

## North York Moors National Park Authority

<b>Hambleton District</b> <b>Parish: Osmotherley</b>	<b>App No. NYM/2019/0513/FL</b>
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**Proposal:** construction of 1 no. open market dwelling following demolition of existing dwelling and most of outbuildings

**Location:** Oakdale House, 9 Back Lane, Osmotherley

**Applicant:** Mr & Mrs T Banister, Oakdale House, 9 Back Lane, Osmotherley DL6 3BJ

**Agent:** Garner Planning, Stramongate House, 53 Stramongate, Kendal LA9 4BH

**Date for Decision:** 18 September 2019

**Grid Ref:** 445755 497254

### Director of Planning's Recommendation

**Refusal** for the following reasons:

1.     MISC00     The proposed siting is not considered to be in accordance with the requirements of the NYM Core Strategy & Development Policies as it does not fit within the required criteria of the Replacement Dwelling Policy (DP 21) or Housing Policy (CP J) as it is not a replacement on the same footprint nor in a location which would be considered to be a infill plot.
2.     MISC00     The proposal seeks permission for an open market dwelling in a village location where, if acceptably sited, Core Policy J or Development Policy 21 would impose a local occupancy restriction on any approval granted.
3.     MISC00     Although the existing property does not particularly contribute positively to the character and appearance of the Conservation Area, the Authority cannot support the application on heritage or design grounds as the proposed development relates poorly to the existing settlement pattern and will cause harm to the special interest of Osmotherley Conservation Area which the Authority has a duty to have special regard to the character and appearance of under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and also Core Policy 4 of the NYM Local Development Framework.
4.     MISC00     Although the existing modern property is of relatively poor quality, its qualities are not considered justification for its demolition and construction of a new building which is also not informed by the character and appearance of the Conservation Area. In particular, the architectural style, scale and massing of the proposed building do not reflect the local distinctiveness or special interest of the settlement required by Development Policy 3 (Design); its location and angle on the plot are not informed by historical settlement morphology; and, the building materials are not locally derived and are not of particular quality. The Authority's concern also extends to the proposed materials which, being external balconies and metalworking, steel rainwater goods, slate roof and pre-weathered timber vertical boarding which do not share affinity with the special interest of the built heritage within Conservation Area.





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**Consultations**

**Parish** – This design, build form and layout support the need for the village to increase the number of family size homes in the village. This innovative contemporary dwelling is eco-friendly and will replace unsightly outbuildings and an inefficient dwelling. The local occupancy condition should not be imposed and should be like for like. We strongly support this application.

**Ward** –

**Highways** – The Local Highway Authority recommends that conditions are attached to any permission granted with regard to: parking areas being maintained clear of obstruction and retained for their intended purposes; precautions to prevent mud on the highway; and onsite parking, on site storage and construction traffic during development.

**Yorkshire Water** –

**Environmental Health Officer – 14/08/2019** – The Environmental Health Department have no comments to make in relation to this application.

**Site Notice/Advertisement Expiry Date** – 28 August 2019 (BH)

**Others – 22/08/2019 – David & Barbara Kitchen, 7 Back Lane, Osmotherley**

We have lived next door to No 9 Back Lane for over 33 years, and we would wish to make the following main points.

We have no problem with, and would support, the tidying up of the land, and the demolition and removal of the unsightly outbuildings.

We also agree that the house currently on this site has little in the way of architectural merit and has a number of inherent practical problems. The problem with this proposal is not with the demolition and removal of this property but with what and how it is proposed to replace it. There are a number of issues that present a problem with proposal. These include but are not limited to:-

The direction in which the proposed replacement house faces has been rotated though approximately 180 degrees from the position occupied by the current house. The proposed front of the house will, therefore, face over the back gardens of Nos 5, 5a, 5b, and 7 Back Lane and, in so doing, will have a negative effect on their privacy and amenity. The back of the proposed house will similarly impact negatively on the nearby Cleveland Way and on Back Lane itself.

The architects of this proposal are arguing for a slate roof, and maintain that this is common in Osmotherley. When the oldest buildings in Osmotherley, concentrated in the centre of the village, were constructed the only practical available roofing materials were stone slabs and slates. Stone slabs were very heavy and unwieldy; and slate presented a more pragmatic alternative. Pantiles were not yet available in those days. As time passed by pantiles became the roofing material of choice. If Osmotherley is viewed from Green Lane or Rueberry Lane on the Cleveland Way, the clear impression is of a traditional Yorkshire Moors village the houses of which have pantile roofs. Indeed, when Birch Cottage, the adjacent property at No 11 Back Lane, was built on the site of a demolished cow byre pantiles were deemed to be necessary.

