

North York Moors National Park Authority

Parish: Thornton Le Dale	App No. NYM/2019/0628/FL
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Proposal: construction of 2 no. single storey dwellings with associated access, parking and amenity space (revised scheme to NYM/2015/0919/FL)

Location: land to rear of Brookfield, Maltongate, Thornton Dale

Applicant: Mrs G Forster, Briggate Barn, Briggate, Nesfield, Ilkley, LS29 0BS

Agent: Mr G Forster, Briggate Barn, Briggate, Nesfield, Ilkley, LS29 0BS

Date for Decision: 11/11/2019

Extended to: 07/12/2020

Director of Planning's Recommendation

Approval subject to the following condition(s):

1. TIME01 Standard Three Year Commencement Date
2. PLAN01 Strict Accordance With the Documentation Submitted or Minor Variations - Document No's Specified
3. RSUO00 The dwelling units hereby permitted, shall be used as principal residential dwellings (Class C3) and for no other purpose including any other use in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The property shall be the only or principal home of the main occupant and it shall be occupied by the main occupant for at least 80% of the calendar year in the event that the main occupant occupies more than one property. The property shall not be occupied by the main occupant as a second home. The occupants shall supply to the local planning authority (within 14 days of the local planning authority's request to do so) such information as the local planning authority may reasonably require in order to determine compliance with this condition. For the avoidance of doubt the property shall not be used as a single unit of holiday letting accommodation.
4. WPDR01 Withdrawal of all PD Parts 1 & 2 and 14 Classes A to I
5. GACS00 During construction, no machinery shall be operated on the premises before 0700 hrs on weekdays and 0800 hrs on Saturdays nor after 1800 hrs on weekdays and 1300 hrs on Saturdays nor at any time on Sundays or Bank Holidays without the prior written agreement of the Local Planning Authority.
6. GACS07 External Lighting - Submit Details
7. MATS01 Stone to be Approved
8. MATS06 Stone Panel

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Conditions continued

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| 9. | MATS14 | Roof Tile to be Agreed |
| 10. | MATS22 | Pointing - New Development - Standard Mix |
| 11. | MATS26 | Timber Cladding |
| 12. | MATS30 | Doors - Details of Construction to be Submitted |
| 13. | MATS40 | Detailed Plans of Window Frames Required |
| 14. | MATS55 | Rooflight Details to be Submitted |
| 15. | MATS73 | External Fixtures |
| 16. | MATS75 | Exterior Paint Scheme |
| 17. | HWAY16 | Parking for Dwellings |
| 18. | MATS00 | No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Brookfield Gardens have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times. |
| 19. | HWAY14B | Provision of Approved Access, Turning and Parking Areas |
| 20. | HWAY00 | No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. details of site working hours;
7. details of the measures to be taken for the protection of trees; and
8. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue. |
| 21. | HWAY00 | The existing outbuilding on the site shall only be used to provide a single garage for dwelling 1, and domestic stores/workshop for Brookfield and Dale Cottage shall not be used at any time for any other purpose. |
| 22. | HWAY00 | Prior to the first occupation of either units hereby approved, the internal and external alterations proposed to the outbuilding referred to in the condition above shall be completed and the garage for dwelling 1 made available for use. |
| 23. | HWAY00 | The parking areas shown on the approved plans shall only be used by the occupiers and visitors of the two dwellings hereby approved and by no other parties unless otherwise approved in writing by the Local Planning Authority. |

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Conditions continued

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| 24. | LNDS04 | Trees/Hedging Retained in Accordance With Plans |
| 25. | LNDS00 | The area of land between dwelling 1 and the rear boundary of 61 Roxby Road and Thornton House shall be maintained as shown on drawing no. 02 Revision E received on 20 May 2020 October 2019 and shall not be hard surfaced and at no time shall be used of park any form of motor vehicle. |
| 26. | LNDS00 | No work shall commence to lay any hard surfacing for the development hereby permitted until full details of the hard surfacing to be utilised on the site have been submitted to and approved in writing by the Local Planning Authority, including a timetable to implement the proposed works. The hard landscaping works shall then be implemented in accordance with the approved details. The hard landscaping shall be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority. |
| 27. | LNDS00 | The development hereby permitted shall not be occupied until full details of the proposed boundary treatment to the site, including the size and species of any hedging, the materials to be utilised to any walls or fences and the timetable to implement the proposed works, shall be submitted to and approved in writing by the Local Planning Authority. The site boundary works shall then be implemented in accordance with the approved details. The boundary treatment shall be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority. |
| 28. | MISC00 | The development hereby permitted shall be carried out in accordance with the mitigation measures set out in Section 9 of the submitted Preliminary Ecological Appraisal prepared by TSP Projects and dated October 2019 |
| 29. | ARCH02 | Archaeological Interest Requiring Full Survey |
| 30. | MISC00 | No development shall take place on site until a further heritage assessment has been submitted to the Local Planning Authority. The Heritage Assessment shall give consideration to the historical development of the site in the medieval and post medieval periods, and fully assess the historical significance of Brookfield, the pinfold and the application site, and be of a methodology approved by the Local Panning Authority. |

Informative(s)

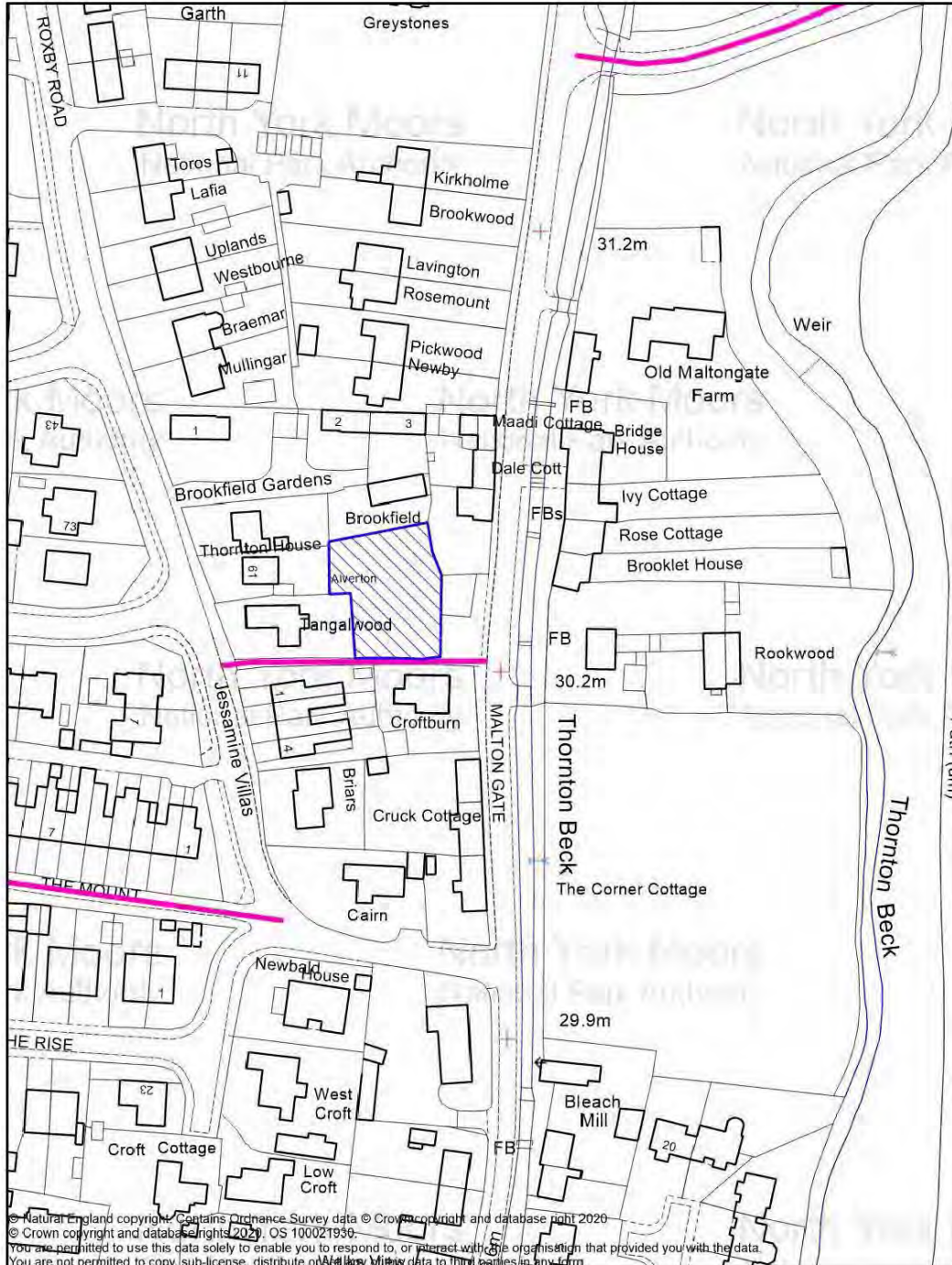
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| 1. | INF00 | Please note that the pinfold enclosure to the east of the site is of historic significance and is protected though Listed Building legislation. It should be protected from works and should not be used to store materials, or as a source of stone. |
| 2. | INF00 | The site is within 320m of three separate great crested newt (GRN) records (a European protected species) and boasts habitat that has the potential to be of value to GCN outside of the breeding season. In the unlikely event that GCN are encountered during the physical works, all works should cease and a Suitably Qualified Ecologist should be consulted. |



