

**RYEDALE DISTRICT COUNCIL  
PLANNING COMMITTEE**

**SCHEDULE OF ITEMS TO BE DETERMINED BY THE COMMITTEE**

**PLANS WILL BE AVAILABLE FOR INSPECTION 30 MINUTES BEFORE THE MEETING**

---

**Item Number:** 6  
**Application No:** 18/01126/MFUL  
**Parish:** Ampleforth Parish Council  
**Appn. Type:** Full Application Major  
**Applicant:** Mr Edward Fawcett  
**Proposal:** Erection of a 7no. bedroom detached dwelling, adjacent garage, pavilion for domestic use, tractor and machinery garage linked with storage barn, block of four stables with tack room and storage and erection of ground-mounted solar panels, together with formation of access drive and reinforced grass turning circle, planting of an apple orchard, drainage basin and additional hard and soft landscaping  
**Location:** Land At OS Field 8358 Main Street Ampleforth

**Registration Date:** 18 April 2019                      **8/13 Week Expiry Date:** 18 July 2019  
**Case Officer:** Jill Thompson                      **Ext:** Ext 43327

**CONSULTATIONS:**

**Ampleforth Parish Council**                      Concerns

**Neighbour responses:**                      Chris Rodda, Alan Waugh, Phillip Gill and Anton van der Horst, S.A Robinson, Roger Beck

**Overall Expiry Date:**                      23 October 2019

---

Purpose and update

Members are aware that this application was considered at the meeting of this Committee on 10 September 2019. Members are advised to read the report of that meeting to familiarise themselves with the application. The Committee was minded to prove the application subject to the Local Lead Flood Authority confirming drainage information and subject to conditions. There was no resolution to delegate authority to the Head of Planning and Regulatory Services to prepare the detail of the necessary conditions that are required if planning permission is to be granted. For this reason, the conditions need to be approved by Members and they are the subject of this report.

Members are also aware that following the Committee meeting of the 10 September, the application needed to be advertised as a departure from the development plan before the decision can be issued. Details of the departure notification and the representations received are also covered in this report.

Members should also be aware that The Council for the Protection of Rural England has made a request to the Secretary of State to call in and determine the application. The MHCLG casework unit has sought an undertaking from the Council that it will not release a decision notice until the casework unit has had time to consider the request. Officers have provided this undertaking as an alternative to the Secretary of State issuing a 'holding direction' to prevent the Local Planning Authority from issuing a decision.

---

**PLANNING COMMITTEE**

6 November 2019

## Draft Conditions

A list of the conditions which are considered to be necessary to apply to the planning permission are outlined in full at Appendix 1. The applicant's agent has had the opportunity to consider the draft conditions. The following points remain points of concern for the applicant. An officer response to these is outlined in italics:

### Condition 6

Question whether this is necessary as Condition 5 also request samples of materials

*The application is for an 'exceptional' dwelling in the AONB. The fine detail which this condition is intended to control is important. The condition is considered to be necessary.*

### Condition 12

Request that the condition is reworded so that the details are provided prior to any works to the pond

*The works to the pond are proposed landscape and habitat enhancement measures which are integral to the scheme. It is not unreasonable that these details are agreed prior to construction, in a similar vein to the wider landscaping of the site covered by condition 11.*

### Condition 22

Request that rather than have a specific reference to a reed bed natural filtration system, the condition states 'details are to be provided on the method of discharge of treated flows'. The submitted Sustainable Drainage Statement states that the Klargester system would be an option but also outlines the septic tank/cess pool option.

*The reed bed system was proposed as part of the scheme and included in the Sustainability and Innovation Statement which the applicants' relied upon to support the application as a 'para 79 scheme'. It is not unreasonable that this measure is secured by condition.*

### Condition 26

Is not necessary as Condition 25 would provide all details of lighting

*Condition 25 relates to a lighting plan for the area covered by the planning permission. Condition 26 restricts lighting in the land outside of the application area. This avoids any doubt over the principle of lighting in this wider area which may arise if the lighting scheme required by condition 25 is also used to cover land within the blue line area.*

### Condition 28

Question whether this is necessary or enforceable

*The condition is considered to be necessary for the reason stated. It is enforceable.*

The draft conditions are those which are considered to be necessary to ensure that the development for which planning permission is sought is delivered and to help mitigate the impact of the development. Officers are confident that the conditions as drafted are reasonable and enforceable and that they meet the tests sets set out in the national Planning Practice Guidance.

## Departure Notification

To comply with legal requirements, formal notice that the application is a departure from the provisions of the development plan was given on 2 October 2019. The details in the notice complied with legal requirements and the notice was:

- advertised in the Gazette and Herald ( 2 October 2019)
- made available on the Council's web-site

- advertised by way of a site notice (posted on 2 October 2019)

The date by which representations in response to the notice were to be sent to the Local Planning Authority was 23 October 2019.

Responses to the notice have been received from six individuals/organisations including Ampleforth Parish Council. These are appended to this report in full at Appendix 2 and members are advised to read these responses.

A summary of the issues raised is as follows:

- concerns over the way in which the application was presented to the Committee by the officer
- concerns over the Committee's limited debate of the application and the focus of attention of some members
- concern that the development is a departure from local policies and that the Committee failed to apply its own plan
- concern that there were no substantive reasons given for making the decision contrary to professional advice
- the decision is perverse
- National Policy, the Ryedale Plan, the CROW Act and the recent Glover report have not been applied
- concern that the development is 'major development' in the AONB
- concern that insufficient weight has been given to the protected landscape in arriving at the decision to approve the application
- concern that no legal advice was given at the meeting
- the minutes are not an accurate record
- the departure notice was placed behind hedging
- the application should be called in by the Secretary of State
- reiteration of objections to the application
- concern about the impact of the road on the Knoll Hill VIUA
- concern about visual impact on AONB
- will result in increased noise and traffic and residents and business will suffer losses as tourism will be affected
- concern about landscape impact of orchard and proposed agricultural development
- no development (however innovative) can enhance this site of exceptional beauty
- the public footpath to the south of the site needs to be preserved
- Knoll Hill should be preserved and the drive should run around the side of the hill
- Suggest no gates, tarmac or lights at the entrance
- Should be conditioned to ensure that it is used for a domestic residence only

It is considered that the representations made in response to the departure notice raise limited new issues over and above those which were included in the report to Committee on the 10 September 2019. The report summarised in detail the objections to the application. It made it clear that the development was not in accordance with Policies SP1 and SP2 of the development plan. The report highlighted the tests that needed to be met in terms of paragraph 79 of national policy and, it emphasised the weight that needed to be given to the protection of the AONB in the decision- taking process, including making an explicit reference to the CROW Act. The report did not make reference to the Glover report . This is a report of a designated landscapes review commissioned by the government and published in September 2019. The report is not a legislative or policy document that would, at the current time, alter the protection afforded to the AONB through the CROW Act, the NPPF and the Local Plan.

It is clear that concerns have been raised about the nature of the debate of the application. The Planning Committee meeting works of on the basis that all members have read the report in advance

of the meeting. Officers are confident that members were provided with all of the information that was necessary in order to weigh all of the relevant issues in the balance and arrive at an informed decision. The minutes of the meeting were agreed by Planning Committee on 8 October 2019 as an accurate record of the outcome of the earlier meeting.

The Departure Notice was placed in the same position as the original planning application site notice. It was not placed behind a hedge.

One issue has been raised which has not been previously addressed. A number of concerns have been expressed that the development represents ‘major development’ in the AONB and that the application has not been determined on that basis.

Members may be aware that specific national and local policy tests apply to major development proposals in nationally protected landscapes.

The National Planning Policy Framework (para 172) makes it clear that:

*“Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of;*

- *the need for the development, including in terms of any national considerations and the impact of permitting, or refusing it, upon the local economy;*
- *the cost of, and scope for, developing outside of the designated area, to meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”*

It is made clear in national policy that for the purposes of this paragraph, whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

Policy SP 13 of the Local Plan Strategy makes it clear that: *“Major development proposals within the AONB that would result in a significant adverse impact on the natural beauty and special qualities of the AONB will be considered within the context provided by national policy and only allowed in exceptional circumstances”*

It is important to understand that the definition of major development in relation to nationally protected landscapes is not the same as the administrative definition of major development used to define specific types of planning applications. This application is classed as a major development for planning application purposes by virtue of the fact that it covers a site area of over one hectare. In the opinion of officers, it would be erroneous to equate the definition of a major planning application as being the same as the definition of major development for the purposes of para 172.

This Council has taken legal advice in relation to the major development test as it applies to the AONB as it prepared the development plan and the issues were covered at the Local Plan examination in public. The application is for a single dwelling and relates to a relatively limited site area on the edge of but within the context of the settlement of Ampleforth. Officers are confident that the application does not amount to major development for the purposes of para 172 and Policy SP 13 of the development plan. For this reason, the Committee report of the 10th September did not engage in the para 172 major development tests.

Whilst it is understandable that representations have sought to raise this issue at this stage, this does not alter the fact that in the view of officers, the development proposed does not constitute major development and the application was determined on that basis and by taking into account of all of the

issues relevant to the application. If the application were to have been determined against the major development test in para 172 of national policy, it is considered that nationally policy would have been wrongly applied.

#### Call-In Request

The Casework Unit has confirmed that it will make a decision as to whether the application should be called in for determination by the Secretary of State after the meeting of this Committee on 6 November 2019.

**RECOMMENDATION: that the draft conditions at Appendix 1 are agreed.**

#### Next Steps

The Decision Notice granting planning permission will be issued if and when it is confirmed that the Secretary of State decides against calling in and determining the application. If the application is called in, a Planning Inspector will be appointed to determine the application following public inquiry or informal hearing procedures. If this situation arises a further report will be prepared for members in order for the Local Planning Authority to consider how it will make its case over the course of those proceedings.