

**Item Number:** 9  
**Application No:** 22/00303/HOUSE  
**Parish:** Sherburn Parish Council  
**Appn. Type:** Householder Application  
**Applicant:** Wellesley Homes Ltd  
**Proposal:** Erection of raised patio and installation of decking (retrospective) and erection of 30cm horizontal timber fence panel to existing eastern boundary wall  
**Location:** 10 Wagoners Close Sherburn Malton North Yorkshire YO17 8FA

**Registration Date:** 9 March 2022  
**8/13 Wk Expiry Date:** 4 May 2022  
**Overall Expiry Date:** 15 July 2022  
**Case Officer:** Ellie Thompson **Ext:** 43326

#### **CONSULTATIONS:**

**Sherburn Parish Council** No response received  
**Sherburn Parish Council** No response received

**Representations:** Mr Robert West, Stuart White,

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#### **SITE:**

The property is a traditional, barn-conversion dwelling located off Wagoners Close in Sherburn. The building is an original barn building located to the rear of Old Pigeon Pie Court, which is a Grade II listed building. On this basis the property itself is considered to be curtilage listed, and is also subject to a separate Listed Building Consent application. The property is located within the Sherburn Development Limits and an archaeologically sensitive area.

The building has a simple, pitched roof form, and is constructed from red brick under a slate roof. The property benefits from an outdoor garden space to the west of the dwelling, and a small courtyard patio area to the east of the dwelling.

#### **PROPOSAL:**

This application seeks retrospective permission for the erection of a raised patio to the east of the dwelling, alongside the installation of an area of decking and a new 30cm high horizontal slatted fence panel on the existing, eastern boundary wall. The patio is constructed of square buff coloured paving slabs.

The application has been submitted following a planning enforcement complaint. It is understood that the raised patio was installed by the developer when the building was originally converted into a dwelling and prior to the sale and occupation by the current owners.

Planning permission is required for the raised patio as its installation is in conflict with the planning permission for the site. The raised patio is not in accordance with the approved plans and the planning permission removed Class A Permitted Development rights which would otherwise grant permission for the installation of hardstanding and raised platforms (of up to 0.3 metres) within the curtilage of a dwelling.

The application initially only sought retrospective permission for the raised patio area with some trellising indicated on the proposed site plan. However following concerns of overlooking being

raised, and some further discussions over the indicated trellising, the additional 30cm fence panel was proposed to mitigate the increased height of the patio. Revised plans were submitted and the description of development was revised to include the new fence panel. The revised plans also included an area of decking that has been installed to the southern elevation of the property rather than the approved flagstone surface in this area. The area of decking was included on plans that have been the subject of consultation however, the description of the development has recently been amended to include this area of decking within the application for the avoidance of doubt.

The height of the raised patio is approximately 31 centimetres (0.31 metres), above the base ground level in this location. The overall height of the existing boundary wall is approximately 1.8 metres when measured from the base ground level, however this is reduced to approximately 1.5 metres when measured from the raised patio area. The new proposed height of the boundary wall, with the additional fence panel, is proposed to be approximately 1.8 metres when measured from the raised patio area. When measured from base ground level in this location, the new height of the boundary wall (with the fence panel) is proposed to be approximately 2.1 metres.

This application has been submitted by the developer who originally converted the stable building into a dwelling. The appropriate notice has been served on the current owners/occupiers of the property, who have confirmed in writing that they are happy for the proposed new fence panel to be installed on their boundary wall if the application is approved.

#### **PLANNING HISTORY:**

22/00373/LBC: A listed building consent application for the erection of a raised patio (retrospective) installation of 30cm horizontal timber fence panel to existing eastern boundary wall was submitted alongside this application.

16/01365/FUL: Planning permission was granted for the change of use and alterations to former barn to form 4no. bedroom dwelling with formation of parking and amenity areas. The permission removed Class A Permitted Development rights at the property.

16/01769/LBC: Listed building consent was granted for external and internal alterations to allow the change of use of former barn to form 4no. bedroom dwelling.

The full planning history can be viewed on the uniform system.

#### **POLICIES:**

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 planning authorities are required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The relevant Development Plan policies for the determination of this application are:

##### The Ryedale Plan - Local Plan Strategy (2013)

Local Plan Strategy - Policy SP12 Heritage

Local Plan Strategy - Policy SP16 Design

Local Plan Strategy - Policy SP20 Generic Development Management Issues

##### Material Considerations

National Planning Policy Framework

National Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas) Act 1990, Section 66

## **REPRESENTATIONS:**

A brief summary of the position of statutory and non-statutory consultees is included on the front sheet of the report and issues raised are addressed in the relevant appraisal sections of the report. All consultation responses are available for Members to view in full on the public access webpage, and referred to in the report accordingly.

Comments were received from the occupier of no. 2 Old Pigeon Pie Court, who initially had written in stating they had no concerns with the proposed development, but subsequently wrote to confirm that they wished to withdraw their previous comment as they had found out more information about the proposed development. Officer's contacted this neighbour for clarification on their stance on the proposed development, and the neighbour confirmed that they had discovered the raised patio in question had not been laid as per the approved drawings, and they therefore felt that the developer should take responsibility for this and rectify it as such.

1 letter of objection was received to the initial consultation, from the occupier of neighbouring property no.3 Old Pigeon Pie Court. These are summarised below:

- Loss of Privacy/Overlooking
- Loss of Light from proposed trellis
- The supporting letter states that land levels in the north-eastern corner remain unchanged however this is not supported by the existing drawings.
- Agent agreed in correspondence between RDC and themselves (dated April 2019) that there is a variance from the approved plans.
- Concerns around drainage were also raised in relation to the housing development at an adjacent site (application no. 16/01088/FUL: Wagoners Close)

Following the submission of updated plans indicating the installation of the additional fence panelling, a re-consultation was undertaken. 1 Objection was received from the occupier of no. 3 Old Pigeon Pie Court, raising the following concerns:

- Loss of Privacy/Overlooking
- Loss of Light from proposed fence; would result in an overall height of the boundary (from base ground level) of approximately 2110 millimetres (2.1 metres).
- The measurements of the boundary wall (from base level) on the proposed plans are incorrect: drawn as 1760 millimetres but it is actually 1810 millimetres.
- The supporting letter states that land levels in north-eastern corner remain unchanged however this is not supported by the existing drawings.
- Agent agreed in correspondence between RDC and themselves (dated April 2019) that there is a variance from the approved plans.
- Concerns around drainage were also raised in relation to the housing development at an adjacent site (application no. 16/01088/FUL: Wagoners Close)

Sherburn Parish Council was consulted on the application but did not respond to the consultation.

## **APPRAISAL:**

The main considerations in the determination of this application are:

- Design and impact on Heritage Assets
- Impact on residential amenity
- Other Matters

## Design and Impact on Heritage Assets

The raised patio has been constructed from square, buff coloured pavers on a brick base. The overall height of the raised patio is approximately 31 centimetres above base ground level in this location. Overall, the proposed style and finish of the raised patio is of a design which is common in the garden areas of residential properties. On this basis it is considered that the proposed patio in itself, is acceptable in design terms.

The new additional fence panel is proposed to be constructed from narrow, horizontal slats of timber, and will be attached to the western edge of the top of the boundary wall. The fence panel is proposed to be approximately 30 centimetres in height, resulting in a total height of approximately 1.8 metres when measured from the raised patio area, and approximately 2.1 metres when measured from base ground level in this location.

The design of this type of fence panelling allows it to be easily installed on top of existing boundary walls, and is therefore commonly used on more historic or traditional boundaries if additional height is required. The new fence panel will be a relatively ‘light touch’ installation, which will allow the majority of the historic wall to remain visible and unaltered. On this basis, it is considered that the new fence panel will have a contemporary appearance, which will appear attractive alongside the existing, traditional brick boundary wall.

On this basis, the proposed development is considered to be appropriate in terms of design, and is considered to comply with Policy SP16 (Design) of the Ryedale Local Plan Strategy.

The property is a former stable/barn building, which is historically associated with The Pigeon Pie buildings, which are a Grade II listed building. Due to this the application property, including the boundary wall are considered to be curtilage listed. The decking and patio areas are within the domestic curtilage of the property and are external domestic landscaped elements within what is now a residential setting. The installation of the fence panel would preserve the built extent of the boundary wall. It is not considered that the proposed development will significantly alter the overall style, form, and character of the host property, its setting or its historic relationship with the neighbouring listed building. On this basis, the proposed development is considered to have a neutral impact on the special architectural and historic significance of the property and its setting, and its contribution to the significance of the neighbouring Grade II listed building.

On this basis, the proposed development is considered to comply with Policy SP12 (Heritage) of the Ryedale Local Plan Strategy.

## Impact on Neighbouring Amenity

The property is a detached, converted barn building located to the rear of Old Pigeon Pie Court. Due to the historic association between the buildings the properties are in close proximity to one another, with the rear gardens of Old Pigeon Pie Court separated from the application site by a narrow alley which provides rear access to the properties. As a result, there is an existing, close relationship between the application property and the neighbouring properties (Old Pigeon Pie Court), with an existing level of inter-visibility and overlooking achieved between rear garden spaces, and from first floor windows.

The raised patio is located on the eastern side of the application site and faces towards the rear garden of no. 3 Old Pigeon Pie Court. As outlined above, concerns were raised by the occupier of a neighbouring property (no.3 Old Pigeon Pie Court) citing overlooking and loss of privacy, and Officers initially had some concerns over the potential for an increased sense/perception of overlooking of outdoor amenity space, given the juxtaposition of the two properties. Following this, the application was revised to include the installation of a horizontal fence panel to the boundary wall.

