

**Item Number:** 10  
**Application No:** 15/01027/FUL  
**Parish:** Huttons Ambo Parish Council  
**Appn. Type:** Full Application  
**Applicant:** Mr I Brisby  
**Proposal:** Erection of a 4-bedroom detached dwelling and detached garage together with formation of vehicular access.  
**Location:** Land East Of Musley Bank House Musley Bank Malton North Yorkshire

**Registration Date:**  
**8/13 Wk Expiry Date:** 16 December 2015  
**Overall Expiry Date:** 12 November 2015  
**Case Officer:** Alan Hunter **Ext:** Ext 276

#### CONSULTATIONS:

<b>Parish Council</b>	Support
<b>Highways North Yorkshire</b>	No objections
<b>Howardian Hills AONB JC</b>	Object
<b>Tree &amp; Landscape Officer</b>	No objection
<b>Land Use Planning</b>	No views received to date

**Neighbour responses:** Mr David Clarkson, Mr John Drummond,

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#### SITE:

The application site is part of the side garden of Musley Bank House, a substantial Victorian dwelling constructed of stone under a slate roof having a site area of approximately 1.9ha. Musley Bank is located to the west of Malton and is accessed via a private road from the A64 slip road. It is located within the Howardian Hills Area of Outstanding Natural Beauty. The site measures approximately 1.9ha and is laid to grass with substantial landscaping, particularly on the eastern side. This provides a pleasant parkland setting for Musley Bank House. The land rises to the north, with its ridge beyond the application site.

There are existing dwellings within the immediate locality, including a pair on semi-detached properties on the approach lane, Lindrick Bungalow to the eastern side, and Grooms Cottage beyond Musley Bank House to the western side. Further beyond Grooms Cottage is a commercial racing yard with its collection of associated buildings, structures and accommodation.

There is a public footpath along the access track from the A64, along the western boundary of Musley Bank House, and then across the ridge to the north.

#### PROPOSAL:

Planning permission is sought for the erection of a 4 bedroom detached dwelling and detached garage together with the formation of a vehicular access. This is stated to be an eco-friendly house for the applicants (current owners and occupiers of the adjoining Musley Bank House) for their retirement.

The proposed dwelling is located 20m further forward (south) than Musley Bank House. It is designed with two diagonal and one central projecting two-storey glazed gables. The proposed dwelling is symmetrical on its front elevation. Its front elevation measures approximately 26m in width at its greatest by 14.6m in depth at its greatest, and is 8.7m at its highest point. It is proposed to construct the dwelling of rubble stone and ashlar dressings and horizontal boarding with stone lintels under a natural slate roof with photo voltaic tiles. The property is also proposed to have timber windows, doors and roof lights. Black painted metal gutters and down pipes are also proposed.

The proposal involves 'cut and fill' in order to accommodate the proposed dwelling within this rising land. The highest part of the roof will be below the higher northern ridge.

It is proposed to form a new vehicular access from the access road to the southern side across the existing parkland area with gentle curves, to serve this dwelling. The length of the proposed road will approximately be 250m (measured as the crow flies), and 5m in width. It is proposed to surface the road in permeable block paving, with stone flagged terrace and resin bound gravel driveway. A garage block is proposed immediately to the north west of the dwelling.

The supporting information states that the proposed dwelling will be constructed to a standard comparable to Code level 5 of the former Code for Sustainable Homes with 'Lifetime Living' principles. This is stated to include grey water recycling, a ground source heat pump, an advanced ventilation and heat recovery system and solar energy tiles.

There has been supporting information and justification submitted, including an artists impression of the proposed development in the context of Musley Bank House. These documents are available to view online.

### **HISTORY:**

There is no relevant planning history in relation to the application site.

### **POLICY:**

#### National Planning Policy

National Planning Policy Framework (NPPF) 2012

National Planning Practice Guidance (NPPG) 2014

#### Ryedale Plan - Local Plan Strategy

Policy SP1 - General Location of Development and Settlement Hierarchy

Policy SP2 - Delivery and Distribution of New Housing

Policy SP4 - Type and Mix of New Housing

Policy SP12 - Heritage

Policy SP13 - Landscapes

Policy SP16 - Design

Policy SP19 - Presumption in favour of sustainable development

Policy SP20 - Generic Development Management Issues

### **APPRAISAL:**

The main considerations in relation to this application are:

1. The principle of a new dwelling in this location;
2. The design and scale of the proposed dwelling and its impact upon Musley Bank House;
3. Impact upon the special qualities of the Area of Outstanding Natural Beauty (AONB)
4. Impact of the proposal upon the amenity of the adjoining neighbours;
5. Highway safety; and,
6. Landscaping.

