

Parish: Tollerton
Ward: Easingwold
14

Committee date: 8 March 2018
Officer dealing: Mrs Caroline Strudwick
Target date:

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 application site is a departure from the Development Plan

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 The site is a 500 sq.m 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 designated 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 This application seeks 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.
- 1.5 There is a complex history of applications on this site; however the most relevant is the refusal 16/01347/FUL which sought permission for the creation of a two-storey dwelling and 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. This application sought to take the access off Main Street and use the private drive that serves other residential property. The Council objected 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.
- 1.6 Improvements since the revised scheme was submitted have been secured as follows:
 - The two windows on the side gable facing North East have been omitted.

- 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 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.
- 4.2 Highway Authority – The Authority has recommended refusal of an earlier application that would have used South Back Lane to serve a new dwelling. South Back Lane is narrow and has poor alignment in parts and this application proposes the new dwelling to be served from Main Street which overcomes that issue. The principle of using this means of access was found to be satisfactory as part of the appeal decision on 16/01347/FUL. Recommends conditions relating to residents turning and

parking and during the construction phase preventing mud on the highway and parking and storage for construction activities.

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.

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 adjacent to Development Limits, the access is within Development Limits and 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. As such 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 2 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 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.
- 5.8 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.

Residential amenity

- 5.9 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.
- 5.10 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 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 garage to rear single storey elevation of The Saddlery – 3.3m
 - North west single storey side elevation of the proposed 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
- 5.11 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.
- 5.12 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.
- 5.13 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 proposals 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

- 5.14 The scheme proposes a single integral garage and sufficient space to accommodate one vehicle parked externally on site. It is recommended that householders' permitted development rights are removed to ensure the garage is not converted into a habitable space, ensuring that space remains available for parking.
- 5.15 The concerns of residents and the previous refusals, and appeal decision are noted. The proposal seeks access off Main Street via the private drive. Comments received from the Highway Authority note that South Back Lane is narrow and has poor alignment in parts; the access off Main Street overcomes this issue. The Highway Authority has no objection to the proposed access, 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.

- 5.16 It is noted that neighbouring residents have raised questions about the maintenance of the private drive and the ownership of the garden strip which lies between the driveway and site boundary. The applicant has submitted title deeds and information pertaining to the ownership of the private drive to support the declaration of ownership in the application. In any event the right of the applicant or subsequent developer to use land is not a material consideration and not a matter to be given weight in the determination of this application.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:
1. The development hereby permitted shall be begun within three years of the date of this permission.
 2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 13A, 10C and 12D, 11C received by Hambleton District Council on 20th Dec 2017 and 5th Feb 2018 unless otherwise approved in writing by the Local Planning Authority.
 3. No part of the development shall be brought into use until the approved vehicle parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference 10C). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
 4. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.
 5. Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of: (a) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway; and (b) on-site materials storage area capable of accommodating all materials required for the operation of the site. The approved areas shall be kept available for their intended use at all times that construction works are in operation.
 6. No above ground construction work shall be undertaken until details and samples of the materials to be used in the construction of the external surfaces of the development have been made available on the application site for inspection (and the Local Planning Authority have been advised that the materials are on site) and the materials have been approved in writing by the Local Planning Authority. The

development shall be constructed of the approved materials in accordance with the approved method.

7. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (as amended) or any subsequent Order, the garage shall not be converted into domestic accommodation without the granting of an appropriate planning permission.
8. No part of the existing boundary hedge along the south eastern (front) boundary of the site shall be uprooted or removed and the hedge shall not be reduced below a height of 1.5m other than in accordance with details that have been submitted to, and approved by, the Local Planning Authority.

The reasons for the above conditions are:

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policies DP1, DP28 and CP17.
3. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development and in accordance with the Development Plan Policies DP1, DP28 and CP17.
4. To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety in accordance with Development Plan Policies CP1.
5. To provide for appropriate vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area in accordance with the Development Plan Policies DP1, DP28 and CP17.
6. To ensure that the external appearance of the development is compatible with the immediate surroundings of the site and the area as a whole in accordance with Hambleton Local Development Framework Policy CP17.
7. 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 safety in accordance with Development Plan Policy CP1.
8. The trees are of important local amenity value and protection of the trees is appropriate in accordance with Local Development Framework Core Strategy Policy CP16.

Informatives

1. This planning permission is liable to the Community Infrastructure Levy adopted by Hambleton District Council on 7th April 2015.
2. The applicant is advised that prior to the initial occupation of any individual dwelling hereby permitted, the following bins and recycling box conforming to European Standard EN840 should be provided by the developer for the exclusive use of the occupants of that dwelling:

1 x 240 litre black wheeled bin for general waste

1 x 240 litre black wheeled bin with a blue lid for mixed household recycling; and
1 x 55 litre blue recycling box for glass bottles and jars.

In order to guarantee EN840 compliance the Council will only collect from bins and boxes sourced from Hambleton District Council - Waste and Streetscene.

If the developer does not pay for bins and boxes, each new resident will be required to pay for them. In the event that no payment is made, the Council will not collect waste and recycling from the dwelling concerned.

Further details of the Council's Waste and Recycling Collection Policy and the charges for bins and boxes is available at www.hambleton.gov.uk or by telephoning 01609 779977.