North York Moors
National Park
Authority

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Scale: 1:1250



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Consultations

Parish – 2 October 2019 – Object for the following reasons:-

- Access from Roxby Road - Brookfield is an unadopted, single track road, with no passing places or turning circles. There are already five residences on that road, and there are potential safety issues, particularly with delivery vehicles, which frequently reverse back down the road, onto the main highway. The Council are concerned about the potential accident hazard of increase of traffic on this single track, un-adopted road due to volume of traffic.
- Parking - the new application highlights parking for only two vehicles, for two residences, when it is likely most households have more than one vehicle, there is concern about where the additional parking will come from. Concern that parking would be taken up on Maltongate, which is already congested.
- Concerns remain about the height of the buildings over-looking neighbouring properties.
- Concern in regard to the impact on Conservation & Heritage of the area, and would refer to the Conservation & Heritage Appeal Document – Appeal Decision Ref:APP/W9500/W/17/72640. The appeal questioned whether the land should be built on at all. In particular please refer to paragraphs 18, 21, & 34 (last three lines of comment) of the Appeal Decision document, referencing the impact on heritage and conservation of the overall area.
- There is concern in regard to the protection of old trees which stand on the site, which may have been highlighted for removal. The orchard and trees are part of the history of the area and should be protected.

6 November 2019 – The amendments made make little, if no, significant changes to the objections previously raised, therefore the original grounds for objecting are still present. Including that the use of the access lane is believed to be in breach of legislative requirements for unadopted roads and the maximum number of dwellings. There are significant Health & Safety concerns relating to any potential increase in traffic, with a significant risk of accident or injury.

The changes to the parking layout on the site do not deal with the issue of vehicle volume and overflow parking likely to be on Maltongate, an already heavily congested road.

Yet again drawing attention to the original Planning Appeal Report which questions whether this site should be developed at all. There is objection to this development on the grounds of the damage that will be done to the overall Conservation Area and heritage of the site, including the historic village Pinfold, and ancient orchard.

3 June 2020 – Strong Objections. Reiterate all previous objections in regard to any residential development on this land. There remain objections based on the size of the development. There are significant concerns regarding vehicular access and parking, particularly on Maltongate, where there is already major congestion. There are continued concerns of increased traffic along the narrow lane of Brookfields, and safety issues in that regard. The Council also support the objections and concerns raised by members of the Public /Residents of Thornton le Dale.

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Consultations Continued

7 October 2020 – This application remains to be contentious with objections from the PC and local residents. Parish Council note the content of the recent Heritage Assessment, however, they wish to reiterate that they still feel that the development proposals are too large for the scale of the site and significant issues still remain with access and parking.

Highways – 13 November 2019. Recommended that the application be refused due to lack of parking and increased use of this unadopted road leading to vehicles reversing out onto the main road.

26 June 2020 – Revised plans. No objections as offer two parking spaces each for the proposed dwellings, and have removed the on-site parking provision for Brookfield and Dale Cottage. The revised Site Plan has provided an improved communal reversing/manoeuvring /turning area. Consequently the areas safeguarded for such movements are reasonable considering the very minor changes to traffic levels using the private shared drive overall. Use of these improved areas will also assist where vehicles have the need to stop and wait for another vehicle travelling along the shared drive. However, it is important that these areas be conditioned to ensure such uses are available at all times in addition to securing the limitation of the remaining garage/store building use to that of storage only. The areas, together with the access area for the stores/garage and new vehicular parking spaces offer a reasonable amount of space to assist the majority of service vehicles to turn within the site and not rely on the need to solely reverse back out onto Roxby Road. It is accepted that not all larger sized vehicles can access the site, but this is not unusual where relatively short private shared drives exist, and the refuse servicing/recycling arrangements will largely continue as at present.

The areas described above can be considered satisfactory for a fire service tender to access the site, attend the emergency and manoeuvre within the site and therefore not be required to reverse out.

The existing cottages parking created in 2015 will return largely to arrangements that existing prior to that time, being largely displaced onto Maltongate. Although there is currently a review into the regulation of no-waiting areas within the village, it is not considered that, on balance, any such on street parking caused by this particular application will be such that detrimental harm to users of the highway will be significant. Long-stay parking is provided within the village, together with village facilities and amenities and a seven-day public bus service, all of which contribute to the underlying principle that encourages sustainable travel patterns. The overall changes to traffic activities are considered to be relatively minor and not to a level such that my previous recommendation of refusal dated 13 November 2019 can be justified. Consequently, it is recommended that the conditions be included on any permission granted.

Historic England - 21 July 2020 - On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals.

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Consultations Continued

Council for British Archaeology – 8 July 2020 - This has been brought to the attention of The Council for British Archaeology (CBA) by a concerned member of the public and the CBA **object** for its failure to meet the requirements of paragraphs 193 and 194 of the National Planning Policy Framework (NPPF). The significance of the application site has not been appropriately assessed or informed the proposals, which would cause unjustified harm to the Listed site and the Thornton le Dale Conservation Area.

The setting of Brookfield relates to the historic layout of this area of Thornton le Dale. The land boundaries around Brookfield do not conform to a medieval burgage layout, but instead appear to be more of an open field. The unusually square roadside field, accompanying a very modest building makes this site stand out as holding specific historical significance, which paragraph 189 of the NPPF requires should be explored to support an application. In the absence of an adequate assessment of the site's significance, the CBA suggest that the presence of a pinfold within the curtilage of Brookfield indicates the possibility that this open area relates to the same specific historical purpose. This would make Brookfield the historic residence of the town's 'pinder'. The evidential value of the pinfold enclosure along with the modest 18th century cottage and its open green curtilage contribute to the heritage significance of the Grade II Listed site, the legibility of the historic development of Thornton le Dale, and the Thornton le Dale Conservation Area.

The Conservation of this open land, on a key entry route into Thornton le Dale conserves the significance of the historic rural character. This is an important component of the character and appearance of the Conservation Area.

The CBA are concerned that the proposal could equate to substantial harm to the significance of the Grade II Listed site, making the significance of the site's historic function as a pinfold and its holding area illegible for future generations. The CBA believe this to be contrary to paragraph 194 of the National Planning Policy Framework (NPPF), which requires that "Any harm to, or loss of, the significance of a designated heritage asset (should require clear and convincing justification."

The CBA also believe that it represents an over development that would cause unjustified harm to the significance of the Thornton le Dale Conservation Area and would draw your attention to the requirements of paragraph 193 of the NPPF, which states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation ... This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance." The CBA feel it is important that the existing green space which punctuates the Maltongate streetscape is conserved, in order to maintain the rural character of the approach into the more densely populated centre of town.

The CBA object to the proposal which we believe would cause an unjustified degree of harm, which could amount to substantial harm, to the significance of both the listed Brookfield and the Thornton le Dale Conservation Area.

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Consultations continued

29 September 2020 - Maintain our objection. The proposed development would harm the significance of the Thornton le Dale Conservation Area, the historically significant pinfold and the legibility of the historically rural agricultural setting of Brookfield and the CGI image of the proposed development, on p.20 of the submitted Heritage Statement, illustrates the harm that compacting development in this location would have.

The CBA strongly believe that the application site should remain undeveloped for the contribution it makes to the historical significance of the town's development

Council for the Protection of Rural England (North Yorkshire) (CPRENY) – 28 July 2020
We have been alerted to the application by a member in Thornton le Dale and we **Object** to the proposals on the grounds that they detrimentally impact the setting, significance and special historic interest of six heritage assets (five of which are designated) which will be undermined by the proposal.

