

**Item Number:** 6  
**Application No:** 20/01120/MFUL  
**Parish:** Sheriff Hutton Parish Council  
**Appn. Type:** Full Application Major  
**Applicant:** Mr & Mrs A Woodhouse  
**Proposal:** Erection of 1 no. four bedroom dwelling with attached three bay garage, workshop, store and greenhouse and formation of new access drive with associated planting and landscaping works  
**Location:** Land At OS Field 257 Cornborough Road Sheriff Hutton North Yorkshire

**Registration Date:** 30 November 2020  
**8/13 Wk Expiry Date:** 1 March 2021  
**Overall Expiry Date:** 29 June 2021  
**Case Officer:** Jill Thompson **Ext:** Ext 43327

#### CONSULTATIONS:

<b>Sheriff Hutton Parish Council</b>	Object
<b>Highways North Yorkshire</b>	No objection
<b>Foss Internal Drainage Board</b>	Recommend conditions
<b>Building Conservation Officer</b>	
<b>Lead Local Flood Authority</b>	
<b>Yorkshire Water Land Use Planning</b>	
<b>NYCC Natural Services</b>	Recommend conditions
<b>Building Conservation Officer</b>	
<b>Tree &amp; Landscape Officer</b>	
<b>Sheriff Hutton Parish Council</b>	Objection
<b>NYCC Natural Services</b>	Thank you for re-consulting the NYCC ecology team regarding this application. A calculation using the DEFRA Biodiversity Metric tool has been submitted which shows there would be a significant uplift in habitat units post-development, thus demonstrating net gains for biodiversity in line with the aspirations of the NPPF. Our previous comments regarding further information on Great Crested Newts still stand.

**Representations:** Miss Lavinia Taylor, Mrs Christine Brookes, Jose Taylor, Christopher Taylor, Ms Jane Thompson, Mr Christopher Taylor, Mr Guy Newbury, Mrs Sarah Kelly,

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#### INTRODUCTION

Members will recall that at the last meeting of the Committee, Members voted to refuse application 20/01120/MFUL. The Head of Planning and Regulatory Services subsequently invoked the ‘cooling off’ period in light of the fact that reasons for refusal were not fully considered or articulated.

This report addresses the concerns raised by members at the meeting and has been prepared to enable the application to be re-considered in the light of Officer and legal advice.

This report is to be read in conjunction with the original report which is appended for ease of reference and which is referred to in this report as ‘the main report’.

It is important that Members are aware of one important update. On 20 July 2021, the Government published an updated version of the NPPF. Paragraph 79 of the NPPF is now renumbered as Paragraph 80 and the relevant part is paragraph 80 (e). As well as this consequential, administrative change there has also been a substantive change to this part of national policy. The ‘innovation’ test has been dropped altogether and a new dwelling can no longer be justified as being of an exceptional design on the basis that it is innovative. Paragraph 80 (e) of the NPPF reads as follows:

*80. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

*(e) The design is of exceptional quality in that it:*

- Is truly outstanding, reflecting the highest standards of architecture, and would help to raise standards of design more generally in rural areas; and,*
- Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area*

## **APPRAISAL**

The concerns raised at the last meeting were focused on 4 issues. These are considered in turn below.

### **Environmental Credentials**

The main report makes it clear that it is not a requirement of national policy that a house proposed under paragraph 79 (now paragraph 80) must be built to the highest environmental credentials. Historically, sustainable technologies have been used to justify proposals against the ‘innovative’ test that was previously embodied within national policy and which provided an alternative to a design of exceptional quality having to be truly outstanding.

Members are also aware that it is not a current requirement of local policy that new homes should be built to a carbon zero standard.

Notwithstanding these points, the main report makes it clear that it is not unreasonable to take the view that a new isolated house in the countryside which is promoted under national policy as being of exceptional design should incorporate sustainability measures. The report and presentation to members confirmed that the house was to be built to the highest thermal efficiency standards and included on-site renewable energy generation, including a ground source heat pump for space and water heating and an integrated solar roof for electricity generation. It was confirmed at the meeting that the applicant was agreeable to the use of a condition to ensure a specification of measures to ensure that the dwelling would meet carbon zero standards.

It is unfortunate therefore that the scheme was considered to be inadequate in this respect.

For the avoidance of any doubt, the applicant has prepared a full schedule of measures which will be incorporated into the scheme and these are detailed and appended to this report. The measures would be secured by way of a condition.

Against the context outlined above, it is considered that it would be entirely unreasonable to refuse the application on the basis that it lacks sustainability credentials.

### **Significantly enhances its immediate setting**

Members are aware that it is a test of this part of national policy, that a proposal must ‘significantly enhance its immediate setting’. National policy does not prescribe how this is achieved or measured.

