

Item Number: 9
Application No: 21/01262/FUL
Parish: Appleton-le-Street Parish Meeting
Appn. Type: Full Application
Applicant: Mr Eric Fairbank
Proposal: Erection of agricultural building to provide field shelter for animals including goats and alpacas
Location: West Grange Main Street Appleton Le Street Malton North Yorkshire YO17 6PG

Registration Date: 17 September 2021
8/13 Wk Expiry Date: 12 November 2021
Overall Expiry Date: 4 January 2022
Case Officer: Niamh Bonner **Ext:** 43325

CONSULTATIONS:

Environmental Health No objection
Highways North Yorkshire No Objection

Representations: Mr & Mrs Truman,

SITE:

The application site, West Grange Farm has historically been in agricultural use, this is located to the north of the B1258 in Appleton le Street.

It incorporates a Grade II Listed farmhouse and garage and a number of other agricultural buildings, in addition to agricultural fields. This is located within land designated as 'Wider Open Countryside' and the Howardian Hills Area of Outstanding Natural Beauty is located to the south of the B1258.

The separate residential building of Lyndhurst is shown as falling outside of the 'blue lined' land, the Applicant confirmed that this property presently remains in his ownership, which accords with the planning history.

PROPOSAL:

This application seeks permission for the erection of agricultural building to provide field shelter for animals including goats and alpacas. The Applicant confirmed in a separate email that *"The intention is for the shelter to be used only for goats and alpaca's. I would however expect to also use the shelter on the rare occasion we had a sick or injured sheep, but this would be very infrequently and on a very short term basis if it did occur."*

The precise siting of this proposed building has evolved during the application period following negotiation and dialogue between the Applicant and the Case Officer. This was originally proposed to be located on the eastern boundary of the site, approximately 200 metres north of the B1257 visually grouped with an existing building under the ownership of Appleton House to the east. However following receipt of an objection from the occupier of Appleton House (which will be detailed below) this was relocated to a different position. Various different locations were considered and the revised scheme which has been progressed proposed the building to be sited further south, closer to the existing buildings at an approximate distance of between 32 and 33 metres from the domestic curtilage of Appleton House. This would be approximately 24 metres directly to the north of the location where a

new building was recently approved under an agricultural notification. This proposed position would now lie approximately 88 metres to the north of the B1257 for context and 30 metres to the north east of the nearest point of the land under the ownership of the residential property of Lyndhurst. The original site location plan and the revised site location will be provided for Members in the annexing. This is located in a field which is currently in use for sheep and lambs.

The proposed unit would span 16 metres in length, by 4 metres in width and would provide 4 individual pens, with an area of hardstanding forward of this spanning 16m in length, by 6 metres in width. The building would incorporate a pitched roof form, with a maximum height of 4 metres, with a clay pantile roof. The building would be orientated with the openings facing northwards and the Applicant has confirmed the building would be completed with stonework to the northern, eastern and western elevations and lower level stonework with Yorkshire boarding above to the rear southern elevation for ventilation.

The application form notes that this would *“provide field shelter for animals including rare breed bagot and golden Guernsey, and alpacas. The intention is to move the farm back into economic viability, supporting the local economy, providing work and supporting agricultural training by liaising with local educators. Additional trees will be planted around the site to encourage more wildlife and help the environment. Bird boxes will be located on the new structure.”*

Further incoming information from the Applicant dated 9th December noted *“in order to help blend the shelter in to the adjoining landscape further trees will be planted as per the tree plan attached. I would also draw attention to the tree planting already undertaken that supports and encourages wildlife, whilst lessening any visual impact from living next to what is and always has been a working farm.”*

As stated in the initial application the shelter is intended for rare breed animals, not a stable for horses or equestrian purposes. I have also recently suffered with uncontrolled dogs encroaching on the farm and threatening the livestock. The shelter would allow me to temporarily protect some of the livestock from dog attack, should this reoccur. Additionally the shelter would be used on occasion should I have ill or injured animal, whilst seeking veterinary help.”

PLANNING HISTORY

20/00238/FUL: Erection of a general purpose agricultural building. Approved.

It is noted that following review with Environmental Health Officers, no specific restrictions were placed on this building in relation to livestock following balanced consideration. This building has not yet been erected but was in a location where an unrestricted farm building had previously been located. This was sited between the West Grange agricultural buildings and Lyndhurst.

20/00861/AGNOT: Erection of a general purpose agricultural building for the storage of crops and farm machinery. Prior approval sought by the Local Planning Authority and notification subsequently approved.

21/01362/AGNOT: Erection of a general purpose agricultural building to store crops and machinery. Prior approval sought by the Local Planning Authority and notification subsequently approved. This was a resubmission of 20/00861/AGNOT due to alterations being necessary to the previously approved height to secure the pantile roof form.

