

Parish: Tollerton
Ward: Easingwold
15

Committee date: 31 May 2018
Officer dealing: Mrs Caroline Strudwick
Target date: 08 June 2018

17/02739/FUL

**Construction of single dwelling
At The Croft, South Back Lane, Tollerton
For Mrs M Hardy**

This application is referred to Planning Committee as the proposal is a departure from the Development Plan. Consideration of the application was deferred at the 8 March meeting to consider the possibility of vehicular access from South Back Lane

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 The site is a 500 sqm piece of domestic curtilage, associated with The Croft on South Back Lane, Tollerton.
- 1.2 The site is within the Tollerton Conservation Area, and outside the Development Limits for the village. The north western side of South Back Lane, which is nearest to the Main Street is characterised by low level purpose-built domestic development and converted agricultural buildings. The opposite side is predominantly grazing land with some agricultural development. There is a public right of way which extends to the south east side of South Back Lane, opposite the application site.
- 1.3 There is a concrete pad within the site area, which was the base for an agricultural building. The site is largely bounded by mature hedge to the front (south-east) and conifers on the boundary with The Croft, on the south-western side. The boundaries onto the access road (north-east) and The Saddlery to the rear (north-west) are timber closed boarded fence.
- 1.4 There is a complex history of applications on this site; however the most relevant is a) the refusal 16/01347/FUL which sought permission for a two-storey dwelling and b) the subsequent appeal decision which dismissed the appeal. The Inspector concluded that the scale of this proposal would deviate significantly from the prevailing form and character of the buildings along South Back Lane; appearing incongruous in the street scene. The appeal scheme took access from Main Street and the private drive that serves other residential property. The Council objected to the scheme on the grounds that the geometry of the access road would make access to the site difficult and also that limited space within the site for parking and turning and the unbound gravel surface would preclude easy access to the site. The Inspector disagreed, finding that there would be sufficient space for a parking and turning layout and these could be secured by way of a condition. The Council's concerns regarding the loose, unbound gravel were also considered unfounded. The Inspector was satisfied that access off Main Street would provide a safe, satisfactory and inclusive access into the site.
- 1.5 The original layout of this application sought permission for an 'L' shaped, two-storey, four-bedroom house with access off Main Street using the access driveway which currently serves a small development of dwellings. The shared driveway is shown to be within the application site and in the applicant's ownership and control.
- 1.6 The application was then deferred at Planning Committee meeting on 8th March 2018 to allow the agent to prepare a scheme with access off South Back Lane. The amended site layout plans shows access off South Back Lane into the site, with parking for three cars at the front of the dwelling. The dimensions and positioning of

the proposed dwelling remains as proposed at the 8th March committee meeting. The space previously shown as a garage at the rear is changed to a study as the rear garden is no longer accessible from the vehicular access.

1.7 Improvements since the revised scheme was submitted have been secured as follows:

- Two windows on the side gable facing North East have been omitted; and
- A single window has been added to the rear elevation in bedroom 4.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

2.1 14/01148/OUT - Outline application for the construction of a dwelling with attached garage and formation of vehicular access from South Back Lane; Refused 26 January 2015.

In response to this application the Highway Authority stated it “considers that the road leading to the site is substandard in terms of its width alignment and visibility at the junction with Newton Road and is therefore unsuitable to cater for the traffic which would be likely to be generated by this proposal”.

2.2 16/00470/FUL - Extension to create a granny annex and construction of a new house (with access to Main Street); Withdrawn 23 May 2016.

2.3 16/01347/FUL - Extension to create an ancillary annexe and creation of a new two storey dwelling on hardsurfacing to the northeast with vehicular access via the neighbouring private drive (to Main Street) together with associated works; Refused 20 September 2016, Appeal allowed (in respect of the annexe) and dismissed (in respect of the dwelling) 4 August 2017.

2.4 17/01234/FUL - Single dwelling (with access from South Back Lane); Withdrawn 19 December 2017.

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Core Strategy Policy CP17 - Promoting high quality design

Core Strategy Policy CP21 - Safe response to natural and other forces

Development Policies DP1 - Protecting amenity

Development Policies DP4 – Access for all

Development Policies DP8 - Development Limits

Development Policies DP9 - Development outside Development Limits

Development Policies DP28 - Conservation

Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation

Development Policies DP32 - General design

Development Policies DP33 - Landscaping

Development Policies DP43 - Flooding and floodplains

Interim Guidance Note - adopted by Council on 7th April 2015

National Planning Policy Framework - published 27 March 2012

National Planning Practice Guidance

4.0 CONSULTATIONS

4.1 Parish Council – No comments received to initial or reconsultation.

4.2 Highway Authority – The Local Highway Authority considers that the road leading to the site is, by reason of its insufficient width, poor alignment and substandard visibility at the junction with Newton Road, unsuitable for the traffic which would be likely to be generated by this proposal. When originally submitted, this application included a satisfactory means of access to the main street which does not have these highway safety issues and the principle of using this access was considered as part of the appeal decision reference APP/G2713/W/17/3171922. As such The Local Highway Authority recommends that this amendment is refused for the reasons stated above.

4.3 Public comments – Seven comments have been received in objection to this application.

- Inconsistencies of NYCC highway comments to applications for new dwellings on South Back Lane;
- Unsatisfactory space on site for turning and parking due to location of the dwelling which has been pushed to the back of the site, in order to address the Inspector's design impact concerns;
- Insufficient parking space on site for the occupants of a four bedroom and visitors. Visitors will be forced to park on South Back Lane or Main Street, adding to the congestion there;
- Danger of reversing cars from the proposed site onto the shared driveway, poor visibility and disturbance of residential amenity of reversing cars;
- Access off Main Street is less suitable than access off South Back Lane;
- Potential damage to landscaping during the construction phase;
- Plan does not show the pedestrian footpath, therefore indicating that the road (Manor Close) is wider than it actually is;
- South Back Lane is the preferred access point for existing residents;
- There are inadequate visibility splays at the point onto the Main Street;
- Windows on the side elevations should be conditioned to be obscured glazed to protect existing residential amenity;
- No landscaping plan has been submitted;
- If approved the property should not be accessed by construction vehicles via the shared drive, but via South Back Lane, using the field opposite for site storage;
- Legal dispute proceedings are ongoing over the garden strip which lies between the site and the shared drive away. This would need to be resolved in the applicants to favour to allow for access onto the site from the shared driveway;
- The driveway is privately maintained by the residents of Manor Close, as set out in the covenants of the deeds. There would be no way of amending the deeds to ensure residents of the proposed dwelling had to contribute to the maintenance, but the driveway would be subjected to increased use by the vehicles of an additional dwelling and so more damage;
- The addition of a window to the rear elevation will face directly onto the courtyard of The Saddlery and this will overlook the garden and views into the kitchen. This will have an unacceptable impact on the privacy of existing residents; and
- Any property built on this plot should have a planning condition imposed that the skylights need to be at a sufficient height on the roof to ensure there is no direct line of sight into a neighbouring property or its amenity space.

These additional observations have been submitted as a result of the re-consultation in response to the access off South Back Lane:

- The positioning of the dwelling on the plot now allows for sufficient parking and safe turning for vehicles. We believe that access via South Back Lane (SBL) as proposed will have the least impact on surrounding properties. South Back Lane is the most sensible entrance for the property and for all parties concerned.
- South Back Lane is the only possible and practical access route that provides sufficient parking and turning space to enable safe entry and exit from the plot in forward gear and in one movement
- Careful observation of traffic on South Back Lane for any length of time illustrates how much quieter this route is than Main Street and that traffic rarely meets travelling in opposite directions. When it does, there are many different pulling in points from Newton Road to the proposed entrance to the plot, so passing is not a problem.
- Those of us who live in the area can see that this one property being accessed by South Back Lane will have little direct impact on any party individually nor on the village as a whole given that there have been no instances of particular safety issues to address when compared with many other roads in this and other villages.

5.0 OBSERVATIONS

- 5.1 The key determining issues are (i) the principle of development (ii) impact of the proposal on the character of the Conservation Area and matters of design; (iii) residential amenity; and (iv) the impact on highway and pedestrian safety and parking provision, including matters raised by objectors.

Principle

- 5.2 LDF policies CP1 and CP2, (which relate to sustainable development and minimising the need to travel) set a general presumption against development beyond Development Limits but policies CP4 and DP9 allow that planning permission can be granted where one or more of six exceptional circumstances are met. The applicant does not claim any of the exceptional circumstances identified in policy CP4 and, as such, the proposal would be a departure from the Development Plan. However, it is also necessary to consider more recent national policy in the form of the National planning Policy Framework (NPPF) published in March 2012. Paragraph 55 of the NPPF states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances".

