

Item Number: 18
Application No: 22/00943/73A
Parish: Norton Town Council
Appn. Type: Non Compliance with Conditions
Applicant: Mr Nick Thompson
Proposal: Variation of Conditions 02 and 04 of planning approval 21/01239/HOUSE dated 04/11/2021 to replace drawing 1467_AR50_01C with drawing 1467_AR50_01 D to allow permanently fixed (non-opening) window on south elevation to be changed to an openable escape window
Location: Wold Cottage Langton Road Norton Malton North Yorkshire YO17 9PZ
Registration Date: 31 August 2022
8/13 Wk Expiry Date: 26 October 2022
Overall Expiry Date: 13 October 2022
Case Officer: Eleanor Hardie **Ext:** Ext 43342

CONSULTATIONS:

Norton Town Council No comments received

Representations: Mr Jonathan Fox,

SITE

Wold Cottage is a large detached house, situated south of Norton and within an Area of High Landscape Value. The building subject of the application is located on the boundary of the property with the access track.

The outbuilding is of brick construction with a rendered finish to the west and north facing elevations. The building features timber windows and doors with a red clay pantile roof. Planning permission was granted in 2021 for the 'Conversion and alteration of existing domestic outbuilding to form a one-bedroom annex for family guest accommodation'. Prior to the conversion of the building, it was in use by the owner of the property for domestic storage.

PROPOSAL

This application seeks approval for the variation of conditions 02 and 04 of planning approval 21/01239/HOUSE dated 04.11.2021 to allow the south facing first floor window to be an openable escape window.

Condition 02 stated the following:

The development hereby permitted shall be carried out in accordance with the following approved plans;

*Location Plan, dated 26.08.2021
Initial Proposed Drawings, 1467_AR50_01_C*

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

Condition 04 stated the following:

The first floor south facing window shall be permanently fixed (non-opening) and obscure glazed

with glass of Pilkington Level 5 obscuration or equivalent. The fixed and obscure glazed window shall be retained for the lifetime of the development.

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

The conversion of the building included a number of internal alterations, including the relocation of the existing staircase.

By virtue of the position of the outbuilding in relation to the neighbouring property, it was considered necessary to include the condition requiring the south facing first floor window to be permanently fixed and obscure glazed.

Following the grant of planning permission, the internal arrangement was reconfigured to allow the retention of the existing staircase. As a result of this, the south facing window is required to be an emergency escape route as requested by Building Control. The window features a restrictor bar to ensure that it cannot fully open unless in use during an emergency.

The window has been installed and in that respect, the application is retrospective and is seeking to regularise the current position.

HISTORY

21/01239/HOUSE Conversion and alteration of existing domestic outbuilding to form a one-bedroom annex for family guest accommodation. Approved 04.11.2021

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 SP16 Design

Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development

Local Plan Strategy - Policy SP20 Generic Development Management Issues

Local Plan Strategy - Policy SP21 Occupancy Restrictions

Material Considerations

National Planning Policy Framework

National Planning Practice Guidance

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.

The occupier of the neighbouring property, Auburn Hill House, provided the following comments:

“We respond and object to the request to alter the conditions imposed on the south facing window as part of planning approval 21/01239/HOUSE dated 04/11/2021

The DC App Additional Information - E - Dated 6th April 2022 produced by NYBCP has only been published now on 6 September 2022. The comments below would have been made earlier if the above document had been available and are still relevant today.

Reference is made to para 8. "Revised scheme - to provide containment, adequate guarding should be provided to the low level window at first floor (noted this window is designated as a means of escape)". The latter comment is contrary to the basis on which the planning permission was granted which was that this window was to be obscured and fixed.

The south facing window is not a suitable alternative means of egress. The primary source of egress would be the staircase and if this was blocked by smoke or fire so also would the south facing window due to its position on the staircase. A more sensible egress would be provided at the window furthest from the staircase namely that on the North side.

We request that this alternative recommendation be the decision made.

We are aware that the restrictors on the window can be removed and it is unlikely that the Council would be willing or able to prevent the free opening of this window.

Our concern remains that this window presents a real and significant problem as it has a close and uninterrupted view down and into our main reception room. We have no way to mitigate this as due to underground utility services there is no possibility to grow any kind of screen and any fence would have to be more than three metres."

