

**Item Number:** 10  
**Application No:** 19/00430/FUL  
**Parish:** Scrayingham Parish Council  
**Appn. Type:** Full Application  
**Applicant:** Mr Paul Hanson  
**Proposal:** Change of use of area of paddock and repositioning of gate and fence to form extension to domestic curtilage, alterations to boundary landscaping to north and east boundaries of paddock and erection of dormer window to north east elevation of existing bike garage (part retrospective).  
**Location:** Meadow House Main Street Scrayingham Malton YO41 1JD  
**Registration Date:** 10 April 2019  
**8/13 Wk Expiry Date:** 5 June 2019  
**Overall Expiry Date:** 28 June 2019  
**Case Officer:** Niamh Bonner **Ext:** Ext 43325

**CONSULTATIONS:**

**Scrayingham Parish Council** Recommend refusal  
**Neighbour responses:** V Gill, Tina Westwood,

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**POLICIES:**

Local Plan Strategy - Policy SP12 Heritage  
Local Plan Strategy - Policy SP13 Landscapes  
Local Plan Strategy - Policy SP16 Design  
Local Plan Strategy - Policy SP20 Generic Development Management Issues  
National Planning Policy Framework  
National Planning Practice Guidance

**SITE:**

The application site relates to Meadow House in the village of Scrayingham and an area of agricultural land adjoining the residential curtilage of Meadow House to the west, also within the applicant's ownership. The land within the agricultural paddock falls outside of the Village Development Limits and the domestic curtilage of the property.

Part of the rear of the application site falls within Flood Zone 2, however this would not affect the proposals being considered within this application. The site falls within the Wolds Area of High Landscape Value.

**HISTORY:**

The following applications are the most relevant planning history associated with the site:

17/01348/HOUSE: Erection of orangery extension to rear of dwelling, extension to existing garage to form additional parking with games room above and erection of a detached bike garage. Approved

18/00072/FUL: Erection of building forming 2no. stables and tack/feed store (retrospective application) Approved.

18/00237/AMEND: Minor non-material amendment to approval 17/01348/HOUSE dated 02.01.2018 for Erection of orangery extension to rear of dwelling, extension to existing garage to form additional

parking with games room above and erection of a detached bike garage - addition of dormer window and side entrance door to bike garage. Refused.

This was refused for the following reasons:

1. It is considered that the proposed dormer window will result in a loss of privacy for the occupiers of the neighbouring property to the North, arising from the positioning of the proposed dormer window and the orientation of the dwellings.
2. It is also considered that the dormer window is inappropriate in terms of its positioning and design, which will form an incongruous and poorly designed addition to this small ancillary bike garage

19/00424/COND: Discharge of Condition 06 of approval 18/00072/FUL dated 11.04.2018 - manure management plan. Discharged

19/00429/AMEND: Minor non-material amendment to approval 17/01348/HOUSE dated 02.01.2018 for Erection of orangery extension to rear of dwelling, extension to existing garage to form additional parking with games room above and erection of a detached bike garage - single lantern light only on orangery extension and change from up and over door to bi-folding doors on bike garage and installation of side access door. Approved.

### **PROPOSAL:**

This application seeks retrospective permission for the change of use of part of the paddock area to form an extension to the domestic curtilage of Meadow House, facilitated by the repositioning of the existing gate and fencing. This relates to a relatively small additional footprint area which is proposed to form additional domestic curtilage, with the new area extending approximately 7.4 metres in width and approximately 13.7 metres in length. This relates to an additional footprint of approximately 103 square metres. As detailed on the proposed plans, this incorporates the building up of the levels of this section to accord with those of the original rear amenity space of the dwelling.

The plans were updated during the determination period to include the positioning of 1.8 metre high boundary fencing between the northern side of the newly enclosed proposed domestic curtilage, intended to prevent instances of potentially harmful overlooking and to protect the privacy of the adjoining properties to the north, particularly within their rear amenity spaces. It is noted that this fencing has also been erected by the applicant in advance of a formal decision being made.

