

Item Number: 10
Application No: 21/00889/73A
Parish: Luttons Parish Council
Appn. Type: Non Compliance with Conditions
Applicant: Mr A Pickard
Proposal: Variation of condition 01 of planning approval 16/00264/REM dated 10.08.2017 to retain proposed single garages to 17 and 18 Hillside Way, inclusion of rooflights, amendments to access and repositioning of fence to 19 Hillside Way and omission of common parking to the east of no. 19 Hillside Way
Location: 17, 18 And 19 Hillside Way West Lutton Malton North Yorkshire YO17 8TE
Registration Date: 16 August 2021
8/13 Wk Expiry Date: 11 October 2021
Overall Expiry Date: 7 January 2022
Case Officer: Niamh Bonner **Ext:** 43325

CONSULTATIONS:

Highways North Yorkshire Recommend conditions
Luttons Parish Council Concerns

Representations: Mr Robert Harling, Michael Barker,

SITE:

The application site relates to three domestic properties, no's 17, 18 and 19 Hillside Way, West Lutton. These are located towards the farthest part of the cul-de-sac at Hillside Way.

17 and 18 Hillside way are a pair of semi-detached bungalows and no. 19 Hillside Way is a detached chalet bungalow. All are constructed of brick and roof tile, with off street parking available for all.

The application site is located within the development limits of West Lutton.

PROPOSAL:

These three dwellings were approved under outline application 12/01227/OUT and reserved matters application 16/00264/REM. The three properties are now under separate ownership and it appears that there were some discordances with the original permission, this application has been requested by the LPA in order to regularise the three properties.

This application seeks approval for the variation of condition 01 of planning approval 16/00264/REM dated 10.08.2017 to continue to have the right to create single garages at 17 and 18 Hillside Way (which were previously approved, but have not as yet been built) the inclusion of rooflights, amendments to access and repositioning of fence to 19 Hillside Way and omission of common parking to the east of no. 19 Hillside Way.

The proposed plans also show a more limited domestic curtilage to plots 17 and 18 than originally approved. This has resulted in a larger garden area being under the ownership of no. 20 Hillside Way. It has been advised that this sale of land was undertaken prior to these properties being sold to the current owners. The concrete apron to the front of no's 17 and 18 is now proposed for retention, rather than for

removal to facilitate the installation of a section of new pavement as previously indicated. The proposed site plan indicates the “existing concrete apron to be retained for parking and turning.” This is separated from the domestic curtilage of no’s 18 and 19 by a boundary fence.

The rooflights installed at no. 19 serve an additional first floor level which is clearly shown on the proposed plans including a bedroom and bathroom, with an escape rooflight indicated. This is considered acceptable to include within this Section 73 application as this property was not indicated as a bungalow in the description of either the original outline nor reserved matters application. This has been facilitated via a small increase in the overall roof height, by c500mm. It also involves the amendment of the approved pitched roof porch canopy to a flat roof porch canopy. The originally approved common parking space to the east of no. 19 Hillside Way has been omitted on these plans and a vehicle access to serve no. 19 is present in this location.

The proposal was readvertised during the application period to indicate the proposed retention of the right to build the single garages are no’s.17 and 18 as this has previously been indicated as being ‘omitted’ from the scheme in the original description. The occupiers of these properties are keen to retain the right to build these out in the future.

HISTORY:

12/01227/OUT: Erection of three dwellings (site area 0.138ha). Approved.

16/00264/REM: Erection of 3 no. two bedroom dwellings with detached single garages and individual vehicular accesses (Outline approval 12/01227/OUT dated 21.02.2013 refers) Approved.

POLICIES

Local Plan Strategy - Policy SP1 General Local of Development and Settlement Hierarchy
Local Plan Strategy - Policy SP2 Delivery and Distribution of New Housing
Local Plan Strategy - Policy SP16 Design
Local Plan Strategy - Policy SP20 Generic Development Management Issues
Local Plan Strategy - Policy SP21 Occupancy Restrictions
National Planning Policy Framework
National Planning Practice Guidance

REPRESENTATIONS:

The Parish Council made the following comments on the 21st September 2021:

“The Parish Council does not object to the omission of actual garage structures for 17 and 18 Hillside Way, provided that there remains a requirement for parking hard standing/space on each property to ensure that off road parking is provided for these properties.

The Parish Council does not have any comments or observations regarding the inclusion of roof lights, amendments to access and repositioning of the fence to 19 Hillside Way.

The Parish Council is very concerned about the omission of common parking. Currently if all residents of Hillside Way are parked on the street it causes difficulties for refuse collection vehicles and it would be extremely difficult for emergency services to access the properties. Whilst a common parking area would not solve the entire problem it would alleviate parking congestion. The Parish Council therefore request that the planning authority discusses with the applicant how common parking could be provided and does not agree to the removal of the condition for common parking.

(These comments, previously provided in respect of the original, invalid application, are made on the understanding that the planning application remains the same as before.)”

