

**Item Number:** 11  
**Application No:** 22/00622/OUT  
**Parish:** Malton Town Council  
**Appn. Type:** Outline Application  
**Applicant:** Mr Ian Watkinson  
**Proposal:** Erection of 1no. dwelling (outline application - site area 0.037ha)  
**Location:** 34 Peasey Hills Road Malton North Yorkshire YO17 7JU

**Registration Date:** 25 May 2022  
**8/13 Wk Expiry Date:** 20 July 2022  
**Overall Expiry Date:** 10 November 2022  
**Case Officer:** Kevin Riley **Ext:** 43269

#### CONSULTATIONS:

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|--|---|
| <b>Yorkshire Water Land Use Planning</b> | No comments received  |
| <b>Highways North Yorkshire</b>          | Recommend Conditions  |
| <b>Environmental Health</b>              | Recommend Conditions  |
| <b>Malton Town Council</b>               | Would like to defer comment until further information received regarding the access |

**Representations:** Miss Jessica Carveles, Mrs Fiona Quillec, Ms E Willie, Mr Mark Thompson,

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#### SITE:

34 Peasey Hills Road is the northernmost dwelling of a terrace of 4 dwellings which face the street behind front gardens approx. 6 metres deep. The application site is formed from land adjacent to the north side of 34 Peasey Hills Road which is currently used as garden land associated with the residential use of that property and also provides a vehicular access to a garage serving that property. The northern side of the site is separated from Highfield Road Sports and Recreation Field by a boundary of low quality trees, shrubs and hedging plants. On the east (rear) boundary of the site mature trees and shrubs grow along the site boundary, which is adjacent to the side of the rearmost half of the garden of No1 Pitman Road. Unusually, the garden to the rear of 34 Peasey Hills Road forms a part of the rear garden of the adjacent No32 Peasey Hill Road; the garden of that property extends across the rear elevation of No 34 from which it is separated by a narrow path. This path currently provides a pedestrian access for occupants of No 32 to access the road via their rear garden and around the rear of No34. The effect of this unusual arrangement is that No 34 has no rear garden and as such its main outdoor amenity space is currently provided by the application site to its north side.

No 34 is indicated on plans as being under the ownership/control of the applicant. The applicant has advised that this property is currently unoccupied.

The proposal site is approx. 0.037ha.

#### Site planning constraints

The site is within the Malton & Norton Development Boundary

The site is within and adjacent to a Historic Landfill Site

The Site is within Flood Zone1- which is the most sequentially preferable siting for new development regarding flood risk.

## **PROPOSAL:**

The proposal is an outline application with all matters reserved for the erection of 1 dwelling on the site. As originally submitted the application was for the erection of two dwellings. The proposal was reduced to one dwelling only following negotiations between the applicant and the case officer.

Re-consultation letters were sent to consultees and neighbours regarding the development description change.

## **RELEVANT PLANNING HISTORY:**

No relevant planning history found.

## **RELEVANT POLICIES:**

### Ryedale Local Plan Strategy 2013

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:

- Local Plan Strategy - Policy SP1 General Location of Development and Settlement Hierarchy
- Local Plan Strategy - Policy SP2 Delivery and Distribution of New Housing
- Local Plan Strategy - Policy SP14 Biodiversity
- Local Plan Strategy - Policy SP16 Design
- Local Plan Strategy – Policy SP17 Managing Air Quality, Land and Water Resources
- Local Plan Strategy - Policy SP20 Generic Development Management Issues

Material Planning Considerations:

### National Planning Policy Framework

National Planning Practice Guidance

## **REPRESENTATIONS:**

4 letters of representation have been received, 3 of which are letters of objection which raised the following summarised objections:

- Cuts across our right of way around rear of No 34
- Loss of light to No 32
- Increased noise and disturbance.
- Loss of privacy; overlooking of gardens
- Loss of light
- Could lead to loss of trees
- Overbearing (claustrophobic)
- Loss of No 34's garden would be an eyesore
- Harm to wildlife
- Harm from increased traffic and congestion.
- Increased pressure on parking availability
- Harm to the traditional character of the area.
- The access is in a dangerous position

- Development will border the contaminated land of the field beyond.
- Would set an precedent for developing gardens in the locality
- Site is a landfill

## **APPRAISAL:**

### Main issues:

- Principal of the Development
- Impact on the character of the area
- Impact on the amenity of neighbouring property
- Highway safety
- Contaminated land
- Impact on Trees

### Principle of the Development

The Ryedale Plan-Local Plan Strategy (2013) sets out the strategy for the distribution of housing development during the plan period. Policy SP1 sets out the general location of development and settlement hierarchy for the District and policy SP2 regulates the delivery and distribution of new housing across the District.

The proposal site is within the development limits of Malton which is identified in policies SP1 and SP2 as a primary focus for growth and new housing. As such the principle of developing the site for housing is in accordance with policies SP1 and SP2 of the development plan.

### Impact on the character of the area

The character of the local area is derived from traditionally built terraces, typically terraces of 4 dwellings, arranged in staggered building lines and with some corner terraces at 45° angles to road junctions, and also from the open recreation ground to the north of the site, around which the built form is predominantly semi-detached bungalows and semi-detached two storey houses.

Access, appearance, landscaping, layout and scale are all reserved matters in this outline application. As such, with regard to the likely impact of the proposed dwelling on the character of the area, the matters for considerations are limited to whether or not the site is capable in general terms of hosting a dwelling house that is capable of being sympathetic to the character of the area.

The site area is approximately 0.037ha. Erecting one dwelling on the site would be developing the site at a housing density of approx. 27 dwellings per hectare which is broadly in line with the indicative density of 30 dwellings to the hectare which is recommended in policy SP16 and is also, importantly, typical for the area, and so gives the ability to promote local distinctiveness in the Reserved Matters.

The shape and position of the site will necessitate that a future dwelling on the site will need to be set further back from the street than the neighbouring terrace. However there is considerable variation in the position relative to the street for the other dwellings in the locality and as a consequence, a dwelling on the site that is set back relative to its neighbouring terrace would not look out of place in the locality.

It is noted that the proposal is for a detached dwelling in an area where terraced and semi-detached dwellings are the predominant built form. However this is not exclusively so, and there are examples in the area of infill detached dwellings, and so it would not be at odds with this aspect of the overall design character of the surrounding area. Trees and shrubs to the front and north side of the site would partially screen the development from the street and the recreation ground, and a planning condition could be

used to retain the boundary planting if considered necessary for approval of a Reserved Matters application.

Notwithstanding this point, a sensitively designed dwelling on the site that respects the scale and form of the neighbouring development is considered to be achievable, would be capable of assimilating satisfactorily into the street scene. As such this outline proposal is considered to be in accordance with policy SP16 in terms of its impact on the character of the area.

#### Impact on the amenity of neighbouring property

Concerns have been raised that the proposed dwelling would harmfully overlook the gardens of neighbouring dwellings. A dwelling on the site could indeed overlook the garden of No 32 from a relatively close proximity. A planning condition is therefore necessary to ensure that there are no first floor windows on the south side of the proposed dwelling, and this would adequately protect the privacy of the occupants of No 32.

The rear of the proposed dwelling would face towards the rearmost part of the rear garden of No1 Pitman Road. There is currently a row of mature conifers growing along the No1 Pitman Road side of the boundary which would largely prevent any harmful overlooking of their garden. Notwithstanding this point any overlooking towards the rear of No1 Pitman Road would be from an oblique angle and there is approx. 15 metres between the closest corner of No1's dwelling and the site boundary and approx. 21 metres between No1 and the indicative position of the proposed dwelling on the submitted plans. The combination of the oblique viewing angle from the rear of the proposed dwelling towards No 1 Pitman Road and the significant distance of separation between these dwellings that can be achieved in a Reserved Matters application is considered to be adequate to protect No1 Pitman Road from significant loss of privacy.

It is considered that the proposed dwelling can be set sufficiently apart from neighbouring dwellings such that its likely setback position will not be harmfully overbearing to the occupants of neighbouring dwellings. Also, due to the position of the proposed dwelling to the north of neighbouring dwellings, it would not cause a harmful loss of sunlight or overshadowing and accordingly daylight levels will remain as they are currently experienced.

A neighbour has raised concerns that the proposed dwelling would harm the amenity of the area due to noise and disturbance arising from its use. However, in this residential setting it is not considered that the development would lead to a significant addition of noise arising from the residential use, when considering the existing neighbouring residential properties in the locality.

The proposal would involve the loss of the donor property's (No 34) existing outdoor amenity space excepting its front garden. The loss of such a large amount of outdoor amenity space would usually be considered to cause significant harm to the amenity of a property. However, at some time, the garden to the rear of No 34 has passed into the ownership or control of the occupants of No 32 resulting in the current situation whereby the northern half of No 32's garden is directly in front of the rear elevation of No 34, from which it is separated by a narrow path. The applicant advises that the occupants of No 32 also have a right of access along this path and around the north side elevation of No 34 so that they can access the street via their rear garden. The effect of this highly unusual pattern of ownership is that along the rear and north side of the property, occupants of No 34 are afforded very little privacy and the outlook from its ground floor rear windows is currently onto a tall lattice fence erected approx. 1 metre in front, which serves to prevent overlooking from No 34 into the extended part of the garden of No32. As a consequence of this unusual layout, the ability of No 34 to function satisfactorily as a normal family home is significantly degraded prior to this application being made. Even in its current configuration, No 34 is only likely to attract occupants for whom both outlook and outdoor amenity is not a priority. As such, although the loss of its side garden to provide the land for the proposed development would cause some further harm to the amenity of the property, it is considered that this harm would not be significant given the particular circumstances of the property, and the minor harm identified would be outweighed by the benefit of adding an additional dwelling to the housing stock.

### Highway safety and Parking

The proposed development will result in the loss of an off-street parking space for No 34. However there are no on-street parking restrictions in the locality, and the location of the site, close to services and frequent bus routes, is such that future occupants of No 34 would not be reliant on private car use. As such the proposal would not have a detrimental impact on road safety or traffic movement and is in accordance with policy SP20.

The Highways Authority has commented that the Authority does not object to the outline approval of the vehicular access for the proposed dwelling subject to conditions regarding the standard of access construction.

*“[...]Notwithstanding comments made in response to the application regarding access. The Local Highway Authority does not offer objection to the outline approval of vehicular access as proposed. The proposed access is considered to provide adequate visibility to for vehicles accessing and egressing the site. Peasey Hills Road is an urban location and the street can be characterised by the residential dwellings of which many have vehicular accesses providing off-street parking.[...]”*

It is noted that access is a reserved matter. However the constraints of the site area are such that a significant change to the existing access serving the site, in a Reserved Matters application, is considered unlikely.

Malton Town Council have requested that the application is deferred for additional information with regard to the access. However access is a Reserved Matter, and the Local Highway Authority has no objection to the proposal, and as such it would not be reasonable to require addition information in this regard.

### Contaminated Land

The application site is sited within and adjacent to a historic landfill site. The Environmental Health case offer has identified a possible contamination risk and, should the application be approved, has requested that a contaminated land investigation and risk assessment is under taken prior to development.

*“The proposed development outlined in 22/00622/OUT for the erection of 1no. dwelling is sited adjacent to a historic limestone quarry and a former landfill site which accepted household and commercial waste from 1970-1980 which has the potential to produce leachate that may contain elevated concentrations of contaminants, such as ammoniacal nitrogen, heavy metals and volatile organic compounds. Therefore, I would recommend [...] conditions be added regarding contamination.”*

This is considered necessary protect public health and to ensure that the application complies with policy SP17.

### Impact on Trees

The site is not in a Conservation Area and no TPO Trees would be affected by the proposal. Trees along the north and west site boundary are low quality trees that have grown up along and near to the hedgerow boundary. There are mature conifer trees outside the rear (east) site boundary that could be affected by development. However the site is considered to be large enough to site a dwelling outside the root protection zone of these trees should this be considered necessary.

## Biodiversity

It is noted that concerns have been raised by neighbours that the proposal would lead to the loss of wildlife. However, there is no record of protected species on the site held by the Council. The proposal, if approved, would be subject to a condition to provide a net gain for biodiversity to ensure the development meets the requirement to enhance biodiversity set out in paragraph 174 of the NPPF and policy SP14.

## Other matters raised by third parties not addressed above

It is noted that occupants of No 32 have raised a concern that the proposal would affect their right of way to the street past the rear and north side of No 34. However, private rights of way are a civil matter and therefore this concern is not a planning consideration.

Concerns have been raised by a neighbour that the sewerage and drainage system could prove to be inadequate. However the addition of a single dwelling is not likely to over burden the sewerage and drainage system in the locality. A condition to ensure the systems of drainage for foul and surface water at the site comply with local policy SP17 will be added to the decision notice if the application is approved.

## Conclusion

The proposed development is considered to comply with national and local planning policy and is recommended for approval, subject to the conditions set out below.

## **RECOMMENDATION:                      Approval**

- 1            Application for approval of reserved matters shall be made to the Local Planning Authority not later than .

The development hereby permitted shall be begun on or before whichever is the later of the following dates:

The expiration of two years from the final approval of the reserved matters or (in the case of approval on different dates) the final approval of the last such matters approved.

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

- 2            No development shall take place without the prior written approval of the Local Planning Authority of all details of the following matters:-

(i)        the layout, scale and appearance of every building, including a schedule of external materials to be used

(ii)       the access to the site

(iii)      the landscaping of the site

Reason: To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plan:

Site Location Plan titled Peasey Hills Road dated 27/01/2010 and received on 25.05.2022

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

- 4 The development must not be brought into use until the access to the site has been set out and constructed in accordance with the “Specification for Housing and Industrial Estate Roads and Private Street Works” published by the Local Highway Authority and the following requirements:

The crossing of the highway verge and footway must be constructed in accordance with the approved details and Standard Detail number E50 Rev A and the following requirements.

- i. Any gates or barriers must not be able to swing over the existing or proposed highway.
- ii. 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.
- iii. Measures to enable vehicles to enter and leave the site in a forward gear.

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.

- 5 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, (or any Order revoking, re-enacting or amending that Order), no windows or doors, other than those shown on the plans approved in the associated Reserved Matters application, shall be formed in the walls or roof of the south elevation of the dwelling hereby permitted above ground floor level without the prior written consent of the Local Planning Authority following a specific application in that respect.

Reason: To safeguard the privacy and amenity of adjoining residents and in order to comply with Policy SP20 of the Ryedale Local Plan Strategy

- 6 An investigation and risk assessment will be required to determine if any contamination is present on the proposed development site and establish if there are any viable exposure pathways and whether there is an unacceptable risk to future end users of the site. The investigation and risk assessment should be undertaken by a competent person with the report findings submitted to and approved in writing by the local planning authority. This report should include an appropriate survey of the nature and extent of any contamination affecting the site and an assessment of the potential risks to human health, property, controlled waters and ecological systems. Reports should be prepared in accordance with contaminated Land Report 11 and BS 10175 (2013) Code of practice for the Investigation of Potentially Contaminated Sites.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and in order to comply with Policy SP17 of the Ryedale Local Plan Strategy.

- 7 If land is identified as contaminated and poses an unacceptable risk, development or remediation should not take place until a comprehensive remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the local planning authority. The remediation scheme must include the remediation objectives and criteria, an evaluation of remedial options and proposal of the preferred option(s), all works to be undertaken and a description and programme of the works to be undertaken including the verification strategy.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and in order to comply with Policy SP17 of the Ryedale Local Plan Strategy.

- 8 Unless otherwise agreed in writing by the local planning authority, the dwelling shall not be occupied until the approved scheme of verification has been completed and a verification report demonstrating the effectiveness of the remediation carried out has been submitted to and approved in writing by the local planning authority. The verification report shall include a description of the works undertaken and a photographic record where appropriate, the results of any monitoring or sampling, evidence that any imported soil is from a suitable source and copies of relevant waste documentation for any contaminated material removed from the site.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and in order to comply with Policy SP17 of the Ryedale Local Plan Strategy.

- 9 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported immediately to the local planning authority, and work must cease until an appropriate investigation and risk assessment must be undertaken. Where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the local planning authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and in order to comply with Policy SP17 of the Ryedale Local Plan Strategy.

- 10 The development hereby approved shall not be brought into use until a biodiversity enhancement and management plan to provide net gains for biodiversity at the site has been agreed in writing by the Local Planning Authority, and the agreed measures have been implemented. The agreed biodiversity enhancement measures shall be permanently retained and maintained in accordance with the approved management plan.

Reason: To ensure the development provides net gains for biodiversity in accordance with paragraph 174 of the National Planning Policy Framework and Policy SP14 of the Ryedale Local Plan Strategy.



11. The site shall be developed with separate systems of drainage for foul and surface water to the satisfaction of the approved Building Control Inspector.

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

#### **INFORMATIVE(S)**

- 1 Informative - New and altered Private Access or Verge Crossing

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%2C%20highways%20and%20pavements/Specification\\_for\\_housing\\_ind\\_est\\_roads\\_street\\_works\\_2nd\\_edition.pdf](https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing_ind_est_roads_street_works_2nd_edition.pdf)

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