

The Planning Inspectorate

QUESTIONNAIRE (s78) and (s20) PLANNING AND LISTED BUILDING CONSENT (Online Version)

You must ensure that a copy of the completed questionnaire, together with any attachments, are sent to the appellant/agent by the date given in the start letter. You must include details of the statutory development plan, even if you intend to rely more heavily on some other emerging plan.

If notification or consultation under an Act, Order or Departmental Circular would have been necessary before granting permission and has not yet taken place, please inform the appropriate bodies of the appeal now and ask for any comments to be sent direct to us by the date your statement is due.

Appeal Reference

APP/W9500/W/22/3301450

Appeal By

MR SIW PROPERTIES

Site Address

Land west of Highfield
Sled Gates
Fylingthorpe
North Yorkshire
YO22 4TZ

PART 1

- | | | | |
|---|-----|--|-------------------------------------|
| 1.a. Do you consider the written representation procedure to be suitable? | Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> |
| Note: If the written procedure is agreed, the Inspector will visit the site unaccompanied by either party unless the relevant part of the site cannot be seen from a road or other public land, or it is essential for the Inspector to enter the site to check measurements or other relevant facts. | | | |
| 2.a. If the written procedure is agreed, can the relevant part of the appeal site be seen from a road, public footpath, bridleway or other public land? | Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> |
| 2.b. Is it essential for the Inspector to enter the site to assess the impact of the proposal? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 2.c. Are there any known health and safety issues that would affect the conduct of the site inspection? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 3.a. Are there any other appeals or matters relating to the same site still being considered by us or the Secretary of State? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 3.b. Are there any other appeals or matters adjacent or close to the site still being considered by us or the Secretary of State? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |

PART 2

- | | | | |
|--|-----|--|-------------------------------------|
| 4. Does the appeal relate to an application for approval of reserved matters? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 5. Was a site ownership certificate submitted with the application? | Yes | <input checked="" type="checkbox"/> No | <input type="checkbox"/> |
| 6. Did you give publicity to the application in accordance with either Article 15 of the DMPO 2015, Section 67/73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or Regulation 5 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 7. Does the appeal relate to a county matter? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |

8. Please indicate the development type for the application to which the appeal relates.

- | | | | |
|---|-----|-----------------------------|-------------------------------------|
| Major Developments | | | <input type="checkbox"/> |
| Minor Developments | | | <input checked="" type="checkbox"/> |
| Other Developments | | | <input type="checkbox"/> |
| 8.b. Minor Developments | | | |
| Dwellings | | | <input checked="" type="checkbox"/> |
| Offices/R and D/light industry | | | <input type="checkbox"/> |
| General industry/storage/warehousing | | | <input type="checkbox"/> |
| Retail and services | | | <input type="checkbox"/> |
| Traveller caravan pitches | | | <input type="checkbox"/> |
| All other minor developments | | | <input type="checkbox"/> |
| Is the appeal site within: | | | |
| 9.a. A Green Belt? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 9.b. An Area of Outstanding Natural Beauty? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 10. Is there a known surface or underground mineral interest at or within 400 metres of the appeal site which is likely to be a material consideration in determining the appeal? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |

PART 3

- | | | | |
|---|-----|-----------------------------|-------------------------------------|
| 11. Would the development require the stopping up or diverting of a public right of way? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 12.a. Is the site in a Conservation Area? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 12.b. Is the site adjacent to a Conservation Area? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 12.c. Does the appeal proposal include the demolition of a non-listed building within a conservation area? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 13.a. Does the proposed development involve the demolition, alteration or extension of a Grade I / II* / II listed building? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 13.b. Would the proposed development affect the setting of a listed building? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 14. Has a grant been made under s3A or s4 of the Historic Buildings and Ancient Monuments Act 1953? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 15.a. Would the proposals affect an Ancient Monument (whether scheduled or not)? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 16. Is any part of the site subject to a Tree Preservation Order? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 17. Have you made a Local Development Order under s61A to 61C of the Town and Country Planning Act 1990 (as inserted by s40 of the Planning & Compulsory Purchase Act 2004) relating to the application site? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 18. Does the appeal involve persons claiming Gypsy/Traveller status, whether or not this is accepted by the planning authority? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 19.a. Is the appeal site in or adjacent to or likely to affect an SSSI or an internationally designated site (ie. cSAC, SAC, pSPA, SPA Ramsar)? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |
| 19.b. Are any protected species likely to be affected by the proposals? | Yes | <input type="checkbox"/> No | <input checked="" type="checkbox"/> |

PART 4			
Environmental Impact Assessment - Schedule 1			
20.a.i. Is the proposed development Schedule 1 development as described in Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
Environmental Impact Assessment - Schedule 2			
20.b.i. Is the proposed development Schedule 2 development as described in Column 1, Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
20.c.i. Have you issued a screening opinion (SO)	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
Environmental Impact Assessment - Environmental Statement (ES)			
20.d. Has the appellant supplied an environmental statement?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
Environmental Impact Assessment - Publicity			
20.e. If applicable, please attach a copy of the site notice and local advertisement published as required for EIA development.	Applies	<input type="checkbox"/> N/A	<input checked="" type="checkbox"/>
21. Have all notifications or consultations under any Act, Order or Departmental Circular, necessary before granting permission, taken place? Please attach copies of any comments that you have received in response. <input checked="" type="checkbox"/> see 'Questionnaire Documents' section	Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/>
PART 5			
22. Do you wish to attach your statement of case?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
For appeals dealt with by written representations only			
23. If this appeal is not following the written representations expedited procedure, do you intend to send a statement of case about this appeal?	Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/>
Copies of the following documents must, if appropriate, be attached to this questionnaire			
24.a. a copy of the letter with which you notified people about the appeal; <input checked="" type="checkbox"/> see 'Questionnaire Documents' section			<input checked="" type="checkbox"/>
24.b. a list of the people you notified and the deadline you gave for their comments to be sent to us; <input checked="" type="checkbox"/> see 'Questionnaire Documents' section			<input checked="" type="checkbox"/>
Deadline	<input type="text" value="05/10/2022"/>		
24.c. all representations received from interested parties about the original application; <input checked="" type="checkbox"/> see 'Questionnaire Documents' section			<input checked="" type="checkbox"/>
24.d. the planning officer's report to committee or delegated report on the application and any other relevant documents/minutes;			<input checked="" type="checkbox"/>

[see 'Questionnaire Documents' section](#)

24.e. any representations received as a result of a service of a site ownership notification;

24.f. extracts from any relevant statutory development plan policies (even if you intend to rely more heavily on the emerging plan);

You must include the front page, the title and date of the approval/adoption, please give the status of the plan. Copies of the policies should include the relevant supporting text. You must provide this even if the appeal is against non-determination.

[see 'Questionnaire Documents' section](#)

[see 'Questionnaire Documents' section](#)

List of policies

SPA SPM CO7 CO2 ENV1

24.g. extracts of any relevant policies which have been 'saved' by way of a Direction;

24.h. extracts from any supplementary planning guidance, that you consider necessary, together with its status, whether it was the subject of public consultation and consequent modification, whether it was formally adopted and if so, when;

24.i. extracts from any supplementary planning document that you consider necessary, together with the date of its adoption;

In the case of emerging documents, please state what stage they have reached.

24.j. a comprehensive list of conditions which you consider should be imposed if planning permission is granted;

Only tick that this applies if you intend to submit a list of conditions with the questionnaire. If you do not submit the list with the questionnaire, then this should be submitted by the date your statement is due. This list must be submitted separately from your appeal statement.

24.k. if any Development Plan Document (DPD) or Neighbourhood Plan relevant to this appeal has been examined and found sound/met the basic conditions and passed a referendum, the date the DPD or Neighbourhood Plan is likely to be adopted and, if you consider this date will be before the Inspector's decision on this appeal is issued, an explanation of the Council's policy position in respect of this appeal upon its adoption. You should also include an explanation of the status of existing policies and plans, as they relate to this appeal, upon adoption and which (if any) will be superseded;

24.l. if any DPD or Neighbourhood Plan relevant to this appeal has been submitted for examination, or in the case of a Neighbourhood Plan has been examined and is awaiting a referendum, an explanation of any substantive changes in the progress of the emerging plan, and their relevance to this appeal if it is considered that the plan will not be adopted before the Inspector's decision on this appeal is issued;

24.m. your Authority's CIL charging schedule is being/has been examined;

24.n. your Authority's CIL charging schedule has been/is likely to be adopted;

24.o. any other relevant information or correspondence you consider we should know about.

[see 'Questionnaire Documents' section](#)

For the Mayor of London cases only

25.a. Was it necessary to notify the Mayor of London about the application? Yes No

25.b. Did the Mayor of London issue a direction to refuse planning permission? Yes No

LPA Details

I certify that a copy of this appeal questionnaire and any enclosures will be sent to the appellant or agent today.

LPA's reference

NYM/2021/0351/OU

Completed by

Mrs Dawn Paton

On behalf of

North York Moors National Park Authority

Please provide the details of the officer we can contact for this appeal, if different from the Planning Inspectorate's usual contact for this type of appeal.

Name

Mrs Hilary Saunders

Phone no (including dialling code)

01439 772700

Email

planning@northyorkmoors.org.uk

Please advise the case officer of any changes in circumstances occurring after the return of the questionnaire.

