

Report Reference Number: 2019/0108/FUL

To: Planning Committee
Date: 4th December 2019
Author: Rebecca Leggott (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0108/FU L	PARISH:	Church Fenton Parish Council
APPLICANT:	Mr Bankes- Jones	VALID DATE: EXPIRY DATE:	11th February 2019 8th April 2019
PROPOSAL:	Proposed conversion of redundant agricultural buildings to provide two detached residential units (Use Class C3), with associated amenity, parking and garden space at land adjacent		
LOCATION:	The Orchards Church Street Church Fenton Tadcaster North Yorkshire LS24 9RD		
RECOMMENDATION:	GRANT		

This application is to be determined by the Planning Committee since it does not accord with Policy H12 (1) of the Selby District Local Plan. This requires in 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. Since the proposal would comply with all other relevant criteria and it is considered that there are material considerations which support the application the recommendation is for approval.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of Church Fenton and therefore located within the open countryside.
- 1.2 The application site consists of two brick built barn buildings one being single storey and one being two storey with tiled roofs, set within the curtilage of the dwelling

known as 'The Orchards'. Further to this, there are open fields to the north, the highway, Church Street and open fields to the east, residential barn conversions to the south and open fields to the west.

The Proposal

- 1.3 The application seeks planning permission for the conversion of redundant agricultural buildings to provide two detached residential units (Use Class C3), with associated amenity, parking and garden space at land adjacent.
- 1.4 It should be noted that the original proposals included the addition of a single storey projection on the south elevation of barn 'B'. However, following discussions with the agent this was removed in order to ensure the proposals would not involve extensive alterations or re building.

Relevant Planning History

- 1.4 The following historical application is considered to be relevant to the determination of this application. This is for the adjoining dwelling known as The Orchards.

2019/0107/HPA - Proposed extension and remodelling of the existing dwelling to provide additional living accommodation with associated access and erection of a detached garage. Granted 9.8.2019.

2. CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways** – Have raised no objections to the proposed development subject to the following conditions: (1) Private Access/ Verge Crossings: Construction Requirements and (2) Construction Management Plan.
- 2.2 **Yorkshire Water** – No response within the statutory consultation period.
- 2.3 **Selby Area Internal Drainage Board** – The IDB have raised no objections to the proposed development subject to the following conditions: (1) Drainage works to be agreed, (2) Minimum development standards for sites, (3) Confirmation of public sewer and mains drains capacity, (4) Surface water to adjacent watercourse. Further to this, a number of informatives have been suggested relating to, (1) Soakaways, (2) Mains sewer systems, (3) Discharge into any water course, (4) Obstructions within 7 metres of a water course and (5) Surface water works adjacent to a Main River.
- 2.4 **Parish Council** – The Parish Council has no objections to the proposed development. However, they have raised concerns regarding the relationship of the access for the proposed scheme and the Parish Church.
- 2.5 **North Yorkshire Bat Group** – No response within the statutory consultation period.
- 2.6 **NYCC Ecology** – NYCC Ecology have raised no objections to the proposed development subject to the mitigation measures contained with Section 9 of the Ecology Report submitted with the application being conditioned. Further to this, an informative has been suggested to cover the nesting bird restrictions set out in 9.2.3 of the report.
- 2.7 **Contaminated Land** – Awaiting comments.

- 2.8 **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 Church Fenton and therefore is located within open countryside. The application site is located within Flood Zone 2, which has a medium 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
- Ecology and Protected Species
- Contamination
- Affordable Housing

The Principle of Development

5.2 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). 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.

Conversion to Residential Use in the Open Countryside

5.3 The principal tests in SDLP Policy H12 of relevance here are summarised below together with Officer comments:

1) *Unsuited for business use*

A lack of information has been submitted in order to demonstrate that the building is unsuitable for business use. It is noted that the submitted information states that, “... it is considered that the proposed conversion is unsuited to business given the adjacent residential properties...” However, it

is not considered that this is sufficient evidence to demonstrate that the site is unsuited for business uses.

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.

- 2) *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 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.

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

The application is accompanied by a Structural Survey Report in support of the application. This survey concludes that, the building is structurally sound and subsequently the current proposal involves no rebuilding. Therefore, it is considered that the building is structurally sound and is capable of reuse without substantial rebuilding, unlike many other conversions where more works are required.

- 4) *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 walls are to be demolished to the east elevation of barn 'B' to make way for a car parking. However, it is not considered that this would be extensive. Further to this, there would be no external works to the existing buildings other than the insertion of a number of new openings.

- 5) *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 noted 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 all the external fabric of the building (walls and roofing) with the exception of the insertion of the new openings.

It is noted that the proposed new doors and windows are to be painted timber to match the existing building as described on the submitted plans and drawings.

Furthermore, a detached garage is proposed to serve barn 'A'. It is considered that this would be of an appropriate size, design and siting and therefore would be considered acceptable in this location.

Overall, there would be a limited impact on the local character of the area.

- 7) *The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.*

The site is served from an existing access and the scheme proposes sufficient parking for both barn A and barn B.

Furthermore, NYCC Highways have been consulted and have raised no objections subject to a number of conditions relating to: (1) Private Access/Verge Crossings: Construction Requirements and (2) Construction Management Plan.

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 34, 35 and 39 of the NPPF.

- 5.4 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

- 5.5 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.
- 5.6 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.
- 5.7 It is noted that no objections have been received in relation to impacts on residential amenity.
- 5.8 Barn 'B' within the proposed development would be in close proximity to the neighbouring residential property, the Orchards, to the west, within the blue line boundary. However, given barn 'B' would be single storey and the proposed boundary treatments to the west of the site it is not considered that there would be any significant adverse impacts of overlooking or overshadowing.
- 5.8 In considering the proposals in respect of other surrounding properties, given the separation distances, boundary treatments and the modest size, scale and design of the proposed scheme, it is not considered that there would be any significant adverse effects in terms of overlooking, overshadowing and or oppression further than that which currently exists.

- 5.9 The proposed dwellings 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.

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

- 5.10 The application site is located within Flood Zone 2 which has a medium probability of flooding. The proposal was supported by a Flood Risk Assessment. The Environment Agency refers Local Planning Authorities to standing advice if it's a 'more vulnerable' use in Zone 2. The main emphasis of this is ensuring finished floor levels are 300mm above current floor levels or 600mm above known flood levels. 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.*

- 5.30 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 given it's a 'more vulnerable use' in a Flood Zone 2.

- 5.11 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 a septic tank.

- 5.12 The Ouse and Derwent Internal Drainage Board, Yorkshire Water and Environment Agency have been consulted on the proposals and none have raise objections to the proposals.

- 5.13 From the information submitted the means of disposal of foul water is unknown and the disposal of surface water would be via existing water course and main sewers. Although, limited information has been provided it is considered that an acceptable scheme of drainage can be achieved therefore further information can be requested and subsequent measures secured by way of condition.

Ecology and Protected Species

- 5.16 The application site is not a protected site for nature conservation nor is it known to be in close proximity to any site supporting protected species or any other species of conservation interest.

- 5.17 The application is accompanied by an Ecological Impact Assessment. However, the appraisal has demonstrated that there is a very low likelihood of any such species being present, there are no outstanding objections and implementation in accordance with recommendations within section 9 of the report can be controlled by condition on any approval. NYCC Ecology have been consulted on the application and confirmed that they are satisfied with this approach.

- 5.19 As such it is considered that the proposed would not harm any acknowledged nature conservation interests and therefore accords with ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and paragraphs 170, 172 and 175 the NPPF.

Land Contamination

- 5.20 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.
- 5.21 The application is supported by a Phase 1 contaminated land assessment. The Contaminated Land Consultant has been consulted on this application. However, a formal written response is awaited. In considering this, it is considered reasonable given the previous uses for agricultural to attach a number of conditions relating to the investigation of land contamination, submission of remediation scheme, verification of remediation scheme and the reporting of unexpected contamination.
- 5.22 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

- 5.23 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 5.24 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.
- 5.25 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 in development plan policy. Though it is noted that the proposals do not comply 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. Which would outweigh conflict with Policy H12 (1).
- 6.2 The works are appropriate to the agricultural buildings in terms of openings. In view of the size of the site, the extent of new residential curtilage would be acceptable.

6.3 Furthermore, having assessed the proposals against the relevant policies, it is considered that the proposals are acceptable in respect of their design and impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, flood risk and drainage, nature conservation and protected species, land contamination and affordable housing.

6.3 Thus, subject recommended conditions set out below, this application complies with the NPPF and with, and 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:

- BA9030 REV A – Tree Survey and Constraints Plan
- 584-B – 02 – Existing Topographical Survey (A2)
- 10473 - 02 - Existing Elevations
- 10473 – 03 – Existing Ground Floor Plans
- 584-B – 05 – Existing Site Layout Plan (A2)
- 584-B-01-A Site Location Plan (A3)
- 584-B – 09 – B – Proposed Elevations & Sections (Barn A & B) (A1)
- 584-B – 08 – B – Proposed Roof Plans (Barns A & B) (A1)
- 584– B – 07 – C – Proposed Floor Plans (Barns A & B) (A1)
- 584-B –06– C– Proposed Site Layout Plan (A2)

Reason: For the avoidance of doubt.

03. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Construction Management Plan.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure a satisfactory means of highway safety access in the interests of vehicle and pedestrian safety and convenience.

04. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

- a) The existing access shall be improved to give a minimum carriageway width of 4.5 metres, and that part of the access road extending 6 metres into the site shall be constructed in accordance with Standard Detail number E6d
- b) Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
- c) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and shall be maintained thereafter to prevent such discharges

Reason:

In accordance with policies T1 and T2 of the Selby Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

05. In the event that protected species are discovered on the application site upon commencement of the approved development, which were not previously identified, it must be reported in writing immediately to the Local Planning Authority. A site investigation and assessment must be undertaken and where mitigation is necessary, a mitigation scheme must be prepared, which is subject to approval in writing of the Local Planning Authority.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

06. 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.

07. Prior to the first occupation of the dwelling hereby approved a detailed scheme for the provision of drainage 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.

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.

09. The development hereby permitted must be carried out in accordance with the mitigation measures contained within section 9 of the Ecological Impact Assessment dated August 2018.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

10. No development shall commence until an investigation and risk assessment has been undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted and approved 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.

11. Prior to first occupation or use, the approved remediation scheme, if required, must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and be 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.

7.2 Informative(s):

ECOLOGY:

Should any Newts and/or protected species be encountered during the removal of any existing hard surface area or the construction of the proposed development advice in terms of mitigation measures should be sought from a qualified Ecologist.

CONSENT – GENERAL:

Under the terms of the Land Drainage Act. 1991 and the IDB's Byelaws, the prior written consent of the Board is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of any watercourse.

CONSENT – OUTFALL:

Any new outfall to a watercourse requires the prior written consent of the IDB under the terms of the Land Drainage Act. 1991 and should be constructed to the satisfaction of the IDB.

CONSENT – DISCHARGE:

Under the IDB's Byelaws the written consent of the IDB is required prior to any discharge into any watercourse within the IDB's District.

COAL:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

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

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

10 Background Documents

Planning Application file reference 2019/0108/FUL and associated documents.

Contact Officer: Rebecca Leggott, Senior Planning Officer
rleggott@selby.gov.uk

Appendices: None