The application is contrary to legislation and policy relating to the conservation of heritage assets and fails to take into consideration the relevant appeal findings issued by the Planning Inspectorate. The Local Planning Authority's recommendation to approve the application places a greater weight on the provision of local housing than it does on its statutory duty to conserve the relevant heritage assets. It has adopted the view that, because the proposed dwellings are lower than the previously proposed dwellings and the application site is currently screened by trees that have been allowed to dominate, the impact of the development will be negated. This approach places an undue focus on temporary views (or lack therefore) and fails to consider Historic England's guidance on setting.

CPRENY – 30 July 2020 – The submission of additional historical information dating back to 1877 does not alter original comments. All the maps submitted by the applicant confirm that the application site has remained an open space within the setting of the Brookfield, the pound and Listed buildings to the east of Maltongate and within the Conservation Area. The historic open nature of the site is a factor highlighted by the Inspector as being of heritage significance. If the application site were to be developed, the legibility of Brookfield as an in-village farm, the agricultural significance of the Conservation Area and its rural character and the possible association of the site and the pound would all be significantly undermined.

24 September 2020 – The Heritage Statement submitted by WSP Consultants, does not overcome the CPRE's objections

Water –

EHO –

Police – Traffic –

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Advertisement Expiry Date – 30 October 2019

Others – The following people have raised some or all of the following objections:

Mr & Mrs Wardell, Tangalwood, Roxby Road
Sue Brown, 61 Roxby Road
Deborah Croot, 61 Roxby Road
Ian and Shirley Neale, Rose Cottage, Maltongate
Cheryl Ward Planning on behalf of Ms Brown and Ms Croot, 61 Roxby Road
Mr & Mrs Sharples, 1 Brookfield Gardens, Thornton Dale
Mr Richard Gray at Rookwood, Maltongate
Ruth, Chloe & Harry Teasdale, Thornton House
David & Christine Anderson, Bridge House, Maltongate
Peter & Margaret Peter Smith, Croftburn, Maltongate

- In the previous Appeal Decision (APP/W9500/W/17/3172640) the Inspector makes a definitive statement 'However they are insufficient to outweigh the harm that would be caused to the significance of the designated heritage assets I have described along with the harm to the living conditions of nearby residents'. The Inspector view is that the site should not be developed.
- The conservation/heritage decision by the independent inspector is not related to the fact that the buildings in the previous application were two storeys but rather that the site should not be developed at all.
- The issues of conservation and heritage are being completely ignored by the current proposal. If approved then all vestiges of the history of Thornton-le-Dale will be lost. The village is already becoming completely built up.
- The construction of two single storey buildings is of no difference to the ground area of the previous application (NYM/2015/0919/FL).
- The Planning Inspector also concluded that the development would be harmful to neighbours with regards to noise and disturbance.
- Strong possibility that Brookfield Gardens could be serving seven properties which would mean at least 14 cars, as well as delivery and service vehicles.
- Will exacerbate existing parking problems on Roxby Road.
- Residents surrounding the site have consistently objected since applications began.
- Previous applications have been consistently refused on the grounds that the agricultural character and historical layout should be preserved in the Conservation Area, the traffic movements, and noise and disruption are inappropriate.
- The three properties on Roxby Road do not dominate Maltongate.
- The proposed dwellings would dominate the street scene and be out of character with the heritage aspects of the Listed Brookfield, its garden and the Pinfold.
- The proposal does not accord with Strategic Policy A or C of the Draft Local Plan in terms of National Park purposes siting, orientation, layout or density or paragraph 172 of the NPPF.
- The site is an undeveloped space of visual, historical, archaeological, cultural and biodiversity value and should not be developed.
- Further hardsurfacing will cause water run-off onto Maltongate.
- Where will parking for Brookfield and Dale Cottage be allocated?

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Others continued

- The highway statement does not prove there would be no conflict between guests/visitor vehicles and larger delivery vehicles nor that any adverse amenity impacts arising from the different uses within the site are overcome.
- The new NYM Local Plan affords significantly more weight to the natural and historic environment. Specific new policies are designed to take account of the cultural heritage and local distinctiveness of the National Park through the conservation and, where appropriate, enhancement of the historic environment.
- Cars currently park regularly on this site including visitors to 2 and 3 Brookfield Gardens
- There is already no room for vehicles to turn and exit safely leading to vehicles reversing out resulting in near misses for pedestrians.
- The Thornton le Dale Conservation Appraisal Document produced in November 2017 mentions the area being one of agricultural character and historical layout and that this should be preserved within the Conservation Area.
- The applicant seeks to remove garage parking from Brookfield and Dale Cottage (of which they are the landlords) in order to have this application approved, introducing yet MORE parking to the site AND introducing more parking to Maltongate and Roxby Road.
- Is there adequate space for emergency vehicles?
- Roxby Road can be as busy as Maltongate
- Likely parking changes in the village will put additional pressure for parking in the area.
- The site is not big enough.
- The preliminary ecological appraisal is inadequate and there is no Great Crested Newt Survey.
- It would appear that there is sufficient building going on in Thornton Dale to meet the diverse needs of house buyers.
- The development would be in extremely close proximity to neighbouring properties.
- The Planning Committee should undertake a site visit.
- Is the professional decision of the Independent Planner going to be taken into account when the Planning Committee considers the application?
- The number of delivery and service vehicles using Brookfield Gardens lane will increase because the postcodes will be designated to Brookfield Gardens lane. At present Brookfield Cottage and Dale Cottage postcodes are designated to Maltongate, so deliveries stop there.
- The proposed village parking restrictions will create more pressure on Maltongate even without the extra parking from two houses deprived of their historic access and parking. Using the NYM carpark (0.25 mile from Brookfield) is not practicable.
- Have read the CBA objection of 08/07/20 - Brookfield and its curtilage should be cherished not exploited.
- The report submitted by WSP Consultants does not address the concerns regarding the development of the site and is clearly biased towards the applicant who commissioned it whereas reports from National bodies are much more likely to be unbiased and independent.
- There is overwhelming evidence that this application should be refused and that no development should take place on this small but important green space within the Conservation Area of Thornton le Dale.
- This space was always an orchard and large garden. It is not a "left-over space" it is a green area as it stands and serves to separate the listed buildings along Maltongate and the more recent development on Roxby Road.

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Others continued

- Mr. Nick Corbett in his report does seem to be rather obsessed with the 1970's houses on Roxby Road. These houses are neither incongruous or negative to the site. They are not overbearing, nor do they dominate Maltongate.

Cllr Janet Sanderson – There is a current consultation going on regarding Traffic Regulation Orders (TRO) in Thornton Le Dale which could have an impact on this proposal. The issue is that the majority of yellow lines in Thornton Dale are unenforceable as they do not have a matching TRO. Residents know they cannot be enforced and therefore park on them without fear of enforcement. There has been an ongoing plan over several years to update the TROs. The plan is out to consultation and many issues were raised particularly around Maltongate, Roxby Road and The Rise. Unfortunately due to Covid, we have had to re-run the consultation because of the closure of libraries where the plans could be viewed. The consultation has restarted with the plans viewable on line.

I am not sure how much weight this would take in planning terms, but there are several issues –

1. Present yellow lines that resident's park on and will soon no longer be available.
2. New restrictions proposed for the area.
3. Issues raised by residents in response to the official consultation and two informal consultations I ran during the course of last year.

Richard Howarth & AM Posadas, Brookfield, Maltongate – Support the application. We have lived here for 18 months and have the property on a long term tenancy from the applicant.

The applicants have demonstrable expertise delivering residences that are in keeping with the aims of the National Park. The high quality refurbishment of Brookfield and the properties developed by the applicant in and around Brookfield Gardens, which have substantially enhanced the area, are testament to that. The proposed construction is similarly of good and sympathetic design, using local materials. We will obviously be impacted by some short term disruption arising from this development, however, it is set well back from Brookfield it will not diminish our home and its setting. The development will help to address a shortage of good, small dwellings in the area, and any short-term difficulties are more than justified by the addition of these much-needed residences to the community.

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Background

This application relates to land to the rear of Brookfield Cottage, which is a Grade II Listed Building, located on the west side of Maltongate in Thornton Dale.

The parcel of land which was possibly once orchards serving Brookfield, has in more recent years been used as ancillary garden/storage area for Brookfield and Dale View Cottage which front onto Maltongate. The land has historically been accessed via the lane that leads from Roxby Road which also provides vehicular access for three dwellings constructed/created in 2008.

Within the site is a single storey brick outbuilding which has recently been converted to provide garaging for Brookfield and Dale Cottage. At the front boundary of the site and adjacent to Brookfield is an historic Pinfold which is within the ownership of the applicant, but which does not form part of this application.

Planning permission was refused by the Planning Committee in 2016 for the construction of two detached dwellings (one a 3/4 bed and the other a 2/3 bed) in the form of two agricultural style properties which were designed to resemble converted farm buildings. The dwellings would have been set back from Brookfield Cottage. In terms of access it was proposed to utilise the existing vehicular access from Brookfield Gardens. In order to satisfy the Highway Authority's concerns regarding the number of properties from which this lane would be accessed, it was proposed to use the recently approved garaging for Brookfield and Dale View as garden stores only, so these properties would be accessed from Maltongate, utilising on-street parking on the road adjacent their front doors, or the village car park.

Both dwellings would have measured approximately 14.5m long x 6m deep with heights to the eaves of 4.5m and to the ridge of 6.6m, with the dwelling that would be gable end onto the road stepping down to 3.6m to the eaves and 5.8m to the ridge

The application was refused for the following reasons:-

1. The proposal, by virtue of its overall form, scale and massing, would have an overbearing and detrimental impact on the street scene of Maltongate and the Thornton le Dale Conservation Area. As such the proposal is considered to conflict with Core Policies A and G and Development Policies 3 and 4 of the Core Strategy and Development Policies Document, which seek to conserve and enhance the National Park's special qualities.
2. In the opinion of the Local Planning Authority the scale, height, massing, density and resultant vehicle movements associated with the proposed dwellings would result in an overbearing and detrimental impact on the residential amenities enjoyed by neighbouring properties. The development would therefore be contrary to Core Policy A and Development Policy 3 of the Local Development Plan which seek to ensure that new development does not have an adverse effect upon the amenities of adjoining occupiers and the quality of life of local residents.

The application was subsequently dismissed at appeal and that appeal decision letter is appended to the end of this report.

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Background continued

The current application is a revised scheme to that previously refused scheme and seeks permission for the construction of an “L” shaped pair of single storey two-bed dwellings, constructed of stone and pantile. The development would be set back further into the site, with the “L” shape of the building following the rear and side boundaries of the site.

The length of the elevation facing the boundaries of Tangalwood, 61 and 63 (Thornton House) Roxby Road (to the west) would measure 25.5m long but would measure between 2.55m and 3.3m to the eaves (due to a fall in ground level) and between 4.6m to 5.2m to the ridge. This elevation would measure a minimum of 15m from the rear elevations of these houses. This elevation would contain two bedroom and one store window at ground floor level and five rooflights (two bathroom and three to the kitchen) at roof level.

The elevation facing towards the public footpath and side elevation of Croftburn to the south of the site would measure a maximum of 4.1m to the eaves from ground level (due to falling ground levels) and 6.2m to the ridge (again due to falling ground levels). This gable end would measure 6m wide and be set back a minimum of approximately 13m from the back edge of the pavement of Maltongate. The longer length of the building that would run parallel with Maltongate would be set back approximately 25m from the back edge of the pavement and at least 12m from the pinfold.

Access to the development would be from the lane known as Brookfield Gardens, off Roxby Road with a communal parking and turning area being created within the site. The existing outbuilding which currently provides parking for Brookfield Cottage and Dale View on Maltongate would be altered to provide a single garage unit to serve Dwelling 1 with the remainder providing domestic storage/workshop space for those two existing road frontage properties. Three further parking spaces would be provided at the eastern side of the site, away from the boundaries of the properties on Roxby Road. Other than the turning area at the entrance to the site, the space between the rear of the proposed Dwelling 1 and the rear boundary of the properties on Roxby Road would be grassed with two bin stores and not used for vehicle parking

In support of the application the applicant has commissioned a Heritage Statement which has been undertaken by Nick Corbett BA Hons, BPI MA IHBC MRTPI of WSP Consultants who states that:-

The Heritage Statement describes the significance of all possibly affected heritage assets and the contribution of their setting, including the Pinfold. It identifies the special interest of the Conservation Area and the neutral contribution that the site makes to this special interest. It also explains how the proposed design will mitigate any harm to significance.

All relevant historical information was considered as far as they relate to the proposed development. Para 189 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

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Background continued

Whilst the current open appearance of the site might reinforce Brookfield's status as a former farmstead, there is no reason why any harm would be caused to the setting of Brookfield by developing part of the site in a sensitive way, as proposed, to form a composition of buildings that appear to be associated with the farmstead.

The stray animals kept securely in a Pinfold would need to be sold if unclaimed, and as such it would be highly unlikely that the site would be used for grazing these stray animals; but even it was used for grazing, this would not make the site a heritage asset or give it any special heritage significance.

Relevant planning policy and case law should also be given consideration. An important point to remember is that when considering harm, 'preserving' for the purposes of s66(1) of the Listed Buildings Act means 'doing no harm'. This is clarification that preservation does not preclude change to or within the setting of heritage assets. Preserving means not causing harm to the elements which comprise the asset's significance, it does not preclude change.

Furthermore, NPPF para 38 states: Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

There is a strong case that the amended scheme would cause no harm to the setting of Brookfield, or any other Listed Building or heritage asset, and would cause no harm to the setting or appearance of the Conservation Area, and the planning balance should reflect this.

The consultant has also made the following statements:-

"I confirm the Heritage Statement I produced was done so with due diligence and is truthful, representing my honestly held professional view, and is provided in line with my duty in accordance with the guidelines and standards of the Royal Town Planning Institute and Institute of Historic Building Conservation, irrespective of by whom I am instructed. The Heritage Statement fulfils what is required in relation to the NPPF, Historic England guidance, and Local Plan policy and would stand up to scrutiny at appeal or in court."

"The applicant's heritage statement was produced by WSP* and the relevant archives within the Historic Environment Record (HER) were consulted, a site assessment was undertaken, and historic maps reviewed, all of which established that the historic use of the site was a market garden going back for at least 170 years, and that the proposed scheme, now much reduced in scale to address the concerns of the planning inspector, would cause no harm to the setting or significance of the grade II listed Brookfield, the pinfold, or neighbouring listed buildings, and it would also preserve the character and appearance of the Thornton-le-Dale Conservation Area.

Application No: NYM/2019/0628/FL

Background continued

The application site is not a heritage asset and is of no special significance in itself, but it does affect the setting of heritage assets, and it is understanding what it contributes to the setting of those heritage assets, most crucially Brookfield, that has been assessed. Brookfield is a cottage forming part of a farmstead and it is of architectural and historic significance. What the application site contributes to this significance, is a sense of 'openness' and the proposed scheme has been reduced to a single storey arrangement, set well back from Maltongate behind a hedgerow to retain this sense of 'openness' for the setting of Brookfield, and the pinfold, whilst also making a positive contribution to vernacular design and adding a sense of composition to the existing outbuildings associated with Brookfield.

It is worth noting that there is no special historical relationship between the use of the pinfold and the application site. The stray animals kept securely in a pinfold would be sold if unclaimed, usually after seven days, to provide the keeper of the pinfold with income and as such it would be highly unlikely that the application site would be used for grazing these stray animals, in what would be a much less secure form of enclosure than the pinfold; but even it was used for grazing, this would not give it any special historical significance that would be material to the determination of this planning application. (The difference in height between the level of the pinfold and the site would make it difficult to transfer animals between the two, and historic maps do show market garden use upon the site for at least 170 years and not grazing).

The National Park Authority's conservation officer appears to agree with some of the crucial conclusions of the applicant's heritage statement, as she states in her observations: 'Regarding the design of the buildings. I believe they are suitable in terms of scale and massing for an infill plot within Thornton Dale. Whilst they contain modern elements (rooflights) they do pay sufficient homage in their design to sit within the local vernacular.' Furthermore, when the correct NPPF approach is applied, i.e. considering what the site contributes to the setting and significance of the grade II listed Brookfield, then she has no objection to the provision of one new dwelling (rather than the two proposed), but this does appear to contradict her previous conclusion that the design as proposed is acceptable; it is the design of the amended scheme as proposed that creates the look and feel of a farmstead, whilst keeping a sense of openness around Brookfield and the pinfold, and losing half of the scheme would unbalance the proposed composition.

In conclusion, sufficient research was undertaken to properly assess the impact of the proposed development upon the architectural and historic significance of Brookfield and neighbouring listed buildings, together with its impact upon the conservation area, and the conclusion of the heritage statement is that no harm would be caused.