Appeal Reference	APP/W9500/W/22/3301450
Appeal By	MR SIW PROPERTIES
Site Address	Land west of Highfield Sled Gates Fylingthorpe North Yorkshire YO22 4TZ

The documents listed below were uploaded with this form:

- Relates to Section: PART 4
 Document Description: 21. Copies of any comments that you have received in response.
 File name: 2021-07-26 Public - Response to Highways Comments.pdf
 File name: 2021-12-23 Public - Consultation Responses.pdf
 File name: 2022-01-10 Public - Third Party Responses.pdf
- Relates to Section: PART 5
 Document Description: 24.a. A copy of the letter with which you notified people about the appeal.
 File name: Copy of Parish Letter.pdf
- Relates to Section: PART 5
 Document Description: 24.b. A document containing a list of the people you notified of the appeal.
 File name: List of those Notified.pdf
- Relates to Section: PART 5
 Document Description: 24.c. Copies of all representations received from interested parties about the original application.
 File name: 2021-07-26 Public - Response to Highways Comments.pdf
 File name: 2021-12-23 Public - Consultation Responses.pdf
 File name: 2022-01-10 Public - Third Party Responses.pdf
- Relates to Section: PART 5
 Document Description: 24.d. The planning officer's report to committee or delegated report on the application and any other relevant documents/minutes.
 File name: 2022-01-12 Public - Officer Delegated Report.pdf
- Relates to Section: PART 5
 Document Description: 24.f. Copies of extracts from any relevant statutory development plan policies.
 File name: Title Page 2020.pdf
 File name: Copy of Front Sheet 2020.pdf
- Relates to Section: PART 5
 Document Description: 24.f. Copies of extracts from any relevant statutory development plan policies.
 File name: CO7.pdf
 File name: SPM.pdf
 File name: ENV1.pdf
 File name: CO2.pdf
 File name: SPA.pdf

Relates to Section: PART 5
Document Description: 24.o. Copies of any other relevant information or correspondence you consider we should know about.
File name: Validation checklist.pdf
File name: Copy of Site Notice.pdf

Completed by

Not Set

Date

07/09/2022 09:11:27

LPA

North York Moors National Park Authority

List of those Notified

EHO - Scarborough 2
Private Sector Housing Team
via email:

Area Traffic Manager - Scarborough
NYCC - Area 3 Whitby
Discovery Way
Whitby
North Yorkshire
YO22 4PZ
via email

EHO - Scarborough 1
Commercial Regulation Manager
via email:

SUDs
via email:

Fylingdales Parish Council
Inthorpe
Middlewood Lane
Fylingthorpe
Whitby
YO22 4TT
Via Email

Police - Traffic
via email

Water - Yorkshire Water Services Ltd
Land Use Planning
via email:

Internal - Conservation
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP
via email

Mrs S J Pickering
Northview
Sledgates
Fylingthorpe
Whitby
YO22 4TZ

Mr & Mrs Storey
2 Kingstone Garth
Fylingthorpe
Whitby
North Yorkshire
YO22 4UN

Document title

Bob McGovern
Middlethorpe
Sledgate Farm
Sled Gates

Claire White
Fyling Hall School
Robin Hoods Bay
YO22 4QD

Mr Chris Bancroft
Muir Lea Stores
Muir Lea
New Road
Robin Hoods Bay
North Yorkshire
YO22 4SF

Mrs Paula Andrews
Keldy
Sledgates
Fylingthorpe
Whitby
YO22 4TZ

Vicky Hudson
Via email

Jo Parry
Briar Lea
Sledgates
Fylingthorpe
North Yorkshire
YO22 4TZ
via email

Dr Timothy Reed
c/o The Pond House
Sledgates
Fylingthorpe
Whitby
YO22 4QE

Claire Harrison
Moorland Rise
Sledgates
YO224TZ

Mary Hardwick
Copsford
Sledgates
Fylingthorpe
YO22 4TZ

Y.A Mennell
Newthorpe
Sledgates
Fylingthorpe

Mr and Mrs Hodgson
Magnolia
Sledgates
Fylingthorpe
Whitby
North Yorkshire

Mr T Collinson
Cambronne
Sledgates
Fylingthorpe
YO22 4TZ

Mr John Collinson
Coppergarth
Sledgates
Fylingthorpe
YO22 4TZ

Mr John Ryder
Highfield Cottage
Sledgates
Fylingthorpe
YO22 4TZ



Fylingdales Parish Council
Inthorpe
Middlewood Lane
Fylingthorpe
Whitby
YO22 4TT
Via Email:

Your ref: NYM/2021/0351/OU
Our ref:
Date: 02 September 2022

This matter is being dealt with by: Mrs Hilary Saunders
Direct Dial 01439 772559

Dear Sir/Madam

Land at: Land west of Highfield, Sled Gates, Fylingthorpe
Proposed development: outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)
Appeal reference(s): APP/W9500/W/22/3301450

Appeal starting date: 31/08/2022

Appellant(s) name: SIW Properties

An appeal has been made to the Secretary of State in respect of the above site. The appeal follows the refusal of planning permission by this Planning Authority. A copy of the appeal documentation can be obtained from or viewed by prior appointment at The Old Vicarage, Bondgate, Helmsley and is available to view on the [Planning Explorer](#) section of the Authority's website under the application reference number.

The appeal is to be decided on the basis of an exchange of written statements by the parties and a site visit by an Inspector.

Any comments already made following the original application for planning permission (unless they are expressly confidential) will be forwarded to the Planning Inspectorate, copied to the appellant and will be taken into account by the Inspector in deciding the appeal. Should you wish to withdraw or modify your earlier comments in any way, or request a copy of the appeal decision letter, you should write directly to the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN **within five weeks** of the appeal start date, quoting the appeal reference number. Three copies of any comments need to be forwarded to the Inspectorate. If they receive representations after the deadline, they will not normally be seen by the Inspector and they will be returned.

The Planning Inspectorate will not acknowledge your letter however; they will ensure that it is passed on to the Inspector dealing with the appeal. Once decided a copy of the appeal decision will be published on the [Planning Explorer](#) section of the Authority's website under the application reference number and on the [Gov.UK website](#). Guidance on the appeal process can also be found on the [Gov.UK website](#).

Working together to sustain the landscape and life of the
North York Moors for both present and future generations to enjoy

The Old Vicarage, Bondgate, Helmsley, York YO62 5BP
01439 772700 general@northyorkmoors.org.uk
planning@northyorkmoors.org.uk northyorkmoors.org.uk



Our Ref:

2

Date: 02 September 2022

Should you have any further questions, please do not hesitate to contact the Authority.

Yours faithfully

Mark Hill

Mr M Hill
Head of Development Management

**Town and Country Planning Act 1990
North York Moors National Park Authority**

**Notice of Decision of Planning Authority on Application for
Permission to Carry out Development**

To SIW Properties
c/o Alistair Flatman Planning
fao: Mr Alistair Flatman
24 West End Grove
Horsforth
Leeds
West Yorkshire
LS18 5JJ

The above named Authority being the Planning Authority for the purposes of your application validated 04 May 2021, in respect of **outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)** at **Land west of Highfield, Sled Gates, Fylingthorpe** has considered your said application and has **refused** permission for the proposed development for the following reason(s):

- 1 The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. The proposal is therefore contrary to Policy CO2 and CO7 of the North York Moors Local Plan which only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety.
- 2 The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.

Explanation of how the Authority has Worked Positively with the Applicant/Agent

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and concluded that the scheme represents a form of development so far removed from the vision of the sustainable development supported in the Development Plan that no changes could be negotiated to render the scheme acceptable and thus no changes were requested.



Mr C M France
Director of Planning

Date 12 January 2022

Please Note your Rights of Appeal are attached to this Decision Notice

Rights of Appeal

- (1) If the applicant is aggrieved by the decision of the Local Planning Authority to:
 - a) refuse an application for planning permission or grant it subject to conditions;
 - b) refuse an application for any consent, agreement or approval required by a condition imposed on a grant of planning permission or grant it subject to conditions; or
 - c) refuse an application for any approval required under a development order

they may appeal to the Secretary of State of Department of Communities and Local Government in accordance with Section 78 of the Town and Country Planning Act 1990, within six months of the date of this notice (12 weeks in the case of a minor commercial application). The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

- (2) If permission to develop land is refused, or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State, the owner of the land may claim that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the council of the county/district in which the land is situated a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Note: If an aggrieved applicant wishes to exercise their right of appeal as above mentioned, they should do so using a form which you can get from the Secretary of State at:

Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel: 0303 444 00 00) or online at www.planningportal.gov.uk/planning/appeals

Notes

1. Please note, only the applicant possesses the right of appeal.
2. No consent, permission or approval hereby given absolves the applicant from the necessity of obtaining the approval, under the Building Regulations, of the District Council in whose area the site of the proposed Development is situated; or of obtaining approval under any other Bye-Laws, local Acts, orders, regulations, and statutory provisions in force; and no part of the proposed development should be commenced until such further approval has been obtained.
3. In your own interests your attention is particularly drawn to the conditions under which approval has been given to your proposals. Failure to comply fully with the conditions could lead to enforcement action resulting in work already done being demolished or prosecution in Magistrates' Court.
4. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within 28 days of the date of this notice.
5. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

From: Alistair Flatman
Sent: 26 July 2021 11:09
To: Hilary Saunders
Subject: Re: 2021/0351 land at Sledgates, Fylingthorpe

Good morning Hilary

I hope you are well

Further to your email of 24 June attaching further NYCC Highways comments please find attached detailed response to all the points raised.

I hope this assists in addressing Highways comments and look forward to hearing from you in due course

Also mindful we have recently submitted the requested Hedgerow Assessment and look forward to comments on that

Let me know if you need to agree an extension of time

I look forward to hearing from you and continuing to work with you to secure

positive officer recommendation

all the best

Alistair

Alistair Flatman (MRTPI)

Director

Alistair Flatman Planning

Highways Technical Note – Response to Highways Comments from North Yorkshire County Council

Outline application for up to 5 no. Dwellings – Land West of Highfield, Sled Gates, Flyingthorpe

Planning Application Reference (North Yorkshire County Council) – NYM21/0351/OU

23rd July 2021

Introduction

This Highways Technical Note has been prepared by Andrew Moseley Associates in response to comments received from North Yorkshire County Council (NYCC) Highways in relation to the Highways Supporting Statement (HSS) submitted for a proposed residential development comprising five residential dwellings on land to the west of Highfield, Sled Gates, Flyingthorpe.

The NYCC planning reference is NYM21/0351/OU.

NYCC Officer Comments and Applicant's Responses

For ease of reference, this Note provides responses to each of the highways officers comments in the same order as the NYCC Highways Consultation Response, a copy is attached in **Appendix A**.

NYCC Comment 1

The details refer to the fact that two surveys were carried out but the locations have not been mentioned. Can these locations be confirmed and ideally shown how close they are to the 57 metres south west of the proposed junction and 40 metres north east.

AMA Response 1

Both ATCs were located along Sled Gates at the extremities of the proposed visibility splays. Details of the locations for both the eastern and western ATC points are provided in *Figure 1*.



Figure 1 - Eastern ATC Street View Location:

NYCC Comment 2

The surveys were done in Dec 2020. December is not a typical neutral traffic month as specified by the Department of transport Design Manual for Roads and Bridges CA18. Can the applicant provide any information as to why this timing should be considered appropriate.

AMA Response 2

Comments are noted. Although December is not considered by DMRB to be a typical neutral month for traffic, it is considered that the speeds observed along Sled Gates would not be affected and remain constant throughout the year as the road environment is that of a residential area.

Any seasonal variance such as the summer holiday period would result in higher traffic volumes and would be much more likely to lead to reduced speeds approaching the site access as there would be more vehicles on the road, thus suggesting the surveys undertaken are fit for purpose.