#### Principle of the proposed dwelling

The application site is located within the open countryside. New dwellings within the open countryside are not acceptable in principle, subject to a few exceptions.

Para. 55 of NPPF states:

*'55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*

- *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or*
- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling.*

*Such a design should:*

- *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
- *reflect the highest standards in architecture;*
- *significantly enhance its immediate setting; and*
- *be sensitive to the defining characteristics of the local area.'*

Policy SP2 of the Local Plan Strategy (LPS) does not support new residential development within open countryside locations, subject to a few exceptions. The exceptions contained within Policy SP2 of the adopted development plan, for dwellings within the open countryside are:

- *'New build dwellings necessary to support the land-based economy where an essential need for residential development in that location can be justified*
- *Conversion of redundant or disused traditional rural buildings and where this would lead to an enhancement to the immediate setting for Local Needs Occupancy*
- *Change of use of tourist accommodation (not including caravans, cabins or chalets) where appropriate and restricted to Local Needs Occupancy*
- *Replacement dwellings'*

In this respect the proposed development does not meet any of the exceptions contained within Policy SP2 and it is therefore clearly contrary to the adopted development plan. There is a statutory duty for all planning applications to be considered against unless other material planning considerations indicate otherwise (s38(6) Planning & Compulsory Purchase Act 2004). However, para. 55 of NPPF that is an older document than the LPS, does provide an exception for isolated new homes. Such houses are required to be truly outstanding or innovative, reflecting the highest standards in architecture, significantly enhancing the immediate setting of the proposed dwelling and being sensitive to the defining characteristics of the local area. This national exception, has its origins in the former PPG7 relating to new country houses. This exception is seldom argued successfully, and is very much an exception with an extremely 'high bar' to meet. It is understood that the original intention was to support a new country house, comparable to a modern day 'Castle Howard' or equivalent. In Ryedale, Officers are not aware of this 'Country House exception' ever being successfully argued either through the planning application or through the appeal process.

The proposal in question is located on rising land within the Area of Outstanding Natural Beauty, a nationally designated landscape. The Area of Outstanding Natural Beauty (AONB) Officer has objected to the application. One of his objections relates to the site not being 'isolated', which the exception in para. 55 above requires. The applicant, and agent in their submissions recognise that the application site is not isolated and that it is indeed surrounded by other dwellings and developments. Members will appreciate from the description of the site above, that there are a number of existing dwellings and a large racing stables in the vicinity. It has also been referred to as a hamlet by the applicant. Furthermore, the site is also within the garden of an existing property.

The purpose of the proposed dwelling appears to be a lifestyle choice to downsize into the said dwelling which is located directly to the east of their existing property. Their desire to do this, and live in this pleasant landscape is understood. However, Officers do not consider that this is isolated to the extent that it meets the requirements of para. 55.

In addition, support could be argued by virtue of Policy SP19 of the LPS which provides a presumption in favour of sustainable development. Given that the site is located near to Malton, it still lies well beyond the development limits of the settlement and unlikely to be near land to be allocated for housing in the LPS. The location of the dwelling will also place a great reliance on the use of a car to access all daily services. This 'hamlet' location is not therefore considered to be a sustainable location for the expansion of the Town, or where new residential development should be located.

The proposed design and scale of the proposed dwelling has to be truly innovative or outstanding. The 'Butterfly' design prepared by Francis Johnson & Partners is considered to be of a reasonably high standard. The eco-features are noted along with the desire to achieve comparability with Code 5 of the former Code for Sustainable Homes, stated in the supporting information. However, the exceptionally high bar for such exceptional houses is not considered to have been met by Officers. Many of the features of the design, and materials are not uncommon on new dwellings elsewhere in the District. Whilst the eco-friendly features are supported in principle, Officers do not consider them to be truly innovative proposals to warrant the approval of this application for a dwelling which is located well outside of any identified development limit. The proposal is therefore not considered to meet the requirements within Paragraph 55 of NPPF.

Furthermore, the design chosen is not considered to relate well to the character and appearance or setting of Musley Bank House, a grand Victorian stone dwelling. Musley Bank House in accordance with para. 135 of NPPF and Policy SP12 of the LPS, and following dialogue with the Buildings Conservation Officer is considered to be a non-designated heritage asset. This is because of the age of the property, its design and materials, along with its parkland setting in this Area of Outstanding Natural Beauty. The parkland setting to Musley Bank House is considered to be particularly important. The proposed dwelling is to be located close to the eastern side of Musley Bank House and within this parkland. It is considered that by virtue of the siting, scale and design of the proposed dwelling there will be harm to the setting of this non-designated heritage asset.

The AONB Officer also identifies this parkland setting for Musley Bank House as one of the specific Special Qualities which led to the Howardian Hills being designated as an AONB.

