

**Item Number:** 14  
**Application No:** 17/01417/FUL  
**Parish:** Huttons Ambo Parish Council  
**Appn. Type:** Full Application  
**Applicant:** Mrs Brisby  
**Proposal:** Erection of detached 5 bedroom dwelling with integral double garage to include terrace at first floor level and 55no. integrated solar panels, together with formation of access drive and reinforced grass turning circle, formation of a wildflower meadow and additional landscaping.  
**Location:** Land East Of Musley Bank House Musley Bank Malton North Yorkshire  
**Registration Date:** 4 December 2017  
**8/13 Wk Expiry Date:** 29 January 2018  
**Overall Expiry Date:** 18 June 2018  
**Case Officer:** Alan Hunter **Ext:** Ext 276

#### CONSULTATIONS:

<b>Parish Council</b>	Supports
<b>Paul Jackson AONB Manager</b>	Objection
<b>Tree &amp; Landscape Officer</b>	No views received to date
<b>Yorkshire Water Land Use Planning</b>	No views received to date
<b>Highways North Yorkshire</b>	No objection
<b>Highways England</b>	No Objection
<b>Highways North Yorkshire</b>	No objection

**Neighbour responses:** Mr Phillip Clarkson, Mr & Mrs Dudley Taylor, Fiona Hannah,

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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, a designated landscape. The application site measures approximately 1ha 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 of 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 5 bedroom detached dwelling with integral double garage to include terrace at first floor level and 55no. integrated solar panels, together with the formation of a vehicular access drive and reinforced grass turning circle, formation of a wildflower meadow and additional landscaping.

The proposed dwelling is located 40m to the south-east of Musley Bank House, and 30 metres further forward (south) than Musley Bank House. It is designed with two diagonal and one central components. The proposed dwelling will have a maximum length of 23 metres (28.6 metres if the attached double garage on the eastern side is included) with a maximum depth of 10 metres (on the central component). The building will measure 7 metres to the parapet height and 9.7 metres to the ridge height. It is proposed to construct the dwelling of ashlar fine cut stone with integrated solar panels into a natural blue slate roof. Frameless solar coated glazing with electrically operated blinds are also proposed. The windows are of a rectangular design with contrasting natural stone surrounds. The gable end of the roofs feature dark timber louvres for air intake with louvres for air release positioned on the front central component. Above the attached garage is a veranda area with frameless clear balustrading. 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. A 2m brick retaining wall is proposed along the northern boundary. The northern elevation features a complicated roof structure including both pitched and flat roofs, along with an external staircase to the plant room.

Foul water is proposed to be drained to a klargester treatment plant to the east of the site, with surface water to be drained into the adjacent pond to the south of Musley Bank House.

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 the proposed dwelling. The length of the proposed road will approximately be 130 metres (measured as the crow flies), and 5 metres in width. It is proposed to surface the road in a bonded resin, a reinforced grass turning circle is located to the south of Musley Bank House with a diameter of 24 metres. An attached 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 beyond that required by Code level 5 of the former Code for Sustainable Homes with 'Lifetime Living' principles. This is stated to include grey water recycling, two ground source heat pumps, a type of which are stated to not have been tested in the UK yet, along with an advanced and untested heat recovery system and solar energy panels.

There has been supporting information and justification submitted, including a Landscape and Visual Assessment along with photographs and details of the proposed technologies. These documents are available to view online under the application reference number.

## **HISTORY:**

The planning history for this site includes:

2015: Application refused for the erection of a 4 –bedroomed detached dwelling and a detached garage together with the formation of a vehicular access.

## **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

AONB Management Plan 2014-2019

## APPRAISAL:

The main considerations in relation to this application are:

- The principle of a new dwelling ;
- Whether the proposal is truly outstanding or innovative, helping to raise the standard of architecture in rural areas;
- Does the proposal reflect the highest standards in architecture?
- Does the proposal significantly enhance its immediate setting?
- Is the proposal sensitive to the defining characteristics of the local area
- The impact of the proposal upon Musley Bank House;
- Impact of the proposal upon the amenity of the adjoining neighbours;
- Drainage
- Highway safety; and,
- Landscaping.

This application has been submitted following a previous application in 2015 that was refused planning permission because it was not an isolated dwelling; it was not considered to be truly innovative or outstanding; its impact upon the setting of Musley Bank House a non-designated heritage asset; and its landscape impact. Since the earlier application was refused, an extensive pre-application has taken place and two iterations of a proposed dwelling have been before the Yorkshire Design Review Panel (YDRP). The scheme initially submitted as part of this planning application has also been referred to YDRP, a copy of their most recent review is appended to this report. The applicants have made minor amendments to the scheme along with a revision to their Design and Access Statement in direct response to the YDRP's comments. These documents are also appended to this report and have been the subject of re-consultation with interested parties. The changes made to the scheme are considered to be consistent with the comments of the YDRP.

### 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 limited exceptions.

Policy SP2 of the Local Plan Strategy (LPS) does not support new residential development within open countryside locations, subject to the four limited exceptions below. These exceptions 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 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). The National Planning Policy Framework (NPPF) is material planning consideration, and para. 55 of NPPF, does provide an exception for isolated new homes.