These two approvals relate to a new building that would be used for general storage but not for livestock. This has not yet been erected but as detailed above, would be located approximately 51 metres to the north of the B1257 and approximately 31 metres from the domestic curtilage of Appleton House.

POLICIES:

Local Plan Strategy -Policy SP1 General Location of Development and Settlement Hierarchy
Local Plan Strategy -Policy SP9 The Land-Based and Rural Economy
Local Plan Strategy - Policy SP13 Landscapes
Local Plan Strategy - Policy SP16 Design
Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development
Local Plan Strategy - Policy SP20 Generic Development Management Issues
National Planning Policy Framework
National Planning Practice Guidance

REPRESENTATIONS

A response was made of behalf of the occupier of Appleton House to the west of the site on the 30th September 2021 – based on the original proposals:

“We are instructed by Mr and Mrs Matthew Truman who own Appleton House and ‘Appleton Cottage’ (which is shown on the application plans) both of which adjoin West Grange. Mr and Mrs Truman view Appleton House as their long-term home although they currently work abroad. In their absence Mr Truman’s parents live there (who are 77 and 74 years of age and one of whom is registered as partially sighted) and, on our clients’ return, they are likely to move into Appleton Cottage which will be used as ancillary residential accommodation adapted for their needs.

Our clients wish to raise concerns with regard to the current application which seeks to erect an agricultural building very close to the boundary of their property and, in particular, to Appleton Cottage. In view of the large holding at West Grange, stated to be some 81 hectares on the application form, it is not understood why the building needs to be erected so close to our clients’ property.

Reference is made to its location close to Appleton Cottage as a justification for its siting, but there would appear to be no need to justify the erection of a modern utilitarian agricultural building by its proximity to an existing building within residential curtilage especially if it may impact on residential amenity.

As to the proposed building, it is noted that it is referred to as providing a ‘field shelter for animals including goats and alpacas’. However, the design of the building is more akin to a set of stables rather than a field shelter which traditionally are more open. Our clients’ concern is that they may be used for the keeping of livestock of any sort (for all or parts of the year) rather than simply as a field shelter.

In view of the proximity of the application site to the residential use at Appleton House, it would not be possible to use the prior notification route because it lies within 400m of a ‘protected building’.

This is because of the potential impact that use for the keeping of livestock may have on residential amenity (notably odour and noise). In fact, the proposed building lies much closer than 400m to both Appleton House and its garden as well as to Appleton Cottage which causes our clients particular concern.

If the building were to be in the traditional form of a field shelter, not being enclosed to enable stock to enter and leave at will, this may be less of a concern. However, it is considered that the design is inappropriate in this location because of its proximity to our clients’ property and the potential impact its use for the keeping of livestock may have.

As the building is clearly intended for use by livestock it is not possible to put a condition on the building preventing such use. Our clients are therefore also concerned that to permit a building on the boundary with their home, particularly one which could be used for the keeping of livestock, will set an unfortunate precedent. This of particular concern as the applicant makes clear that he is looking to diversify his farming operation to make it more viable, and this has been reflected in recent applications for the erection of other new buildings on the holding.

Therefore, although our clients have no objection to the principle of a field shelter, they are concerned at its proximity to the boundary with Appleton House and that the design and potential use of the current proposal is inappropriate and will impact on the current and future residential amenity of both Appleton House, its garden and Appleton Cottage.”

Readvertisement was undertaken on the revised repositioned scheme and the following response was received from the occupier of Appleton House on the 5th January 2022.

“Further to your request (on 21/12/21), please see our further observations below:

- We originally made an attempt to seek clarity from the applicant (having not heard directly from them prior to its original submission) but were told to simply review what they had submitted online. We had hoped that it would not be necessary to waste your time nor resort to correspondence to try and resolve this matter.*
- Although the move away from our residential boundary is welcomed, the revised site is still very close to the residential boundary with our garden and kitchen door.*
- The revised plan shows the new site to be 33m away from our residential boundary but this is using a diagonal line to our residential boundary (rather than using the direct route to the closest part of our residential boundary) consequently the distance shown is inaccurate and in reality materially closer. It is also confusing why the distance to the other neighbouring property (Lyndhurst) is shown given that the applicant also owns that property. (Case Officer Note: This distances measures at between 32 and 33 metres at different points.)*
- We note that the EHO recommends a manure management plan to prevent odour nuisance. However, we do not believe any steps can mitigate the smell of animals, manure and associated odours/noise given such close proximity to our residential boundary. It is for this very reason that the PD restriction means that any livestock building (within 400m of a third party dwelling) will need an express grant of planning permission so that amenity issues can be considered fully.*
- Given the size of the field owned by the applicant, we query why it would be necessary to house a shelter for animals in an area that would have considerable impact on our domestic residence and necessitate the use of an odour management plan (which is only as effective as its implementation) and which, as a field shelter rather than a stable, can be located elsewhere within the landholding further away from our boundary.*
- The further planting is appreciated but as some of the area specified has already been planted and such planting currently provides no screening value from our property given the immaturity of the plants used we worry that the additional planting will also prove to be ineffective.*
- Consequently, given its very close proximity to our residential boundary, we object to its location. However, we have no objection to there being a new field shelter (in the specifications of this current application) on the far western side of the field (for the avoidance of doubt, to the west of Lyndhurst) as show in blue on the map extract below.”*