Policy SP13 of the LPS states:

*'The District Council and Howardian Hills AONB Joint Advisory Committee will resist development proposals or land management practises that would have an adverse impact on the natural beauty and special qualities of the AONB unless it can be demonstrated that the benefits of the proposal clearly outweigh any adverse impact and the proposal cannot be located elsewhere in a less damaging location.'*

Section 85 of the Countryside Rights of Way Act 2000 states that the Local Planning Authority has a duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB when considering such proposals. In this case the AONB Officer on behalf of the Joint Advisory Committee has identified harm upon the AONB and has objected to the application. The harm relates to its impact upon character of the AONB landscape and upon the non-designated heritage asset (as discussed above). The AONB Officer has also commented on the important contribution of country houses such as Musley Bank House with its parkland style landscaped surroundings to the character of the AONB. The AONB Officer further comments that these types of houses are one of the special qualities of the AONB. It is further stated that the proposed development will have a significant adverse impact on the AONB landscape by virtue of its location with the parkland area of Musley Bank House. The AONB Officer also considers the principle of this proposal to be contrary to the requirements of Para. 55 of NPPF and Policy SP2 of the LPS (this was assessed above).

Whilst the site has the benefit of some screening from the eastern side, there are public footpaths running directly to the southern side and to the west. In view of the above (and the principle of the proposal being considered unjustified) the proposal is considered to have an adverse effect on the natural beauty and special scenic qualities of the AONB. There is also considered to be no justification submitted that demonstrates how the benefits associated with the proposal can overcome this perceived harm in consideration of the planning balance.

The Tree and Landscape Officer has considered the submission and Arboricultural Report and stated the following:

*The proposed development site includes a number of mature and semi mature trees that contribute to the setting of the existing dwelling and to the proposed dwelling. The proposed location of the proposed dwelling allows for the retention of most of these trees, and certainly the major ones, i.e. the two mature Wlingtonias to the west of the proposed dwelling in accordance with the recommendations in BS 5837: 2012 Trees in relation to demolition, design, and construction - Recommendations. The tree report recommends that methodology for the protection of these trees during the development phase should be the subject of an Arboricultural Method Statement which I would concur with.*

If this application is to be considered favourably a condition should be imposed in regard to the above.

The proposed dwelling, by virtue of the separation between existing and adjoining properties is not considered to have an adverse effect the amenities of neighbouring occupiers. The proposed dwelling is also considered to have a satisfactory level of residential amenity itself, and Musley Bank House will also retain a satisfactory level of residential amenity space.

The Parish Council has supported this application because they consider the proposed dwelling to be in-keeping with the nature of its immediate surroundings, appropriate and not detrimental to other interests. There has also been support from a neighbour at Grooms Cottage. One letter of objection has been received from the occupier of Lindrick bungalow. The applicant and the agent have responded to the points raised during the consultation process and these letters are also available to view online.

In view of the above conflicts with both national and local planning policy this application cannot be supported and it is therefore recommended for refusal.

**RECOMMENDATION:                      Refusal**

- 1            The proposed development for a new dwelling in the garden of Musley Bank House, which forms a collection of dwellings and a large commercial racing stables and is designated as open countryside, is not considered to be an isolated location for the purposes of paragraph 55 of National Planning Policy Framework. The principle of the proposed dwelling is therefore contrary to paragraph 55 of National Planning Policy Framework and it is also clearly contrary to Policy SP2 of the Local Plan Strategy.
  
- 2            The proposed development by virtue of its siting, scale, design, and materials will have an adverse impact on the natural beauty and special qualities of the Howardian Hills Area of Outstanding Natural Beauty and the benefits associated with the proposals do not outweigh this harm. The proposal is therefore contrary to the requirements of Policy SP13 of the Ryedale Plan - Local Plan Strategy and contrary to the duty imposed on the Local Planning Authority by Section 85 of the Countryside and Rights of Way Act 2000

- 3 The proposed dwelling, by virtue of its design, scale, and materials is not considered to be truly outstanding or innovative, or to significantly enhance its immediate setting or be sensitive to the defining characteristics of the local area. The proposed development is not therefore considered to meet the special circumstances stated within paragraph 55 of National Planning Policy Framework.
- 4 The proposed development by virtue of its siting, scale, design, and materials is considered to adversely affect the setting of Musley Bank House, which is considered to be a non designated heritage asset. The proposed dwelling is therefore considered to be contrary to the requirements of Policy SP12 of the Ryedale Plan - Local Plan Strategy and paragraph 135 of National Planning Policy Framework.

**Background Papers:**

Adopted Ryedale Local Plan 2002  
Local Plan Strategy 2013  
National Planning Policy Framework  
Responses from consultees and interested parties