NYCC Comment 3

For the vision splays to be achievable, it is relying on neither of the two neighbouring plots to have any hedges or vegetation growing over the highway boundary. Traditionally, the local Highway Authority would only write to the owners of the properties with any over hanging vegetation concerns following a routine inspection or an inspection following a complaint.

AMA Response 3

As detailed within the AMA Proposed Access & Visibility Splays drawing number: 20940/SK004 already submitted to the LPA / LHA, both the eastern and western visibility splays from the proposed site access are drawn within the applicants land ownership or within the highway boundary.

The topographical survey this is plotted upon fully details existing hedgerows and boundary locations, which the splays avoid in their entirety. The splays are not encroached upon by vegetation or boundaries and as such is not considered to be an issue.

As per NYCC policy, given the site is for less than six dwellings and is a private drive a 2m setback is NYCC policy compliant. This is reflected in an updated visibility splays plan, SK-005, in **Appendix B** of this document. Further detail is provided in later AMA comments.

NYCC Comment 4

On the clear understanding that the work needed to make the alterations as shown on the plan will require removing the current hedgerow and wall at the back of the existing footway.

AMA Response 4

Comments are noted, the hedgerow would be located to the rear of the proposed splays to ensure these are maintained free of obstruction. This would be delivered at the developers expense.

NYCC Comment 5

The figure of 36mph is taking into account a reduction of 2.5mph for wet weather reduction but the survey was carried out over 7 days, therefore this reduction should not apply.

AMA Response 5

All survey days were undertaken in dry weather, therefore it is appropriate to apply this wet weather speed reduction, which the proposed visibility splays achieve.

In addition and when considering the proposed splays, NYCCs design guide recognises the use of Manual for Streets (MfS) standards for visibility splay based on the following criterion, which this site meets as a 30mph speed limit:

‘All highways **within** the built up / urban area, which may include 20, 30 or 40 mph zones are to be classified as "streets" and the visibility requirements set out in MfS are to be applied **unless** the 85%ile speed is found to be greater than 37 mph / 60 kph.’

As the speeds surveys detail that the 85th percentile speeds fall below 37mph, the visibility splays of the site access meet the NYCC Highways standard. In addition these would not result in any severe impact upon highway capacity or road safety and as such are acceptable in highways terms.

NYCC Comment 6

No consideration to the incline of the road appears to have been taken into consideration. Have the gradients at the points surveyed being measured.

AMA Response 6

At worst, the incline of the road over the full length of the visibility splay is 1:10, therefore for robustness we have considered it at this gradient to calculate any adjustment to the resulting splay.

On the basis that the 36mph is the adjusted wet weather speed, the following calculation has been applied based on MfS.

SSD	=	$vt + v^2/2(d + 0.1a)$			
V	=	speeds (metres per second)			
t	=	driver perception reaction time (seconds)			
d	=	deceleration (metres per second squared)			
a	=	longitudinal gradient (%)			

85th Percentile Wet	v	v	t	d	a
Weather Speed (mph)	(km)	(m/s)	(s)	(m/s ²)	(+/- %)
36.00	57.94	16.09	1.5	4.41	-10

Stopping Sight Distance

vt	=	24.14
v ²	=	258.89
d + 0.1a	=	3.41
2(d + 0.1a)	=	6.82
SSD (metres)	=	62.0
SSD (metres) + 2.4m	=	64.4



We have appended an updated visibility splays plan (SK-005) to this note based on a 64.4m SSD for the western visibility splay. This splay is offset from the nearside kerb by 240mm into the carriageway.

It is generally accepted that this is acceptable to a maximum of 600m from the nearside kerb as this would be the width of a cyclist, which is a minimum 'vehicle' width.

It should be noted that this splay is not into oncoming vehicular traffic and is the offside lane, therefore vehicles would be highly unlikely to be oncoming towards the junction and on rare occasions overtaking vehicles, which is not considered likely given the residential 30mph area.

On this basis the splays are considered to be highly robust and in line with MfS standards which NYCC consider to be appropriate for implementation based on their own policy documentation.

NYCC Comment 7

As the road is a bus route, an allowance for a safe stopping distance of these vehicles should be applied.

AMA Response 7

As set out in MfS2, Paragraph 10.1.12, buses travel at 90% of the average speed for all vehicles on a 30mph road.

As detailed in the submitted Highways Supporting Statement, the average speed in this instance was 31.3mph and buses travelling at 90% would be 28.2mph. As such the SSD calculations provided in Comment 6 and shown on the updated SK-005 appended are more than sufficient to cater for bus stopping distances and are considered acceptable.

Conclusion

This Highways Technical Note provides responses and clarifications upon the comments received along with additional information where appropriate for the LHAs consideration.

In conclusion, the information provided within this Note demonstrates that the proposed development is acceptable in highways terms.



Appended Documents

Appendix A – NYCC Highways Consultation Response

Appendix B – Site Access & Visibility Splays Plan – SK-005



Appendix A – NYCC Highways Consultation Response

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION-
ADDITIONAL/AMENDED INFORMATION**

Application No:	NYM21/0351/OU
Proposed Development:	Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)
Location:	Land west of Highfield, Sled Gates, Fylingthorpe
Applicant:	SIW Properties

CH Ref:		Case Officer:	Ged Lyth
Area Ref:	4/29/709	Tel:	01609 780 780
County Road No:		E-mail:	Area3.Whitby@northyorks.gov.uk

To:	North York Moors National Park Authority The Old Vicarage Bondgate Helmsley YO62 5BP	Date:	24 June 2021
FAO:	Hilary Saunders	Copies to:	

Note to the Planning Officer:

The Local Highway Authority (LHA) has received further information since the issue of the recommendation dated 15/6/21. At this moment, the LHA is not changing that recommendation of refusal without further clarification on a number of issues.

The principal highways concern regarding this application is whether visibility splays can be achieved in both directions for the proposed access. The applicant has produced a revised drawing, nr. AMA/20940/SK004 dated 7/6/21 stating that splays of 2.0 x 58 metres to the west and 2.0 x 40 metres to the east are the maximum splays that can be achieved.

It is worth mentioning that previous applications for similar developments at this location have been submitted, refused and appeals lost with the vision splay requirements being one of the key reasons. In 2007 an appeal was lost with reason numbers 5, 8, 9 and 11 referring to different requirements for the different approach speeds from the two different directions. However, Reason number 11 mentions that the appellant has not provided any alternative speed survey data to provide evidence of what figures would be appropriate. The data provided for this application includes the results of a speed survey carried out in Dec 2020 producing 85th percentile speeds of 36 mph for traffic travelling downhill / north east bound and 28.3 mph for uphill traffic, south west bound. these speeds correspond to distances of 57 metres and 40 metres respectively. As these minimum requirement figures and maximum achievable figures are virtually the same (one metre difference for one direction) the Local Highway authority has a number of concerns about these figures that should be addressed:

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Continuation sheet:

Application No:

NYM21/0351/OU

- The details refer to the fact that two surveys were carried out but the locations have not been mentioned. Can these locations be confirmed and ideally shown how close they are to the 57 metres south west of the proposed junction and 40 metres north east.
- The surveys were done in Dec 2020. December is not a typical neutral traffic month as specified by the Department of transport Design Manual for Roads and Bridges CA18. Can the applicant provide any information as to why this timing should be considered appropriate.
- For the vision splays to be achievable, it is relying on neither of the two neighbouring plots to have any hedges or vegetation growing over the highway boundary. Traditionally, the local Highway Authority would only write to the owners of the properties with any over hanging vegetation concerns following a routine inspection or an inspection following a complaint.
- On the clear understanding that the work needed to make the alterations as shown on the plan will require removing the current hedgerow and wall at the back of the existing footway.
- The figure of 36mph is taking into account a reduction of 2.5mph for wet weather reduction but the survey was carried out over 7 days, therefore this reduction should not apply.
- No consideration to the incline of the road appears to have been taken into consideration. Have the gradients at the points surveyed being measured.
- As the road is a bus route, an allowance for a safe stopping distance of these vehicles should be applied.

Can the applicant respond to these points and where appropriate, amend any details to the visibility splays required and what is achievable?

Signed:

Ged Lyth

For Corporate Director for Business and Environmental Services

Issued by:




Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

e-mail: Area3.Whitby@northyorks.gov.uk



Appendix B – Site Access & Visibility Splays Plan – SK-005

NOTES

-  CARRIAGEWAY
-  FOOTWAY
-  KERB

REV	DESCRIPTION	DATE	BY



Project:
SLED GATES
WHITBY

Client:

