

Item Number: 7
Application No: 22/00573/FUL
Parish: Malton Town Council
Appn. Type: Full Application
Applicant: Mr & Mrs Corrigan
Proposal: Erection of 1no. three bedroom dormer bungalow with associated access and landscaping (revised detail to refusal 20/00386/FUL dated 10.07.2020)
Location: Land South Of Middlecave Road Malton North Yorkshire

Registration Date: 16 May 2022
8/13 Wk Expiry Date: 11 July 2022
Overall Expiry Date: 20 June 2022
Case Officer: Niamh Bonner **Ext:** 43325

CONSULTATIONS:

Yorkshire Water Land Use Planning	No response
Malton Town Council	Recommend refusal
Highways North Yorkshire	recommends conditions

Representations: Mr Richard Kimber, Dennis And Patricia Bowers, Mr James Dix, Sue And Laurie Thackray, Mrs Ayshea Minchella, Mr Nick Balshaw, Bob & Jacqui Rogers, Mrs Catherine Whittington, Mr Dennis Bowers, Mr John Till, Paula and Andrew Riley, Ian Conlon, Mr Simon Thackray, N and D Fenton

UPDATE REPORT FOR COMMITTEE MEETING 31ST AUGUST 2022.

This proposal was originally brought to Planning Committee on the 2nd August 2022, where it was deferred for site visit. The site visit undertaken on Tuesday 16th August 2022.

Members in attendance included Cllr Potter, Cllr Andrews, Cllr Cleary, Cllr Goodrick, Cllr Burr. Apologies were received from Cllr Mason

This update report should be read in conjunction with the previous Case Officer's report on the Agenda for the 2nd August 2022 meeting. This was Agenda Item 14 and commenced on page 134 terminating on page 200.

Additional consultation responses:

Following the publishing of the previous committee report, the additional formal consultation period expired on the 9th August 2022.

Further consultation responses were received prior to the Planning Committee meeting on the 2nd August 2022 and were printed for members on their desks. These included an objection from Ian Conlon of 83 Middlecave Road, Malton on the 1st August 2022 and an objection from Paula and Andrew Riley, Yew Tree Lodge 71 Middlecave Road, Malton.

A 'public statement' from Simon Thackray of Sweet Pea Cottage, Brawby was emailed to members and officers just prior to the Planning Committee meeting on the 2nd August 2022. This has been added to the planning file.

A letter of objection was received on the 8th August 2022 from N and D Fenton, occupiers of Gilross, 67 Middlecave Road.

This raised concerns on the following summarised points, but can be reviewed in full on the planning file.

- Concern over noise and light pollution relating to vehicular traffic.
- The proposed house and access would change the nature, heritage and character of this section of Middlecave Road.
- Amenity impacts for residents in adjacent properties, by noise and reduced privacy.
- Impact upon symmetry of existing properties of no. 63 and 4 by moving of front door.
- Impacts upon parking.
- Long narrow access would be out of character, difficult for construction vehicles and passing, creating additional noise.

It is considered that the majority of these issues have been considered in the previous Officer's report which this update report should be read in conjunction with.

It is however considered necessary to note in relation to the point raised about symmetry that the adjoining property no. 65 Middlecave Road does presently include a door in the northern elevation, therefore it is not considered that the proposed doorway to the northern elevation at no. 63 would result in harmful impacts to either the symmetry or the character of these dwellings or harmfully impact the wider street scene.

A letter of objection received on 14th August was received from Sue and Laurie Thackray occupiers of no. 65 Middlecave Road. This included pages 97-98 (Section 13) of the Approved Document B Volume 1 2019 edition which is a Building Regulations document dealing with the provision of routes for a pumping apparatus. The response from Mr and Mrs Thackray noted "*As mentioned in our previous objection, the plans for this development include a narrow access drive of 62m with hardly sufficient turning space for a car never mind a fire engine or other emergency vehicle.*"

Building regulations, approved document B Volume 1, 2019 edition, section B5, section 13, state fire and rescue vehicles should not have to reverse more than 20m from the end of an access road. The attached document, taken directly from those building, states that there should be a turning circle, hammerhead or other point at which the vehicle can turn. The proposed plans certainly do not allow for this."