*(The heritage assessment was undertaken by Nick Corbett, a full member of the Institute of Historic Building Conservation and Chartered Town Planner, with 25 years' experience of heritage planning, including five years as conservation team leader at Warwick District Council, seven years as Principal Conservation Officer with the Royal Borough of Kensington and Chelsea, and two years covering the Dartmoor National Park)."

Application No: NYM/2019/0628/FL

Main Issues**Policy Context****Local Plan**

Strategic Policy M – Housing. This policy sets out that in order to help meet the needs of local communities a minimum of 551 new homes (29 per year) will be completed over the period of this Plan, with these homes being delivered through various means, including on suitable small sites in listed settlements such as Thornton Dale. The policy goes on to state that the Authority will support proposals for a variety of tenures, types and sizes of dwellings within the National Park, with schemes being expected to meet the need for smaller dwellings. All proposals should be of a high quality design and construction to ensure that the character and distinctiveness of the built environment and local landscape are maintained.

The strategy for housing in this Local Plan is to allow for a more limited amount of housing including principal residence on suitable small sites in Larger Villages. The aim is to have a flexible approach to new housing that will help stem population decline and support the vitality of the local economy and services in these communities whilst respecting the character and form of the built environment.

The Policy outlines that a suitable small site must be within the main built up area and have satisfactory access to the existing public highway, be of a scale that is appropriate to the size and function of the settlement, be well related to the form and grain of the existing surrounding residential development.

Within the larger villages such as Thornton Dale, principal residence housing will be supported to ensure it can be lived in by anyone but only as their main residence, enabling the local economy to benefit by providing new housing for people coming into the area to live, work and contribute to the local community which cannot be used as second or holiday homes.

Policy CO7 – Housing in Larger Villages. This policy seeks to permit principal residence and affordable housing on suitable small sites within the main built up area of the larger villages only. Proposals will be expected to meet the need for smaller dwellings, providing proposals respect the form and character of the village. These sites must be within the main built up area and have satisfactory access to the existing public highway. They must be of a scale that is appropriate to the size and function of the settlement, generally capable of accommodating no more than five units.

Strategic Policy C – Quality and Design of Development. This policy seeks to ensure high quality design which reflects the local vernacular, recognising that high standards of design make a positive contribution to the locality. However, more contemporary, modern designs will be supported where they are sympathetic to their surroundings, reinforce local distinctiveness and add variety to the National Park's built heritage.

Strategic Policy I - The Historic Environment - seeks to ensure that developments affecting the historic environment should make a positive contribution to the cultural heritage and local distinctiveness of the National Park and that development should conserve heritage assets and their setting in a manner appropriate to their significance, especially those assets which contribute most to the distinctive character of the area.

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Policy ENV11 – Historic Settlements and Built Heritage Development. This policy seeks to resist development that results in loss of or harm to the significance of designated and other heritage assets including of national importance. In order to accept any loss or harm proposals will be required to present clear and compelling justification for the development, including the public benefits which will arise from the proposal. This includes assets which are recognised through formal designation such as Conservation Areas.

Material Considerations

The proposal site is clearly within the main built up part of the settlement but consideration needs to be given as to whether the proposal would have an unacceptable impact on the amenities of adjoining residential properties, the character of the Conservation Area, setting of the adjacent Listed Building, the Pinfold and also highway safety. These are the key issues for Member's consideration

Previous Refusal and Appeal Decision

A further key consideration is the site history and the importance of the conclusions of the Planning Inspector in dismissing the appeal for the previous development proposal. The main issues considered by the Planning Inspector were the impact of the development on the setting of Brookfield Cottage and the character of the Conservation Area, along with disturbance to properties at the rear, by additional vehicular activity. The Inspector primarily discussed the impact of the height, siting and design of the proposed two storey dwellings, overwhelming and visually competing with the scale of Brookfield, and being imposing from the street scene, stating:-

“by virtue of its size, scale and prominence the proposal would fail to be in keeping with, and would detract from, the setting of Brookfield and the character and appearance of the Conservation Area “

In terms of vehicular activity, the Inspector considered the parking layout and turning areas at the rear of the site would cause disturbance to neighbouring properties on Roxby Road, but did not consider that there would be any harm to the living conditions of nearby occupiers with reference to outlook.

In her conclusions the Inspector determined that there would be harm to the setting of Brookfield and the Conservation Area and whilst this would be less than substantial the harm caused would be material. However, the Inspector also acknowledged that the site is in a sustainable location, close to services and facilities in the village and public transport opportunities to larger settlements, but that these benefits were insufficient to outweigh the harm that would be caused to the significance of the designated heritage asset.

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Main Issues continued

Whilst the Planning Inspector concluded that the scheme before her at that appeal was unacceptable, she did not determine that the site could not be developed at all. This is an important point because of the position maintained by objectors and supported by alternative professional views that interpret the Inspector's findings as concluding that the site itself is of such significance that it should remain undeveloped. Officers disagree with this view and although she does conclude that the open nature of the site has significance in terms of its functional and historic relationship to the Listed Building, she then goes on to assess the specific impact of the proposed dwellings on this significance. Her report compares the existing buildings on the site (the barn conversions) with the two proposed in the application in terms of their scale, height and proposed location:

"In contrast, the proposed dwellings would be set at right angles to each other towards the middle of the site on what would historically have been part of the open grounds and agricultural land serving Brookfield".....As such, I am not convinced that the proposal would reflect a pattern of development that could be reasonably expected as part of a historic farmstead grouping,

Officers consider that this infers that the Inspector did not conclude that the site should not be developed in principle but that the particular scheme by virtue of the scale, height and location of the dwellings would be harmful (to the historic farmstead grouping) as it would not reflect a pattern of development that could be reasonably expected.

Consequently, what needs to be considered with this application, is whether the revised scale, design and layout (two smaller, attached single story buildings, set to the rear and side of the site) would not have that same impact on the setting of Brookfield and the Conservation Area, and also, whether the reduction in scale from two larger houses, to two two-bed single storey dwellings, with a different parking layout, would have a lesser impact on neighbouring properties resulting from vehicular movements.

Design and Materials

The proposed dwellings would be constructed of traditional and natural materials, in keeping with the character of the locality and the Conservation Area. The design approach taken is considered to address the reasons for the refusal of the previous application and subsequent dismissal at appeal, to preserve views into the site and to reflect the historical agricultural nature of the site.

Conservation Area and Listed Buildings

Heritage Significance. The map indicates that the group (Brookfield, Dale Cottage and outbuildings to the rear (converted to dwellings and ancillary garages/stores) constituted a small in-village farmstead. A village Pinfold survives to an indent in the south-east corner of the plot; this structure is considered to be Listed by virtue of lying within the ownership curtilage of Brookfield since before 1948.

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Main Issues continued

During the second part of the 20th century, the legibility and integrity of the extended site has been eroded by the construction of housing west of Roxby Road and within the orchard area east of the road; by the loss of some of the farmyard buildings; and by development of the northern part of the plot for residential use by extending and converting the remaining buildings and constructing a new house and garage block (the three properties on Brookfield Gardens). The more recent works of conversion and new build have been of good quality and the interior of the site retains an informal and vernacular character. A cottage garden has been retained between Brookfield and the Pinfold which provides an extremely attractive setting to the Listed Building; evidence for the original width of the Brookfield farm plot; and visual relief in the street scene that contributes to the character and appearance of the Conservation Area.

To the rear of the garden is a piece of land which has a redundant appearance, bounded to the west by the houses built in the 1960s and '70s within the orchard, and which now constitutes the application site. This site possesses heritage significance as a section of the historic landscape that has remained undeveloped. The landscape of the historic farmstead plot as a whole has been eroded such that what is now significant about it is the indication it provides of the historical morphology of the site, the relief in the street scene which is both attractive and informative of past use, and the setting it provides to the Listed Building of Brookfield, the Pinfold and the non-designated heritage asset of Dale View.

Legislation & Policy. Under the Planning (Listed Buildings & Conservation Areas) Act 1990 Section 66(1) requires that in considering relevant planning applications the LPA has special regard to the desirability of preserving the setting of a Listed Building. Section 72(1) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Paragraph 127 of the NPPF advises that planning policies and decisions should ensure that developments:

- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history...while not preventing or discouraging appropriate innovation or change (such as increased densities).