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Others continued

The proposed site and orientation of the replacement house disregards the building lines, with respect to Back Lane and other properties that the North Yorkshire Moors Authority has insisted other houses have had to conform to.

The overall design, planning, construction details, and location of this proposed property do not sit harmoniously with its neighbouring properties on Back Lane.

These are the main points that we would put forward at this time in **opposing the construction** of this new house proposal; but we do have other concerns that we may well raise at a later date.

**19/08/2019 – Mike Shuttleworth, 5b Back Lane, Osmotherley**

Having looked at the plans for the proposed demolition and rebuild of 9 Back Lane I have the following **concerns** which I hope you will address:

A. The use of materials for the roof and walls that is not in keeping with the buildings in the area. The roof should be pantile and the walls Yorkshire sandstone to fit in with the other houses in the village.

B. The house is being moved back from the road which sets a precedent for others to do the same and encourages expansion of the village into the National Park.

C. The front of the house and car park facing other houses in the road.

I do not think that it is necessary to demolish the existing house and build one not in keeping with the local area.

**27/08/2019 – S C & L J Rogers 5 Back Lane, Osmotherley**

We live at 5 Back Lane which, since it is set back from the road, faces due south directly onto the proposed site.

We **support** this proposal for the following reasons: (i) the current agricultural building is a real eyesore that, we understand, was hastily constructed just before it became necessary to obtain planning permission for such, (ii) the present house is of little merit and (iii) the proposed house is innovative and carbon neutral without being too different from the local vernacular or too large in scale.

We feel that, although the proposed house would be more visually apparent for us, the removal of the ugly agricultural building and present house adequately compensates for allowing a deviation from the usual building line for Back Lane.

We further note that the applicant has planted two new, mixed native hedges, which are growing well, plus a number of individual trees in the field below the proposed building which may act as screening. We would ask that a further hedge be planted to the north of the parking area indicated to screen and reduce the vehicle noise on the proposed gravel drive.

We would also request that any external lighting be dark sky friendly and not spill light outside of the boundary of the property (to comply with the Clean Neighbourhoods and Environment Act 2005).

In summary, we support this application as innovative and green with the advantage of removal of some unattractive features in the National Park.

**05/09/2019 – RP & FM Stevens, 16 Back Lane, Osmotherley**

Dr and Mrs Banister are environmentally-friendly and are bringing up their children to also love nature throughout the seasons. They are an ideal couple to have an eco-house erected as seen on the architectural drawings. We, therefore, more than **support** this application as innovative, green and attractive.

The house that will be demolished has been thought of as ugly by many residents, and we can't wait for it to be demolished.

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## Background

Oakdale House, 9 Back Lane, Osmotherley is a 1960/70s style detached property located in an elevated position on a site off Back Lane in Osmotherley. Back Lane marks the edge of the Osmotherley Conservation Area, however the existing building does not take any cues from the Conservation Area or its historical setting in Osmotherley nor does it sit well within the current settlement form in terms of position or materials. Also on the site is a large range of organically developed agricultural buildings which are set within the slope of the land where the land falls to the east of the site, and therefore these are not prominent from the west side of the site. All but one of these are proposed to be removed as part of this application.

This application seeks permission to remove the current four bedroom dwelling on site and replace it with a new four bedroom dwelling constructed slightly to the east, largely in the space between the current property and the agricultural buildings. The replacement dwelling has been orientated to face south, looking out over the Cleveland Way and the open countryside to the east of Osmotherley. The existing property is 157m<sup>2</sup> and the proposed replacement is 142m<sup>2</sup>. This application proposes the replacement of the existing house with a single detached eco dwelling which the application states will provide a demonstration of high quality environmental housing design and construction. The proposed house is an Eco Passivhaus which is a model way for new homes to operate within a low carbon society. In full the environmental objective is described as:-

*“to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting climate change, including moving to a low carbon economy.”*

The ridge of the proposed new house will be 0.94m lower than the existing property and will be partially built into the ground to the rear. The proposed dwelling is simple in form, being two storeys and set under a canopy roof which allows for a first floor covered terrace on three sides of the property. The palette of materials includes a slate roof with integrated photovoltaic panels in a dark grey colour on the southern elevation. The rear porch will have a sedum roof. Natural stone walling is proposed for the ground floor and pre-weathered, pre-stained grey coloured Western Red Cedar vertical boarding is proposed on the first floor and rear porch extension. The windows and doors are proposed as light grey aluminium clad triple glazed timber units set in deep reveals.

Following development the site is proposed to be landscaped, retaining the existing access driveway to the house and track to the lower ground to the east. The site of the current house will be cleared to allow for access to the rear of the proposed dwelling for parking. A hedge and tree planting is then proposed across the full width of the site to provide a more private garden area to the south of the proposed dwelling.

