

Item Number: 10
Application No: 16/01242/73A
Parish: Helmsley Town Council
Appn. Type: Non Compliance with Conditions
Applicant: Mrs Emmy Burdon
Proposal: Variation of Condition 12 of approval 12/00264/FUL dated 27.06.2012 to state 'The development hereby permitted shall be carried out in accordance with the following approved plan(s): Drawing no. 968_AR50_06A' - replacement of plan 968_AR50_03 - increase in roof height to allow for additional domestic storage areas (retrospective application).
Location: Longhouse Pottergate Helmsley YO62 5BY

Registration Date:
8/13 Wk Expiry Date: 23 September 2016
Overall Expiry Date: 23 November 2016
Case Officer: Rachel Smith **Ext:** 323

CONSULTATIONS:

Parish Council Object

Neighbour responses: C F Button, Mr M Cooper,

SITE:

The site is situated to the rear of Pottergate within Helmsley Conservation Area. It was previously occupied by two garage buildings, one in concrete panels and the other traditional brick with a pitched roof. However a dwelling was constructed on the site following the granting of planning permission in June 2012. The site is bounded to the immediate north by a row of relatively new stone terrace houses, with older residential properties to the south and south-east.

PROPOSAL:

The revised plans show the following changes:

- Increase in the eaves and ridge height of the building of approximately 0.5m;
- Increase in number of roof lights on southern elevation from 4 to 5 single roof lights and one double roof light;
- Increase in size of 'first floor' window on western gable from 1.0m by 0.5m to 1.5m by 0.8m;
- Emergency access to southern elevation (door in the boundary wall serving the courtyard); and
- First floor room with stair access at western end of dwelling.

HISTORY:

Application 11/00678/FUL - October 2011: Application withdrawn for the erection of a two-storey dwelling

Application 11/00679/CON - October 2011: Application for Conservation Area Consent withdrawn for demolition of two garages

Application 12/00220/CON - 27 June 2012: Application approved for the demolition of existing garages

Application 12/00264/FUL - 27 June 2012: Permission granted for the erection of a single storey detached dwelling

Application 13/01364/73A - Application submitted to vary condition 12 - withdrawn

Application 15/00987/HOUSE - Application submitted for installation of internal staircase to first floor loft space. Withdrawn to allow submission of application to detail all the changes.

For clarification, following the approval of application 12/00264/FUL in June 2012, work commenced on the construction of the approved dwelling. However when work was well under way, a complaint was received that a door was being formed in the southern elevation of the dwelling, that hadn't been shown on the approved plans. The architect advised that this was installed to comply with building regulations as a secondary means of escape and is inward opening only. The applicant was advised that the change would necessitate an application for a minor material amendment to the approved plans. However a further complaint was then received that the ridge and eaves height appeared higher than the approved plans, that a first floor was being installed and the installed windows were not in accordance with the approved plans.

Officers visited the site, and confirmed that indeed the dwelling was not being constructed in accordance with the approved plans. Officers again requested a revised application.

In December 2013 an application was submitted to seek approval for:

- An additional roof light on the northern elevation over the kitchen;
- 2 high level roof lights above the inner hall on the south elevation;
- An emergency exit door from the courtyard on the southern elevation;
- A larger high level window on the western elevation; and
- Increase in height.

The application resulted in 4 letters of objection and an objection was also received from the Town Council.

Correspondence was ongoing between officers and the architect, and a further site visit was carried out inside the building. This demonstrated that habitable first floor accommodation had been installed in part of the property, together with a mezzanine floor area within bedroom 2. It was therefore agreed that the application be withdrawn to enable an application to be submitted that accurately showed all of the changes to the approved plans for further consideration.

This application was followed in August 2015 by an application that was only for a new staircase to serve the 'loft' area. This was submitted as a 'Householder' Application and clearly it did not address all the unauthorised changes made to the approved plans. Accordingly, the application was withdrawn in October 2015. The current application was submitted, and validated on September 23rd 2016. The application seeks a variation of the approved plans secured by planning condition 12 of application 12/00264/FUL.

POLICY:

Local Planning Strategy; Ryedale Plan – adopted 5 September 2013

Policy SP1 - General Location of Development and Settlement Hierarchy
Policy SP2 - Delivery and distribution of housing
Policy SP4 - Type and mix of new housing
Policy SP12 - Heritage
Policy SP14 - Biodiversity
Policy SP16 - Design

Policy SP17 - Managing Air Quality, Land and Water Resources
Policy SP19 - Presumption in favour of Sustainable Development
Policy SP20 - Generic Development Management Issues
Policy SP21 - Occupancy Restriction

National Policy Guidance

National Planning Policy Framework, 2012 (NPPF)
National Planning Policy Guidance 2014 (NPPG)

CONSULTATION RESPONSES:

The Parish Council has objected to the application on the following basis:

The Council objects to the increase in roof height on the grounds that it contravenes the original planning permission. The Council would also like to know why the building was allowed to be completed given its increase in height.

A letter of objection has been received on behalf of three neighbours who live in Pottergate Mews (Nearest neighbouring occupiers to the south).

The full letter is available to view on the Council's public access system. The main points raised include:

- The increase in ridge height is significant in the context of the development;
- The height of the building was a recognised sensitivity from the start;
- Photographs accompanying their letter show the shading of the gardens in early October and therefore it is clear that later in the year, the shading will extend to the ground floor of the houses;
- The first floor accommodation is both carpeted and furnished, and is therefore not just storage but a first floor room;
- The increase in the size of the gable window is a clear intention to create a second residential floor;
- Given the above point, the description of the application to *'increase in roof height to allow for additional domestic storage areas'* is wholly misleading; and
- If the increase in height is approved, our properties and others in Pottergate Mews will continue to suffer loss of amenity caused by shadowing from the dwelling.

APPRAISAL:

The principle of a dwelling in this location has been approved. The material considerations therefore relate to:

- Appropriateness of revised design and impact on the character of Helmsley Conservation Area; and
- Impact of changes on the existing amenities of neighbouring occupiers.

APPROPRIATENESS OF DESIGN:

During the consideration of the original application (12/00264/FUL), the report to Planning Committee included the following paragraphs:

It is considered that its design is broadly traditional, incorporating a linear stone wall broken by occasional windows, under a pantiled roof. It is considered that the design provides an appropriate link between the surrounding residential properties, and the form of outbuildings that are traditionally, often located to the rear of main streets.

It is also considered that the height of the proposed dwelling respects the character of the Conservation Area. Traditional buildings in backland locations often have a lower ridge height than more prominent street frontage locations. The existing buildings on the site have no uniformity, and the concrete double garage detracts from the character of the area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. In this case, it is considered that the scale and design of the development is appropriate, and will enhance the character of the Conservation Area. Indeed, the Council's Building Conservation Officer supports the design approach which has resulted from an analysis of local distinctiveness.

The revised design still retains the same characteristics as that previously approved, i.e. a simple linear structure, constructed from stone under a natural clay pantiled roof. The eaves detail has been carried out in a traditional manner, and gutters are on rise and fall brackets. The windows and doors are dark grey, and are a simple design that is reminiscent of a converted agricultural building. From a design point of view, the enlarged opening at first floor on the western elevation is of similar proportions to door openings that are known to exist on many former agricultural buildings. The additional roof lights are regrettable, as they break up the simple roof lines. However overall, it is considered that as constructed, the dwelling preserves the character of Helmsley Conservation Area.

IMPACT OF DEVELOPMENT ON AMENITIES OF NEIGHBOURING OCCUPIERS:

1. REVISED DOOR TO WESTERN ELEVATION AND INCREASED ROOF LIGHTS

A neighbour has previously expressed concern regarding the additional door on the southern elevation at ground floor. The applicant has advised that the door was installed as an emergency access, and therefore will only be used on rare occasions. A neighbour queried (on a previous application) why such a door would be located where it provided access onto neighbouring property which was used for parking. For information the door does open inwards, and the applicant has confirmed that it will only be used in times of emergency. It is therefore not considered that the installed door, will have a significant adverse impact on the existing amenities of neighbouring occupiers. However if Members resolve to approve the application, it is recommended that a condition be imposed restricting the use of the door.

The increased number of roof lights is noted, however they are located within an extensive area of roof and are not considered to be obtrusive as built. In addition given their location, it is not possible that occupiers of the dwelling will be able to overlook the gardens or inside dwellings of neighbouring occupiers. Accordingly, there is no objection to this aspect of the changes.

2. ENLARGED FIRST FLOOR WINDOW ON WESTERN ELEVATION AND CREATION OF FIRST FLOOR ROOM

The first floor window on the western gable of the building was designed to provide light to the dwelling. The original plans did not include a first floor, and therefore neighbouring occupiers were satisfied that it would not be possible to be overlooked from this window. Officers do not consider that the window will indeed result in overlooking of any of the properties of those neighbours that have raised an objection to the application. Nevertheless, the decision made by Members for a dwelling in this location in close proximity to existing properties, was made on the basis of a single storey property, with a first floor window that would not enable occupiers to obtain any view from it. Neighbouring occupiers are entitled to expect that the development would be carried out on that basis. Whether it is possible to overlook neighbouring dwellings from the first floor room, does not necessarily reduce the perception of being overlooked.

Furthermore, if the plans before Members now, were submitted originally, it is possible that it would have resulted in neighbour objections, with potential for a different decision being made. The submitted plans describe the floor as storage, however it has stair access to it, and Building Control Officers have advised that there are no reasons why it cannot be used as a bedroom under the Building Regulations. A recent inspection of the room has confirmed its occasional use when the applicant's grandchildren visit. The acceptability of this floor, together with the enlarged window is balanced. If Members are minded to approve the plans, it is recommended the decision is conditioned to require that the window is both fixed and obscure glazed. This will reduce the perception of being overlooked, and will also reduce the likelihood of the upstairs room being used as a bedroom on a permanent basis. The ground floor kitchen window and window to Bedroom 3 are also required to be obscure glazed as required by the original planning permission.

3. INCREASE IN HEIGHT OF DWELLING

Members will note from the history section that a previous application on the site sought permission for a two-storey dwelling. Indeed this is a matter that has been raised by neighbouring occupiers. The ridge height proposed on that occasion was 7.25m as opposed to a ridge height of 5.6m for the dwelling as constructed on the site. The proposed dwelling at that time also included a bedroom, bathroom, living room and balcony at first floor level. Given officer concerns in relation to impact on neighbour amenity the application was withdrawn. This is clearly significantly greater accommodation than the plans currently before Members for consideration. The application was also withdrawn after officers expressed concern regarding the impact of the development on the existing amenities of neighbouring occupiers. The applicant was, however, fully aware of the sensitivities regarding the erection of a dwelling in this location.

During the consideration of the subsequently approved application in 2012, the impact of the development on the character of Helmsley Conservation Area, and on the existing amenities of neighbouring occupiers were key to the acceptability of the proposed development. Officers held meetings with the architect at the time to assess shadow analysis in order to better understand the likely impact. The analysis demonstrated, that existing buildings surrounding the site, together with the garages that currently occupied it, and the height of the boundary wall would in themselves create overshadowing of neighbouring properties at some times of the day and year. The report to Committee reflected the attention to neighbour impact and included the following paragraphs:

'As discussed earlier, concern was expressed regarding a previously submitted two-storey development, and indeed, a letter has been received from a neighbour on this application advising that they do not object providing the building does not take light away from their property, and that there are no overlooking windows. The dwelling currently proposed has a much lower ridge height at 5m. The dwelling will be sited approximately 11m from the nearest dwellings to the north and approximately 8.5m from the dwellings to the south. The applicants have provided sun lighting and shadowing diagrams. These demonstrate that the impact of the development is not significant at most times of the year. This is partly due to the relatively low ridge height of the proposed building, and the existing boundary wall to those dwellings that lie to the north of the site. The impact is greatest in the later months of the year when people are less likely to sit in their garden. The orientation is such that whilst there may be some loss of day lighting, it is not considered that the development will have sufficient impact on the existing amenity of other houses in the area to warrant refusal of the scheme. It is noted that there are two windows facing the existing dwelling to the north, however, the use of obscure glass will reduce any potential for overlooking.'

Given the recognition of the impact on neighbouring amenity, It is therefore particularly disappointing that the development was not built in accordance with the approved plans.

As part of the consideration of this application, officers requested, further shadow analysis to demonstrate the 'as built' position compared to the approved position. The analysis shows the shadow projections at 12pm on April 20th, October 20th and December 20th. These show that in April at 12pm, the increase in shadowing is no greater than the shadowing caused by the boundary wall which raises between 1.5 and 1.6 metres in height. The impact is greater later in the year, and projects across more of the adjacent garden. In December the shadowing cast by the boundary wall reaches the front facade of the neighbouring properties, and the shadow from the dwelling slightly covers the front of the houses. However whilst this occurs to a greater extent than would result from the dwelling as approved, it is still below the ground floor windows. This is borne out by submitted photographs from a neighbouring objector. It is acknowledged that the shadow analysis is a snapshot in time, and indeed there will times of the day later in the year when the extent of the shadowing may well be slightly greater when residents sitting in their gardens is less likely to occur. In addition, the shadow will not rise up to window level. Officers have also taken account of the potentially overbearing impact of the dwelling as constructed.

CONCLUSION:

Officers are of the opinion that the cumulative impact of the changes to the dwelling as built, when compared to the approved plans, will have an impact on the existing amenities of neighbouring occupiers. The decision is therefore particularly finely balanced. However taking account of the limitations on overlooking by virtue of the installation of obscure glazing, and the relatively small change in the level of overshadowing of neighbouring occupiers, the recommendation is one of approval.

RECOMMENDATION: Approval

- 1 The external door on the southern elevation of the dwelling shall be retained as an inwards opening door, and shall be used for emergency purposes only. It shall be kept locked except when required for emergency purposes, and shall not at any time be used as a general means of access or exit from and into the dwelling.

Reason:- The location of a door in this position, providing access onto land outside the applicants control would not be otherwise acceptable, save in times of emergency, and to satisfy the requirements of Policy SP21 of the Ryedale Plan - Local Plan Strategy.

- 2 The first floor window on the western elevation of the dwelling shall be fitted and permanently glazed with obscure glazing, details of which shall be submitted to, and approved in writing by the Local Planning Authority. Such details shall be submitted for approval within 8 weeks of the date of this decision notice, and the approved glazing installed within 12 weeks of the date of this decision notice.

Reason:- In the interests of the amenities of neighbouring occupiers, and to satisfy the requirements of Policy SP21 of the Ryedale Plan - Local Plan Strategy.

- 3 Unless otherwise agreed in writing by the Local Planning Authority, the site shall be developed with separate systems of drainage for foul and surface water. Details of which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason:- In the interests of the satisfactory drainage of the site, and to satisfy the criteria contained in Policy SP17 of the Ryedale Plan - Local Plan Strategy.

- 4 Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted development) Order 2015 (or any Order revoking, re-enacting or amending that Order), development of the following classes shall not be undertaken other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Class A: Enlargement, improvement or alteration of a dwellinghouse

Class B: Roof alteration to enlarge a dwellinghouse

Class C: Any other alteration to the roof of a dwellinghouse

Class D: Erection or construction of a domestic external porch

Class E: Provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwellinghouse or the maintenance, improvement or other alteration of such a building or enclosure.

Reason:- To ensure that the appearance of the area is not prejudiced by inappropriate materials or structures, to protect the existing amenities of neighbouring occupiers, and to satisfy the requirements of the National Planning Policy Framework, and Policy SP12 and SP21 of the Ryedale Plan - Local Plan Strategy.

- 5 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, (or any Order revoking, re-enacting or amending that Order), no windows, other than those shown on the plans hereby approved, shall be formed in the walls or roof of the dwelling(s) hereby permitted without the prior written consent of the Local Planning Authority following a specific application in that respect.

Reason:- To safeguard the privacy and amenity of adjoining residents, and to satisfy the requirements of Policy SP 21 of the Ryedale Plan - Local Plan Strategy.

- 6 The kitchen window and the window to Bedroom 3 on the dwelling hereby approved shall be permanently glazed with frosted or opaque glass, details of which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason:- In the interests of maintaining the existing amenities of neighbouring occupiers, and to satisfy the requirements of Policy SP 21 of the Ryedale Plan - Local Plan Strategy.

- 7 Unless otherwise agreed in writing with the Local Planning Authority, development shall not commence until actual or potential land contamination at the site has been investigated and a Phase 1 Desk Study Report has been submitted to and approved in writing by the Local Planning Authority, should further intrusive investigation be recommended in the Phase 1 Report or be required by the Local Planning Authority, development shall not commence until a Site Investigation Report and if required, or requested by the Local Planning Authority, a Remediation Statement have been submitted to and approved in writing by the Local Planning Authority. Reports shall be prepared in accordance with Contaminated Land Report 11 and BS 10175(2011) Code of Practice for the Investigation of Potential Contaminated Sites. Submission of a verification report to be approved in writing by the Local Planning Authority will be required on the completion of any remedial work.

Reason:- To satisfy the requirements of para 121 of the National Planning Policy Framework.

- 8 No development shall take place within the application site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation submitted by the applicant and approved in writing by the Local Planning Authority.

Reason:- The site is of archaeological interest and investigation/protection and observation of the site and the requirements of the National Planning Policy Framework and SP12 of the Ryedale Plan - Local Plan Strategy.

- 9 Unless otherwise agreed in writing by the Local Planning Authority, the site shall be developed with separate systems of drainage for foul and surface water. Details of which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason:- In the interests of the satisfactory drainage of the site, and to satisfy the criteria contained in Policy SP17 of the Ryedale Plan - Local Plan Strategy.

- 10 Notwithstanding the submitted details, precise details of all gutters and down pipes shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- In the interests of visual amenity, and to satisfy the requirements of Policy SP12 of the Ryedale Plan - Local Plan Strategy.

- 11 The development hereby approved shall be carried out in complete accordance with the submitted report on protected species by Julian Hall.

Reason: To satisfy the requirements of the National Planning Policy Framework and Policy SP14 of the Ryedale Plan - Local Plan Strategy, the Wildlife and Countryside Act 1981 and the provisions of the Conservation Regulations 1994 as amended.

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

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

Background Papers:

Adopted Ryedale Local Plan 2002

Local Plan Strategy 2013

National Planning Policy Framework

Responses from consultees and interested parties