



Report Reference Number: 2018/0398/FUL

To: Planning Committee
Date: 6 February 2019
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APPLICATION NUMBER:	2018/0398/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Ms and Mr Marshall	VALID DATE: EXPIRY DATE:	12 April 2018 7 June 2018 E of T agreed until 18 January 2019
PROPOSAL:	Proposed conversion of an agricultural barn building into a residential dwelling and necessary associated operational and remedial works including demolition of redundant agricultural buildings		
LOCATION:	Partridge Hill Farm Oxmoor Lane Church Fenton Tadcaster North Yorkshire		
RECOMMENDATION:	APPROVE		

This application is to be determined by the Planning Committee since it does not accord with development plan policy in that the proposed rear extension will involve extensive removal of existing lean-to structures. Since this is all to be within the existing footprint of the current developed area, it is considered that there are material considerations which support the application and the recommendation for approval.

1. Introduction and background

The Site

- 1.1 The application site is the entire former pig farm site (0.64ha), understood to have ceased operation in 2010 on this south side of Oxmoor Lane, some 400m south of its junction with Brackenhill Lane which is then some 0.5km east of the eastern outskirts of Church Fenton. On this larger site the application barn is Barn 1, whilst other buildings to the rear are referred to as Barn 2 and Barn 3 but are not a part of these proposals. Neighbouring to the west is the former farm house, a two storey detached cement rendered house with various brick outbuildings. On the north side of the Lane is a detached farm building and a separate detached house in large grounds. Oxmoor Lane is without footways or lighting here; the frontage of the application building is set back behind a wide grasses highway verge.

The proposal

- 1.2 The application seeks the change of use of and alterations to the principal frontage building which is of single and two storey composition. The principal elevation shows various phases of infilling and is devoid of openings but for diamond ventilation holes in the brickwork. The two storey component is under a failing clay pantile roof, whilst the single storey wing to the west is under a corrugated asbestos/tin roof.
- 1.3 To the rear, accessed from a gated access to the east are a series of barns and former pig rearing units mostly orientated with their long axes north/south. Some are block work with timber or sheet metal uppers, others are fibre board construction mostly under monopitch roofs/ and a smaller number of brick outbuildings to the eastern site boundary. There are various tanks and vertical silos also on the site.

Planning History

- 1.4 There have been two previous submissions (2018/0431/ATD and 2018/0400/ATD) which were notifications under Part Q of the General Permitted Development Order relating Barns 2 & 3 (not the application barn) for a permitted change of use from agricultural to residential use via the Part Q prior notification process. These applications were withdrawn by the applicants following discussions with Officers on the basis that it had been considered that the extent of demolition went beyond permitted development rights.
- 1.5 There are two more recent Part Q notifications for Barn 2 and Barn 3, 2018/1134/ATD and 2018/1133/ATD respectively. The former has been determined that prior approval is not required and the second has been determined that prior approval is required but it has been granted.
- 1.6 There have been no other applications registered since the pig farm use ceased and nothing of relevance previously.

2 Consultation and Publicity

- 2.1 The application has been advertised as a Departure through press and site notices and adjoining neighbours have been notified directly.

2.2 **Natural England**

Replied with No comment and refers to its standing advice.

2.3 **Environmental Health**

In commenting on this application and the two Part Qs consulted on at the same time, has replied with no objections on the basis that the pig use has ceased. Also comments that any new foul system will need Building Regulations approval.

2.4 **York Environmental Consultancy**

Agrees that site investigation is necessary and the proposed works are generally acceptable. It has been confirmed that gas monitoring is also necessary due to the slurry stores - and then recommends four conditions to do with requirement for site investigation and risk assessment; submission and approval of a remediation scheme; verification of remediation scheme and an unexpected contamination condition.

2.5 **County Ecology Services**

Confirms acceptance of the Great Crested Newt (GCN) report and the one probably rouge DNA record but supports the further investigation controlled by condition. On bats the County Ecologist agrees that the buildings are unlikely to support bats.

2.6 **County Highways**

Replies with no objection, recommends a condition relating to no works until the site access has been constructed to a standard specification.

2.7 **Shire Group of IDBs**

Has replied that the site will increase the impermeable areas and the applicant should satisfy themselves that any system has adequate capacity to deal with run-off.

2.8 **Publicity**

No neighbour representations have been received.

3. **Site Constraints and Policy Context**

Constraints

3.1 The site is in the open countryside without allocation.

3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that "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".

3.3 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. Paragraph 213 provides as follows:-

"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)."

- 3.4 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.
- 3.5 The principal Core Strategy Policies are:
- SP1 - Presumption in Favour of Sustainable Development
 - SP2 - Spatial Development Strategy
 - SP19 - Design Quality
- 3.6 Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 3.7 Development in the countryside is limited in SP2 to the replacement or extension of existing buildings, the re-use preferably for employment and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy.
- 3.8 Policy SP19 promotes high quality design and provides that development proposals should have regard to local character, identity and context including being accessible to all.