## Main Issues

Core Policy A of the Local Development Framework seeks to further the National Park purposes and duty by encouraging a more sustainable future for the park and its communities whilst conserving and enhancing the Park's special qualities. Priority will be given to development that will not have an unacceptable impact on the wider landscape, quiet enjoyment of the Park or quality of life of residents or visitors; development in locations and of a scale which supports the character and function of settlements; maintaining and enhancing the natural environment; conserving and enhancing the landscape, settlement, building features and historic assets of landscape character areas; applying sustainable

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**Main Issues continued**

design and energy use; provision of a choice of housing; strengthening and diversifying the rural economy and enabling access to services, facilities, jobs whilst minimising environmental impacts of transport.

Core Policy CPJ of the NYM Local Development Framework seeks to ensure the provision of a mixture of housing types and tenure to maintain the vitality of local communities, consolidate support for services and facilities and support the delivery of more affordable housing. This is to be achieved through locating all open market housing, including new build and converted units to the Local Service Centre of Helmsley and the Service Villages, as well as other measures including supporting the development of local needs housing within the main built up area of the local service villages and other villages, and restricting new housing development in the Open Countryside to that which is proven as essential for farming, forestry or other essential land management activities.

Development Policy 3 seeks to maintain and enhance the distinctive character of the National Park by ensuring that the siting, layout and density of development preserves or enhances views into and out of the site; that the scale, height, massing, materials and design are compatible with surrounding buildings; that the standards of design details are high and complements that of the local vernacular; good quality sustainable design and construction techniques are incorporated; that there is satisfactory landscaping and that the design takes into account the safety, security and access needs for all potential users of the development.

Development Policy 4 of the NYM Local Development Framework seeks to ensure that development within or immediately adjacent to a Conservation Area either preserves or enhances the character and appearance or setting of the area and that the scale, proportions, design and materials respect the existing architectural and historic context with particular reference to traditional buildings, street patterns, the relationship between buildings and spaces and views into and out of the area.

Development Policy 21 of the NYM Local Development Framework Policies states that the replacement of existing dwellings outside the main built up area will only be permitted where the residential use has not been abandoned, the building is in an unsatisfactory state of repair or lacks basic amenities and its replacement would enable an unsatisfactory dwelling which is incongruous in the landscape to be replaced by one which makes a positive contribution to the character of the area, and where the replacement dwelling is in the same position and of similar floor area, volume and scale. All replacement dwellings will be restricted to local occupancy as defined in Core Policy J.

**Policy Discussion**

Although the proposed dwelling is of a similar scale and massing to the existing, it is not proposed to be located in the same footprint and the applicant indicated that the existing house would be removed once the new dwelling had been constructed. Although there is clearly a tolerance allowance in relation to existing house footprint and any replacement, this difference in siting is not in line with the spirit of Development Policy 21 and therefore the proposal could not be considered as a replacement dwelling.

Whilst Officers are not against the principle of the replacement of this dwelling, there is concern with the proposed scheme as it just replaces one building which does not take any cues from the Conservation Area and historical setting of Osmotherley with another. There is nothing that relates, in terms of the vernacular, to the North York Moors and Osmotherley in particular in the proposed scheme. The applicants have also stated that they do not wish to have an occupancy condition imposed on the new dwelling as the existing property on site is

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**Main Issues continued**

unrestricted and they do not see why the new one should be. This is therefore also not in accordance with the currently adopted replacement dwelling policy DP21.

If the proposal were to be considered as a development site for housing within the accepted policy framework then the proposed unit would have to be sited towards the front of the plot facing out onto Back Lane where it could meet the requirements of Core Policy J that allows housing within the main built up area of Osmotherley on an infill plot which is defined as a small gap site within a continuously built up frontage, which can accommodate no more than one dwelling. Any dwelling allowed under this policy, however would still attract a local occupancy restriction.

Consideration of the current proposal under Core Policy J would not meet the requirements of the policy to be considered to be "infill" nor within the "main built up area" of Osmotherley. As the location would be considered to be outside of the main built up area of the village, it would therefore be considered as development within the Open Countryside and then the site would only then be considered to be suitable for accommodation which is proven as essential for farming, forestry or other essential land management activities, thereby again attracting an occupancy restriction which has not been justified or is desired by the applicant.

The proposal is therefore not considered to be acceptable in terms of policy as either a replacement dwelling or as a new development plot.

**Design and Setting**

Although the existing property does not particularly contribute positively to the character and appearance of the Conservation Area, the Authority cannot support the application on heritage or design grounds as the proposed development relates poorly to the existing settlement pattern and will cause harm to the special interest of Osmotherley Conservation Area.

Back Lane, as the name implies, refers to the secondary route through the medieval village. It is considered a subservient and less formal area to the rear of the Burgage plot, denoting a subservient utilitarian character within the settlement morphology. The proposed site adjoins the boundary of Osmotherley Conservation Area, a designated heritage asset, and comprises a number of former linear tofts which have had the boundaries removed to make a single larger plot. These linear plots along Back Lane, suitable for small scale arable production, are still visible in the landscape today and relate directly to the medieval origins of the village of Osmotherley. Whilst they are outwith the Conservation Area boundary they make a positive contribution to the setting of the heritage asset.

The Authority has a duty to have special regard to the character and appearance of the Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The definition of significance (for heritage policy) in the NPPF is that significance derives not only from the heritage asset's physical presence but also from its setting. Historic England's Making Changes to Heritage Assets Advice Note 2 (paragraph 28) states that "*where the significance of a heritage asset has been compromised in the past by unsympathetic development to the asset itself or its setting, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset in order to accord with the NPPF policies*".

In this case, although the existing modern property is of relatively poor quality, its qualities are not considered justification for its demolition and construction of a new building which is also not informed by the character and appearance of the Conservation Area.



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**Main Issues continued**

In particular, the architectural style, scale and massing of the proposed building do not reflect the local distinctiveness or special interest of the settlement; its location and angle on the plot are not informed by historical settlement morphology; and, the building materials are not locally derived and are not of particular quality. The Authority's concern also extends to the proposed materials which, being external balconies and metalworking, steel rainwater goods, slate roof and pre-weathered timber vertical boarding which do not share affinity with the special interest of the built heritage within Conservation Area.

The Authority does not support the applicant's assertion that the proposed development enhances the setting of the Conservation Area; however, it should be noted that a sensitive scheme of construction which is informed by the special interest of the Conservation Area could be considered in a positive light but unfortunately this has not been proposed.

**Ecology**

A Bat Survey report by Middleton Bell Ecology was submitted with the application. The report is thorough and shows that the application site is close to good quality habitat and there are numerous records of bats in the surrounding area. The buildings were checked for bat roosts and an Emergence Survey was carried out. One of the buildings on site has a Common Pipistrelle maternity roost. As the survey was carried out in late August towards the end of the bat breeding season some of the bats had probably dispersed from the roost. Further surveys were not carried out but the consultants are happy that sufficient information is available to design suitable mitigation which will assume that the bat roost contains more bats than were seen during the Emergence Survey. A European Protected Species Licence (EPSL) will be required before works go ahead.

With regard to the principle of Passivhaus buildings the Authority's Ecologist has stated that they can be poor at supporting biodiversity due to the materials used and the need for the buildings not to have any cracks or access to roof spaces in order to control internal temperature. However net gains for biodiversity are possible and information could be supplied to the applicant if a revised application were to be considered that overcame the conflicts with policy.

The application site is probably ideal for nesting birds such as swifts and swallows which are not mentioned in the survey but are likely to be present and therefore a condition relating to disturbance of nesting birds would have to be attached if a favourable recommendation were to be made to the proposal. The Ecologist has also recommended, that the applicants look into swift 'bricks' (which can be of many different materials, and be covered by cladding so as to blend in with a building) that could be incorporated into the new build so as to provide habitat for these birds.

**Draft Local Plan**

New housing within Osmotherley will be supported for principle residences and affordable housing under Policy C07 to which some weight can be afforded; however this policy also requires that the internal floor area should be no more than 93 sq. metres in floor area. As the proposed dwelling is larger than this and the applicant has applied for an open market dwelling then the application could also not be supported under the forthcoming policies. All issues with regard to materials and impact on the Conservation Area will also remain unchanged. Once adopted however, the new local plan provides a different approach to replacement dwellings in relation to occupancy conditions, which would not be imposed on an existing unrestricted dwelling.

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**Conclusion**

Although the existing modern property is of relatively poor quality, its qualities are not considered justification for its demolition and the construction of a new building which is also not informed by the character and appearance of the Conservation Area. The architectural style, scale and massing of the proposed building do not reflect the local distinctiveness or the special interest of the settlement; its location and angle on the plot are not informed by historical settlement morphology; and, the building materials are not locally derived and are not of particular quality. The proposal also does not accord with the Authority's policy requirements in terms of occupancy restrictions and therefore refusal to the scheme is recommended.

**Explanation of how the Authority has Worked Positively with the Applicant/Agent**

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and concluded that the scheme represents a form of development so far removed from the vision of the sustainable development supported in the Development Plan that no changes could be negotiated to render the scheme acceptable and thus no changes were requested.