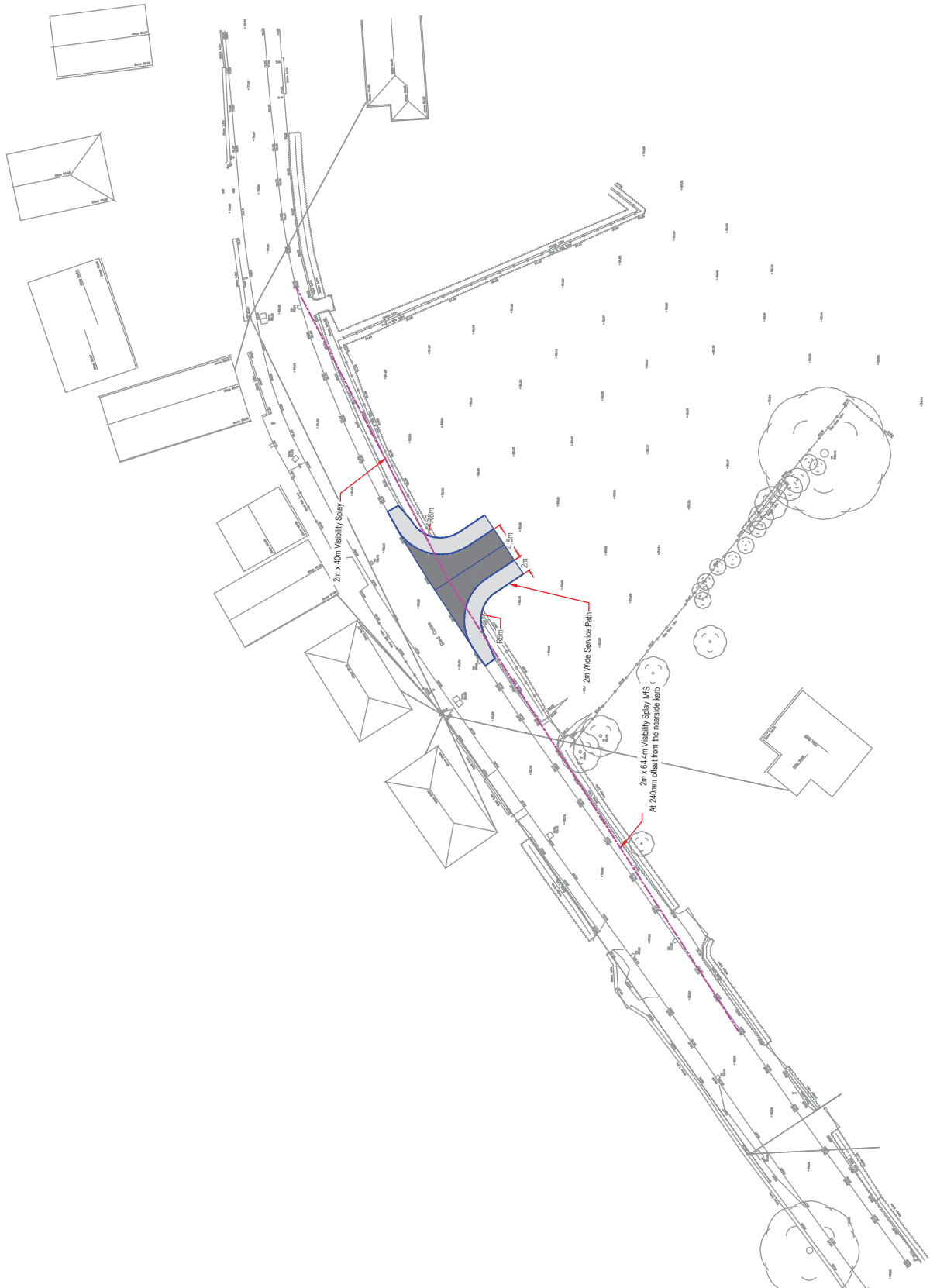
BRITOLOGY

Drawing:
PROPOSED ACCESS &
VISIBILITY SPLAYS

Drawn By: AJA Date: 23/07/2021

Checked: ATM Scale: 1:500 @ A3

Drawing No. AMA/20940/SK005 Rev: -



From:
To:
Subject: Re: NYM/2021/0351/OU
Date: 22 December 2021 15:01:59
Attachments: [NYM 2021 0351 OU.pdf](#)

Good Afternoon

This planning application was discussed at the Parish Council meeting held on 15.12.21 and the Councillors would like to raise the following objections.

OBJECTIONS The Parish Council registered comprehensive objections following its meetings on 19 May 2021 and 23 June 2021, these objections remain. In addition, Cllr Mortimer has provided notes detailing further reasons for objection which are attached.

Kind regards Jude Wakefield Parish Clerk and RFO Fylingdales Parish Council

Notes on the recent submission to NYMNP regarding NYM/2021/0351/OU dated 17 11 2021

The applicant has recently provided a set of notes and speed data for the proposed application, replacing the material rejected earlier in the year by the Highways Authority.

There are several problems with the details submitted. These start with the fact that:

- The applicant makes assertions that are not backed up by references
- Where references are used, they do not support the claims being made
- The applicant's premise is that the position of the site is in a quiet low-speed area; that is clearly untrue

Looking at the material provided by the applicant, it shows an 85thile speed up hill of 52.63 kph at ATC01 and downhill **61.8kph at ATC02**. These exceed legal speeds in both direction. The speed at ATC02 is **outside** that normally expected in a built up 30 mph zone, and is outside of the normal speeds covered by Manual for Streets 2 (MfS2).

Because of the extreme speed at ATC02, according to MfS2 several parameters in the equation used by the applicant's consultants AMA should have been changed in their calculation of splay distances. Where speeds exceed 60kph, values for driver perception reaction time rise to 2 seconds from 1.5, and deceleration drops to 2.45 m/s² from 4.41 (MfS2 Table 10.1). That necessarily affects the estimates for splays.

The recalculation of the splay, using correct parameters, increases the splay distance from the incorrectly claimed 68.21m to **122.29m**. Add to this the other splay, then the total splay widths to be accommodated on the site is 169.69m. This is an **additional 54.08m**: add in the 8.5m width of the proposed opening, and the total (178.19m) is far more than the frontage of the site. That can **only** be accommodated by using the hedgerows of neighbours.

We also object on traffic grounds due to the fact that:

- At ATC01 over a 7-day period there was a heavy volume of traffic (**4347** vehicles moving S, **4466** moving N). At a point c 70m below the planned opening for the proposed development, coming from within a within the 30mph zone, **well over 600 cars were speeding >30 mph around a corner approaching the entrance**. Note that cars are normally parked on the other side of the road, making this a dangerous pinch point. Speeding cars passing both ways were **in excess of 1000** during that week.
- Data collected at ATC02 over a 7-day period confirms that road traffic safety is a real issue. Traffic coming downhill on the left approaching the planned opening is within a 30mph zone. AMA data indicated that of the **4340** vehicles recorded on the downhill side during the 7 days 12- 18.10.2021, some **1939** were **in excess of 30 mph**, and **13** were **> 45mph** as they approached the site, and a line of parked cars forcing them into the centre of the road at speed. Taking vehicles going up and downhill (**8897**) past the planned site opening during that period, **some 2863** were **>30 mph**.
- The setback distance cited is also not in line with either MfS2, or the NYCC 1998 design guide. It should be 2.4m. That also affects the splay placement.

The applicant claims that there will be a net gain for hedge length. No data are provided, and clearly with correct splays, claims for net gain are wrong- as the splay distance is far longer than any proposed remedial hedge planting.

The applicant fails to recognise that the hedge and stone wall that it wants to remove is one that meets the 1997 Hedgerow Regulations: a point established by 3 surveys of the hedge across the period early spring to late summer 2021. Planting a few shrubs is different from a diverse hedgerow- especially a significant ground flora.

On the basis that there is:

- Significant speeding both uphill and downhill
- Splay calculations were in error
- The setback distance is wrong
- There is no basis for unquantified claims of net gain on hedge removal and shrub planting; a full hedge flora cannot be magically returned by planting shrubs.
- That the applicant has provided no biodiversity data for NYMNP to evaluate
- There is no reason to change the decisions of previous applications that were refused on the highways grounds

It is requested that the Park rejects the application.

The Inspector said the land shouldn't be used for housing until NYCC highways had put in amelioration on the road. THIS HAS NOT HAPPENED therefore this application must be refused.

From: Elspeth Ingleby
Sent: 22 December 2021 12:50
To: Hilary Saunders
Subject: RE: Hedgerow Translocation Report - Application Number NYM21/0351/OU at Land west of Highfield, Sled Gates, Fylingthorpe

Hi Hilary

Thanks for passing this on which does make interesting reading.

Regardless of where the hedgerow stands under the Hedgerow Regulations (which are acknowledged to be superseded by planning regulations) it is clear that the hedgerow classifies as being a habitat of importance (under the NERC Act as referred to by this report) and therefore in line with our Statutory Purposes we would not want to see this habitat lost or detrimentally affected by the proposals.

According to the mitigation hierarchy, which seeks to avoid impact before reducing or mitigating for impact caused, ideally the hedgerow would be retained in its existing position thus negating the potential for detrimental impact to the habitat, however if that is not possible due to reasons considered of greater importance on planning balance, then the proposed methodology of hedgerow translocation would be more acceptable than removal and replanting, with greater retention of existing habitat and a reduced lag before the realigned hedgerow provides ongoing habitat. Appropriate conditions would

of course be needed to secure this, should that be the case.

Thanks

Elsbeth

**NORTH YORKSHIRE COUNTY COUNCIL
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**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION-
ADDITIONAL/AMENDED INFORMATION**

Application No:	NYM21/0351/OU
Proposed Development:	Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)
Location:	Land west of Highfield, Sled Gates, Fylingthorpe
Applicant:	SIW Properties

CH Ref:		Case Officer:	Ged Lyth
Area Ref:	4/29/709	Tel:	
County Road No:		E-mail:	

To:	North York Moors National Park Authority The Old Vicarage Bondgate Helmsley YO62 5BP	Date:	13 December 2021
FAO:	Hilary Saunders	Copies to:	

Note to the Planning Officer:

The Local Highway Authority (LHA) has received further information since the issue of the recommendation dated 4/8/21 including an amended layout and amended visibility splay.

The LHA are not aware of where an allowance to say the Y distance looking left can be adjusted away from the nearside kerbline for the reason that the oncoming traffic will not be at this location. The far side does frequently have parked cars on the road which has the resulting effect of pushing the oncoming vehicles, including buses, out into the near side lane. Therefore the LHA does not accept the claim that the visibility can be measured at a point 0.9 metres out into the road.

Section 7.7.7 of Manual for streets does say that the X value for measuring visibility can be adjusted to 2 metres for lightly trafficked roads and as the proposed access is a private drive and the flows of traffic on the major road are relatively low, the LHA are willing to agree that this can be applied for this location.

The applicants calculations in determining the required visibility splays include small adjustments for gradients, wet weather etc. The LHA has not evaluated these

**LOCAL HIGHWAY AUTHORITY
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Continuation sheet:

Application No:

NYM21/0351/OU

figures as it does not have a bearing on the ultimate conclusion that the LHA has made. The proposals for the downhill, north side visibility is that a distance of 47.4 metres is required. The latest revised plan, AMA/20940/SK/006 dated 09/11/2021 shows this to be achievable by moving the access point southwards from the previous layout. The applicant has claimed that the Y value of 47.4 can be achieved but this is relying on the X value being relaxed to 2 metres and the hedges are maintained so that it does not overhang the proposed highway extents. For the uphill, south side, the required visibility distance is 68.2 metres. The applicant claims that the Y value visibility can be achieved only by taking a point 0.9 metres out from the kerbline into the carriageway. The achievable distance on the kerbline is in the region of 48 metres. These figures are relying on the X value being relaxed to 2 metres and the hedges of the neighbouring properties maintained so that they do not overhang the existing highway extents.

R2 VISIBILITY AT NEW ACCESS

The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety

<p>Signed:</p> <p style="text-align: center;"><i>Ged Lyth</i></p> <p><i>For Corporate Director for Business and Environmental Services</i></p>	<p>Issued by: Whitby Highways Office Discovery Way Whitby North Yorkshire YO22 4PZ</p> <p>e-mail: _____</p>
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**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION-
ADDITIONAL/AMENDED INFORMATION**

Application No:	NYM21/0351/OU
Proposed Development:	Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)
Location:	Land west of Highfield, Sled Gates, Fylingthorpe
Applicant:	SIW Properties

CH Ref:		Case Officer:	Ged Lyth
Area Ref:	4/29/709	Tel:	
County Road No:		E-mail:	

To:	North York Moors National Park Authority The Old Vicarage Bondgate Helmsley YO62 5BP	Date:	13 December 2021
FAO:	Hilary Saunders	Copies to:	

Note to the Planning Officer:

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Section 7.7.7 of Manual for streets does say that the X value for measuring visibility can be adjusted to 2 metres for lightly trafficked roads and as the proposed access is a private drive and the flows of traffic on the major road are relatively low, the LHA are willing to agree that this can be applied for this location.

