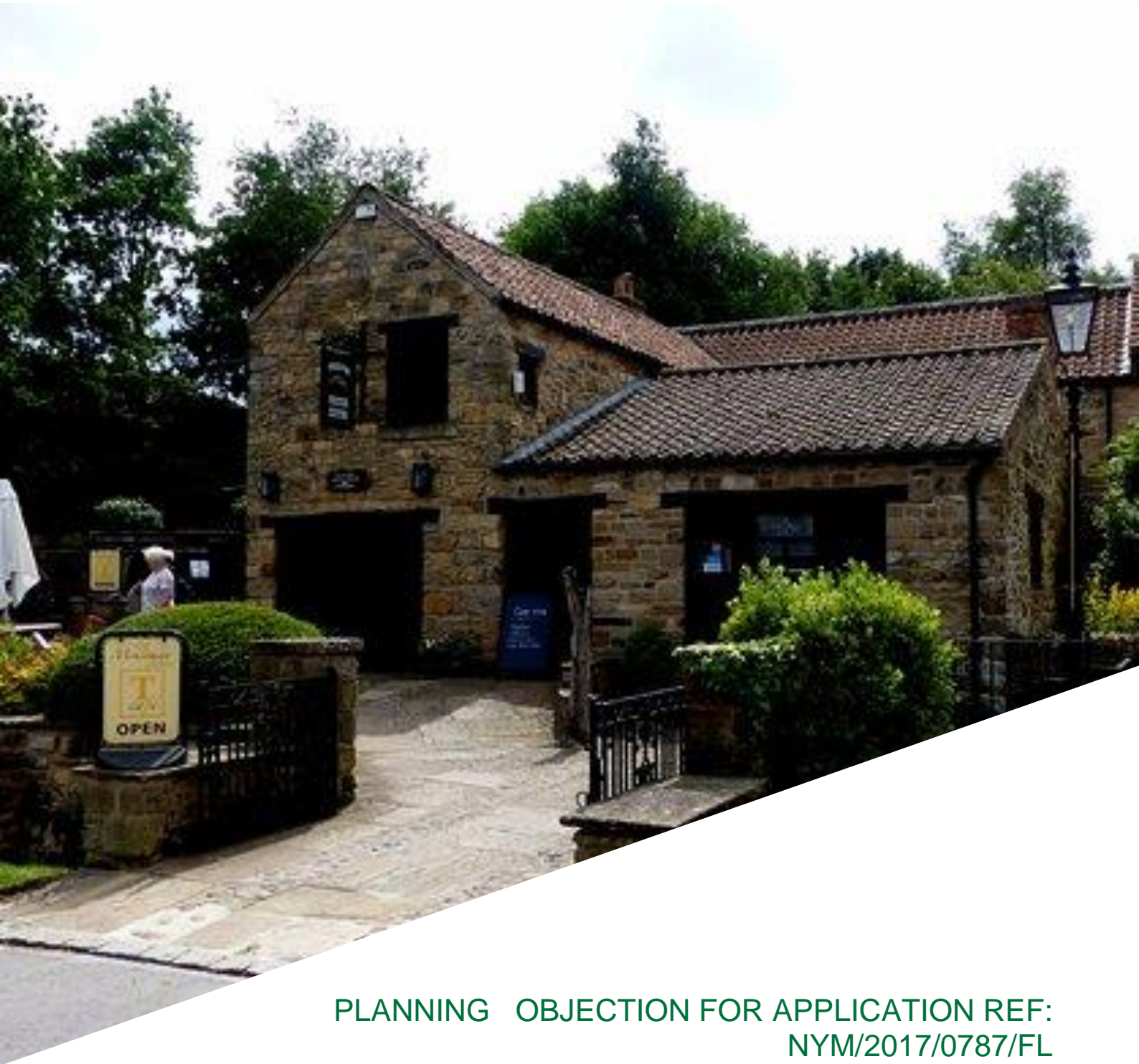


# GEORGE F. WHITE



PLANNING OBJECTION FOR APPLICATION REF:  
NYM/2017/0787/FL  
CONSTRUCTION OF A PORTAL FRAMED MANURE STORE  
CHURCH FARM KILBURN

NYMNP

02/02/2018

HELEN BOSTON

1.0 **Introduction**

- 1.1 George F.White (Planning and Development) are instructed by Robert Thompson's Craftsmen Ltd ('the objector') to submit a planning objection for Application Ref NYM/2017/0787/FL, construction of a portal framed manure store at Church Farm, Kilburn, North Yorkshire, YO61 4AH.
- 1.2 Please note that we have also lodged an objection for a similar application submitted to Hambleton District Council, Application Ref 17/02328/FUL for the construction of a portal framed general purpose agricultural building and for the storage of farm manure application at Village Farm, Kilburn, North Yorkshire, YO61 4AG.
- 1.3 Our clients own and run the Mouseman Visitor Centre, Museum, Garden, Gift Shop and Café, a popular tourist destination.
- 1.4 For the reasons described, in detail below, we wish to strongly object to this application.

## 2.0 **Grounds of Objection**

### 2.1 Principle of the Development

2.1.1 The Planning and Compulsory Purchase Act 2004 (Section 38 (6)) requires the determination of planning applications to be in accordance with the Development Plan unless material considerations indicate otherwise. The relevant local policies are:

- Core Policy C – Natural Environment, Biodiversity and Geo diversity
- Development Policy 1 – Environmental Protection
- Core Policy G – Landscape, Design and Historic Assets
- Development Policy 3 – Design
- Core Policy H – Rural Economy
- Development Policy 12 – Agriculture
- Core Policy J – Housing
- Core Policy M – Accessibility and Inclusion

2.1.2 Development Policy 12 (Agriculture) is also relevant in considering the proposed manure store;

*Proposals for new agricultural buildings, tracks and structures or extensions to existing buildings will be permitted where:*

*1 There is a functional need for the building and its scale is commensurate with that need.*

*2 The building is designed for the purposes of agriculture.*

*3 The site is related physically and functionally to existing buildings associated with the business unless there are exceptional circumstances relating to agricultural necessity for a more isolated location.*

*4 A landscaping scheme which reduces the visual impact of the proposal on the wider landscape and is appropriate to the character of the locality is submitted as part of the proposal.*

- 2.1.3 It is assumed that the applicant would argue that the in line with Criterion i. that there is a functional need for the building and that the scale proposed would be commensurate with the need. However, there has been no evidence submitted in support of this application to confirm which farming operations are on the Site, how much manure would be generated and what the present methods of manure management are.
- 2.1.4 No manure management plan has been submitted in support of this planning application to explain, how much manure will be stored on site, where it has come from, how long it will stay on site and where it will ultimately end up.
- 2.1.5 We are not satisfied that in line with Development Policy 12 (Agriculture) that the development demonstrates an exceptional case for development outside of the defined development limits and that it is necessary to meet the needs of the farming enterprise.
- 2.1.6 The only other criterion that might be relevant would be part of criterion (ii) where it would be necessary to secure a significant improvement to the environment. Whilst we support the Environment Agency and the principle of the grant however, as stated above no information has been provided with regards to the current handling of manure. It is therefore not possible to ascertain whether the development would bring any environmental benefits as the applicant has failed to demonstrate why the development is required.
- 2.1.7 It is not considered therefore that the improvement secured to the environment would be significant and would not therefore accord with LDF Policy 12 as an exception.
- 2.1.8 The applicant has failed to articulate the justification for why this development demonstrates an exceptional circumstance for development within the open countryside and therefore it is respectfully suggested that planning permission should be refused.
- 2.2 Proposed Use
- 2.2.1 The description provided by the applicants on the submitted application is as follows;
- “36m x 12m portal frame manure store to control rainwater runoff and pollution”.*
- 2.2.2 Our clients are most concerned, justifiably given their business, a major tourism destination sited within the defined development limits of this Conservation Village over the requirement for this building and there is the potential that this building, like so many of the applicants other buildings, will be used for the housing of pigs.
- 2.2.3 The proposed construction of the building is such that it would seem at best to be impractical, to be used for its intended purposes. The proposed frame would create individual entrance bays, making it incredibly difficult for tractors and trailers to manoeuvre when depositing and collecting the manure. Due to the solid construction on three sides, the proposed building would not require much alteration to make it capable of housing livestock.

2.2.4 Our fear is somewhat heightened by the lack of information that the applicant has provided over the current management of manure on the site. The National Park is aware of a similar application being lodged with Hambleton District Council. Where is the justification for the need for two manure storage buildings? This concern is addressed in more depth in the below sections.

2.2.5 Regardless of the end use, agricultural activity if not properly understood and then controlled could result in a significant impact on residential amenity of the adjoining neighbouring residents and businesses. The prominent position of the proposed building has potential to create a significant amount of disturbance to local residents and businesses that would be beyond the control of the Local Planning Authority.

### 2.3 Noise

2.3.1 As we have set out above the lack of understanding of the proposed development is a key concern and one of the potential impacts is resulting from noise. This is two fold. Giving the applicant the benefit of the doubt and assuming the building will only be used for the storage of manure, as no management plan has been provided it is unclear the level of activity the building will generate i.e. where will the manure come from, how often will there be deliveries of manure if brought from off site, and how often the building will be cleared out.

2.3.2 If, as we suspect, the building is to be used for the housing of livestock the noise generated from potential 100's if not 1000's of pigs would have a demonstrable adverse impact on not only visitors to Kilburn and the Mouseman Visitor Centre but also the occupiers of the adjacent residential properties.

2.3.3 It is considered that the café and outdoor seating will be a key receptor point which should be evaluated in any noise assessment. The top of the garden area is a key vantage point of the White Horse, which is a nationally significant visitor attraction.

2.3.4 The development would therefore be contrary to the aims of Policy CP A, DP 12, DP3 and the NPPF.

### 2.4 Traffic

2.4.1 As the justification of this development has not been adequately set out, we are unable to consider what the impact would be on the local highway. Before a decision can be made the LPA firstly need to clearly understand what the applicant intends to use the building for, the justification for that use and then how they will manage the Site. Only then will it be possible to understand the impact the development would have on the highways.

2.4.2 We would like it to be noted that Kilburn, a Conservation Village, has narrow streets, which due to a lack of onsite parking, residents and visitors alike are forced to park on the highway. An increase in movements of tractors and trailers will have the potential to significantly impact on the safe functioning of the highway.

## 2.5 Odour

- 2.5.1 As we have raised, repeatedly, throughout this objection this applicant has failed to clearly demonstrate the justification for this development and how the Site is to be managed. No information has been provided as to what the building will ultimately be used for. Agricultural activity if not properly understood and then controlled could result in a significant impact on the amenity of the adjoining neighbouring residents and businesses.
- 2.5.2 If to be used solely for the storage of manure there is the potential for odour nuisance to occur from the storage and also, dependant on how long the manure has been stored for, when it is removed from the building.
- 2.5.3 If the building is to be used for the housing of livestock, even temporarily, how the livestock, especially if pigs, is managed than this has the potential to cause significant odour, even attracting flies, which in themselves can result in a nuisance.
- 2.5.4 Odour can be statutory nuisance and whilst we are aware that there are regulations in place for dealing with nuisance, this is an added pressure on the National Park and their resources. It is planning's duty to ensure that development is understood and any mitigation measures required should be able to be conditioned and controlled.

## 2.6 Impact on the Local Economy

- 2.6.1 Robert Thompson's Craftsmen Limited is a major employer in Kilburn and this business relies on tourist trade, especially in relation to the Mouseman Visitor Centre and Café.
- 2.6.2 It should be noted that, whilst there should be some expectation of noise and odour associated with farming practices, the lack of information raises concern that the proposed development would constitute additional noise and odour above and beyond what would be expected in this setting.
- 2.6.3 Given the importance of the White Horse to local tourism the proposed development would not protect the character and quality of the local landscape and the wider countryside, which would have an adverse impact on tourism in the local area. The proposed development is therefore contrary to the aims of Policy CP A, DP 12 and DP3. The development is also contrary to paragraph 28 of the NPPF which seek to support economic activity in rural areas.
- 2.6.4 We would like it to be noted that Paragraph 28 of the National Planning Policy Framework (NPPF) encourages support for a prosperous rural economy requiring planning policies to take a positive approach to sustainable new development. It also requires planning policies to support the sustainable growth and expansion of all types of business and enterprise in rural areas; to promote the development and diversification of agricultural and other land based rural business and to support rural tourism that benefits businesses in rural areas, communities and visitors and where it would respect the character of the countryside.

2.6.5 This also includes supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres. We urge the National Park in deciding this application to fully consider the potential impact of this development on the viability of existing business and the wider social and economic benefits that it brings to the District.

## 2.7 Landscape

2.7.1 Policy DP30 (Protecting the character and appearance of the countryside) of the Development Policies DPD states that "the openness, intrinsic character and quality of the District's landscape will be respected and where possible enhanced. Throughout the District, the design and location of new development should take account of landscape character and its surroundings, and not have a detrimental effect on the immediate environment and on any important long distance views".

2.7.2 The landscape character is formed by the natural landscape and the interaction of this with the built environment of this Conservation Village.

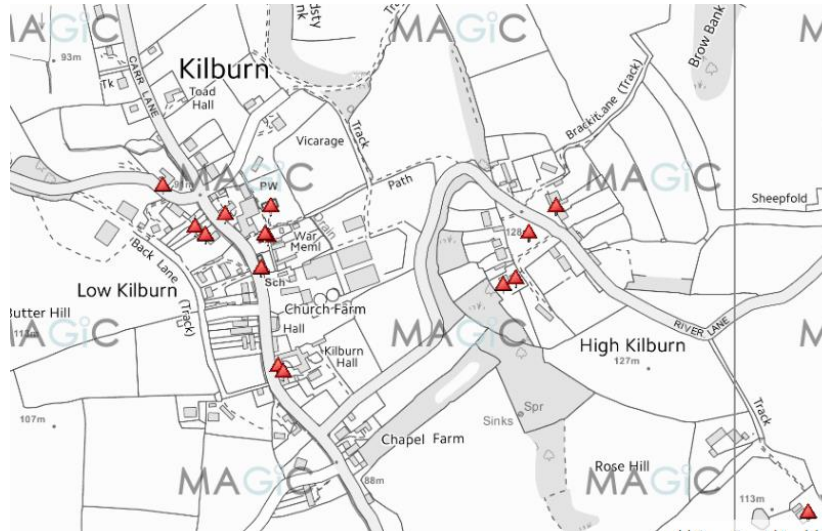
2.7.3 Due to the topography of Kilburn the village sits in the bottom of a valley. The siting of the barn outside of the defined boundary of the existing "farmstead" would not only result in a further intrusion into the open countryside but would have a dominant effect when viewing the site from the village as well as from the adjacent PRoW.

2.7.4 Given the importance of the White Horse the proposed development would not protect the character and quality of the local landscape and the wider countryside. The proposed development is therefore contrary to of Policy CP A, DP 12 and DP3. The development is also contrary to paragraphs 109, 113 and 114 of the NPPF which seek to protect and enhance valued landscapes.

## 2.8 Heritage

2.8.1 A Heritage Statement (undated) has been submitted to the North York Moors National Park Authority in support of the application for full planning permission.

2.8.2 The Statement correctly identifies that Kilburn is a Conservation Village. It fails however, to identify the nearby listed buildings, of which there are many.



2.8.3 Whilst it has been noted that the site is within the Conservation Village the Statement fails to discuss the significance of this.

2.8.4 Review in the context of the Planning (Listed Buildings and Conservation Areas) Act 1990 and National Planning Policy Framework (2012)

Planning (Listed Buildings and Conservation Areas) Act 1990

2.8.5 Under the Planning (Listed Buildings and Conservation Areas) Act 1990, NYMNPA, in determining the submitted full planning application, has a statutory duty to have special regard to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest which they possess (s66(1)). The Statement fails to identify nearby listed buildings or their features of special architectural or historic interest and makes no assessment of the contribution of setting to their significance. Without this information the Local Planning Authority cannot discharge their statutory duty to have special regard to the desirability of preserving listed buildings and their setting, or any features of special architectural or historic interest which they possess.

2.8.6 Under the Planning (Listed Buildings and Conservation Areas) Act 1990 in regards to conservation areas, paragraph 72(2) states that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'. The Statement fails to acknowledge the special qualities of the Kilburn Conservation Area and its proximity to the site, and does not provide any assessment of the character and appearance of the area. The Statement therefore fails to consider the impact of the proposed development upon the conservation area.



National Planning Policy Framework (2012)

2.8.7 The Policies contained in the NPPF reinforce the statutory duties of the Act and set out the information requirements necessary to allow a Local Authority to determine an application. In this regard, paragraph 128 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. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary”.*

2.8.8 and paragraph 129 states that:

*“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise”.*

2.8.9 The Statement does not meet the minimum information standards set out in paragraph 128; there is no evidence of completion of a HER search. The Statement does not describe the particular significance of any of the heritage assets affected or the contribution made by their setting. It is therefore not in accordance with paragraph 128 and 129 of the NPPF.

2.8.10 Without the information required by paragraphs 128 and 129 the local planning authority is unable to determine the planning application in accordance with the provisions of paragraph 131, which states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, or of paragraph 132 which states that ‘great weight should be afforded to the asset’s conservation’. Without the understanding of the significance of relevant assets and the impact of the proposals upon them, the Local Planning Authority is unable to assess the scheme and to clearly identify whether the application results in harm to heritage assets, in the context of paragraphs 133 and 134 of the NPPF, and consequently therefore to consider whether there is justification for any such harm.

2.8.11 There is also no consideration or discussion of non-designated heritage assets, as required by NPPF paragraph 135.

Review in the context of Historic England Good Practice Guidance

- 2.8.12 Historic England Good Practice Advice Note 3 sets out that *'Being able to properly assess the nature, extent and importance of the significance of a heritage asset and the contribution of its setting early in the process is very important to an applicant in order to conceive of and design a successful development and to the local planning authority in order to make decisions in line with legal requirements and the objectives of the development plan and the policy requirements of the NPPF'*. As aforementioned the Statement fails to properly assess the nature, extent and importance of the significance of the heritage assets and the contribution of their setting and the proposed design is therefore not based upon a thorough understanding of its context. The Statement is therefore clearly not informed by Good Practice Guidance.
- 2.8.13 Historic England Good Practice Advice Note 3: The Setting of Heritage Assets sets out a staged approach to proportionate decision making when considering applications for planning permission which affect the setting of a listed building. The Statement does not carry out a clear and robust approach to the assessment of the impact upon the assets: there is no evidence that good practice guidance has been consulted.
- 2.8.14 The Statement fails to refer to or consider Good Practice Guidance and this is a notable deficiency.

### 3.0 Conditions

3.1 Notwithstanding the above objections to the scheme, if Members are minded to grant planning permission it is imperative that suitable conditions are attached to any decision notice to minimise the significant amount of harm that is likely. It is noted that there is likely to be some overlap between planning and other regularity systems but given the sensitivity involved with the site these are considered necessary. It is considered that the following issues need to be addressed through the imposition of conditions:

- A traffic management plan to be submitted and agreed prior to the commencement of the development. It is our opinion that vehicle movements should be restricted to an acceptable level. The applicant should then be required to maintain a record to ensure compliance. The LPA should also seek to ensure that HGVs are not routed through Kilburn village both during construction and operation.
- A protocol for guaranteeing all vehicles leaving the site are cleaned to ensure that the public highway is kept clean.
- Requirement to confirm precise details of colours and finishes for the proposed building.
- A landscaping plan should be conditioned and should be carried out and be subject to a 5-year care and maintenance scheme to ensure that the landscape screening is properly established.
- Site levels should be confirmed to ensure that the landscape impact can be controlled.
- A manure management plan is necessary to ensure that significant odour events are successfully managed to minimise impact. This should be required to be reviewed bi-annually.
- The site is also within a Drinking Water a Safeguarding Zone, the application has proposed that the surface water will be dealt with via a Sustainable Drainage System. However, no further information has been provided. We therefore consider that in the interest of safeguarding the groundwater further details of this need to be required by a pre commencement condition.
- A condition preventing the use of the building for the housing of livestock.

4.0 **Summary**

- 4.1 To conclude, the proposed development will have a significant adverse impact on the landscape and visual amenity of the area, with resulting negative impact on local businesses. This will have a very significant negative effect on Robert Thompson's Craftsmen Limited business which would not be outweighed by any benefit of the proposed development.
- 4.2 As demonstrated, the development proposed is contrary to national and local planning policy and there are no material planning considerations which would suggest that the Council should grant planning permission for the proposed development.
- 4.3 We also request the opportunity to speak at Planning Committee when this application is considered.

# GEORGE F. WHITE



AGRICULTURE RESIDENTIAL COMMERCIAL DEVELOPMENT INVESTMENT ENERGY ENVIRONMENTAL