The original plan submitted with this application showed the internal layout as per the original scheme. Following the Officer site visit, it was evident that the internal layout had changed and therefore an updated plan was requested to show the as built internal layout.

Following receipt of this plan, the occupier of the neighbouring property provided the following comments:

"I understand now why they need to have the south window as an emergency exit but would confirm my request that other than for that purpose it should remain a permanently fixed widow. Any ventilation required should be provided by the window on the north side or by some other means."

Norton Town Council have provided no comments on the application.

APPRAISAL

The main considerations within the determination of this application are:

- i. Design
- ii. Impact on neighbouring amenity

Design

The side hung casement window at first floor level in the southern elevation of the building is of the same scale and materials as that originally approved and in the same position. Whilst the construction of the window has been altered to be side hung and side opening, this does not in itself change the external appearance of the window as approved and does not change the appearance or character of the building.

On this basis, the proposal is considered to comply with Policy SP16 (Design) of the Ryedale Plan - Local Plan Strategy.

Impact on neighbouring amenity

The main issue in relation to this application is the proposed variation of Condition 04 which restricts the south facing first floor window to be obscure glazed (Pilkington Level 5 or equivalent) and fixed shut (non-opening), in order to protect the privacy of the occupiers of the neighbouring property to the south.

During the construction process and following the internal layout change, the applicant was advised by their Building Control Inspector that this window was required to be an escape window. Given the existing staircase was to be retained, it would be impossible for the northern elevation first floor window to be the escape window. As such, the applicant installed an obscure glazed, side hung casement window in the south elevation opening, which features a restrictor bar to restrict the extent to which the window can be opened when not in use as an emergency escape route.

Officers undertook a site visit to understand the construction of the new window and the extent to which it could be opened with the restrictor bar in place. In terms of detail, the left hand casement (when inside the building) features the restrictor bar and needs to be opened first. The right hand casement cannot be opened before the left hand casement and it cannot be opened any wider than the left hand casement.

The extent to which the window can be opened is minimal and therefore on this basis, it is considered that with the restrictor bar in place this window does not allow for any direct overlooking of the neighbouring property to the south when closed or open. As such, it is considered that the variation of conditions 02 and 04 to allow for an escape window in this location is acceptable, subject to additional wording being included to ensure that the restrictor bar is kept in place at all times, unless the window is in use as an emergency escape route.

The current wording of condition 04 restricts the window to being permanently fixed shut in order to protect the privacy of the occupiers of the property to the south. As outlined above, the side hung window with restrictor bar that has been installed is not considered to result in any direct overlooking or loss of privacy of the neighbouring property. As installed, it is considered by officers that the amenity of the occupiers of neighbouring properties is protected and that the amended proposal is acceptable.

Conclusion

The proposed variation of conditions 02 and 04 to allow for a side hung window in the southern elevation at first floor level is considered to be acceptable, subject to the condition being worded to ensure that the restrictor bar is kept in place at all times when the window is not in use as an emergency escape route.

As such, the proposed development is considered to comply with the relevant policy criteria as set out in Policies SP16, SP19 and SP20 of the adopted Ryedale Plan - Local Plan Strategy and the National Planning Policy Framework. The recommendation to Members is one of conditional approval.

RECOMMENDATION: Approval

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

Site Location Plan, scanned to file 06.09.2022

Initial Proposed Drawings, drawing number 1467_AR50_01_E, scanned to file 16.09.2022

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

- 2 The accommodation hereby permitted shall be, and shall remain, ancillary to the use of the dwelling currently known as Wold Cottage, Langton Road, Norton, shall not be sold or let off separately, and shall be used only by members of the family and friends of the occupiers of that dwelling.

Reason: For the avoidance of doubt and to prevent the annexe from being used as a separate dwelling, in accordance with Policy SP21 of the Ryedale Local Plan - Local Plan Strategy.

- 3 The first floor south facing window shall be permanently side hung with a restrictor bar and obscure glazed with glass of Pilkington Level 5 obscuration or equivalent. The restrictor bar on this window shall remain in place at all times, unless the window is in use as an emergency escape route. The obscure glazing and agreed means of opening shall be retained for the lifetime of the development.

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

- 4 Unless otherwise agreed in writing by the Local Planning Authority, notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no further doors, windows or any other openings shall be created within the western or southern elevations of the building hereby approved.

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