Paragraph 190 advises that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 192 advises that in determining applications, Local Planning Authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the desirability of new development making a positive contribution to local character and distinctiveness.

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Main Issues continued

Paragraph 193 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 194 advises that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Paragraph 196 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 197 advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 200 advises that Local Planning Authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Assessment of Impact on Conservation Area and Setting of Listed Building

The proposed new L-shaped building would be of modest scale; sensitively detailed and would utilise quality materials. The scale, form, arrangement on the site and materials proposed are all characteristic of the local vernacular. In design terms the scheme is considered to be acceptable in this locality. In relation to the setting of the Listed Buildings and the character and appearance of the Conservation Area, in principle, the location of the new range to the western and southern boundaries of the site in conjunction with its single storey form and general character would mean that it would have a limited and subservient visual relationship with the Listed Buildings, although it would be visible through the verdant western boundary of the cottage garden and Pinfold. Whilst it would constitute the development of an area of land that has historically been undeveloped as a consequence of the farmstead history of the site, it is not considered that this would harm the heritage significance of the heritage assets, including the Conservation Area, in this regard because the original Brookfield site is no longer an intact farmstead and has not been since the mid-20th century.

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Main Issues continued

Glimpses of the rear roofs of 1960s-era houses on Roxby Lane are visible from Maltongate showing a degree of discordant development, and from within the site the character is one of sensitive residential development and conversion of former agricultural buildings. The new development would be consistent with this character. The farmstead history of the site would remain legible in the surviving buildings, in the pattern of development which contrasts with the suburban development abutting the site and by studying historic maps (which is the only way the site as a whole can be interpreted today).

Considering all the details of this amended scheme, it is considered that the proposal would be unlikely to cause harm to the significance of the heritage assets.

The Authority's previous Building Conservation Officer raised no objections to this revised proposal. However, following the comments received from the CPRE and CBA the current Building Conservation has also commented on the proposals. In terms of archaeological potential it is acknowledged that the Authority's Archaeologist has proposed suitable mitigation. It is also acknowledged that the architectural and artist interest of the site itself is limited and that the most relevant contribution the site makes in artistic (aesthetic) and architectural terms is to the setting of Brookfield, the pinfold and the conservation area.

The main concern with the application lies predominantly in the lack of understanding as to whether this is an important open space in terms of the historical narrative, and if so to what extent. We do not know whether we need to treat this space as part of the heritage asset, one in its own right or purely in terms of setting. If this is an important open space then it should be left undeveloped. This understanding of the site is crucial, and whilst we might not be able to fully ascertain this, it seems reasonable that we should seek to address this as far as possible.

Archaeology

The Authority's Archaeologist has advised that whilst minimal development close to monuments like the Pinfold is preferred, the proposed houses are not immediately adjacent; it is non-designated; and the applicants have demonstrated a willingness to improve the vegetation situation, which is improving it.

In terms of wider archaeology, the Authority's understanding of this corner of Thornton Dale has improved over recent years and the Authority is now in a position with its understanding of the local potential that archaeological mitigation is requested on most ground disturbance in the southern half of Thornton Dale, such is the significance of possible finds or features. This has included liaising with services companies during trench installations under the pavement and road. The land off the road, on both sides, therefore has a good chance of post-Conquest domestic remains. Of possibly greater significance was the nearby discovery of various Early Medieval finds during a watching brief, including pottery, bone and glass goods, and a sunken feature building, all securely dated to represent Anglian activity. Iron Age/Roman pottery and small finds have also been excavated in southern Thornton Dale.

The origins of the village are not fully understood, and this may represent a good chance to add to our knowledge of the area.

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Main Issues continued

Consequently, a Written Scheme of Investigation and a watching brief are recommended to explore any Roman/medieval potential.

Impact on Neighbouring Properties

Whilst the development will clearly be visible from the properties which back onto the site from Roxby Road, it is not considered that the proposal would have an overbearing impact or loss of privacy, due to the distances and low height of the proposed dwellings from the rear elevations of these properties. With regards to the previous appeal, the Planning Inspector did not consider that the proposed two storey dwellings would have an overbearing impact on amenity, and the proposed single storey development would have a lesser impact.

Concern has also been expressed regarding the levels of activity that would be generated by the vehicular access to the proposed dwellings and the disturbance that would result. The

Inspector found with the previous scheme that the vehicular access, driveway, parking and garaging immediately adjacent the rear boundaries of the properties fronting onto Roxby Road, would result in unacceptable levels of disturbance, not currently experienced.

The revised scheme has removed driveways and parking away from this boundary, with only the access and communal turning area being adjacent the boundary of Thornton House. However, this reflects the current situation as there is access and turning for the two existing garages on this site.

Access and Parking

The scheme has been amended in accordance with the advice of the Highway Authority who now has no objections to the proposals.

Brookfield and Dale Cottage will revert back to either on-street parking (most likely on Maltongate) or parking at the nearby village car park, for which annual passes can be purchased.

The turning arrangements proposed are considered to be an improvement for the properties on Brookfield Gardens, as there will be space for visitor and delivery vehicles to turn. The parking and access arrangements can be satisfactorily controlled by conditions.

With regards to the current consultation on a Traffic Regulation Order for double yellow lines on Maltongate, the Highway Authority has advised that whilst the parking for the two cottages which front onto Maltongate will return to arrangements that existed prior to 2015, it is not considered that any such on street parking caused by this particular application will be such that detrimental harm to users of the highway will be significant. The Highway Authority has also advised that long-stay parking is provided within the village and that the overall changes to traffic activities are considered to be relatively minor and not to a level such that the Highway Authority's previous recommendation of refusal dated 13 November 2019 can be justified.

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Conclusion

As can be seen from the consultation responses from the CPRE and the CBA and the Heritage Statement submitted by WSP Consultants, and the Authority's own different Building Conservation Officers, there is clearly a great variance and conflict in professional opinion with regards to whether the application site has a heritage significance in its own right or simply the setting of other heritage assets; the Grade II Listed Building of Brookfield, the historic Pinfold and the Conservation Area.

The site itself has no specific heritage designations and referring back to the Inspector's decision, this clearly relates to the impact of a 2-storey form of development in the centre of the site having a detrimental impact on the setting of heritage assets such as the Grade II Listed Building and the Conservation Area, due to its siting and prominence.

Furthermore, the Authority's Archaeologist views this as an opportunity to have a greater understanding through archaeological recording during construction.

In conclusion it is considered that the revised site layout of the new dwellings substantially reduces the impact of the development on the character and appearance of the Listed Building and the Conservation Area that earlier proposals would have had. The newly-constructed 1.5m wall to the eastern boundary of the site is barely visible from Maltongate and combined with the retention of the trees adjacent to that boundary shown on plan ensures that the gardens and Pinfold fronting Maltongate, which are important elements of the setting of Brookfield and of the character and appearance of the Conservation Area, will be preserved as a verdant open space in the street scene.

The development site has a high degree of visual and physical separation from the historic streetscape of Maltongate, and the design and layout of the proposed dwellings reflects and relates to the backland character of Brookfield Gardens. The east-west alignment of Dwelling 2 now minimises visibility from Maltongate and therefore any overbearing effect on the small scale of the Listed Building. It is considered that the building heights are appropriate for the site because the ridge and eaves heights are comparable to the historic east-west aligned barn range which was converted and extended in 2008, with Dwelling 2 set slightly further back from that range's eastern gable. The effect of the higher gable is seen currently in views from Maltongate and does not appear overly-imposing. The quality of materials and external joinery fixtures and the design of fencing and landscaping will be important elements of ensuring the scheme is sympathetic to the site. It is also considered that any fencing within the site should be low-key, reinforced by native hedging, with any trees lost from the eastern boundary replaced to maintain the green backdrop from Maltongate.

Consequently, whilst objections from the Parish Council, CPRE, CBA and nearby residents remain, regarding the impact of the development on residential amenity, the Conservation Area, the setting of heritage assets and additional traffic; it is considered that the siting, scale and details of design would result in an acceptable form of development, in accordance with Strategic Policies M, I and C and Policies CO7 and ENV11. Furthermore, without objections from the Highway Authority in terms of highway safety it would be difficult to justify a recommendation for refusal on highway safety grounds. Consequently, and in reflecting the Authority's objective to increase housing delivery in the National Park, approval is recommended.