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.'*

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. There has, however, been a recent approval for such a dwelling in the Scarborough Borough area last year, which featured a contemporary designed dwelling. Members should note that the location of the property in the Scarborough Borough is not within a nationally protected landscape.

The proposal in question is located on rising land within the Area of Outstanding Natural Beauty (AONB), a nationally designated landscape. The 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. It is considered 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 previously. Furthermore, the site is also within the garden of an existing property. Officers maintain the strong reservations that the site in question is not isolated for the purposes of a paragraph 55 dwelling, and not a site that was intended to benefit from the exception.

Para. 62 of NPPF advises Local Planning Authorities to have procedures in place for reviewing the design of schemes, and to have regard to the recommendations from the design review panel. Furthermore, paragraph 63 of NPPF advises that great weight should be given to outstanding or innovative designs which help to raise the standard of design more generally.

As stated above, the scheme has been independently reviewed by the Yorkshire Design Review Panel (YDRP). The YDRP have considered the proposal against the four criteria within paragraph 55 of NPPF. Their views of the scheme against the four criteria within paragraph 55 can be summarised as following:

- The panel is satisfied that the scheme represents exceptional innovation through the use of unique technology. The Panel concludes that the design expresses innovation which is not in a visually dominant or challenging way and strikes a careful balance of innovative technology alongside respecting Musley Bank House.

- The Panel feels that the scheme fell somewhat short of reflecting the highest standards in architecture, but that it has the capability and potential to achieve this level. The amendments sought related to the detailing and materials. The panel sought a building with a domestic appearance as opposed to a commercial or civic looking building. The panel prefers to see the building as two linked pavilions with a recessed central link.
- The panel did not strongly consider this criteria to be met. It was recognised that the area at present and the surrounding area is not degraded. The panel attached weight to the improvements to the pond within the curtilage of Musley Bank House and them as a significant enhancement. Along with the parkland railings the panel thought that the planting would help tie the pond closer to Musley Bank House. They considered the rear (northern elevation) and the space to the rear of the property to be meagre. They suggested amendments to the Design and Access statements and greater use of visuals to help address this point.
- The panel considered that with improvements to the ashlar external material the proposal could be sensitive to the defining characteristics of the local area.
- With the exception of greater visual representations (which have not been provided), the changes suggested by the panel have all been made.

Is the dwelling truly outstanding or innovative, helping to raise standards of design more generally in rural areas?

The design and scale of the proposed dwelling has to be truly innovative or outstanding. The outcome from the design review panel was a strongly in favour of the proposal meeting both the 'truly innovative' and 'outstanding' criteria and that it was capable of raising standards of design more generally in rural areas. Further tweaks have been made in respect of the materials and the central section being recessed. Given that this is an independent design review by a Chartered Architect (RIBA) it is considered difficult for your Officers to reasonably challenge their view and be in a position to defend such a judgement on any appeal. Officers do nevertheless have serious reservations about the judgement of the YDRP in this case. This relates to the location of the dwelling in the garden of an existing property; the form and scale of the proposed dwelling and whether this is appropriate in this area with two diagonal elements; the level of glazing and fenestration; the various roof designs and external staircase to the north elevation; and some of the detail of the design such as the parapet.

The innovative proposals have been accepted by the review panel to meet the policy requirement. To summarise, these comprise:

- Grey water recycling;
- Extensive glazing to the southern side;
- Two ground source heat pumps, a type of which are stated to not have been tested in the UK;
- An advanced and untested heat recovery system;
- Integrated solar energy panels with battery storage for energy retention and re-use (new technology at this scale).

On the advice of the YDRP Officers can accept that this is truly innovative, and the justification submitted supports this, including a letter from Leeds Beckett University confirming the innovation is of national significance in regard to the storage capabilities of the solar array. It is accepted that the use and development of these technologies can have the capability of raising the use of such technologies elsewhere on other domestic and commercial buildings. This has the benefit of reducing energy consumption from non-renewable sources. Although, it is not certain that the construction of this dwelling is the only way for these technologies to be developed.

In light of the above, it is considered to be difficult not to conclude that this criteria of paragraph 55 is met, particularly regarding the innovation criterion.

Does the proposal reflect the highest standards in architecture?

The DRP have stated that with changes (that have been made) the scheme can meet this requirement. Officers have reservations about this judgement. However, it is recognised that this is a subjective

consideration firmly with discipline of architecture. With the independent DRP consisting of an Architect and a Landscape Architect, Officer's do not consider that they can reasonably challenge this view.

Does the proposal significantly enhance its immediate setting?

The AONB Officer in his consultation response 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'.*

Paragraph 115 of NPPF also advises Local Planning Authorities to place great weight to the conservation of protected landscapes, including Areas of Outstanding Natural Beauty.

Section 85 of the Countryside and Rights of Way Act 2000, states that,

*"in exercising or performing any functions in relation to, or so as to affect, land in an Area of Outstanding Natural Beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty".*

This requires that relevant authorities take account of these purposes when coming to decisions or carrying out their activities relating to or affecting land within the designated areas. Note: Ryedale District Council is a relevant authority within the meaning of this section of the above-mentioned Act.

Where the decision of the Local Planning Authority may affect the AONB, the Local Planning Authority needs to be able to clearly show how they have considered and given appropriate weight to the purposes of these areas in their decision making. It is important to note that these statutory duties do not override particular obligations or considerations which may have to be taken into account by relevant authorities in carrying out any function. However, they are intended to ensure that the purposes for which these areas have been designated are recognised as an essential considerations in reaching decisions or undertaking activities that impact on the designated areas.

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, their consultation response is appended below. 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, the proposal is considered to have an adverse effect on the natural beauty and special scenic qualities of the AONB.

It is acknowledged by the Design Review Panel that the landscape is not degraded, moreover the immediate locality is a high quality and an attractive environment. Nevertheless paragraph 55 requires a **significant enhancement** to the immediate setting. It is not considered to be sufficient for the scheme to assimilate into the area, or to have a mildly positive impact, the test is a 'significant' enhancement. The YDRP noted the improvements to the pond together with planting that help the pond to be read as part of Musley Bank House, as a significant enhancement. Officers disagree. The pond is an existing feature,

the significant enhancement has to come from the introduction of the proposed dwelling. Officers do not share the view of the YDRP that this scheme will have a significant enhancement to the immediate locality. Moreover, Officers consider the proposed dwelling on this hillside location to represent a significant discordant feature in the landscape.

It is therefore considered that the proposal does not meet this criterion within paragraph 55 and the introduction of the proposed dwelling will be at odds with the requirements and duties to protect the Area of Outstanding Natural Beauty.

#### Is the proposal sensitive to the defining characteristics of the local area

The amendments mentioned by the YDRP have been made, particularly relating to the ashlar stone external appearance. The panel has stated that with these changes the proposal can be sensitive to the defining characteristics of the area, as required by paragraph 55. Officers disagree with that assessment. The introduction of the proposed dwelling into this nationally designated landscape is considered to be at odds with the special qualities of the area. The proposal is considered to be in total contrast to the Country Houses and large dwellings in this nationally protected landscape, which contribute to the area's special qualities. The development of this property in the side garden of an existing Country House is considered to be inconsistent with the objectives of the AONB designation. The form and appearance of the dwelling from both short and long distance is considered to be a discordant feature in the protected landscape. Furthermore the large areas of glazing on the southern (front) elevation together with the extensive array of solar panels will be alien features and capable of giving significant reflection, which again is considered to be at odds with the purpose of this landscape designation.

It is considered that the proposal is not sensitive to the defining characteristics of the local area, and that it will have an adverse effect upon the special qualities of the Howardian Hills Area of Outstanding Natural Beauty.

#### Impact upon the setting of Musley Bank House

Musley Bank House, is a grand Victorian stone dwelling. In accordance with para. 135 of NPPF and Policy SP12 of the LPS, and following dialogue with the Buildings Conservation Officer it 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 could be harm to the setting of this non-designated heritage asset by developing in its side garden. However, in view of the assessment by YDRP, it is considered to be difficult to argue this point, Officers nevertheless have reservations about this.

#### Impact upon adjoining properties

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.

#### Drainage

There is considered to be no objection to the draining of foul water to a package treatment plant and surface water via the existing pond.

#### Highway safety

Both Highways England and the local Highway Authority has no objection to the proposed development.

## Landscaping

The applicant has submitted a Tree Survey regarding the existing trees including those to be removed. Details of additional planting has also been submitted alongside Landscape and Visual Impact Assessments. The Council's Specialist in this regard has been consulted but no response has been received. It is presumed that there are no objections to the loss of tree planting or indeed the replacement planting. Nevertheless, if this application is to be considered favourably a condition should be imposed in regard to the above new planting.

## Other issues

The Parish Council has supported this application because they consider the proposed dwelling to have a limited impact upon the AONB; that it will help to maintain and consolidate the area between the existing houses and stables at Musley Bank; and because they consider the scheme to be well designed and to utilise renewable technologies helping the scheme contribute to the heritage value of the AONB. There has been one letter of objection and two further letters raising concerns about surface water flooding from the drive and across the track to the south. The Highway Authority has addressed the surface water issue and suggested that if planning permission is granted an intercepting channel or drain be used to capture surface water.

One letter of objection has been received from the occupier of Lindrick bungalow. The issues raised include; ecology and wildlife implications; greenbelt designation; the impact upon the landscape which is within an AONB; the location of a public right of way to the south and potential impacts upon users of that path; the scheme constitutes unsustainable development; and civil law rights of access to the site. The civil law right of access is a matter between relevant landowners and is not a material planning consideration. The site is not located within the Green Belt. The landscape impact has been addressed above. The Council's Specialist in relation to ecology has been consulted in regard to wildlife and ecology issues.

In view of the above conflicts with both national and local planning policy and the Local Planning Authority's legislative duty to protect the AONB, 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 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 2012, 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.