The applicants calculations in determining the required visibility splays include small adjustments for gradients, wet weather etc. The LHA has not evaluated these

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

Application No:

NYM21/0351/OU

figures as it does not have a bearing on the ultimate conclusion that the LHA has made. The proposals for the downhill, north side visibility is that a distance of 47.4 metres is required. The latest revised plan, AMA/20940/SK/006 dated 09/11/2021 shows this to be achievable by moving the access point southwards from the previous layout. The applicant has claimed that the Y value of 47.4 can be achieved but this is relying on the X value being relaxed to 2 metres and the hedges are maintained so that it does not overhang the proposed highway extents. For the uphill, south side, the required visibility distance is 68.2 metres. The applicant claims that the Y value visibility can be achieved only by taking a point 0.9 metres out from the kerbline into the carriageway. The achievable distance on the kerbline is in the region of 48 metres. These figures are relying on the X value being relaxed to 2 metres and the hedges of the neighbouring properties maintained so that they do not overhang the existing highway extents.

R2 VISIBILITY AT NEW ACCESS

The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety

Signed:

Ged Lyth

For Corporate Director for Business and Environmental Services

Issued by:

Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

e-mail:

From:
To:
Subject: Application for outline application for up to 5 no. principal residence dwellings etc. Land west of Highfield,
Sled Gates, Fylingthorpe NYM/2021/0351/OU
Date: 18 November 2021 12:16:56

FAO Mrs Hilary Saunders

Application for outline application for up to 5 no. principal residence dwellings etc. Land west of Highfield, Sled Gates, Fylingthorpe NYM/2021/0351/OU

I refer to your e-mail of the 18th November 2021 in respect of the above amended application. I hereby confirm that I have no additional comments on the proposals.

Thanks

Steve

Steve Reynolds DipAc, DipEH, BSc, DMS, MSc(ENG), MCIEH, CEnvH, CMIWM
Residential Regulation Manager
Scarborough Borough Council

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From: Rachel Pickering

Sent: 05 October 2021 12:57

To: Hilary Saunders

Subject: RE: FW: Response To Application Number NYM21/0351/OU at Land west of Highfield, Sled Gates, Fylingthorpe

The Authority is unable to state whether the hedgerow would be classed as 'important' according to the 1997 Hedgerows Regulations without doing a proper assessment ourselves. However, regardless of whether the hedge fits this legal classification, from the information provided from various sources it seems that this is a good example of an ecologically rich hedge which is a priority habitat and this needs to be taken into consideration by the planners when assessing the planning application.

If we were to get a hedgerow removal notice from the applicant we would carry out a full assessment which would result in them being issued a hedgerow retention notice (if classed as important) or being told they could remove the hedge (if not classed as important).

All hedges are protected so permission must be sought to remove them. Planning permission can of course override the need for this.

From:
To: [Planning](#)
Subject: Re: NYM/2021/0351/OU
Date: 12 August 2021 09:56:58

Below is our response to the revised application.

NYM/2021/0351/OU

Application for outline application for construction of up to 5no.principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale) at land west of Highfield, Sledgates, Fylingthorpe.

After Councillors now having had time to read the revised detail within the above application they would like to make comments as follows:-

1. The traffic survey does not add up. The survey suggests that the traffic is lighter than 20 years ago – which is probably was as the survey was done in December during a pandemic lockdown! The second monitoring point indicated on the plans was not there, also according to the figures somehow vehicles went missing between the two points.

This road is busier than it has ever been. Cyclists are following the route of the Tour de Yorkshire and their numbers have increased exponentially. Cyclists have been seen coming down Sledgates crouched over the bikes handle bars as though they were in the Tour de France.

Cars have to park on the right hand side of the road coming out of Fylingthorpe as the houses do not have drives and garages. Cars park on both sides. The photograph in the application indicates this. The road is narrow and buses, one going up and one coming down which happens regularly because of timetabling cannot pass each other. The pavement is used regularly by the bus going up hill, in fact all traffic has to be careful in this area.

The Inspector who dismissed the appeal said the land/access should not be used until the Highway Department did work on the road or put a scheme in place to reduce the speed of the traffic. Nothing has changed.

2. The ecological survey of the hedge was only done at one time of year and no allowance has been made for other species that become obvious earlier or later in the year.

Fylingdales Parish Council stands by all the points in its previous objection to this application.

Jane Mortimer

Acting Clerk

From:
To: [Planning](#)
Subject: Re: NYM/2021/0351/OU
Date: 26 July 2021 10:10:43

Flylingdales Parish Council objects to this application, all the reasons for this strenuous objection have already been sent twice to yourselves and the Parish Council wish those objections to stand.

Regards,
Jane Mortimer
Acting Clerk.

On 22/06/2021 13:37 planning@northyorkmoors.org.uk wrote:

Reference: NYM/2021/0351/OU.

The North York Moors National Park Authority Planning Service welcomes public engagement in all aspects of its work. You have received this email in relation to a current planning matter. The attached correspondence contains important information which you are advised to retain for your records. If you have any queries, please do not hesitate to contact us. When replying it's best to quote our reference number, which is included in the attached letter.

The Authority is following Government advice concerning Covid-19 as such our working arrangements may change. We will ensure our letters and website are updated as and when required in order to provide our customers with the most up to date information.

Kind regards

Chris France

Chris France
Director of Planning
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley, York YO62 5BP



**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION-
ADDITIONAL/AMENDED INFORMATION**

Application No:	NYM21/0351/OU
Proposed Development:	Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)
Location:	Land west of Highfield, Sled Gates, Fylingthorpe
Applicant:	SIW Properties

CH Ref:	Case Officer:	Ged Lyth
Area Ref:	4/29/709	
County Road No:		

To:	North York Moors National Park Authority The Old Vicarage Bondgate Helmsley YO62 5BP	Date:	4 August 2021
FAO:	Hilary Saunders	Copies to:	

Note to the Planning Officer:

The Local Highway Authority (LHA) has received further information since the issue of the recommendation dated 24/6/21 where the agent has responded to the issues and concerns raised by the LHA. The LHA is not satisfied that this latest response sufficiently addresses the LHA concerns to change the recommendation of refusal.

1. Survey Locations.

The LHA confirm that the locations shown are appropriate locations for the surveys. However, the LHA has received new queries about the locations. These are mentioned further below.

2. Survey timings.

The LHA cannot agree with all of the consultants reasoning. Whilst it is agreed that some of the data for a summer holiday period is likely to have reduced speeds compared with the December survey during the daytime, other factors such as the longer daylight hours are likely to have the opposite effect.

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3. Vision Splays.

Whilst this is a concern for future residents of the proposals, it is not reasonable to object to the developers plans on the grounds that hedges belonging to neighbouring plots are not maintained sufficiently.

4. Work required to achieve the vision splay.

Agreed, no further comment required.

Comments 5, 6 and 7 all relate to the calculations in the speed survey.

The LHA does not agree with all of the consultants reasoning. The LHA are not aware of any part of the Design Manual for roads and Bridges document, Document CA185 Vehicle Speed Management where it permits a reduction of 2.5mph for wet weather. Although it does include an increase for when the road surface is wet. The LHA do not accept the comment "it is generally accepted that this is acceptable to a maximum of 600mm from the nearside kerb" as the LHA are not aware of such allowance in the CA185 document.

Regarding the comments received about the traffic surveys not taking place at the times or locations shown, the following observations have been made.

As stated in 1 above, the locations shown by the consultant would be in appropriate locations. However, the LHA would expect that such survey points are positioned next to fixed objects such as a lighting column or telephone pole. On the downhill side, a lighting column is located approximately 10 metres further downhill away from the locations shown. Similarly, on the uphill side, a telephone pole is located approximately 15 metres further uphill of the suggested locations. If these are the actual locations, the LHA is willing to accept these as appropriate locations.

The LHA can confirm that a notification for a traffic survey on Sled gates for those dates was received.

Does the applicant have any further information to help substantiate where and when these surveys took place?

Finally, it has been brought to the attention of the LHA that there are anomalies in the data of the survey. Taking the generous distance between the lighting column and the telephone pole this measures 150 metres, includes 11 dwellings and no junctions.

Therefore, it would be expected that the two eastbound volumes of traffic and the two westbound volumes of traffic would be very similar. However, this does not appear to be the case. Can the agent provide any reasonable reason for this occurring?

For Westbound / uphill traffic

	3/12/20	4/12/20	5/12/20	6/12/20	7/12/20	8/12/20	9/12/20
	Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday
upper west site	363	345	321	268	322	368	327
lower east site	355	398	325	306	378	389	370

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

Application No:

NYM21/0351/OU

difference -8 +53 +4 +38 +56 +21 +43

traffic
entering
zone
shown as
positive.

For Eastbound traffic / downhill

	3/12/20	4/12/20	5/12/20	6/12/20	7/12/20	8/12/20	9/12/20
	Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday
upper west site	333	368	312	299	339	364	344
lower east site	389	378	338	276	360	398	359
difference	-56	-10	-26	+23	-21	-34	-15

traffic
entering
zone
shown as
positive.

Whilst small discrepancies would be expected, these numbers are surprising unexpected.

Taking a cumulative increase or decrease on the number of vehicles located between the survey points over the 7 days, this produces these figures based on whatever the base number was from when the survey starts.

	3/12/20	4/12/20	5/12/20	6/12/20	7/12/20	8/12/20	9/12/20
	Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday
cumulative number of vehicles compared with starting figure	-64	-21	-43	+18	+53	+40	+68

**LOCAL HIGHWAY AUTHORITY
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Continuation sheet:

Application No:

NYM21/0351/OU

This suggests that the number of vehicles located between the two survey locations between the dates of Thursday 3/12/20 and Wednesday 9/12/20 fluctuated by 132 vehicles.

Unless the agent can provide a valid reason why the amount of vehicles located within a 150 metre length, would vary by such an amount, the LHA would contest the validity of the information supplied.