APPRAISAL:

The main considerations within the determination of this application are:

- i. Principle of the development
 - ii. Character, Form and Impact upon the Grade II Listed Building
 - iii. Impact on residential amenity
 - v. Other matters, including consultation responses.
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- i. Principle of the development

Policy SP1 (General Location of Development and Settlement Hierarchy) notes that in all other villages, hamlets and in the open countryside development will be restricted to that 'which is necessary to support a sustainable, vibrant and healthy rural economy and communities.'

Policy SP9 (The Land Based and Rural Economy) of the Ryedale Plan - Local Plan Strategy is supportive of new buildings that are necessary to support land-based activity and a working countryside, including farming. Furthermore the National Planning Policy Framework is supportive of sustainable growth and expansion of all types of business and enterprise in rural areas, through well designed new buildings.

In this instance given that this is an existing and established farm/rural business, the principle of an agricultural building to support the activity is acceptable. This proposal is considered to be in accordance with Policy SP9 of the Ryedale Plan, Local Plan Strategy, subject to the assessment of the other identified main considerations.

ii. Character, Form and Impact upon the Grade II Listed Building

The proposed agricultural building, as outlined above would incorporate relatively modest proportions, spanning approximately 4 metres in width x 16 metres in length. This would include a pitched roof, to be completed with clay pantiles, in keeping with the recently approved agricultural notification building to the south when built and the other buildings beyond to the south. The proposed plans indicate the use of pantiles, however they do not specifically illustrate the use of stonework or Yorkshire boarding as described by the Applicant. For the avoidance of doubt a condition to ensure the walls are completed with these materials as per the description in the email dated 2nd February 2022 will be attached.

It is not considered that the proposed revised positioning of the building would result in any harm in terms of character and form. From more distant views, it would be visually grouped with the existing buildings to the south and would not appear isolated in this rural context. Further, the limited scale of the building is also acknowledged together with the high quality materials proposed. It is however considered appropriate to recommend a condition to limit any further lighting on this building without the discharging of a specific condition to provide details as this is a dark sky location and given the context of the neighbouring dwelling.

The noted landscaping which has been undertaken at the site, predominately along the eastern boundary is also acknowledged and welcomed. These will be supplemented by a further range of planting to help provide a visual break and limit views. A landscaping plan has been provided to indicate the existing and proposed planting, with 35 new trees proposed.) It is acknowledged that views of this building are likely to be possible from Appleton House, however this would not relate to impacts upon shadowing or privacy and the outlook would be onto a sensitively designed building, which already benefits from intervening landscaping. There is no right to a view in planning terms and it is not considered that this building would relate to material harm to the character or form of the surrounding rural landscape.

The Applicant in an email dated 20th January 2022 confirmed *“I noted the objection and accompanying letter mentioned some of the trees already planted are ok, whilst others are small. I would remind you of the double row of mature trees I have planted, and you observed when on site, in front of Appleton House. These trees are effectively already mitigating the visual impact of anyone standing or sitting in the Appleton House garden adjacent to the house and patio areas and looking towards the proposed location of the shelter.*

Yes the other trees I am proposing are of a smaller size but these are outside the main house to shelter view line. Additionally, and as you have seen from your site visits I have already planted more trees than are currently included in the previously approved barn application. I would fully anticipate that I will again plant a greater number of trees than those included in the shelter application.”

Given the scale and distance from the listed building to the south, which is located at a much higher topographical level, it is not considered that this modest building would result in any impacts upon its setting. This would also have no impact upon the adjoining Area of Outstanding Natural Beauty, to the south of the B1257.

Further details of the proposed planting heights of the additional landscaping have been submitted by

the Applicant via a supplementary email indicating these will be a minimum of 1.2m in height which is considered appropriate and therefore the landscaping details will be conditioned.

iii. Impact on residential amenity

This proposed building would be located approximately 32-33m away from the nearest point of the residential curtilage of Appleton House to the east, which is a well maintained garden area and 30 metres away from the nearest point of the land associated with Lyndhurst, to the south west which is heavily wooded. It is not considered that either property would be affected due to loss of privacy or shadowing.