Selby District Local Plan

- 3.9 The relevant Selby District Local Plan Policies are:
- ENV1 - Control of Development which would permit good quality development subject to normal development management criteria.
 - ENV2 – Pollution and contaminated land
 - H12 – Conversion to residential use in the countryside
- 3.10 Policy H12 is the principal policy which would support the conversion of rural buildings to residential use in the countryside. The relevant criteria include where it is unsuited for or there is no demand for business use; it is the best means of conserving a building of interest; the building is structurally sound and capable of re-use without substantial re-building; it will not require extensive alteration, rebuilding or extension outside of the fabric of the building and there will be no adverse effect upon local character and no effect upon highway safety.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.11 The guidance in the July 2018 Framework discourages isolated homes in the countryside unless, *'the development would re-use redundant or disused buildings and enhance the immediate setting'* (para 79).

4. APPRAISAL

- 4.1 The main issues to be taken into account when assessing this application are:

1. Principle of the use
2. Conversion not requiring substantial rebuilding or extensive alteration
3. Impact upon amenity
4. Ecology and Protected Species
5. Contamination

Principle of the Use

- 4.2 The principle of the re-use of agricultural buildings for residential use is supported by Policy SP2 and its commentary (para 4.31). 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 whereas the Framework which is more up to date, at para 79, has no such qualification.

Conversion/ not require substantial rebuilding or extensive alteration.

- 4.3 The principal tests in SDLP Policy H12 of relevance here are summarised below together with officer comments :

A) Unsited for business use.

The location of the site next to an existing residential property and the footprint and appearance of a building being of essentially domestic scale and appearance would suggest that it is unsited to business use

B) Best reasonable means of conserving a building of interest

The building has a pleasing composition and appearance of the local vernacular and the scheme would conserve its appearance and bring it back into use in the local environment

C) Structurally sound and capable of re-use without substantial rebuilding

The application is accompanied by a Structural Survey Report. It describes the needs for repairs and some rebuilding in some locations and given the failures in part of the two storey roof and missing pantiles, it anticipates that the whole roof structure will need to be stripped back and replaced. The single storey roof is likely to need timber repairs but will likely be retained once the asbestos sheeting has been removed.

The main exterior walls have experienced some structural movement and the Report concludes that the left gable wall will need underpinning and other fractures will require restraining to tie in to existing but reconstruction, it concludes is unlikely. The interior walls are described as needing general repairs to the brickwork but are in a reasonable condition and capable of being retained and refurbished.

D) Re-use and adaptation generally take place within the fabric and not require extensive alteration/ rebuilding or extension.

The front range of the barn would be retained and the two existing openings made use of with a new ground floor dining room window. This is in keeping and respects previous agricultural vernacular. The area to the rear of the main range is covered over with an extensive timber and metal sheeting roof and lean-tos and this is to be removed to expose the existing rear of the principal barn. The piggery beyond to which the roof extends lends itself to simple use as a garage without any extension.

A two storey rear projection is then proposed to the rear of the exposed range, within the footprint of the existing developed area. The height, gable and the ridged roof would be lower than the existing barn. This is subservient to the main range; it is to the rear and will not be prominent.

In view of the removal of the lean-tos and covered areas attached to the rear, and that the proposed extension is taking place within the current footprint, although the works are extensive, the nett removal exceeds what is proposed of a higher quality in its place and since it will be subservient as set out above and of better quality it is considered that the advantages outweigh any presumption against extensive alterations. The openings in the rear of the single storey element seek to respect/mirror the existing and all other openings are to the rear/ on the returns and are thus also acceptable/ appropriate with arched lintels. The materials are not specified and it would be appropriate to condition timber fenestration. The application forms state that the reroof would be in pantiles, this similarly may be conditioned.

E) Conversion and creation of curtilage not to have a significant adverse effect on local character

The rear curtilage will need to be correctly defined following demolition of the redundant agricultural buildings and hedge planting and boundary treatments are shown to demarcate curtilage, not all of that fencing need arise out of the development and the specification of the hedge is needed.

F) Not create conditions prejudicial to highway safety

The site is served from an existing agricultural access that served 0.64ha. It is an existing access into the site and thus in terms of traffic generation and in the light of no highway authority objections, the access is acceptable.

4.4 The policy concludes that conditions may be imposed on any permission to control future extensions or alterations; this can be addressed by the removal of permitted development rights. Foul water is going to a new package treatment plant which is shown on the drawings and surface water to a culverted drain at the front so similarly this does not need conditioning since it will be on any approved drawings.

Impact upon Amenity

- 4.5 The neighbours have made no comments and given the separation and the alignment between the two properties, they would remain in line so there are no effects in either direction and Policy ENV1 is satisfied.

Ecology and Protected Species

- 4.6 The application is accompanied by Great Crested Newt and Bat survey Reports that have been assessed by the County Ecologist. Since there is a very low likelihood of any such species being present, there are no outstanding objections and implementation in accordance with those report recommendations can be controlled by condition on any approval.

Contamination

- 4.7 The need for on-site investigation and those conditions as necessary recommended by the Environmental Consultancy are addressed in the recommendation below (Conditions 6, 7 and 8).

Legal Issues

- 4.8 Planning Acts: This application has been determined in accordance with the relevant planning acts.
- 4.9 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.
- 4.10 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.

Financial Issues

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

5. Conclusion

- 5.1 This type of conversion of an agricultural barn to residential is acceptable in principle in the NPPF and in development plan policy. The Framework is more up to date and more flexible since it does not include criteria requiring the building to be 'structurally sound' or not require 'extensive rebuilding' criteria. In any event those local plan criteria are, it is concluded, satisfied.
- 5.2 The works are appropriate to this agricultural building in terms of openings and materials/ and a standard use of reclaimed/matching materials to make good condition would be appropriate. It would also be appropriate to seek a detail of new roof materials so that clay rather than concrete pantile is achieved. In view of the size of the site, the extent of new residential curtilage needs to be restricted. Due to

the agreement from consultees that there would not be any impact upon the very low likelihood of the presence of bats or GCNs, implementation in accordance with those surveys can be achieved by the standard strict conformity condition (Condition 2).

- 5.3 The contamination conditions have been amended so that they are not pre-commencement and are linked to the first acts of demolition. The draft conditions and any interpretation of them being pre-commencement have in any event been agreed with the applicant in line with good practice.
- 5.4 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.

6. Recommendation

6.1 The application is recommended for APPROVAL 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:

- Red Line site Location Plan Scale 1:1250
- Existing Site Plan Barn 1 Dwg No LDS 2495/B1/001
- Existing and Proposed Elevations Barn 1 Dwg No LDS 2495/B1/201
- Existing Floor Plans Barn 1 Dwg No LDS 2495/B1/101
- Proposed Floor Plans Barn 1 Dwg No LDS 2495/B1/102
- Proposed Site Plan Barn 1 Dwg No LDS 2495/B1/002
- Brooks Ecological Great Crested Newt Survey R-2892-101 dated July 2017
- Brooks Ecological Bat Survey R-2892-02 dated September 2017

Reason: For the avoidance of doubt.

- 03: The materials to be used in the repairing or making good of the existing external surfaces shall use reclaimed materials to match in size, colour and texture the existing materials used on the building.

Reason: In the interests of visual amenity and in order to comply with Policies ENV1 and ENV25 of the Selby District Local Plan.

- 04: Details of the new pantile roof covering and the facing brickwork of the extension hereby approved shall be submitted to and approved by the local planning authority prior to the commencement of development above new slab level.

Reason: In order to ensure that the local planning authority is satisfied with the detail of materials and in order to match the existing building in the interests of the character and appearance of the area and the design and appearance of the building to accord with local plan policies ENV1 and H12.

- 05: Prior to the first occupation of the dwelling hereby approved the boundary of the curtilage of the dwelling shall be identified through the installation of the approved fence and the planting of the hedge in accordance with planting specifications that have previously been submitted to and approved by the local planning authority.

Reason: In accordance with the details of the application and to protect the amenities of the prospective occupants and in order to comply with local plan Policy ENV1.

- 06: No works of demolition shall commence until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved by the local planning authority:

- A site investigation scheme, based upon the Dunelm Report D8560 desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- The results of the site investigation and the detailed risk assessment referred to in and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken, including details of necessary gas monitoring.

Reason: To ensure that the risks from land contamination to future users are minimised and to ensure that the development can be carried out safely having regard to local plan Policies ENV1 and ENV2.

- 07: Prior to the first occupation of the dwelling the approved remediation scheme shall be carried out in accordance with its terms and a verification report to be submitted to and approved in writing by the local planning authority.

Reason: To ensure that the risks from land contamination to future users are minimised and to ensure that the development can be carried out safely having regard to local plan Policies ENV1 and ENV2.

- 08: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the risks from land contamination to future users are minimised and to ensure that the development can be carried out safely having regard to local plan Policies ENV1 and ENV2.

09: The use hereby approved shall not first commence until the redundant agricultural buildings have been demolished sufficient and necessary to define the residential curtilage of the dwelling hereby approved.

Reason: In accordance with the details of the application and to provide for sufficient residential curtilage to the property hereby approved to comply with local Plan Policy ENV1.

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Appendices: None