Signed:

Ged Lyth

For Corporate Director for Business and Environmental Services

Issued by:

Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

From:
To:
Cc: [Planning](#);
Subject: NYM/2021/0351/OU - Land west of Highfield, Sledgates
Date: 08 July 2021 09:31:20

Hi Hilary

The ecological opinion provided by Middleton Bell Ecology is that the hedgerow in question (hedge 1 of the assessment) does not qualify as a hedgerow of importance under the Hedgerow Regulation, however they do caveat that assessment with the acknowledgement that the time of year is not ideal for identifying many of the specific woodland flora species listed under the Regulations as qualifying as supporting features in the assessment. In response to the assessment, a member of the local community has provided a photograph purported to be from earlier this year of the base of the hedge, containing at least two woodland flora species not identified in Middleton Bell Ecology's assessment (which had found 1 qualifying species).

Whilst we cannot prove that the hedge should be counted as 'of importance' under the Regulations on the basis of the photograph provided by in a third party comments, I feel that this evidence when combined with a historic survey which previously found a greater abundance of woodland flora, and the acknowledged limitation of the Middleton Bell Ecology opinion provided, is sufficient to raise doubts that the presence of woodland flora species can be excluded on the basis of the survey provided which was carried out in late June when woodland flora may have died back or been repressed and hidden due to latter growth of lush species. I would therefore advise that if the determination of the application is dependent on this hedgerow being removed, that a revised assessment should be made at the most appropriate time of year (in spring, ideally late April time) to evaluate fully the ground flora present and ultimately resolve the status of the hedgerow.

Best wishes

Elsbeth

Elsbeth Ingleby MA_{Cantab} ACIEEM

Ecologist

North York Moors National Park Authority

The Old Vicarage, Bondgate, Helmsley, York YO62 5BP

From:
To: [Planning](#)
Subject: Re: NYM/2021/0351/OU
Date: 05 July 2021 10:01:40

Objections to the above application from Fylingdales Parish Council

Planning –

1. NYM/2021/0351/OU Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale at Land west of Highfield, Sledgates, Fylingthorpe This application has been altered and needed to be looked at again.

Objections: The objections put forward previously still stand but with further objections:
- The sight lines information given to the Highways Department is different to the ones on the plans. The owners of the hedges that have to be taken down to allow for the proper sight lines have still not been approached for permission. The promised hedgerow report is not available. Is it legal to cut these hedgerows down?

I hope the Parish Councils objections are taken on board by the Planning Committee as they have local knowledge of the circumstances and traffic speeds.

Yours,

Jane Mortimer
Acting Clerk

From: Nick Mason
Sent: 25 June 2021 16:51
To: Hilary Saunders <h.saunders@northyorkmoors.org.uk>
Subject: RE: 2021/0351/OU Sledgates

Hi Hilary,

Thanks for the contact on this one. There is not much I can say about the wall/hedgeline at the front of the plot. As you say there is little to indicate that the walling is of any great antiquity, though a boundary has clearly been there since at least the first OS mapping (1850s) and likely much longer. Elspeth can probably say more about that based on the condition of the old hedge.

There is little from historic mapping, aerial imagery or existing records to indicate that there is anything archaeologically significant on the site. However, given the proximity to Fylingthorpe, a Domesday village, there remains the potential for archaeology. If the application were to be approved down the line, I would request a condition for an

archaeological watching brief on the groundworks, the exact methodology to be agreed between the developer and archaeologists when a final plan was submitted. However, I suggest that it might be worthwhile the developer carrying out a pre-emptive evaluation of the site: this would probably be best achieved by desk-based assessment and geophysical survey to better ascertain the likelihood of archaeological features being present beneath the surface. Magnetometry would likely be the best way forward. Assuming that no features were identified to a reasonable depth, this would negate the need for the watching brief, and should save money and time overall. Please note that this is not a guarantee however.

If the developers or their agents would like to discuss any of the heritage issues raised, then as ever they are welcome to contact me within the bounds of the planning system. I do feel it would be helpful to commence an evaluation strategy ASAP if approval is forthcoming.

Best,

Nick Mason
Archaeology Officer

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION-
ADDITIONAL/AMENDED INFORMATION**

Application No:	NYM21/0351/OU
Proposed Development:	Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)
Location:	Land west of Highfield, Sled Gates, Fylingthorpe
Applicant:	SIW Properties

CH Ref:		Case Officer:	Ged Lyth
Area Ref:	4/29/709	Tel:	
County Road No:		E-mail:	

To:	North York Moors National Park Authority The Old Vicarage Bondgate Helmsley YO62 5BP	Date:	24 June 2021
FAO:	Hilary Saunders	Copies to:	

Note to the Planning Officer:

The Local Highway Authority (LHA) has received further information since the issue of the recommendation dated 15/6/21. At this moment, the LHA is not changing that recommendation of refusal without further clarification on a number of issues.

The principal highways concern regarding this application is whether visibility splays can be achieved in both directions for the proposed access. The applicant has produced a revised drawing, nr. AMA/20940/SK004 dated 7/6/21 stating that splays of 2.0 x 58 metres to the west and 2.0 x 40 metres to the east are the maximum splays that can be achieved.

It is worth mentioning that previous applications for similar developments at this location have been submitted, refused and appeals lost with the vision splay requirements being one of the key reasons. In 2007 an appeal was lost with reason numbers 5, 8, 9 and 11 referring to different requirements for the different approach speeds from the two different directions. However, Reason number 11 mentions that the appellant has not provided any alternative speed survey data to provide evidence of what figures would be appropriate. The data provided for this application includes the results of a speed survey carried out in Dec 2020 producing 85th percentile speeds of 36 mph for traffic travelling downhill / north east bound and 28.3 mph for uphill traffic, south west bound. these speeds correspond to distances of 57 metres and 40 metres respectively.

As these minimum requirement figures and maximum achievable figures are virtually the same (one metre difference for one direction) the Local Highway authority has a number of concerns about these figures that should be addressed:

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

Application No:

NYM21/0351/OU

- The details refer to the fact that two surveys were carried out but the locations have not been mentioned. Can these locations be confirmed and ideally shown how close they are to the 57 metres south west of the proposed junction and 40 metres north east.
- The surveys were done in Dec 2020. December is not a typical neutral traffic month as specified by the Department of transport Design Manual for Roads and Bridges CA18. Can the applicant provide any information as to why this timing should be considered appropriate.
- For the vision splays to be achievable, it is relying on neither of the two neighbouring plots to have any hedges or vegetation growing over the highway boundary. Traditionally, the local Highway Authority would only write to the owners of the properties with any over hanging vegetation concerns following a routine inspection or an inspection following a complaint.
- On the clear understanding that the work needed to make the alterations as shown on the plan will require removing the current hedgerow and wall at the back of the existing footway.
- The figure of 36mph is taking into account a reduction of 2.5mph for wet weather reduction but the survey was carried out over 7 days, therefore this reduction should not apply.
- No consideration to the incline of the road appears to have been taken into consideration. Have the gradients at the points surveyed being measured.
- As the road is a bus route, an allowance for a safe stopping distance of these vehicles should be applied.

Can the applicant respond to these points and where appropriate, amend any details to the visibility splays required and what is achievable?

Signed:

Ged Lyth

For Corporate Director for Business and Environmental Services

Issued by:

Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

e-mail:



YorkshireWater

Chris France
Director of Planning
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

Yorkshire Water Services
Developer Services
Pre-Development Team
PO BOX 52
Bradford
BD3 7AY

For enquiries contact:
Becca Khan on

Your Ref: NYM/2021/0351/OU
Our Ref: X010065

21st June 2021

Dear Sir/Madam,

Land west of Highfield, Sled Gates, Fylingthorpe – Outline application for construction of up to 5 principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Thank you for consulting Yorkshire Water regarding the above proposed development. We have the following comments:

Waste Water

If planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure:

**The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.
(In the interest of satisfactory and sustainable drainage)**

There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:

- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and**
- ii) the means of discharging to the public sewer network at a restricted rate of 3.5 litres per second.
(To ensure that no surface water discharges take place until proper provision has been made for its disposal)**





YorkshireWater

1. If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he should contact our Developer Services Team at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition as supplemented by Yorkshire Water's requirements.

2. The developer is proposing to discharge surface water to public sewer via SUDS however, sustainable development requires appropriate surface water disposal. Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer.

As the proposal site is currently undeveloped, no positive surface water is known to have previously discharged to the public sewer network. Surface water discharge to the existing public sewer network must only be as a last resort and the developer is required to eliminate other means of surface water disposal.

As a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer network at a restricted rate of no more than 3.5 litres per second.

Yours faithfully

Becca Khan
Pre-Development Sewerage Technician

From: Elspeth Ingleby
Sent: 18 June 2021 17:39
To: Hilary Saunders
Cc: Chris France

; Mark Hill

; Elizabeth Clements

Subject: RE: New application post - NYM/2021/0351/OU - Land west of Highfield, Sled Gates, Fylingthorpe - Third Party

Hi Hilary

In light of recent public comments regarding the hedgerow and its importance, and the age of the previous ecological information, I felt it would be helpful to set out the context of the Hedgerow Regulations 1997 by which Local Authorities are given a framework to establish whether a hedgerow can be considered of importance. As stated in my initial response, whilst planning applications are not bound to the Hedgerow Regulations (planning legislation supersedes), it is generally considered appropriate that similar criteria is used in assessing a hedgerow as a landowner could choose to remove a hedge out with of any planning application by notifying the Local Authority as per due process and if not deemed of 'Importance' we would be unable to refuse consent.

In order for a hedgerow to be deemed 'Important' under the Hedgerow Regulations of 1997, it must be in existence for at least 30 years and satisfy at least 1 criteria set out within part II of Schedule I of the Regulations. These criteria reflect the hedgerow's potential archaeological, historical, wildlife or landscape value. There are eight different criteria set out in the Regulations, five connected with archaeological, historical or landscape values, and three relating to wildlife value. From our experience of dealing with hedgerow notifications in the National Park, most hedgerows that are deemed 'Important' classify under archaeological, historical or landscape reasons, with unfortunately very few qualifying for any of the three 'wildlife' criteria, as a very significant level of ecological value is required to qualify. As any qualifying features for the archaeological, historical or landscape criteria must relate to records predating 1997, these cannot have changed since the hedgerow was previously assessed by colleagues for a previous application on the site. There was not found to be the features necessary to meet the criteria under these values and I will therefore not go into these further here.