The point raised by the neighbouring occupier in relation to smells is noted. The Council's Environmental Health Team were consulted in regard to this proposal and in a response dated 17th December 2021 noted "*I have no objections with regard to the above application. I would, however, recommend that a manure management plan be implemented in respect of the use of the proposed building. This manure management plan would reduce the likelihood of nuisance caused to occupants of neighbouring properties by odour thus protecting their amenity.*"

The Applicant in an email dated 20th January 2022 noted "*I am more than happy for the EHO to meet at the farm with Mrs Treetops to discuss the manure impact and agree a suitable manure management plan.*"

I would also say that the shelter is intended as a shelter. By that I mean the goats or alpacas would not be housed in the shelter 24/7. They would be free to come and go, therefore I would anticipate a large proportion of any animal waste would be in the fields rather than the shelter. On this basis I do not believe the shelter would create any additional odour issues than animals in the field."

This Manure Management Plan in respect of the use of the proposed building was provided by the Applicant in an email dated 2nd February 2022, with a map showing the proposed location of the manure heap, in a location further to the west, approximately 110 metres from the boundary with Appleton House and close to the wooded land in the ownership of Lyndhurst, approximately 57 metres from this properties domestic curtilage. This position would abut an allotment, where this would spread after composting. The Environmental Health Officer confirmed on the 2nd February 2022 that they were content with this approach and this will be conditioned. It is also noted that the overall scale of the proposed shelter is relatively modest and it is considered unlikely that this would materially increase impacts on neighbouring properties. The field are already grazed by animals and this will continue.

During the consideration of this application, it was further queried with the Environmental Health Officer as to whether it may be reasonable to restrict the occupation of this building to prevent pigs or cows. However they concluded this was not considered necessary by the Environmental Health Officer and consequently, this would not meet the 'tests of soundness' for a planning condition.

Whilst the occupier of Appleton House has highlighted the agricultural permitted development regulations contained Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 not allowing livestock within 400 metres, this is only relating to what could be acceptable under permitted development. This would not preclude a planning application for that type of development, such as in this present case and any such planning application would be carefully considered in terms of the site specific situation. This has been carefully considered by Officers, including Environmental Health Officers and it is considered that this proposed scheme would not relate to materially unacceptable impacts upon neighbouring residential amenity.

iv. Other matters, including consultation responses.

The comments received from the occupier of Appleton House have been identified above. It is considered that whilst the concerns are acknowledged, the material issues raised have been addressed in the sections above.

North Yorkshire Highways confirmed “*It is not considered that the development will have a detrimental impact on the highway network and as such there are no local highway authority objections to the proposed development.*”

In the light of the above, the altered proposal is considered to be in accordance with the relevant policy criteria outlined within Policies SP1, SP9, SP13, SP16, SP19 and SP20 of the Ryedale Plan - Local Plan Strategy and within the National Planning Policy Framework. The proposal is therefore recommended for approval.

RECOMMENDATION: Approval

1 The development hereby permitted shall be begun on or before .

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

2 The development hereby permitted shall be carried out in accordance with the following approved plan(s):

Revised Site Location Plan (No Drawing number - scanned by the Local Planning Authority on the 14th December 2021.)

Plans and Elevations (Drawing no. 100175/01 Received by the Local Planning Authority on the 2nd February 2022.)

Tree Plan (No Drawing number - scanned by the Local Planning Authority on the 14th December 2021.)

Distance From Boundary/Proposed Block Plan (No Drawing number - scanned by the Local Planning Authority on the 14th December 2021.)

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

3 Unless otherwise agreed in writing with the LPA, this building shall only be operated in accordance with the approved manure management plan submitted to the Local Planning Authority on the 2nd February 2022.

Reason: to ensure an appropriate level of residential amenity is secured in accordance with Policy SP20 of the Ryedale Plan, Local Plan Strategy

4 Unless otherwise agreed in writing with the Local Planning Authority, all planting seeding and/or turfing comprised in the approved landscaping scheme (the Tree Plan - No Drawing number - scanned by the Local Planning Authority on the 14th December 2021 and associated email from Applicant dated 2nd February 2022) shall be carried out during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development hereby approved in accordance with policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

5 Unless otherwise agreed in writing with the Local Planning Authority, the walling of the building hereby approved shall be constructed with stonework and Yorkshire Boarding.

Reason: To enhance the appearance of the development hereby approved in accordance with policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 6 Unless otherwise agreed in writing with the Local Planning Authority, prior to its installation, full details of any lighting to serve this new building shall be submitted for the prior written approval of the Local Planning Authority.

Reason: To prevent inappropriate lighting in this village location and to comply with Policy SP20 of the Ryedale Plan - Local Plan Strategy.