The Parish Council made the following comments on the 6th January 2022:

“The Parish Council remains concerned regarding the lack of pavement access to plots 1 & 2 (no 17 and 18?) and the build quality of the properties. The Parish Council strongly urges the planning authority and building control team to inspect what has been constructed on this site.”

The points relating to the access and highway safety concerns will be further discussed below. A site visit was undertaken with the Case Officer and the North Yorkshire County Council Highway Improvement Manager on the 9th March 2022 who has been the Highways contact for this case.

The Planning Agent confirmed that an Approved Building Control Inspector was used for the construction of these properties. The Case Officer will contact this Inspector to seek confirmation on this point.

A response was received from the owner of no. 17 Hillside Way on the 16th December 2021:

“Many thanks for sending me this letter. Everything looks good to me now I have my garage back. I have no objections.”

A response was received from a third party on the 7th January 2022 (2 Thirkleby Rown, Malton Lane, West Lutton.)

“As a resident and a parish Councillor who was unable to be present when the parish comment as submitted I would like to add some comments. The paths that the parish council are requesting have never been present nor were they on any previous plan nor comment so I feel this point is moot. Also large vehicles have managed to get up and down the street since the bungalows have been built. Parking is an issue on hillside way however the building has not made this worse, this is due to multi car households I believe at this stage in the planning and building process there is no reason to penalise the current occupants as they did not submit the original plans nor over see the build as a whole. Furthermore this current application appears to be addressing issues that should have been noted much earlier and the applicant is ensuring the site is compliant. He does not appear to be seeking any substantial changes.”

Further responses from the owners of no. 17 and no. 18 Hillside Way have been received to confirm that they are willing to undertake the necessary limited works indicated as necessary by the Highways Officer and additional planting have been received. These will be further discussed below.

APPRAISAL:

The main considerations within the determination of this application are:

- i. Principle of the development
- ii. Form and Character
- iii. Impact upon neighbouring amenity
- iv. Access and Highway Safety
- v. Other matters, including consultation responses.

i. Principle of the development

The principle of new residential development has been long established on this site and the dwellings constructed. This proposal continues to be compliant with policy requirements for new housing.

ii. Form and Character

It is acknowledged as outlined above in the ‘Proposal’ section, that there has been a varied number of amendments to the originally approved scheme.

The changes to no. 17 and no. 18 Hillside way now include a significantly lower amenity space which was the basis on which these dwellings were purchased by their current owners. It is acknowledged that not all occupiers wish to have large gardens and on balance, as amenity space remains to the front and rear, this is considered acceptable.

The proposal to retain the right to build out the previously approved garages at these plots is also considered acceptable. These remain of the same traditional design with high quality materials. It is noted on the plans that these would be undertaken within 3 years, however this actually could be undertaken at the leisure of the occupiers of these properties, as any approved scheme will effectively have a lawful commencement. It is noted all three properties include off a suitable level of off street parking provision.

The proposed scheme includes new landscaping to the front of no's 17, 18 and 19 Hillside Way, which is welcomed with the planting of a beech hedge. It has been confirmed that this has been undertaken at no. 19 Hillside Way. This will be conditioned to be undertaken in the first available planting season (November 2022 – March 2023) and the condition will ensure that any plants that fail are replanted within a period of 5 years following planting.

The proposed amendments include the retention of the concrete apron to the south of no's 17 and 18 Hillside Way. This was originally proposed to be amended to form an extended footpath. This has been retained in situ and is forward of the defined domestic curtilage of these two properties. This has been discussed with the North Yorkshire County Council's Highways Improvement Manager during a site visit with the Case Officer on the 9th March 2022 and this will be outlined below, but they have no objection to its retention. In terms of form and design, it is noted that a footpath would have resulted in a higher quality section of streetscene, although it is acknowledged that this concrete apron can help to facilitate turning at this point in the cul-de-sac and does offer parking facilities. It is noted that the general highway at this point appears to be in a poor state of repair, but that the concrete apron appears relatively uniform and of a decent standard. It is not considered that its retention would result in material harm in terms of the character of the area.

The proposed amendments to no. 19 include the omission of a common parking space. This will be assessed separately in terms of access and highway safety, but in terms of form and character this is considered acceptable.

iii. Impact upon neighbouring amenity

The proposed scheme includes the retention of a habitable first floor level at no. 19 Hillside way. This has been facilitated with rooflights. Due to the positioning of the proposed building, is not considered that this proposal would result in any loss of privacy or instances of overshadowing of neighbouring dwellings.

No other element of the scheme would result in harm to neighbouring amenity.

iv. Access and Highway Safety

In an incoming letter dated 24th November 2021, the planning Agent noted "*Further to the above application and the concerns raised by the Parish Council my client(s) would confirm that the plans submitted will be adhered to in all respects as indicated on the submitted drawing.*"

With regards to the comments regarding the parking the previous garages had a concrete apron which whilst being within the curtilage of the new bungalows has been left available for general parking and the turning area for the bin lorry as per the original approval.

The single parking area which was originally located within the boundary of No 19 has been omitted as the entrance to the property has been relocated due to the issue of limited access at the original point as a result of parking on the opposite side of the road."

North Yorkshire Highways in their original response to this application recommended a number of conditions, on the basis they did not realise this was not a proposed development but retrospective.

The Case Officer and the North Yorkshire Highways Officer Improvement Manager undertook a joint site visit on the 9th March 2022. The concerns from the Parish Council were considered during that visit and the Highways Improvement Manager assessed the site and wider highway fully, with measurements undertaken.

They confirmed on balance they were satisfied broadly with the retrospective development in its current form. The loss of the single common parking space was considered acceptable. They did however recommend a condition to ensure that there are some improvements to the accesses at the two semi-detached properties in line with the standard requirement of E50. This includes kerbing between the domestic driveway and the concrete apron to prevent potential dragging of gravel onto the highways. It was confirmed that further kerbing beyond this nor the installation of drainage channels was necessary, due to the topography of the site. The draft condition was discussed with the Planning Agent in advance and allows for a 6 month time period for compliance which is considered generous but necessary given that this relates to works needing to be now undertaken by the separate property owners.

Written confirmation was sought from the occupiers of no. 17 and no 18 to confirm that this necessary upgrading will be adhered to and completed within this time frame.

A letter from Mr Barker (owner of no. 17 Hillside Way) was provided dated 30th March 2022. It noted *“I agree to do the works requested in the email showing the suggested condition requirements.*

Specifically relating to the kerb that needs to be installed.

As I understand from our conversation all we need to do is install a 150mm x 50mm pin kerb between the existing concrete apron and our private driveway.

Also plant a small beech hedge along the frontage of our planting area as shown on the drawing 5675mm from the front of the property.

These are the only two things I am agreeing to, ie not the drainage channel or the bigger kerb between the apron and the main highway as shown on your standard driveway construction drawing.” This confirms that the level of works sought by the Highways Officer would be completed.

A letter dated 26th March was received from Mr Chapman of no. 17 Hillside Way which noted *“I hereby give consent for the work to be carried out as agreed with highways at my property 18 Hillside Way West Lutton this work will be carried out within 6 months.”* This again is welcomed, but due to the wording of this, the Agent was asked to clarify for the avoidance of doubt that Mr Chapman was aware that this would be his responsibility. The Agent confirmed on the 3rd April that *“I have made it clear that it is his responsibility to undertake the work and both he and Mr Barker are happy to do this. I will get a further letter form him in line with your requirements.”* This again is welcomed however the further letter is considered pragmatic.

On the basis of this final letter of confirmation being received, it is considered that the further minor works will ensure that the development is undertaken to the satisfaction of the North Yorkshire County Council Highways Team. This will be checked via a planning compliance visit by officers of the Local Planning Authority. Therefore whilst the concerns of the Parish Council remain, it is considered that this loss of the common parking space originally proposed would not result in materially harmful impacts upon access or highway safety.

v. Other matters, including consultation responses.

The Parish Council response has been addressed above and it is considered that this proposal accords in principle with the relevant policies of the Ryedale Plan, Local Plan Strategy.

AS this is a variation of a reserved matters application, the full suite of conditions on the outline application remain relevant. Therefore only a limited number of conditions will be recommended. This will include approved plans, highways conditions including a condition to seek the necessary improvements and a condition to prevent the garages being turned into domestic accommodation. A further condition to ensure the new hedging is undertaken will also be recommended.

Therefore subject to the identified conditions we can be satisfied that this proposal conforms with Policies SP1, SP2, SP16 and SP20 of the Ryedale Local Plan, Local Plan Strategy and the National Planning Policy Framework.

RECOMMENDATION: Approval

- 1 The development hereby permitted shall be carried out in accordance with the following approved plan(s):
Site Location Plans
Site Plans Existing/Proposed (Drawing no. WL/2021/03A)
Proposed Plans and Elevations Drainage Layout (Drawing no. PH/2016/WL/02B)

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

- 2 Within 6 months of the date of decision notice, the crossing of the highway verge at Plots 17 and 18 Hillside Way must be constructed in accordance with the approved details and Standard Detail number E50 and the following requirements.

The final surfacing of any private access within two 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.

Informative: Further guidance can be provided by the NYCC Highways Team and in practical terms this will require an edging kerb to be installed along the driveway access point at these properties. No drainage channel is considered necessary in this location.

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.

- 3 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason: In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development in accordance with Policy SP20 of the Ryedale Plan, Local Plan Strategy.

- 4 Within the next available planting season (November 2022-March 2023) the new beech hedging proposed within no's 17 and 18 Hillside Way shall be installed as detailed in Drawing no. PH/2016/WL/02B.

Any new hedging plants within no's 17, 18 or 19 Hillside Way 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 SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.