This point is acknowledged and although the Building Regulations process is entirely separate to planning and would not be a material planning issue, if a potential issue could have possible impacts upon the suitability of an application, it can be pragmatic to check this in advance. Contact was made with the North Yorkshire Building Control Partnership with plans and details of the application provided.

Simon Nichol, Operations Manager noted on the 15th August 2022 "*The dwelling would need to comply with Regulation B5 appliance access and this would be checked on application.*"

However I need to stress the diagram submitted by the objector from Approved Document B is guidance only and not regulation. There are other ways to demonstrate compliance (fire service agreement, sprinklers, misting systems etc). So the objection in my opinion is valid but compliance with the Building Regulations can be met in more ways than just the through guidance of the Approved Documents. There are lots of new dwellings that don't meet the basic guidance (the 20m reversing distance is actually a relic from when the fire service arrived with horse drawn equipment!) but have been deemed to allow adequate access for fire fighters/appliances. It is not always necessary to construct hammer heads as drawn in the guidance.

It's difficult to offer specific advice on compliance to that particular property at this early stage. I don't mind this information being passed to any party should they need clarity."

It is therefore concluded that compliance could potentially be achieved and this will be fully dealt with at Building Regulation Stage.

Other updates:

During the site visit, queries were made over the retention of existing landscaping along the access track and to the northern boundary and western boundary of the site. The Agent confirmed that along the access track, with the 4.066m width, as much of the boundary landscaping would be retained where possible. This would be detailed on the landscaping plan and the landscaping protection plan, both secured via condition to be submitted prior to the commencement of development.

The Agent has updated the plans (001 Rev F) to indicate the pedestrian access from the access track to the rear garden of Lindisfarne and to illustrate that the right of access to the side of the dwelling would allow for a *“2.4m wide private drive, 1.2m clear space for maintenance/access for existing dwelling and 0.466m for landscaping.”* The proposed approved plans condition will be updated to reflect this amendment.

To conclude, it remains the view of Officers that the proposed dormer bungalow development can be accommodated within this backland location. It is acknowledged that this is a very similar scheme to that refused under the 2020 application, however the proposed access route being achievable under permitted development rights following submission of the Certificate of Proposed Lawfulness application weights in favour of the application. The persons most likely to be affected are the occupiers/future occupiers of Lindisfarne, no. 63 Middlecave Road.

There are proposed changes to the internal arrangement of that property, including the relocation of the principal (front) door, and this can be undertaken under permitted development rights by its owner.

For clarity, it is noted that previously proposed condition no. 11 indicated that it would be required to close up the existing main access door to the side eastern elevation of Lindisfarne, no. 63 Middlecave Road and the a new access door installed on the northern elevation of the property prior to the occupation of the new dwelling.

However, it has been established that the Local Planning Authority cannot impose a condition on the works being undertaken. This is because the existing property is neither within the red outline of the application, nor within land within the applicant’s control. Therefore in order to provide surety to the Local Planning Authority that these works will be undertaken, a unilateral undertaking will be instead be required to ensure that the works are undertaken. The proposal is considered to be now, on balance, with a signed unilateral undertaking, and the proposed conditions acceptable in amenity terms.

The Agent has confirmed that this will be supplied in an email dated 22nd August 2022 noting *“I have received confirmation this morning that the client will undertake the unilateral agreement in relation to the works to no.63 Middlecave Road.”* The previously proposed condition has been omitted.

Whilst this does relate to ‘backland’ development, given the prevailing character of the surrounding dwellings at this point, it is not considered that this would be unacceptable or materially harmful, particularly as following careful consideration there are no material harmful amenity impacts identified. It is also considered that this would be acceptable in terms of access and highway safety. Therefore on balance, Officers recommend this proposal is approved, subject to the range of conditions.

RECOMMENDATION: Approval subject to conditions and the receipt of a signing unilateral undertaking by the owner of 63 Middlecave Road.

RECOMMENDATION:**Approval**

- 1 The development hereby permitted shall be begun on or before .

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

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

Location and Block Plan (Drawing no. 004 Rev A)
Development Plan (Drawing no. 001 Rev F)
Proposed Floor Plans (Drawing no. 002 Rev E)
Proposed Elevations (Drawing no. 003 Rev D)

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

- 3 Notwithstanding the approved plans, prior to any above ground construction of the dwellings hereby approved, or such longer period as may be agreed in writing with the Local Planning Authority, further details and samples of all materials to be used on the exterior of the buildings the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.

Informative: As discussed with the Agent, given the Case Officer is unfamiliar with the proposed 'hardy plank' material it has been agreed that a sample of this will be provided and if not suitable, a fire retardant timber utilised instead.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 4 Unless otherwise agreed in writing with the Local Planning Authority, prior to the commencement of development, plans showing details of a landscaping and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the planting of any trees/shrubs and show any areas to be grass seeded or turfed and indicate the accurate positioning of all existing landscaping to be retained. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs. All planting seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Informative: As discussed with the Agent on the 22nd July 2022, this shall related to land within the red and blue lined land.

Reason: To enhance the appearance of the development hereby approved in accordance with policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 5 Prior to the commencement of the development a drawing showing the alignment for protective for the protection of those trees and hedgerows to be retained shall be submitted to the Local Planning Authority for approval in writing. The design of the protective fencing and

its alignment shall be in accordance with BS 5837:2012 Trees in relation to demolish, design and construction - Recommendations, or a similar design agreed in writing with the Local Planning Authority. The approved fencing shall be erected prior to the commencement of the development including any demolition or soil stripping.

Reason: To ensure that the long-term health of the landscaping to be retained is not compromised as a consequence of development and in accordance with Policy SP13 - Landscapes - Ryedale Local Plan Strategy.

- 6 Prior to its installation, full details of any hard surfacing within and fencing within/adjoining the application site shall be submitted for the prior written approval of the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 7 Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted Development) Order 1995 (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: Porches

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

Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse

Class G: Chimneys, flues, etc on a dwellinghouse

Reason: To ensure that the appearance of the areas is not prejudiced by the introduction of unacceptable materials and/or structure(s).

- 8 No further doors, windows, or other openings shall be installed on the dwelling hereby approved at first floor level or within the roof slopes without the submission of an appropriate planning application.

Reason: To protect the privacy of adjoining properties and to comply with Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 9 No development must 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. Wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
2. The parking of contractors' site operatives and visitor's vehicles;
3. Areas for storage of plant and materials used in constructing the development clear of the highway;
4. Details of site working hours;

5. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity in accordance with Policy SP20 of the Ryedale Plan, Local Plan Strategy.

- 10 The IMPROVED crossing of the highway footway must be constructed in accordance with the approved details and/or Standard Detail number E50 REV A and the following requirements
- The final surfacing of any private access within 2 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.

All works must accord with the approved details.

Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users in accordance with Policy SP20 of the Ryedale Plan, Local Plan Strategy.

MHi-C New and altered Private Access or Verge Crossing -(MHC-03)

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's web site: [https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%20C%20highways%20and%20pavements/Specification for housing and industrial estate roads street works 2nd edi.pdf](https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%20C%20highways%20and%20pavements/Specification%20for%20housing%20and%20industrial%20estate%20roads%20street%20works%202nd%20edition.pdf)

The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.

- 11 Prior to the commencement of development, a drainage strategy shall be submitted to the Local Planning Authority for its prior written approval to confirm on proposed measures for foul and surface water discharges. All drainage works should only be undertaken in accordance with the agreed details.

The suitability of soakaways, as a means of surface water disposal, should first be ascertained in accordance with BRE Digest 365 or other approved methodology. If soakaways are feasible, surface water shall be directed to a soakaway in accordance with the British Standard requirements to the satisfaction of the approved Building Control Inspector. If soakaways are not feasible, details of an alternative means of surface water disposal must be sought.

Informative: The drainage strategy should follow the guidance set out in the Environment Agency's "Advice for local authorities on non-mains drainage from non-major development." This is available at the following link: https://ecab.planningportal.co.uk/Uploads/EA_LPA_advice_non_major_dev_non_mains_drainage_2019.pdf

Reason: In the interests of satisfactory and sustainable drainage in accordance with Policy SP17 of the Ryedale Plan, Local Plan Strategy.