The scheme also relates to alterations to the existing boundary landscaping to north and east boundaries of the paddock. These are presently completed with young laurel plants, which does not accord with the approved landscaping scheme submitted as part of the discharge of conditions for the original housing scheme (15/00016/COND). The proposed landscaping scheme would revert exactly to the mixed native hedge specification originally proposed and approved in this location. The plans were also updated during the determination period to specify that the new hedgerow along the northern and eastern boundaries would be maintained "to ensure the height does not generally exceed the height of the adjacent timber fences." These are low post and rail fences extending to 1.2m in height.

The proposal also seeks retrospective approval for the erection of dormer window to north east elevation of existing bike garage, positioned along the southern boundary of the site. During the determination of this application revised plans were received to indicate proposed alterations to the existing glazing panes in the dormer window. This now is proposed to incorporate integrally obscured double glazing, rather than obscure glazing film which was previously applied.

### **REPRESENTATIONS**

Three detailed letters of representation were received during the determination period of this application, which are summarised below from the occupiers of Primrose Cottage and Bluebell Cottage, located to the north of the application site. These responses are however available in full for Members of Planning Committee to review on the associated planning file.

- Concerns were raised over overlooking from the dormer window at first floor level of the bike garage to the rear amenity space within the garden, allowing for views of the occupant entering and leaving their property, resulting in an invasion of privacy. In relation to the proposed obscure glazing, a request for total obscuration was made, rather than decoration glazing. A further request to prevent any further additional windows/accesses being created within this elevation was also made in the interests of future privacy. Concerns were raised that shapes can also be seen through obscure glazed windows
- Concerns over the future use of the bike garage building given its scale.
- Concerns over the extension of domestic curtilage, in particular the increased ground level heights, higher than the existing paddock. This extends the garden into a very open space. Levels of disturbance associated with noise from humans, animals and music have already been experienced. Lighting in this area interrupts the natural tranquillity of the area. Should this be approved
- Conditions to removed permitted development rights to this extended curtilage should be included.
- The increase in height of the area of proposed additional domestic curtilage affords views of their garden and property.
- In principle, the removal of laurel in favour of a more natural landscaping scheme is welcomed as laurel is toxic to horses, given that a stable has been approved in this paddock. However serious concerns are raised in relation to the use of blackthorn given that this is unsuitable for equines. Blackthorn and Hawthorne are concerning as they could impact cats and visitors bringing small children. A request was made that something more appropriate that wouldn't be harmful should be proposed as an alternative.
- A request that the conditions applied to the adjoining property River View, in relation to their boundary hedging (application 18/00532/FUL) should also be applied to maintain the consistency of tidy uniformity and in the interest of visual amenity should be applied, ie. that all boundary sections be maintained at a height no higher than the existing post and rail fence.
- Concerns raised that all the proposed varieties of hedging can grow between 4 and 8 metres in height and 2.5 to 4 metres in spread. Concerns that this would relate to overcrowding which will grow over their land. Acknowledge that the original JP Wild originally planted these varieties but they were very small in scale and intended to provide beauty and remain in keeping with the area, to allow the view to be maintained. The original planting was removed by the applicant, replaced without seeking permission and now is intended to be replaced again. Clarification is sought on the size of the proposed new plants and the distances from the boundaries at which they would be planted.
- There is a covenant in place restricting planting of hedging and alteration of boundaries without consent.
- Concerns were also raised in relation to the overall height at which hawthorn can grow to, as they could obscure the views from their dwelling onto the paddock areas. This view was one of their main reasons for purchasing the property and could have an effect on its value. They acknowledge this is not a material planning consideration. It was also raised that the site due to its positioning within an Area of High Landscape Value comes at a premium due to the landscaping of the village. If this hedge was to grow to 8 metres, this is not in keeping with the rest of the village and it would be unfair to penalise property owners by removing their view.
- It was highlight that this is the third retrospective application within 15 months in Scrayingham, which have a impact on neighbouring properties. All relate to this agricultural paddock. By approving this application the Council would set a precedent that development can be undertaken without permission as the Council will approve it at a later date, regardless of others negatively affected.
- The newly erected additional fencing serves to provide an echo of the aforementioned noise pollution directly off the wall opposite.