The three wildlife related criteria are based on;

- The presence of species listed under several specific schedules of the Wildlife and Countryside Act (1981), declining breeders of the rare data list or species categorised as 'rare' 'vulnerable' 'endangered' or 'extinct' in Red Data books.
- The number of woody species in the hedge, combined with a certain number of associated features (more woody species means there needs to be fewer associated features)
- The presence of an adjacent public right of way (certain types only) and including four woody species and associated with at least two additional features.

Where 'woody species' are referred to these must be on a specific list provided under Schedule 3 of the Regulations, and due to the length of the hedge, these must be within the central 30m of hedgerow. Some species including willow and rose are grouped (ie two types of willow counts as only one type of woody species).

When previously assessed, the hedgerow was found to contain no species that qualify under the first of these criteria. Three woody species were found within the relevant part of the hedgerow, one fewer than the minimum number required under the Regulations for the second criteria, which would require four associated features. Assuming that the site contains at least three qualifying woodland ground flora species (as it did previously) this site would have three associated features. To qualify with three associated features, at least

five woody species would need to be present. The last criteria relates to an adjacent public right of way. Since the previous assessment was made, no alterations have been made to the Hedgerow Regulations and therefore the same very strict definition of what is included under this criteria remains. My colleagues determined previously that the adjacent road in this case does not qualify under this criteria.

The length of time that ecological surveys can be deemed valid is variable depending on what is being assessed. Two years is considered a rough guide, however in some cases more frequent assessment is likely to be necessary, for example for very mobile species such as bats, whereas in other cases where the features of interest are unlikely to have changed then a longer period may be valid. My professional opinion is that the likelihood of new woody species (included under Schedule 3 of the Hedgerow Regulations) becoming established in a managed hedge on the edge of a village environment since the previous assessment was conducted is small. I also believe that the likelihood of finding rare protected species within the hedge that would qualify under the first criteria listed above, that hadn't been previously recorded, in such an environment is likewise extremely small. However I do accept that the risk is not negligible, and therefore in order to make absolutely sure that nothing has been missed, it would be appropriate that the applicant commissions a hedgerow assessment of the hedge in question to be undertaken by a suitably qualified ecologist. The assessment should provide an opinion on whether the hedgerow would qualify as an important hedge under the Hedgerow Regulations by satisfying one or more of the 'wildlife value' criteria (paragraphs 6 to 8 of the Regulations). It would be helpful if a full species list of the hedge (including all woody and ground flora species) is also provided, as this would give valuable information regarding an appropriate planting mix should the application subsequently be approved and the hedgerow removed and replaced on a new line as proposed.

Kind regards

Elspeth

Elspeth Ingleby MA_{Cantab} ACIEEM

Ecologist

North York Moors National Park Authority

The Old Vicarage, Bondgate, Helmsley, York YO62 5BP

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**

Application No: **NYM21/0351/OU**

Proposed Development: Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Location: Land west of Highfield, Sled Gates, Fylingthorpe

Applicant: SIW Properties

CH Ref: **Case Officer:** Ged Lyth

Area Ref: 4/29/709 **Tel:**

County Road No: **E-mail:**

To: North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
YO62 5BP **Date:** 15 June 2021

FAO: Hilary Saunders **Copies to:**

Note to the Planning Officer:

In assessing the submitted proposals and reaching its recommendation the Local Highway Authority (LHA) has taken into account the following matters:

The LHA has taken into account the 2007 application for this location and the subsequent appeal, APP/W9500/A/07/2056979/WE with specific reference to the visibility splays required.

The design standard for the site is Manual for Streets. Reference is made that a speed survey produced an 85th percentile speed for traffic travelling uphill of 28.3mph which equates to a visibility splay requirement of 40 metres.

The available visibility is shown on Drawing no. AMA/20940/SK001 which shows that a visibility splay of 2.4m by 35 metres is achievable. The applicant has stated that reducing the value of 2.4 metres to 2.0 metres makes no difference to the 35 metres value that is achievable.

Consequently, the Local Highway Authority recommends that Planning Permission is **REFUSED** for the following reasons:

R2 VISIBILITY AT NEW ACCESS

The Planning Authority considers that clear visibility of 40 metres cannot be achieved along the public highway in a downhill direction from a point 2 metres from the carriageway edge measured

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

NYM21/0351/OU

Application No:

down the centre line of the minor/access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety

Signed:

Ged Lyth

For Corporate Director for Business and Environmental Services

Issued by:

Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

e-mail

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**

Application No: **NYM21/0351/OU**

Proposed Development: Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Location: Land west of Highfield, Sled Gates, Fylingthorpe

Applicant: SIW Properties

CH Ref: **Case Officer:** Ged Lyth

Area Ref: 4/29/709 **Tel:**

County Road No: **E-mail:**

To: North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
YO62 5BP **Date:** 15 June 2021

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**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

NYM21/0351/OU

Application No:

down the centre line of the minor/access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety

Signed:

Ged Lyth

For Corporate Director for Business and Environmental Services

Issued by:

Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

e-mail:

From: Elspeth Ingleby
Sent: 07 June 2021 16:40
To: Hilary Saunders
Cc: Planning; Holly Ramsden
Subject: RE: New application post - NYM/2021/0351/OU - Land west of Highfield, Sled Gates, Fylingthorpe - Parish

Dear Hilary

I expect that Mark will comment of the established trees to the west of the site, however I would like to address issues regarding the hedgerow running between the road and the proposed site. I have noted comments from the public on its importance and checking our files I note that this specific hedge was the subject of in depth assessment between 2003 and 2006 regarding whether if assessed under the Hedgerow Regulations (1997) it would qualify as a hedge to be retained. The conclusion by officers at the time was that the hedge would NOT qualify for retention, however it had significant important features, including the wall which has historical merit, and the hedge and verge which has considerable ecological value in its own right, including some species which are locally rare. Whilst the Hedgerow Regulations do not apply where a planning application has been submitted which include the removal/disturbance of the hedge, we have always used the standards of the regs as a guide for assessing planning regulations to ensure a consistent approach. I accept that a considerable time has passed since that time, however the reasons for concluding it would not need to be retained under the Hedgerow Regs have not altered in that time.

The proposed plans appear to indicate that the existing line of the hedge would need to be removed almost in its entirety to enable sufficient visibility splays to be inserted. Whilst I cannot object to its removal based on the above criteria, it will need to be reinstated, and I would therefore object to the number of gaps that would be required by the proposed plans (4 pedestrian access as well as the wide vehicular access) which would affect the integrity of the replanted hedge line as a biodiverse habitat. Ideally the pedestrian access routes would be removed to reduce the impact on the integrity of the new hedge. In addition, the wide vehicular access will mean that the hedge that could be replanted will be shorter than that removed. In line with local and national policies we would require more hedgerow to be replanted than is removed and I would therefore suggest that the south-eastern boundary is also replanted as a hedge line using native, diverse hedging species. We would need to agree a minimum height/width for the replanted hedges as well as species mix and planting spec to ensure that sufficient biodiversity value is obtained. No trees or hedges should be removed between March and August inclusive, unless first checked in detail for nests by a suitably qualified ecologist. I cannot comment on the impact of removal of the low stone wall that presumable would also need to be removed, at least in part.

I'd also like to note that due to the site's close proximity to Thorpe Beck, consideration must be given to the mitigation of extra hard standing which is likely to increase surface runoff into the beck. As the mains sewer is noted as being at capacity I would presume that discharge of surface water to sewer will not be permitted. Additionally construction material must be stored carefully and waste material from building fully removed from site.

I am unable to comment on any potential issues with the housing as designs have not been submitted at this stage, however if the outline approval is granted then I would expect to see details within the application for reserved matters for inclusion of some integral bat and bird boxes within the proposed designs. Suitable bird boxes should include several swift boxes.

Many thanks

Elspeth

Elspeth Ingleby MA^{Cantab} ACIEEM
Ecologist
North York Moors National Park Authority

From:
To:
Subject: NYM/2021/0351/OU
Date: 26 May 2021 20:23:40

Apologies for my first email as I have now found the email on the Clerks web site. Below please find the Parish Council's objection to the application.

Planning –

b) NYM/2021/0351/OU Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale at Land west of Highfield, Sledgates, Fylingthorpe

Objection: This is not a windfall site. The 4 inch diameter sewage pipe is at capacity, there is also the problem of the discharge of private water. The plans are an inaccurate representation of the hedges and trees on the site and adjacent properties. There has been no reasonable ecological survey.

The applicants have provided a slim document in support of their application. They omit to note that several previous applications were refused on Highways grounds. These include:

NYM/2006/0652/FL – on visibility grounds

NYM/2007/0146/FL- on highways safety grounds.

The core points from the Inspector's Appeal notes in ref APP/W9500/A/07/2056979/WF summarise the conditions then, and these still apply. In the Appeal Decision, the Inspector noted in (7) from that Appeal:

The Sledgates, a C classified road, passes through Fylingthorpe and is the secondary approach into nearby Robin Hood's Bay (a key tourist attraction in the area) from the A171: the main approach is via the B1447. The traffic flow on it has been recorded as 1000 vehicles per day, according to the appellant. It is 200 vehicles per hour in the summer. Although the appeal site is at the edge of the settlement, visually it is within it; it lies opposite a row of close-set semi-detached houses and is between more well spaced larger detached houses and bungalows, with a paved a herbed footway along its frontage on this side. The road has standard street lights.

From definitions set out above I consider that it is of the type intended to fall within the standards referred to in MfS.

14 years later a survey took place near the end of a lockdown on 3-9 December 2021 and found only 75% of that number- very atypical. As Govt advised us all to stay at home, it is a gross underestimate. It is unlikely that 14 years on, with a much higher vehicle ownership, that traffic has declined. Of course, it was in winter in a period of Covid restrictions, not a normal summer's set of days.

The Applicant noted that the proposed site ingress and egress is within a 30 mph area. Yet 55% of vehicles approaching downhill were, according to the applicant, going more than 30mph- with 5 > 45mph. That affects the splays. Delivering their proposed splays of 58m to the west and 40m to the east would still be a problem- just as they were at the last Appeal failure.

The splays as drawn would affect a Victorian-era hedge (interestingly, the application form denies that it exists, and also hedges owned by others if it were to make visibility legal. Presuming that others will cut their hedges to suit is a very large presumption.

There is no basis for any claim that the site is safe and likely to be safe in transport / traffic terms. The 2008 Appeal concluded in para 11 -13: There is no reason to claim otherwise in 2021.

"reduction. It seems to me that without additional measures to improve visibility in this direction from the site, or reduce the speed of traffic passing it, the proposal would significantly compromise highway safety.