Application No: NYM/2019/0628/FL

Main Issues Continued

It is considered that on balance, giving appropriate weight to the Local Plan's aim of providing more housing, particularly of smaller size; the public benefit of providing housing in a sustainable location; and the Planning Inspector's conclusion that it was the specific scheme in front of her, rather than the principle of any development that was unacceptable; plus the ability to have an archaeological insight through recording during construction, the proposal is recommended for approval

Pre-commencement Conditions

N/A

Contribution to Management Plan Objectives

The proposed development helps to meet the National Park Management Plan target set out in Policy C10 which seeks development that will conserve and enhance the built heritage of the National Park.

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 recommended changes to the proposal including re-arrangement of parking layout, so as to deliver sustainable development.

Appeal Decision

Site visit made on 26 June 2017

by **Elaine Worthington BA (Hons) MTP MUED MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1st August 2017

Appeal Ref: APP/W9500/W/17/3172640

Land to south of Brookfield Cottage, Maltongate, Thornton Dale, North Yorkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs G Forster against the decision of North York Moors National Park.
 - The application Ref NYM/2015/0919/FL, dated 14 December 2015, was refused by notice dated 4 November 2016.
 - The development proposed is 2 No detached dwellings with garaging and new access on land to the south of Brookfield, Thornton Dale.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether the proposal would preserve or enhance the character or appearance of the Thornton le Dale Conservation Area including its effect on the setting of Brookfield, a Grade II Listed Building; and
 - The effect of the proposal on the living conditions of nearby occupiers with particular reference to outlook and noise and disturbance.

Reasons

Character and appearance

3. The appeal site is an open area of vacant land to the rear of the properties in Maltongate and Roxby Road that is accessed via Brookfield Gardens.
4. It was formerly part of the garden serving Brookfield, a Grade II Listed Building fronting Maltongate, and forms part of the historic farmstead grouping originally associated with it. This includes the single storey late 18th Century cottage at Brookfield itself (which is on the end of a row of adjoining traditional dwellings), 2 and 3 Brookfield Gardens which are immediately adjacent to the appeal site to the north and are conversions of former barns, and outbuildings which were originally greenhouses and machinery stores but now serve as garages for Brookfield and adjoining Dale Cottage.

5. The setting of a heritage asset is defined in the Glossary to the National Planning Policy Framework (the Framework) as the surroundings in which a heritage asset is experienced. In this case, despite being on a higher ground level to Brookfield, the open land to the rear of Brookfield forms part of the original farmstead group. As open land which would have served the barns, outbuildings and cottage, the appeal site has a functional and historic relationship with Brookfield and contributes to the grouping's relevance as a former farmstead.
6. Thus it plays a role in the historic significance of the collection of traditional agricultural buildings including the Listed Building. Despite the intervening vegetation, the open nature of the appeal site is appreciated from Maltongate behind Brookfield's side walled garden area and the adjacent historic pinfold¹. It seems to me that it affects the ability to appreciate the historical significance of Brookfield and consequently I consider the appeal site to form an important part of the setting of that Listed Building and so to contribute to its significance.
7. The site is also within the Thornton le Dale Conservation Area. This covers much of the picturesque village which is centred around the village green. In Maltongate in the vicinity of the appeal site the area is characterised by traditional cottages and buildings which reflect the historically agricultural role of the area, with simple functional stone cottages lining the road parallel to Thornton Beck. The appeal site and the buildings nearby play a role in defining the traditional rural character of the settlement which is part of the Conservation Area's significance as a heritage asset.
8. Accordingly, I have had regard to my statutory duties under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and had special regard to the desirability of preserving the setting of Brookfield. In light of Section 72(1), I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
9. The appeal site is also within the North York Moors National Park. Paragraph 115 of the Framework indicates that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas and should be given great weight in the National Parks. The North York Moors National Park Management Plan (MP) sets out the special qualities of the Park which include settlements which reflect their agricultural, fishing or mining past, with locally distinctive buildings and building materials.
10. The proposal seeks the erection of two detached two storey houses which would be positioned at right angles to each other. Dwelling 1 would be sited parallel to Maltongate. It would measure around 14.5 metres long by 6 metres deep with a ridge height of 6.6 metres and an eaves height of 4.5 metres. Dwelling 2 would be positioned with its gable end facing Maltongate. It would measure 14.6 metres long by 6 metres wide. The main part of the roof would be 6.6 metres to the ridge, and 4.5 metres to the eaves, but it would be stepped down adjacent to Brookfield with a resultant ridge height of 5.8 metres and eaves height of 3.6 metres.

¹ A pound or enclosure for stay animals which the Authority confirms is the subject of a monument record.

11. The appeal site sits between different forms of development. There are traditional low cottages to the east in Maltongate, more modern larger detached two storey brick dwellings fronting Roxby Road to the west and the converted barns at 2 and 3 Brookfield Gardens to the north. The Authority raises no objections to the proposed plot sizes or the space that would be provided around the dwellings. The ridge heights of the proposed houses would not exceed those of Tangalwood and 61 Roxby Road or those of 2 and 3 Brookfield Gardens.
12. Nevertheless, the houses fronting Roxby Road are part of the street scene there and are not visible from Maltongate. In line with its historic association with Brookfield the appeal site appears primarily as land to the rear of the properties in Maltongate. In the context of the modest low rise development there, the proposed houses would be tall. Since the eastern boundary of the appeal site is around 2 metres above the level of Maltongate, they would also be seen in an elevation position from there.
13. The site is separated from the historic streetscape in Maltongate by Brookfield's side garden and the pinfold. These do not form part of the appeal site and would be retained. The proposed houses would be set well back from the back edge of the pavement in Maltongate (the gable end of Dwelling 2 would be some 16.8 metres from it and the rear elevation of Dwelling 1 would be some 18.5 metres away). They would also be sited behind mature trees and shrubs which screen the site to some degree. Even so, given their height and size, the proposed buildings would still be visible, above and beyond the vegetation, and to some extent through it when the deciduous plants and trees are not in leaf during the winter.
14. When viewed from Maltongate, despite being stepped down in height, Dwelling 2 would introduce a considerable gable ended building close to the rear of Brookfield. Although 3 Brookfield Gardens is already visible in views from Maltongate on approach from the south, it is well to the north of Brookfield and set some distance away from it. In contrast proposed Dwelling 2 would bring two storey development very much to the foreground in views from Maltongate. It would be seen directly behind Brookfield's attractive walled garden and the pinfold and at much closer quarters than the existing barn conversion in Brookfield Gardens. Dwelling 1 would be set back further from the road, but its long rear elevation would also be visible on approach from the north along Maltongate from where it would be seen beyond the pinfold.
15. The buildings are designed to look like converted barns and to appear as backland development rather than as part of the frontage in Maltongate. They would be of a simple agricultural design, utilise traditional materials and be the same height as the existing barn conversions at Nos 2 and 3. However, those buildings are positioned in a row at the northern edge of what would have been the extent of the farmstead group. In contrast, the proposed dwellings would be set at right angles to each other towards the middle of the site on what would historically have been part of the open grounds and agricultural land serving Brookfield.
16. As such, I am not convinced that the proposal would reflect a pattern of development that could be reasonably expected as part of a historic farmstead grouping, or that the houses would appear from Maltongate as sympathetic or subservient backland development. Rather, to my mind they would stand out

- as unduly tall and bulky features in Maltongate which would be dominant and overbearing in relation to the existing buildings there and be appreciated as incongruous features.
17. This being so, the proposed dwellings would overwhelm and visually compete with Brookfield. They would be close to it and affect views of it from Maltongate. The current open appearance of the appeal site reinforces Brookfield's historic connections and status as part of the farmstead. The proposed dwellings would undermine the historic role of both the appeal site itself and the dwelling at Brookfield with unduly large and prominent development. Paragraph 132 of the Framework is clear that the significance of a heritage asset can be harmed or lost through development within its setting. In this case the proposal would undermine the experience of Brookfield.
 18. The proposal would also have an overbearing and detrimental impact on the streetscene in Maltongate and would be at odds with the pattern of development nearby. It would infill the existing gap that has arisen due to the area's agricultural past and detract from the attractive open appearance of Brookfield's side walled garden and the adjacent historic pinfold at the roadside. This being so, it would serve to unacceptably erode the traditional rural character of the settlement in this part of Maltongate, which is part of the Conservation Area's significance as a heritage asset.
 19. Bringing matters together, by virtue of its size, scale and prominence the proposal would fail to be in keeping with, and would detract from, the setting of Brookfield and the character and appearance of the Conservation Area, which are both of significance to the area's heritage. Paragraph 131 of the National Planning Policy Framework (the Framework) indicates that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account in determining planning applications. Whilst the proposal would lead to less than substantial harm to the significance of the Conservation Area and Brookfield, the harm caused would be material.
 20. I therefore conclude on this main issue that the proposal would undermine the setting of Brookfield, would fail to preserve or enhance the character or appearance of the Thornton le Dale Conservation Area, and would adversely affect the significance of these designated heritage assets. This would be contrary to Core Policy A of the North York Moors National Park Authority Local Development Framework Core Strategy and Development Policies (LDF) which provides a number of factors that will be considered in order to deliver the National Park priorities and sustainable development whilst conserving and enhancing the Park's special qualities. Priority will be given to, amongst other things, conserving and enhancing the landscape, settlement, building features and historic assets of the landscape character areas (criterion 4).
 21. It would be at odds with LDF Core Policy G which seeks to ensure that the landscape, historic assets and cultural heritage of the National Park are conserved and enhanced, with particular protection being given to those elements which contribute to the character and setting of Conservation Areas (1) and Listed Buildings (2). It would fail to support LDF Development Policy 3 which requires the design of development to maintain and enhance the distinctive character of the National Park and is permissive of development where the siting, orientation, layout and density preserves or enhances views

into and out of the site, spaces about and between buildings and other features that contribute to the character and quality of the environment (criterion 1).