The Parish Council responded on the 28th May 2019 with the following comments:

*"It was observed that this was one of a number of retrospective applications on the site and included completed building work and proposed use of agricultural land for domestic purposes that had an impact upon neighbouring properties. It was therefore the unanimous view of the Parish Council that retrospective permission should not be granted, not only because of the permissions sought within, but also because of its retrospective nature. The Parish Council once again sends a clear message to Ryedale District Council that it is unacceptable for it to grant retrospective permissions to property*

*owners who have built without authorisation and with disregard to the current and future impact upon adjacent properties and their owners.*

*The dormer window should be removed from the bike garage and an agreement made to ensure that the hedge to be introduced to replace the incorrect varieties that were originally planted, should be maintained at no more than post and rail fence height and also to be clearly linked to the original planning conditions.*

*It is also requested that the conditions in earlier applications on the site are fully cross-referenced and taken into account including this one which is screenshotted below” (reference made to the application 06/01232/FUL)*

The Parish Council was reconsulted on revised plans and sought clarification from the Case Officer on certain elements. Clarification on these points was provided and confirmation was sought by the Case Officer on the 1st July 2019 as to whether revised comments would be received. No reply to this query was received at the time of writing. Any additional comments received will be reported to Members of Planning Committee.

#### **APPRAISAL:**

The key considerations in assessing this application are;

- i. Principle of the Development
- ii. Character, Form and Impact upon Area of High Landscape Value
- iii. Impact upon Amenity
- iv. Trees and Landscaping
- v. Other Matters Including Consultation Responses.

Procedurally, as Members will be aware it is possible to retrospectively apply for permission and as in the determination of any retrospective application, this is required to be assessed in the same manner as other proposals in terms of material planning considerations and in relation to adopted planning policy. The numbers of retrospective applications submitted in an area or by a person is not a relevant material planning consideration.

The consideration of this proposal would not prejudice future similar applications, which would be considered on their own merit. The Local Planning Authority therefore cannot give any weight to concerns about precedence.

Similarly, a covenant on an application site cannot be considered as relevant in the determination of a planning application, as this is civil matter to be dealt with under property law.

#### Additional Domestic Curtilage

It is considered that by virtue of its location and the relatively modest scale of the proposed additional domestic curtilage, this element of the proposal is acceptable. This additional section of land directly adjoins the existing domestic curtilage of Meadow House, spanning approximately 7.8 metres further westwards.

The additional fencing was requested to be added to the proposed plans by the Local Planning Authority, so that if the additional domestic curtilage was approved, the subsequent erection of this fencing would serve to provide a permanent boundary between the additional domestic curtilage proposed by the applicant and the rear gardens of the adjoining properties in order to maintain privacy between these two habitable areas.

Prior to a decision being made by Members of Planning Committee this fence has been erected. Whilst this is at the applicant's own risk, the fence as erected does appear to be appropriate in this location and ensures that privacy could be maintained. In addition, the proposed fencing which maintains the height and appearance of that originally erected between dwellings is considered to be acceptable in character

and form. It is not considered that this modest extension would result in any harm to the character of the Area of High Landscape Value.

It is acknowledged that land levels have been raised within the additional area of proposed domestic curtilage, however this does not appear incongruous given that it maintains the levels of the existing domestic curtilage.

The local concerns raised in relation to this newly installed fencing creating noise are noted and the Council's Environmental Health Team have been consulted on this issue. Given that noise issues were raised prior to the fence being installed, it is considered unlikely that this small section fencing itself would result in significant additional harm. It is more likely that it would limit the overall noise levels being experienced by occupiers of properties to the north, reducing the potential for noise nuisance. Additionally, the additional domestic curtilage would be occupied in a similar way to other areas of domestic garden in the vicinity. It is therefore considered that this small additional section of domestic curtilage would have no materially harmful additional impact upon neighbouring amenity by virtue of noise pollution.

A condition to remove 'permitted development rights' in this additional area of domestic curtilage will be recommended, together with a condition to prevent any additional external lighting in this area without the prior written approval of the Local Planning Authority.

#### Dormer Window

The pitched roof dormer window serving the bike garage has been built without planning permission. As detailed within the planning history, a Non Material Amendment application was previously refused for a similar dormer window for the reasons identified above in relation to privacy and character and form.

The present dormer window within the north eastern elevation for which retrospective permission is now sought is located in slightly altered positioning lower within the roofslope and is smaller in proportion in terms of width and height than that previously proposed within the refused Non Material Amendment application. On balance, given its modest proportions and positioning it is not considered to be inappropriate in form or detrimental to the character of the bike garage, nor would it have any wider landscape impacts. At first floor level this bike storage building had as detailed within the approved plans, approval to provide additional storage space. It is not considered that a single dormer window would be inappropriate in principle to serve this storage area and concerns about its potential future use cannot be considered in the determination of this application. Three dormer windows are present on the main garage at the dwelling at first floor level which has permission to be used as a games room and so the proposed dormer does contribute towards a cohesive appearance.

The main concern with regard to this additional dormer window is the potential impact upon privacy. Previously as viewed by the Case Officer during a site visit in December 2018 the dormer window was obscure glazed with film. In April 2019 the agent confirmed that this film had failed and was removed. This had caused significant concerns in relation to privacy due to the positioning of the window in relation to adjoining properties. Advice was provided to the agent that a proposed fixed obscured inner pane should be fitted, as more film would not be supported given it is not a reliable form of ensuring permanent obscuration. A cross sectional drawing to support this was also requested.

The proposed dormer window now being considered incorporates a proposed replacement window frame with a top hung opening. The bottom section is fixed. As annotated on the submitted plan, the window would be completed with a double glazed unit with obscured glass on the outer pane with a high level of obscuration.

It is acknowledged that whilst this window can open, given the form of the top hung opening, which incorporates a limited opening, it is not considered that this would be harmful in terms of privacy, as any views from the open section would be limited to the applicant's own garden.

Given the sensitive location of the dormer window proposed for retention, it is considered necessary to

ensure the replacement of the existing window is completed within a specific timeframe in the interests of neighbouring amenity. A six week period is considered reasonable and this can be formalised through a planning condition. Within this condition, provision will be made so that notwithstanding the approved plans the obscuration level of this dormer window is provided to at least Pilkington Glass Obscuration Level 5 or equivalent and that the obscure glazing is retained for the life time of the development.

Subject to these conditions, it is considered that the proposal would not result in harm to neighbouring amenity being experienced by the occupants of residential dwellings.

### Landscaping

As noted, the scheme also incorporates proposed alterations to the existing boundary landscaping to north and east boundaries of paddock. These are presently completed with young laurel plants, which does not accord with the approved landscaping scheme submitted as part of the discharge of conditions for the original housing scheme (15/00016/COND).

The proposed landscaping scheme would revert exactly to the mixed native hedge originally proposed and approved in this location following consultation with the Council's Tree Officer at the time. The plans have also been updated during the determination period to specify that the new hedgerow along the northern and eastern boundaries would be maintained "to ensure the height does not generally exceed the height of the adjacent timber fences." These are low post and rail fences extending to 1.2m in height.

Concerns have been raised in relation to the potential impact the proposed planting mix could have on equines, other animals and children. Concerns have however also been raised in relation to the existing laurel hedging and its toxicity to equines. These concerns in relation to both planting schemes are noted, however it acknowledged that the mixed native species' proposed are relatively commonly found in this rural location and animals such as cats which tend to roam freely could encounter these elsewhere. Furthermore, it is the applicant's choice as to whether a horse is ultimately kept in the paddock in the future. Given that the proposed planting scheme is lawful and can be reverted to at any point legally by the applicant it is not considered that this would be reasonable to require alterations to it. The agent has confirmed following a request by the Case Officer in relation to the proposed heights of the new plants that they cannot be specific but it is their understanding that "newly shoot plants will be incorporated."

In relation to the maintenance of the hedge, due to concerns over the loss of a view which is currently enjoyed and the subsequent loss of property value, these points are noted. The right to a view is not a material planning consideration and it is noted in the original scheme, there were no maximum heights at which the approved hedgerow should be maintained to. Therefore, given that this scheme includes the reverting to the original approved species mix, it is not considered that applying a planning condition for a fixed maximum height would meet the tests of soundness for a planning condition. The agent has however annotated what would if approved become a proposed plan to note that the hedging will not generally exceed the height of the post and rail fence.

The comments make reference to the a similar application at River View (18/00532/FUL) the adjoining paddock to the north, in which a condition was applied relating to the maintenance of the hedgerow to the rear of the semi-detached properties. This condition to maintain the hedgerow to the rear of the semi-detached properties at no higher than the post and rail fence was agreed by the applicant in that instance. In this instance, the agent has updated what would become the approved plans with the aforementioned annotation in relation to hedge maintenance. Given that this goes beyond what would be required if they were to revert to the original landscaping scheme, it is considered to be an enhancement and a further separate condition should not be applied. Concern has however been raised in relation to how this would be controlled and doubts have been raised in this regard. It is acknowledged that this could be difficult to exercise complete control over and the Council cannot 'micromanage' this situation. What is being put forward presents a willingness on the part of the applicant to maintain the height where this was not previously required. It is also noted that the Local Planning Authority does not generally become involved in the pruning/management of trees or shrubs.

This is often best managed in the majority of situations successfully between neighbours.

Additionally, whilst the concerns are understood, the loss of property prices cannot form a material planning consideration in the determination of an application. It is not considered that the reinstatement of native hedgerow would result in any harm to the wider landscape designation of the Area of High Landscape Value.

It is not considered that any part of this development would impact upon the setting of the nearby Grade II Listed Building to the south, The Old Rectory.

In the light of the above and subject to the relevant recommended conditions, the proposal is considered to meet the relevant policy criteria outlined within Policies SP12, SP13, SP16, SP19 and SP20 of the Ryedale Plan - Local Plan Strategy and within the National Planning Policy Framework. The proposal is therefore recommended for approval.

**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):

Site Location Plan  
Proposed Block Plan (Drawing no. 2365:11 Rev C)  
Bike Garage as Proposed (Drawing no. 2365:7 Rev C)  
Bike Garage Dormer Window Detail (Drawing no. 2365:11)

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

3            The obscure glazing proposed for installation within the dormer window hereby permitted at first floor level in the bike garage shall be completed within 6 weeks of the date of the decision notice. This shall be completed with the highest obscuration level (Pilkington Glass Level 5 or equivalent.) The obscure glazing once installed shall be retained and maintained for the life of the development.

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

4            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 at first floor level within the north eastern (principal) elevation of the Bike Garage within which the dormer window hereby approved is located.

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

5            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 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: The erection or provision within the curtilage of a dwellinghouse of a container for the storage of oil for domestic heating

Class H: Installation, alteration or replacement of a satellite antenna on a dwellinghouse or within its curtilage.

Reason: To ensure that the appearance of the areas is not prejudiced by the introduction of unacceptable materials and/or structure(s), and to satisfy the requirements of Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 6 Unless otherwise approved in writing by the Local Planning Authority, no new lighting shall be installed at within the additional domestic curtilage hereby approved.

Reason: In the interests of residential amenity and the character of the rural location in accordance with Policies SP16 and SP20 of the Ryedale Plan, Local Plan Strategy.

- 7 The proposed planting scheme for the replacement hedgerow to the north and east of the paddock as indicated on the Proposed Block Plan (Drawing no. 2365:11 Rev C) shall be carried out during the first planting season (November 2019 - March 2020) unless otherwise agreed in writing by the Local Planning Authority. Any 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.

Reason: To enhance the appearance of the development hereby approved Policy in accordance with Policies SP13, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy