character or appearance of the area or the surrounding countryside.*” It is that the wording within the commentary for Policy H12 states, “Since the reason for permitting residential use contrary to normal countryside policies is to preserve attractive buildings in their setting, it is important to ensure that the conversion can be carried out sympathetically without damaging the intrinsic character of the building and without substantial rebuilding, extension or alteration.” The brick built rural buildings in question are not considered to be “attractive” buildings. However, the proposed scheme would retain the majority of the external fabric of the building (walls) with the exception of the insertion of the new openings and replacement roof tiles.
- 5.14. It is noted that the proposal would retain most of the original materials with the exception of changes to the new doors and windows. These would be UPVC windows and doors as described on the submitted applications form. These are considered acceptable. Overall, there would be a limited impact on the local character of the area.
- 5.15. In respect of criterion 6, “*The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.*” The site is from an existing access and the scheme proposes sufficient parking. Furthermore, NYCC Highways have been consulted and have raised no objections subject to a number of conditions relating to an altered access also a standard condition relating to access, turning and parking areas.
- 5.16. Subject to the aforementioned conditions, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1, T2 and H12 (7) of the Local Plan and paragraphs 108 and 109.
- 5.17. The policy concludes that conditions may be imposed on any permission to control future extensions or alterations, including the removal of permitted development rights.

Impact upon Residential Amenity

- 5.18. Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.
- 5.19. The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.20. It is noted that no objections have been received in relation to impacts on residential amenity.
- 5.21. To the north of the proposed development would be open fields. To the east of the proposed development would be the highway, Lordship Lane. Further to this, another agricultural building is being converted to a dwelling in accordance with approved application reference, 2019/0112/ATD. To the south of the proposed development would be other agricultural buildings and open fields. To the west are more agricultural buildings and open fields.
- 5.22. In respect of overlooking there would be a number of openings on all elevations. In respect of the east elevation facing the closest future dwelling there would be three windows at ground floor level and three windows at first floor level. However, given the separation distances, highway Lordship Lane and that windows have already been approved in these locations. The proposals are considered acceptable in respect of overlooking. In respect of overshadowing, given the proposals relate to an existing building it is not considered that there would be any additional impacts on overshadowing.
- 5.23. The proposed dwelling would benefit from good sized private amenity areas, which are considered acceptable to provide a private amenity area for the future occupants of the additional proposed dwellings.
- 5.24. Overall, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policies ENV1 (1) and H12 (7) of the Selby District Local Plan and national policy contained within the NPPF.

Flood Risk and Drainage

- 5.25. The application site is located within Flood Zone 3 which has a high probability of flooding and the proposal is supported by a Flood Risk Assessment.
- 5.26. The proposal is essentially a 'change of use', however does involve some minor operational development i.e. the building of a garage. Proposals which are exempt from requiring a sequential test are minor development, which include the following taken from the August 2019 Selby District Council 'Flood Risk Sequential Test Developer Guidance Note';
- *Changes of use except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site.*

- 5.27. Therefore, for the purposes of a sequential testing, this application is a 'change of use' and no sequential test is required. The exception test is also not necessary.
- 5.28. The Environment Agency have been consulted and have raised no objections to the proposed development. The submitted FRA is considered acceptable subject to an appropriate condition requiring the development to be carried out in accordance with the recommendations contained within the FRA.
- 5.29. In terms of drainage, the submitted application form sets out that surface water would be disposed of via a sustainable drainage system and the foul sewage would be disposed of via septic tank.
- 5.30. The Ouse and Derwent Internal Drainage Board, Yorkshire Water and the Environment Agency have been consulted on the proposals and none have raised objections to the proposals. The IDB have suggested a condition relating to the disposal of surface water drainage, which could be attached to any permission granted. The Environment Agency have advised that an Environmental Permit may be required for the septic tank and that the proposals would need to comply with the 'General Binding Rules'. It is also noted that, Environmental Health have raised no objections to the septic tank.
- 5.31. Overall, the proposals are considered to be acceptable in terms of drainage, and flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and paragraphs 158, 159 and 160 of the NPPF.

Land Contamination

- 5.32. Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy.
- 5.33. The application is supported by a Phase 1 contaminated land assessment. The contaminated land consultant has been consulted and has raised no objections subject to a standard condition relating to unexpected contamination.
- 5.34. Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 118, 170, 178 and 179 of the NPPF.

Affordable Housing

- 5.35. Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 5.36. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 5.37. However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. It is therefore considered that having had regard to Policy SP9

and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

6. CONCLUSION

- 6.1. This type of conversion of an existing rural building to residential is acceptable in principle in the NPPF and the overall spatial strategy. Though it is noted that the proposal would conflict with criteria 1 of Policy H12 of the Core Strategy, it is considered that the NPPF is a material consideration and in line with Paragraph 79 of the NPPF the further reuse of the building would be sustainable. Furthermore, the Framework is more up to date and more flexible since it does not include criteria requiring the building to be 'unsuited to business use'.
- 6.2. The works are appropriate to this rural building in terms of openings. In view of the size of the site, the extent of new residential curtilage would be acceptable. Thus, subject to the recommended conditions set out below, this application complies with the up to date Framework guidance and with, principally SDLP Policy H12 and compliance with the conditions would create a scheme in compliance with the development plan.

7. RECOMMENDATION

7.1. This application is recommended to be GRANTED subject to the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby permitted shall be carried out in accordance with the following approved plans and documents, notwithstanding the details in the application form:

- 1938 D 20 001 – Location Plan
- 1938 D 20 002 – Existing Ground Floor Plans
- 1938 D 20 003 – Proposed Ground Floor Plans
- 1938 D 20 016 – Existing Site Plan
- 1938 D 20 017 – Proposed Site Plan

- 1938 D 20 011 – Drainage Layout

Reason:

For the avoidance of doubt.

03. The materials to be used in the development hereby approved shall be:

- Roof - Sandtoft Olympus Double Pantile Clay Roof Tile – Flanders
- Walls – reclaimed brick from the existing building

Only the approved materials shall be used.

Reason:

For the avoidance of doubt.

04. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

05. Prior to the first occupation of the dwelling hereby approved a detailed scheme for the provision of surface water should be submitted to and approved by the Local Planning Authority.

Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.

06. The access to the site at Lodge Farm, Wistow Lordship, Wistow shall be constructed within 6 month of the granting of planning permission and shall be set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works" published by the Local Highway Authority and the following requirements:

The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number E2 and the following requirements.

- a) Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- b) Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.
- c) Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason:

In order to ensure highway safety and the convenience of all highway users having had regard to Policy ENV1 of the Selby District Local Plan.

07. The access, parking, manoeuvring and turning areas for all users at Lodge Farm Lordship, Wistow shall be constructed in accordance with plan reference, 1938 D 20 017. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In order to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development having had regard to Policy ENV1 of the Selby District Local Plan.

08. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved, without the prior written consent of the Local Planning Authority.

Reason:

In order to ensure that the character and appearance of the surrounding area is protected in the interests of residential amenity having had regard to Policy ENV1 of the Selby District Local Plan.

8. Legal Issues

8.1. Planning Acts

This application has been determined in accordance with the relevant planning acts.

8.2. Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3. Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However, it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

9. Financial Issues

9.1. Financial issues are not material to the determination of this application.

10. Background Documents

10.1. Planning Application file reference 2020/0242/FUL and associated documents.

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Appendices: Appendix 1 – Site Images, 2020/0475/FUL