22. The proposal would conflict with LDF Development Policy 4 which aims 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 requires the scale, proportions, design detailing and materials of the development to respect the existing architectural and historic context (criterion 2). Whilst not cited on the decision notice, it would also be contrary to LDF Development Policy 5 which states that any development which would have an unacceptable impact on the setting of a Listed Building will not be permitted. Furthermore, the proposal undermines the core planning principles of the Framework of preserving the significance of designated heritage assets and securing high quality design.

Living conditions nearby occupiers

23. The appeal site sits at a slightly lower level than the neighbouring dwellings to the west and the ridge heights of the proposed dwellings would be lower than those of the existing dwellings there. The gable end of Dwelling 2 would face the rear elevations of Thornton House and No 61 which front Roxby Road. The nearest corner of Thornton House would be 22 metres from the blank gable end of Dwelling 2's single storey attached garage, and 25.4 metres from its two storey blank gable end. The nearest point of No 61 would be 17.6 metres from the single storey garage element, and 21 metres from the two storey blank gable end. The rear elevation of Tangalwood would be about 21.7 metres from the rear elevation of Dwelling 1 and 13.2 metres from its garage.
24. All these distances exceed the industry standards for space about dwellings referred to by the appellant. I have seen no local guidelines in this regard and the Authority does not refute the appellant's findings on this matter. On this basis, whilst I appreciate that the proposed dwellings would introduce development to a currently open site and so would inevitably be visible from these neighbouring properties, given the separation distances involved I am not persuaded that the proposed houses would lead to any undue loss of outlook or daylight or sunlight to the neighbouring properties to the extent that the living conditions of their occupiers would be harmed.
25. In terms of vehicle movements and noise and disturbance, the proposed dwellings would be accessed via Brookfield Gardens. The existing access there serves the three properties there and the garage to the rear of Brookfield and Dale Cottage. In response to concerns raised by the Highway Authority, the appellant initially agreed that the garage would revert to being a garden store only, such that vehicles could not use it.
26. The rescinding of these parking arrangements was intended to be secured via a planning condition and was agreed as a trade off against the onsite parking to be provided for the two proposed dwellings to ensure that the private drive would not be used by more than 5 dwellings (in order to comply with the County Council's highways development control policy in terms of highway safety). However, since he considers that Brookfield Gardens is not the principal means of access for Brookfield and Dale Cottage, the appellant now argues that, even taking into account the appeal scheme, Brookfield Gardens would only provide the principal means of access for 5 dwellings. As such, he regards the condition to be unnecessary and unreasonable.

27. The proposal would introduce two additional dwellings. In addition to the regular comings and goings that will be associated with the current use of Brookfield Gardens, the proposal would result in further trips to and from the site undertaken by the occupiers of the proposed dwellings, along with visitor and delivery trips. I have seen no estimation as to how many additional journeys would arise, but even though only two units are proposed, by the nature of their residential occupation, movements to them would be sustained and regular, taking place throughout the day and evening. As such, there would be an increase in the number of vehicle movements in Brookfield Gardens.
28. This would be so even if vehicle access to the rear of Brookfield and Dale Cottage and its garage was rescinded as previously suggested. The occupiers of those properties also have the alternative of being able to park on Maltongate, where it would be more convenient to access the front of those properties, particularly for visitors and deliveries. On the other hand, the occupiers of the proposed houses would only have the option of parking at their properties. As such, all the vehicular movements associated with them would be via Brookfield Gardens. Therefore, the proposal would give rise to more vehicle movements than the use of the garages.
29. At the moment vehicles associated with 1-3 Brookfield Gardens and the garages travel to the side and rear of Thornton House. The occupier of that property already finds the noise from this to be intrusive. The proposal would increase vehicle activity in these areas and in close proximity to Thornton House and its front and rear gardens. Moreover, whilst the vehicles using Brookfield Gardens are currently contained towards the northern part of the site, the proposal would introduce garages, parking and turning areas for the two new houses directly to the rear of No 61 and Tangalwood. This would give rise to vehicle movements in very close proximity to these rear gardens where the occupants currently enjoy a peaceful outdoor environment, and introduce vehicle movements to an area where there is currently no vehicular activity at all.
30. In this context, overall I consider that the proposal would result in an unacceptable increase in the levels of noise and disturbance that would be experienced by the occupiers of the houses nearby. This would be so despite the rear fences which are in place to the rear of the houses fronting Roxby Road.
31. I have had regard to the former use of the appeal site in connection with the builder who previously occupied Brookfield. I understand that he used the site as a builder's yard, the garage as a workshop, and that the vehicles using the site included a car, a tractor and a dumper truck. Although I accept that that use of the site may have given rise to higher levels of vehicular activity at the site in the past, I am mindful that it has not been occupied as such for a number of years and I have seen no evidence to suggest that its previous use is likely to resume.
32. I therefore conclude on this main issue that whilst there would be no harm to the living conditions of nearby occupiers with reference to outlook, the proposal would have a harmful effect on the living conditions of nearby occupiers with regard to noise and disturbance. This would be contrary to LDF Core Policy A which gives priority to providing a scale of development and level of activity

that will not detract from the quality of life of local residents. It would conflict with LDF Development Policy 3 which requires the scale, height, massing, proportion, form, size, materials and design features of the proposal to be compatible with surrounding buildings, and not have an adverse effect upon the amenities of adjoining occupiers. It would also be at odds with the core planning principle of the Framework to seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

The Planning Balance

33. I have found harm to the setting of Brookfield and the Conservation Area. Whilst this would be less than substantial (as described at paragraphs 133 and 134 of the Framework), the harm caused would be material. I give considerable importance and weight to the presumption that preservation of these assets and their setting is desirable. Although I have found that there would be no harm to the living conditions of nearby occupiers with reference to outlook, the proposal would also cause harm to the living conditions of nearby occupiers with regard to noise and disturbance.
34. The site is in a sustainable location, close to services and facilities in the village and public transport opportunities to larger settlements. LDF Core Policy B sets out the spatial strategy for the North York Moors and identifies Thornton le Dale as a Service Village where new open market housing is appropriate. Core Policy J confirms that a mix of housing types will be sought to maintain the vitality of local communities. The proposal would contribute to housing land supply and the future occupiers of the dwellings would support local services in Thornton le Dale and help to maintain and enhance the vitality of the village. Short term construction work would also be created. These are public benefits of the proposal. However, they are insufficient to outweigh the harm that would be caused to the significance of the designated heritage assets I have described along with the harm to the living conditions of nearby residents.
35. Provided the vehicular use of garages serving Brookfield and Dale Cottage's is revoked, the Highway Authority raises no objections to the proposal. However, as set out above, the appellant considers such a condition to be unreasonable and unnecessary. The Highway Authority disagrees. Be that as it may, given my conclusions on the two main issues in this case, the matter of highway safety is not determinative in this case and so it has not been necessary for me to come to a view either way on this matter. As such, it counts neither for, nor against the proposal and is neutral in the balance.
36. I appreciate that the proposal was amended a number of times during the Authority's consideration of the planning application. The scheme was the subject of lengthy discussions and revisions and was recommended for approval by Officers. Even so, this factor adds no weight in favour of the proposal, which I have considered on its own planning merits.

Conclusion

37. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR