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## Appeal Decision

Site visit made on 24 October 2017

**by G J Fort BA PGDip LLM MCD MRTPI**

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

**Decision date: 20 November 2017**

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**Appeal Ref: APP/Y2736/W/17/3179833**

**Land West of Middlecave Cottage, Maiden Greve, Malton YO17 7BE**

- 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 Miss V Paley against the decision of Ryedale District Council.
  - The application Ref 16/02025/FUL, dated 22 December 2016, was refused by notice dated 28 February 2017.
  - The development proposed is the construction of a detached two-storey dwelling with integral garage.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area, including its effect on protected trees.

### Reasons

3. Set in a leafy and predominantly residential environment, though immediately across the road from the Malton and Norton District Hospital, the appeal site is a broadly level area of open land bounded by the substantial two-storey Middlecave Cottage to one side, and smaller detached houses of a more suburban character clustered around a cul-de-sac to its other. Hedgerows are present along the boundary to the front of the appeal site and for a large proportion of its side boundaries, which in combination with the trees within and around it impart a verdant character to the appeal site and its surroundings. The three mature trees towards the rear of the site are substantial in size and widely visible in the streetscene. Consequently, they make a significant and positive contribution to the visual amenity and verdant character of their surroundings, as recognised by their inclusion in a Tree Preservation Order (TPO)<sup>1</sup>.
4. The appeal scheme seeks to develop the site to provide a large, predominantly two-storey dwelling with integral garaging. A single-storey element would project from the rear elevation of the two-storey part of the dwelling, with a pitched glazed lantern within its flat roof.

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<sup>1</sup> Council reference: Tree Preservation Order No 342a (2015) Malton

5. I am aware that construction could be progressed on-site with due regard to the root protection areas of the protected trees. However, the single-storey rear element of the proposed dwelling would be close to the crown spread of the protected trees. Moreover, considerable proportions of the rear garden of the proposed dwelling would be underneath these crown spreads. I saw at my site visit that fallen leaves and branches were present under the crowns and around the area where the proposed single-storey element would be sited.
6. Given the size of the proposed property it would be suitable for family occupation and would be likely to result in the use of the rear garden. Consequently not only the shading caused by the trees to a large part of the rear garden, but also the potential for falling branches on it would limit the attractiveness and utility of this space to a substantial degree. This taken together with the design of the single-storey element, with a flat roof on which falling debris from the protected trees could accumulate, and also obscure light penetration into the roof lantern, leads me to the view that the proposed development would lead to additional pressure for pruning and other works to the trees.
7. Whilst I note that their protected status would give the Council control of any proposed works, applications based on health and safety grounds particularly in terms of the use of the garden would be difficult to resist. As a consequence, I consider that the proposed development would lead to additional pressure for works to the protected trees that would reduce their contribution to the visual amenity and leafy character and appearance of the area. In arriving at this view, I am mindful that I have been supplied with no substantiated evidence to suggest that the trees would be unlikely to survive on site for many years.
8. I note that the orientation of the rear windows of the single-storey element would have a north-westerly emphasis and an oblique relationship to the protected trees. Consequently, I consider that any shading to the rear elevation caused by the protected trees of itself would not lead to undue pressure for pruning. However, this matter does not alter my conclusions on increased pressure for works to the trees arising from their other implications.
9. I saw that there is a strong suburban development pattern to one side of the appeal site, including a regularity of scale and plot ratio. However, I saw that the residential character to the other side and to the rear of the appeal site is much more mixed and features larger properties, including Middlecave Cottage, of a variety of styles and widths of front elevation, in differing sizes of grounds. The hospital deeply set back from the highway across from the appeal site adds further variety to the immediate context. Whilst the appeal site constitutes something of a gap between these residential characters, given the eclecticism in its immediate environs, I consider that the width and scale of the proposed dwelling would not read as incongruous or alien elements of the streetscene and these design aspects would thus avoid material harm to its character and appearance in these regards.
10. Whilst I have found that the proposed development's design would cause no material harm to the character and appearance of the streetscene, I have found its proximity to the protected trees to the rear would be likely to lead to pressure for pruning and other works that would reduce their contribution to the visual amenity of their surroundings. In this respect the proposed development would cause considerable harm to the character and appearance

of the area and would, as a result, conflict with Policy SP20 of the Ryedale Plan-Local Plan Strategy (adopted September 2013) (the Local Plan) and the National Planning Policy Framework. Taken together, and amongst other things, these policies seek to ensure that development respects the character and context of the locality, and functions well and adds to the overall quality of the area. However, as I have found that the design of the proposed dwelling would not lead to material harm to the character and appearance of its surroundings I can find no conflict with Policy SP16 of the Local Plan insofar as it seeks to promote developments that create high quality durable places that are well integrated with their surroundings.

### **Other Matters**

11. Due to the distance from the proposed dwelling to those at the rear I consider that it would not result in overlooking to a degree sufficient to cause material harm to the living conditions of the occupants of those dwellings. Furthermore, nothing in the material submitted to me indicates that the proposed development would cause harm to the residential amenity of the occupants of adjacent properties in any other respects. I note also that the highways implications of the development were acceptable to the Council at application stage. However, these considerations point to an absence of harm in these regards rather than positive benefits of the scheme and consequently are matters that only have a neutral effect on the overall planning balance.

### **Conclusion**

12. The proposed development's potential effects to the protected trees would cause considerable harm to the character and appearance of the area. In the overall planning balance this harm and consequent conflict with the development plan, clearly outweighs the lack of harm that the design of the proposed dwelling would cause to the residential character of its surroundings and its lack of harm in respect of the other matters raised above.
13. Accordingly, as no material considerations have been advanced to justify a departure from the development plan policy in this instance, I conclude, for the reasons set out above, and taking into account all other matters raised, that the appeal should be dismissed.

*G J Fort*

INSPECTOR