- 5.3 To ensure appropriate consistent interpretation of the NPPF alongside policies CP4 and DP9, on 7 April 2015 the Council adopted Interim Policy Guidance (IPG) relating to Settlement Hierarchy and Housing Development in the Rural Areas. This guidance is intended to bridge the gap between CP4/DP9 and the NPPF and could boost overall housing supply and affordable housing provision within the District. The Council's Interim Planning Guidance therefore should also be considered.

- 5.4 Tollerton is a Secondary Village and therefore considered a sustainable location for small scale development by the IPG. As stated the site is outside but adjacent to Development Limits, the access initially was proposed to be taken from Main Street and within Development Limits, in the revised arrangement the access is outside the Development Limits. The adjacent dwellings of The Saddlery, The Croft and The Granary are within the Development Limits. It is noted that the site is close to other properties within the settlement and close to local facilities including the village shop and public house. The hard surface of the former agricultural building is also noted, though the site is not previously developed land in the terms of the NPPF Annex 2. The proposed dwelling would relate well to the existing settlement and would therefore be acceptably located subject to detailed consideration of the design, layout and relationship to neighbouring properties.

Impact of the proposal on the character of the Conservation Area

- 5.5 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The National Planning Policy Framework at paragraphs 133 and 134 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset.
- 5.6 The previous scheme was for a two-storey dwelling. In the appeal decision the Inspector concluded that the scale, form and positioning of the proposed dwelling would fail to preserve or enhance the character or appearance of the Conservation Area.
- 5.7 Since the previous appeal two significant changes have been made to the scheme, initially design amendments were made to the dwelling and more recently the access arrangements have changed.
- 5.8 The design of the dwelling has taken into account the Inspector's comments. The height has been reduced to just under the ridge height of The Croft. The Inspector had significant concerns about the side elevation, commenting that "Its substantial and bulky two storey gable elevation would dominate views along South Back Lane from the northeast, where it would loom incongruously over the horizontally hung, timber-clad, hipped roofed single storey outbuildings at the rear of The Granary and The Old Hay Barn". Reducing the height has reduced the impact of the side gable on those views and overcome the harm to the views from South Back Lane and from the northeast. The scheme would no longer 'loom' over the other properties as previously noted.
- 5.9 The fenestration of the proposal has drawn inspiration from the dwellings to the north; The Granary, The Saddlery and The Old Haybarn. It is considered that the proposal is in keeping with this particular area of the Tollerton Conservation Area and the scheme represents high quality design.
- 5.10 Provision of an access from South Back Lane would require the removal of the boundary hedge to achieve access and removal across the full width of the application site and across half of the frontage of 'The Croft' to provide visibility splay. The boundary hedge is a substantial feature in this part of South Back Lane. Hedges and brick walls are a common feature of South Back Lane, these boundary features together with the narrow carriageway and grass verges and small buildings (further described at paragraph 1.2 of this report) define the character of this part of the Conservation Area.
- 5.11 The removal and partial replanting of the boundary would have an impact upon the Conservation Area. There will be a) a loss of boundary feature in order to create the

vehicular access, b) the re-siting of the hedge would result in a widening of the South Back Lane and c) reduction in the amount of hedge would erode the character of the place. Such change would not protect or enhance the character of the Conservation Area and is therefore contrary to Policies CP16 and DP28 of the LDF. This change would be (in terms of paragraph 134 of the NPPF) “less than substantial harm”. Where such harm exists the NPPF requires that “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum use.”

- 5.12 In this case there is no public benefit arising from the arrangement of the access via South Back Lane rather than Main Street. There may be a private benefit to other residents whose property is served by the private drive from Main Street as an access from South Back Lane would not result in additional traffic on the private drive. However on appeal (as noted above) the Planning Inspector found the use of the private drive to be acceptable. As such in reaching a balanced judgement on the matter of the impact of the proposal on the Conservation Area it is found that the development would result in harm to the Conservation Area and no public benefit can be found through the use of South Back Lane.

Residential amenity

- 5.13 The application is carefully considered in relation to the relationship to The Croft and to The Saddlery in particular, but the other properties within Manor Court also need careful attention. There is reasonable separation to the other properties and so it is considered that their privacy and residential amenity will be adequately protected.
- 5.14 The dwelling has been pushed further north from South Back Lane into the site to maintain the built development line that is a characteristic of this part of the Conservation Area. This has resulted in the dwelling being nearer to The Saddlery than the previous (refused) application. The rear first floor is served by a set of rooflights, rather than windows in the wall, to reduce the potential for overlooking, with the exception of bedroom 4 which has a traditional window on the north eastern elevation. The separation distances from the proposal to The Saddlery are set out below:
- North west single storey side elevation of the proposed study (formerly garage) to rear single storey elevation of The Saddlery – 3.3m
 - North west single storey side elevation of the proposed study (formerly garage) to double storey elevation (with window) of The Saddlery – 11.1m
 - North west two storey dwelling elevation to two storey elevation (with window) of The Saddlery – 17m
 - North west two storey dwelling elevation that includes the window to bedroom 4 to rear boundary of site – 11.4m
- 5.15 Given these separation distances, the type of window and position of windows is considered that the proposal will not give rise to an unacceptable loss of residential amenity for occupants of The Saddlery.
- 5.16 There is a separation distance of 3.8m between the side elevation to approved annex extension at The Croft (to the south west) and the side elevation of the proposal.
- 5.17 Having regard to the comments and conclusions raised, although there would be a change to the outlook from neighbouring properties, it is considered that the proposal would not cause harm to the amenities of the neighbouring and nearby properties

that would justify a refusal of planning permission that can be substantiated by policies of the LDF.

Highway impact and parking provision

- 5.18 The concerns of residents and the previous refusals, and appeal decision are noted. The proposal seeks previously sought access off Main Street via the private drive. The Highway Authority has no objection to the previously proposed access off Main Street, subject to recommended conditions being attached to a permission, which would be consistent with the Inspector's judgement in the recent appeal, a matter that carries significant weight in reaching a decision on this application. On that basis the use of the private drive is found acceptable. In reaching this view, the strength of local feeling is appreciated. However, the Council pursued this matter as far as it could in the context of the appeal and although the Inspector dismissed the new dwelling on design grounds, he gave full consideration to the concerns about the proposed access to Main Street raised by the Council and local people but found it acceptable.
- 5.19 Following the deferral at Planning Committee the scheme has been amended to show access off South Back Lane, with sufficient parking to the front of the dwelling for 3 vehicles. Additional comments have been sought from NYCC Highways regarding the suitability of access off South Back Lane.
- 5.20 The Local Highway Authority has highlighted the narrowness of the lane, and the inability for a car and a cyclist to pass safely within the carriageway; there is evidence of damage where verges and carriageway edges have been overrun as a result. This in turn has resulted in the physical erosion of the verges which has impacted on the visual amenity the grass verges makes to the back lane. The visibility at the junction with Newton Road has improved a little with the removal of some vegetation however it still remains slightly substandard in a north westerly direction.
- 5.21 The conclusion of the Local Highway Authority is that refusal is recommended as South Back Lane is, by reason of its insufficient width, poor alignment and substandard visibility at the junction with Newton Road, unsuitable for the traffic which would be likely to be generated by this proposal.

Planning balance

- 5.22 The requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 are that matters of heritage assessment must be given special attention. It has been found previously that the application site can accommodate residential development without harm to the Tollerton Conservation Area. However the revised access from South Back Lane cause harm to the heritage asset. The development of the site would provide for a new home and can therefore achieve some social benefit. The development would result in economic activity but this cannot be given significant weight in this case as the economic benefits would arise from any residential development and is not a justification for development of this site. It is considered that on balance the environmental harm to the Conservation Area and unsuitable highway outweigh any other social or economic benefits.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations permission is **REFUSED** for the following reasons:
1. The proposed development is contrary to the policies of the Hambleton Local Development Framework CP1, CP16 and DP28 due to the harm caused to the

Conservation Area arising from the formation of a vehicular access to the site from South Back Lane.

2. The proposed development is contrary to the policies of the Hambleton Local Development Framework CP1 and DP4. The proposal would not provide safe access for all potential users of the development due to the insufficient width and poor alignment of South Back Lane and substandard visibility of South Back Lane at the junction with Newton Road. South Back Lane is therefore unsuitable to cater for the traffic which would be likely to be generated by this proposal.