The main report notes that a significant enhancement to the immediate setting of the proposed house can

be achieved in a number of ways, including through landscaping and biodiversity improvements but also through the introduction itself of a house of exceptional design quality. Enhancements to the immediate setting of a proposal are not restricted to sites which are currently degraded.

The immediate setting of the proposed dwelling is a secluded arable field surrounded by perimeter woodland planting on three sides. The topography and undulation of the land including Lamb Hill are also features of the immediate setting. The elements of the proposal which are considered to significantly enhance the immediate setting of the proposal are summarised as follows:

- The creation of hay meadow across the majority of the immediate setting of the proposed building is considered to be a significant visual and natural enhancement of the immediate setting whilst retaining the open fields which are an element of wider landscape character
- Additional woodland and shrub planting to the internal facing edge of the perimeter woodland, providing a more naturalistic woodland edge and softening its plantation like character
- Reinstatement of historic tree planting on Lamb Hill, orchard planting within the landscape and pond restoration measures
- Strengthening of existing landscape features through new and enhanced hedgerow planting
- A package of biodiversity measures including (but not limited to the above) which will significantly improve the biodiversity at the site
- The siting of a house of truly outstanding design significantly improves the visual interest of the immediate setting and its landscape qualities. The scheme significantly and positively accentuates the topography of setting, including Lamb Hill through its siting, form, scale and orientation without detriment to the prevailing wider landscape character of the area.

Taken as a whole, Officers consider that the proposal would significantly enhance its immediate setting. It should be noted that the significant improvements to the immediate setting of the proposal can be achieved without detriment to landscape character. The siting of the dwelling in the landscape and the retention of open fields and landscape features ensure that prevailing landscape character is not compromised but rather it is improved through the improvements to the immediate setting.

At the meeting Members did not articulate any reasons as to why it was felt that the proposal would not significantly enhance its immediate setting. Clearly whilst every application must be considered on its own merits, it is important that this is understood - not least to ensure some degree of consistency in decision making which is important for local communities and applicants. Members are aware that recent planning permissions granted under this part of national policy in Ryedale have been considered by Members to meet this test in significantly more sensitive landscape settings. All three recent schemes have been located within the nationally protected landscape of the Howardian Hills AONB.

The extent to which a proposal significantly enhances its immediate setting is largely a matter of planning judgement, although the introduction of the biodiversity metric does provide a scientific, objective measure in terms of biodiversity improvements. Members are reminded that the NYCC Ecologist has confirmed that the scheme would result in 'significant' biodiversity improvements and given that this is evidenced through the use of the DEFRA Biodiversity net gain metric, it is considered that this is one element of the significant improvements to the immediate setting which can be empirically evidenced and which would be difficult and unreasonable to dispute in view of the professional advice received.

### **Access**

The subject of the access to the site, which was previously approved in October 2020 was raised at the meeting. This was a focus of discussion which could have been taken by some as scepticism over the purpose and intent of the earlier access application. This was despite advice that the application in front

of members needed to be determined on its own merits.

The applicant has undertaken a significant amount of woodland management since the access to the site was approved and installed. The access is used for the purpose for which was intended and the basis on which permission was granted. The applicant has provided details of the scale of the woodland management that has been carried out to date and since permission for the access was granted. These details are appended to this report.

Members are aware that the applicant can access the site from alternative access points. The application for a new house at the site is not dependent on the approved new access. Equally, it is not unreasonable that the access to a site is an integral part of the overall design of a scheme.

The access to the site is approved and is used for the purpose for which it was intended. Members are reminded that the Local Highway Authority has no objection to the proposed dwelling at the site. It would be inappropriate and unreasonable for the approved access to have any bearing on the determination of the application.

### **Conflict with the Development Plan**

It was suggested at the meeting the application should be refused on the basis that the proposal is in conflict with the development plan.

The relationship between the policies of the development plan, the NPPF and the proposal is fully outlined in the main report and this was further explained and reiterated when the item was introduced at the last meeting.

Members are aware the legal basis for the determination of planning applications is that decisions are made in accordance with the development plan unless material considerations indicate otherwise. To determine the application solely on the basis of conflict with the development plan and without taking account of the relevant material considerations, including paragraph 80 of National Policy would not be a lawful basis on which to determine the application.

National policy must be applied in the consideration of the application and appropriate weight given to it. Members are aware that the Local Planning Authority prepared and adopted its development plan in the knowledge that it did not repeat key elements of national policy and in the knowledge that greater weight would be applied to those elements of national policy that it had chosen not to repeat in the development plan. Members are reminded that whilst the application conflicts in principle with the provisions of Policy SP1 and SP2 in that these policies do not make explicit provision for such dwellings in the open countryside, the policies of the development plan do not explicitly resist proposals for dwellings of exceptional design quality in the countryside. The development plan is silent on this matter. In the view of Officers, it is clear that in the specific circumstances, national policy has great greater weight establishing whether the proposal is acceptable in principle. The application needs to be determined against the tests in paragraph 80 (e) and against the wider policies of the development plan that are relevant to all of the wider issues raised by the application.