The new fence panel will increase the height of the boundary treatment between the application site and the rear garden of no.3 Old Pigeon Pie Court. The additional fence panel would add 30 centimetres of additional height to the eastern boundary wall, and it is considered that this will prevent

direct overlooking and mitigate against the perception of overlooking and loss of privacy effects created by the raised patio area (31 centimetres in height). Therefore it is considered that the new additional fence panel will, in effect, ensure that any level of intervisibility would essentially be at a level which would have been experienced if the patio area was constructed at base ground level, with the boundary wall retained at its current height.

Whilst permitted development rights are not a fall-back position in this case, it is worth noting that in circumstances where permitted development rights are not removed, a householder can install a raised platform within the curtilage of their property to a height of 0.3 metres. It is also worth noting that permitted development rights were removed at this site on the basis that it was felt that this was necessary in order to protect the appearance of the site, as opposed to a need to protect neighbouring residential amenity.

Some concern has been raised by the occupier of no. 3 Pigeon Pie Court citing loss of light from the proposed new horizontal fence panel. As outlined above, the application property and the properties at Old Pigeon Pie Court are in close proximity to each other, and there are also a number of other surrounding buildings to the north-east of the site. As a result, the built form in this area features a lot of tall brick boundary walls. For example, the northern boundary of both the application site and the neighbouring property (no.3), which separates the site from the Methodist Church car park, was measured at the Officer's site visit and found to be approximately 2.5 metres in height.

The proposed new fence panel is considered to be a relatively 'light touch', minor addition to the boundary wall. This boundary wall is situated in close proximity (approximately 4.2 metres) to the east of the application property, which is itself a two-storey dwelling. In addition, the panelling is limited in height, and so it is not considered that it would have an overbearing, enclosing impact on the neighbouring garden or result in any significant additional loss of light/sunlight to the neighbouring garden. It is noted that the occupier of the application property could plant trees and shrubs along the boundary which could potentially result in a greater loss of light or overshadowing of the neighbouring property.

Against this context, it is not considered that the proposed additional fence panel will result in a significant, detrimental loss of sunlight for the occupiers of no. 3 Old Pigeon Pie Court.

On this basis, the proposed development is considered to be acceptable under the provisions of Policy SP20 (Generic Development Management Issues) of the Ryedale Local Plan Strategy.

#### Other Issues

As the additional fence panelling would be installed on a boundary wall between the application site and a neighbouring property whose occupier has objected to the proposed development, Officers have sought clarification from the applicant's agent that the proposed fence panel can legally be installed on the boundary wall. The agent has confirmed that the new fence panel is entirely implementable in this location. It is considered that a condition ensuring that the fence panel is installed, and retained and maintained would not be unreasonable in this instance, and is therefore recommended.

Concerns have been raised by contributors in relation to some correspondence between Ryedale District Council and the developer, dated 2019, where it was agreed that there was a variance from the approved plans, and that RDC's preference at that time was for the patio to be lowered to base ground level. The applicant has now chosen to retain the raised patio and retrospectively apply for planning permission for the development, with mitigation boundary measures, which in officer opinion are acceptable.

Some concerns were raised in relation to the drainage at the neighbouring site for the Wagoners Close housing development (app. No. 16/01088/FUL) having been constructed differently to an approved plan. This issue is in relation to a different application, at a different (albeit, adjacent) site, and is not relevant to this application.

The property is located within an archaeologically sensitive area. However, the proposed development is for above-ground works, and as such it is not considered that there will be any detrimental impact on archaeological deposits in this area.

### Conclusion

The proposed development is considered to be of an acceptable design, and will have a neutral impact on the identified heritage assets and will preserve the listed building and structure and the setting of the heritage assets. It is also not considered that the proposed development will result in an unacceptable, detrimental impact on neighbouring amenity. As a result, the proposed development is considered to comply with the relevant policy criteria set out in Policies SP12, SP16 and SP20 of the Ryedale Local Plan and the NPPF. On this basis approval is recommended subject to the following conditions:

**RECOMMENDATION:**                   **Approval**

- 1        Unless otherwise agreed in writing by the Local Planning Authority, the new fence panelling to the eastern boundary wall shall be installed within 3 months of the date of this planning permission and thereafter, the panelling shall be maintained and retained at the approved height and in the approved location.

Reason: To protect the amenity of the occupiers of the neighbouring property, and for the avoidance of doubt and in the interests of proper planning in accordance with Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

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

- Site Location Plan (scanned to file on 28.03.2022)
- Proposed Site and Site Section Plans, drwg. no. 02 dated May 2022 (scanned to file on 01.07.2022)

Reason: For the avoidance of doubt and in the interests of proper planning in accordance with Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.