Members should also be mindful of the fact that the Local Planning Authority has determined a number of applications made under paragraph 79 (e). There is a danger that the Local Planning Authority could be seen as unreasonable and indeed irrational if it was to apply significantly different weight to the development plan and national policy to the approach which has been consistently and (in officers view) properly taken in the recent past in relation to these schemes.

Legal advice has been sought on this matter and has been distributed to members in advance of the meeting.

## **CONCLUSION**

Ryedale benefits from an outstanding traditional built heritage and country houses of exceptional quality are imprinted in the area's 'DNA'. 'Paragraph 80' (e) proposals are the basis on which this legacy and sense of place continues into the future. Examples of exceptional design quality, particularly contemporary vernacular design will also influence and raise the standard of design across the whole of the Ryedale into the future. Officers are aware that Members recognise this. However, whilst it is entirely right that each application is considered on its own merits, the Local Planning Authority does need to apply some consistency of approach to such schemes and to make defensible decisions.

The main issues of concern raised at the meeting have been considered in this report. In summary, the Officer view is that it would be unreasonable to refuse the application on the basis that the scheme would not be carbon neutral. The applicant has reiterated that it will be net carbon zero in operation. In addition, Officers consider that it would be unreasonable to allow the approved access to the site to factor into the determination of the application. Furthermore, any decision which does not take account of the NPPF as a material consideration would be unlawful and a decision based on applying greater weight to the development plan as oppose to national policy in these circumstances would, it is considered, be unreasonable and inconsistent with the basis on which previous schemes have been determined.

A member of the committee took the view that the proposal would not result in the significant enhancement of the immediate setting of the proposed building. This report and the earlier report fully explain the planning judgement that Officers have exercised in this respect. In addition, NYCC's ecologist has confirmed that using an objective measure, the improvements to the biodiversity of the site are significant.

At the last meeting, the debate did not focus on extent to which the proposal represents truly outstanding design, reflecting the highest standards of architecture. The Committee did not disagree with this view. This is significant given that the proposal is promoted on the basis that it is a design of exceptional quality.

Officers remain of the view that the proposal is a truly outstanding design that reflects the highest standards of architecture and in doing so the proposed building and landscaping proposals, significantly enhance its immediate setting.

Members are respectfully requested to reconsider this application in the light of the further advice provided in this report, legal advice, the further information provided by the applicant and, taking into account the full assessment of the application detailed in the appended Officer report (Item 9 on the agenda of the meeting of the 8 June 2021).

**RECOMMENDATION:**                    **The recommendation remains one of conditional approval.**

### **Conditions**

- 01        The development hereby permitted shall be begun on or before three years from the date of this permission.

Reason: To ensure compliance with 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:

- Location Plan 1372\_EX10\_01\_Rev A
- Proposed Layout Plan 1372\_AR10\_01\_Rev B
- Proposed Elevations 1372\_AR30\_01\_Rev B; 1372\_AR30\_02\_Rev B; 1372\_Ar30\_03\_Rev B
- Proposed Sections 1372\_AR40\_01\_Rev B
- Proposed Floor Plan 1372\_AR20-01\_Rev B; 1372\_AR20\_02\_Rev C
- Landscape Masterplan. Date Scanned 2/12/2020
- Sustainability and Environmental Performance Document. July 2021.

Reason: For the avoidance of doubt and in the interests of proper planning.

03 Notwithstanding the submitted details, prior to the construction of any of the buildings hereby permitted, details and samples of the materials to be used on the exterior of the buildings shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20 of the Local Plan Strategy.

04 Prior to the construction of any of the buildings hereby approved, details of all windows, glazing, fixed screens, doors and garage doors shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20 of the Local Plan Strategy.

05 Before the development hereby permitted commences, full details of all of the ground surfacing materials to be used in the development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance and to satisfy Policies SP16 and SP20 of the Local Plan Strategy.

06 Notwithstanding the submitted details, prior to the construction of any of the buildings hereby permitted, full details of the materials and design of all means of enclosure to be used on the application site, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance and to satisfy Policies SP16 and SP20 of the Local Plan Strategy.

07 No development shall commence on site until further details of finished ground floor levels in relation to a measurable datum point have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved levels details.

Reason: To ensure a satisfactory appearance of the development and to accord with Policies

SP13 SP16 and SP20 of the Local Plan Strategy.

- 08 Prior to the construction of any of the buildings hereby permitted full details of all external lighting for the development and access road, including all luminaires, lux values and luminance levels and, full details of the light spill and glare arising from internal lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter accord with the approved details.

Reason: To protect the landscape character of the area in accordance with Policies SP13 and SP20 of the Local Plan Strategy and to mitigate the impact of the development on biodiversity, including foraging and commuting bats in accordance with Policy SP14 of the Local Plan Strategy.

- 09 Prior to the commencement of the development hereby permitted, a Landscape and Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority which shall accord with the approved Landscape Masterplan and the measures outlined in the Preliminary Ecological Appraisal by Wold Ecology LTD, dated July 2020. The details shall include the numbers, species, heights on planting and positions of all trees and shrubs including existing items to be retained and shall include details of all seeding and turfing; pond creation and pond margin planting. A programme for the timing of all planting, seeding and/or turfing and a maintenance and management schedule for all landscaping and habitat creation shall be agreed by the Local Planning Authority. The landscape planting and habitat creation shall thereafter be laid out, carried out and maintained in accordance with the details approved.

Reason: To enhance the appearance of the development and the setting of the development in accordance with Policy SP16 of the Local Plan Strategy and Paragraph 79 of the National Planning Policy Framework and to secure biodiversity net gains in accordance with Policy SP14 of the Local Plan Strategy.

- 10 The development hereby approved shall be undertaken in accordance with the habitat and species mitigation set out in the Preliminary Ecological Appraisal by Wold Ecology LTD, dated July 2020.

Reason: To secure the long-term protection of the species and habitats and to satisfy Policy SP14 of the Local Plan Strategy

- 11 No development or other operation shall commence on site until a Method Statement for Arboricultural Works which provides for the retention and protection of trees, shrubs and hedges on the site and an Ecological Construction Method Statement (ECMS) detailing measures for the protection of species and habitat of ecological value on the site have been submitted to and approved in writing by the Local Planning Authority. The ECMS shall include all measures set out in the Preliminary Ecological Appraisal by Wold Ecology LTD, dated July 2020. The development shall thereafter be carried out in accordance with the measures set out in the approved Method Statement for Arboricultural Works and Ecological Construction Management Plan.

Reason: To protect trees, shrubs and hedges and to maintain and enhance the site's ecological value in the interests of amenity and biodiversity in accordance with Policies SP14 and SP15 of the Local Plan Strategy.

- 12 No development shall commence until such time as a European Protected Species Licence has been obtained.
- Reason: In the interests of protected species that are known to be present on the site and to satisfy Policy SP14 of the Local Plan Strategy
- 13 No development approved by this permission shall be commenced until the Local Planning Authority in consultation with the Internal Drainage Board has approved a scheme for the provision of surface water drainage works.
- 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 in accordance with Policy SP17 of the Local Plan Strategy.
- 14 Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted development) Order 2015 (or any Order revoking, re-enacting or amending that Order), development of the following classes shall not be undertaken other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:
- Class A: Enlargement, improvement or alteration of a dwellinghouse
  - Class C: Any other alteration to the roof of a dwellinghouse
  - Class D: Erection or construction of a domestic external porch
  - Class E: Provision within the curtilage of a dwelling house of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwelling house or the maintenance, improvement or other alteration of such a building or enclosure.
- Reason: To ensure that the appearance of the area is not prejudiced by the introduction of unacceptable materials and/or structure(s) in order to satisfy Policy SP20 of the Local Plan Strategy and to retain the integrity of the design of the development in accordance with Paragraph 80 of the National Planning Policy Framework.
- 15 Notwithstanding the provisions of Schedule 2 Part 2 of the Town & Country Planning (General Permitted development) Order 2015 (or any Order revoking, re-enacting or amending that Order), development of the following classes shall not be undertaken other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:
- Class C: Exterior painting
- Reason: To ensure a satisfactory external appearance in order to satisfy Policy SP20 of the Local Plan Strategy and to retain the integrity of the design of the development in accordance with Paragraph 80 of the National Planning Policy Framework.

## **INFORMATIVES**

Any works to the buildings and any groundworks or vegetation removal is required to be undertaken

without harming nesting birds or destroying their nests. The main nesting and breeding season runs from 1 March to 31 August. If this is unavoidable checks should be undertaken by a suitably qualified ecologist prior to any works. If nesting birds are found during the watching brief, disturbance and destructive works will need to stop until the young have fledged.

### **Surface Water Drainage Scheme**

The following criteria should be considered:

- The suitability of soakaways as a means of surface water disposal should first be ascertained in accordance with BRE Digest 365 or other approved methodology.
- If soakaways are not feasible then the IDB may consider a proposal to discharge surface water into a water course ( directly or indirectly)
- Discharge rate from Green Field sites should be taken as 1.4 litres/second/hectare ( 1:1 year event)
- Storage volume should accommodate a 1:30 year event with no surface water flooding and no overland discharge of the site in a 1:100 year event
- A 30% allowance for climate change should be included in all calculations
- A range of duration should be used to establish the worst- case scenario