12. I have read that the Highway Authority may be installing traffic calming measures in the vicinity of the site and if implemented these may change the design speed for the proposed access. However, apart from yellow bordered chevron signs to highlight the bends described above I saw few other measures to slow traffic and in the absence of a detailed scheme, with anticipated design speeds and an implementation programme I have reached my decision on the basis of the current circumstances. No accident injuries have been recorded in relation to this stretch of highway. Nevertheless, this is not sufficient justification to set aside the recently significantly reduced nationally recommended design standards for this type of road access.

13. I conclude that the proposal would harm highway safety, contrary to national and local policy."

Given all the reasons above include the flawed traffic flow survey the Parish Council object to this application and the Parish Council really need an accurate application form not one minus trees and hedges and correct information.

Given the fact there hasn't been any traffic calming measures implemented or even considered the reasons for the Inspectors decision still stands in 2021. In fact traffic, especially cyclists, are travelling faster. The number of cyclists using the road has increased exponentially after the Tours de Yorkshire.

The hedge should be protected under Park terms, and it requires permission (it is an agricultural hedge) for alteration, in fact, as it is not shown on the plans it will probably be pulled out. The hedge, subject to a final botanical survey may well come under the 1997 Hedgerow Regulations for protection as well. There is not just one fence to be considered, the sight lines rely on neighbours being willing or to cut their fences down. In fact they might be breaking the law if they do so as they are agricultural hedges.

The application ignores any biodiversity interests or possible net gains (required by both the NYMNP Local Plan of 2020 and the 2019 NPPF) as there are not desk or field surveys. It ignores most of the relevant sections of the 2020 NYMNP Local Plan and the Supplementary Planning Document 3.

The Parish Council Objection to the application is based on all the above items.

Regards,
Cllr. Jane Mortimer,
Acting Clerk.

Fylingdales Parish Council

From:
To: [Planning](#)
Subject: Bird, bat and swift informatives 10.05.2021- 16.05.2021
Date: 24 May 2021 09:47:28

Hi Planning,

If the following applications are approved please can a **bat informative** be included within the decision notice

NYM/2021/

0371/FL - 75 High Street, Castleton
0367/FL- Birch Hagg Barn, Off Lund Road, Farndale
03332/FL - Keasbeck Hill Farm, Harwood Dale
0271/FL - Bracken View, High Street, Egton
0343/FL - Low House, Station Road, Castleton
0341/FL - Monket Cottage, Daleside Road, Farndale
West
0340/FL - Low Muffles, Hartoft
0351/FL - House on the Hill, Bank Lane, Faceby
0349/FL - Raincliffe Barn, Low Road, Throxenby
0312/FL - Flither Cottage, 4 High Street, Staithes

If the following applications are approved please can a **bird informative** be included within the decision notice

NYM/2021/

0371/FL - 75 High Street, Castleton
0367/FL- Birch Hagg Barn, Off Lund Road, Farndale
0343/FL- Low House, Station Road, Castleton
0341/FL - Monket Cottage, Daleside Road, Farndale
West
0340/FL - Low Muffles, Hartoft

If the following applications are approved please can a **swift informative** be included within the decision notice

NYM/2021/

0371/FL - 75 High Street, Castleton
0341/FL - Monket Cottage, Daleside Road, Farndale
West
0340/FL - Low Muffles, Hartoft

Thanks,
Victoria

Victoria Franklin
Conservation Graduate Trainee

North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York
North Yorkshire
YO62 5BP

From:
To: [Planning](#)
Subject: Land west of Highfield, Sled Gates, Fylingthorpe - construction of up to 5 no. dwellings with associated access etc. NYM/2021/0351/OU
Date: 11 May 2021 13:32:13

FAO Mrs H Saunders

Land west of Highfield, Sled Gates, Fylingthorpe - construction of up to 5 no. dwellings with associated access etc. NYM/2021/0351/OU

I refer to your e-mail of the 11th May 2021 in respect of the above application. I hereby confirm that I have no objections on housing or environmental health grounds at this outline stage.

Thanks

Steve

Steve Reynolds
Residential Regulation Manager
Scarborough Borough Council

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**Middlethorpe, Sledgate Farm
Sled Gates
Fylingthorpe
Whitby
YO22 4TZ**

30 December 2021

Dear Mrs Saunders,

NYM21/0351/OU - land to the west of Highfield, Sled Gates, Fylingthorpe.

Thank you for your recent letter asking me for my comments on the latest revision to this application. In addition to the comments in my earlier letters dated 13 May, 5 July, 6 August and 3 December which still stand, I have taken the time to read the latest material from the applicant's agent and FCPR dated 16/12/2021 and I have come to the same conclusion as the Highways Authority (13/12/21) that the proposed development would be likely to create conditions prejudicial to highway safety. FPCR say that the hedge must be moved to overcome existing problems to accommodate splays. That was their brief, but as I and others have already pointed out, it is based on an incorrect splay estimate at ATC02 and, as has been determined by the LHA, unachievable uphill splay. I would like to also draw your attention to the fact that the claimed hedge transposition is on the northern end of the site, and does nothing to address the fundamental problems with the views that cannot be achieved on the southern side- as Highways has noted.

I continue to object to the revised application on the grounds previously expressed and I wish to raise the following concerns:

1. The FPCR proposal has based its assumptions about the benefits of transposing the hedge on false premises: that the splays required are **68.2m** to the west and **47.4m** to the east (total splays =115.6m), with a minimum 8.5m entrance; a total of **124.1m to accommodate**. But the **Highways Authority did not accept the claim that visibility could be measured at 0.9m into the road**. It stated the visible distance was 48m- leaving 20m unaccounted for. As a result, achieving the splays become more difficult and, and the job of FPCR more impossible still.
2. As I pointed out in my letter of 03 December, in estimating splay distances, the traffic report submitted by **the applicant failed to apply the correct calculation for the downhill speeds** (ATC02) due to omitting to use the formula for speeds >60kph. Corrected splay calculations for the downhill speeds at ATC02 give a revised splay distance of 119.89m + 2.4m of **122.9m, not 68.2m. That is a difference of 54.7m**. Adding the lower splay of 47.4m, and a minimum of 8.5m for an entrance, then the corrected total splays to be accommodated are 122.9m to the south + 47.4m to the north of an 8.5m opening: **a minimum of 170.3m of splays alone +8.5m opening = 178.8m to fit in – not 124.1m**. This cannot be done within the boundary of the land owned by the applicant, or without maintaining the hedges of neighbouring properties so as "they do not overhang existing highway extents" (Highways report 13/12/21).
3. The Highways report also noted that the **previous 68.2m** splays suggested by the applicant **could not be met in the southerly direction**. The report stated that the achievable distance at the kerb line was around 48m. **Adding another 54.7m to the**

68.2m makes that totally impossible, regardless of what might be done to transposition the hedge.

4. Although the Local Highways Authority has accepted the applicant's view that Section 7.7.7 of MfS allows for the adjustment to 2 metres for lightly trafficked roads, **as the entrance to the site will be used by agricultural and domestic vehicles** (the applicant's diagrams show that an entrance at the rear of the site leads into a field) the guidance would suggest that the setback should be at least 2.4m, not 2m-further affecting the southern and northern splays.

Conclusion

Given the impossibility of achieving the splay, transposition of the hedge will make no difference, and the FPCR report does nothing to change this. The estimates of FPCR have been based on false premises, including the miscalculations in ATC02 that I and others have pointed out in earlier letters.

It is hardly worth reflecting on the merits or otherwise of the proposal to transposition the hedge in the face of such overwhelming and long-standing evidence that any development of this site is prejudicial to highway safety. I am nevertheless concerned about any break in the visual continuity of the hedge and wall, and in the likely survival rate of species.

I am sure that the Authority will come to the same conclusion and refuse this application.

I look forward to hearing from you.

Kind regards,

Bob McGovern

From:
To:
Subject: Re: Ref Planning Application Nym/2021/0351/ou
Date: 30 December 2021 10:30:52

Dear Hilary Saunders

My objections to the planning application still stands . The new application to move the hedge is not relevant and is a move to take you away from the fact that the visibility splayes can still not be achieved to highways regulations. If this planning was given then there would be more applications to build approximately another 12? Property's at the back of the proposed site. I therefore believe this planning application should be refused on both traffic and environmental grounds.

John Collinson

[Sent from Yahoo Mail on Android](#)

On Thu, 2 Dec 2021 at 16:26, John Collinson

[Sent from Yahoo Mail on Android](#)

Dear Hilary Saunders

My objections to the planning application which I have made previous still stands. The site lines on the new application still cannot be achieved even with Mr Flatmans new traffic survey. The buses and lorries still have to cross the centre line and use the pavement on occasions to pass due to cars parked legally outside their property. The proposed development site has been refused planning permission several times since 1986 by highways and the national parks planners.

Since 1986 the traffic has increased emencley due to the popularity of Robin Hoods Bay. I believe that this planning application should be Refused on both traffic and environmental grounds.

Please acknowledge my email

Yours Faithfully
John

Collinson

From:
To:
Subject: Re: NYM/2021/0351/OU
Date: 30 December 2021 12:48:19

Moorland Rise,
Sledgates,
Fylingthorpe.
YO22 4TZ
30.12.21

Dear Hilary,

Thank you for the further set of amendments/updated suggestions re: the hedge on the land west of Highfields, Sledgates.

All of my previous comments re: the many mutations of this and previous applications to develop this agricultural land, still stand.

I am pleased to note, however, that the land owner and his agents do now seem to be aware that a hedge and wall do exist on the field they are proposing to build on and that really has reassured me enormously about their combined knowledge and awareness of the plans they are submitting and the ramifications of their proposals. Phew!

Clearly it is not within my remit to be concerned about the land owner's financial liability but I do find myself very concerned indeed about the financial implications of this hedge removal and replacement strategy. Such a hugely extravagant solution seems at odds with the modest development submitted.

Which brings me to the large area of the field not currently proposed for development but still within the land owner's holding.

Presumably this section of the field would only ever be agricultural?

As such, safe access for agricultural vehicles would need to be secured through the proposed site, as this is the only access possible to the field. Agricultural vehicles would then have to use the same exit and entry to the highway as that of the proposed development.

I note with some interest that some highway authorities require that where a footway or cycleway crosses agricultural field access's, such as this one, an additional 'Safety Margin Strip' is required at the edge of the footway or cycle path, increasing sight line requirements to ensure road safety. Is there such a requirement in North Yorkshire as there seems to be in Leicestershire, for example? If so, the developer's already impossible to achieve sight lines become even more.....well....impossible.

Refusal of the proposed development of this agricultural field should NOT rest only with the site's inherent incompatibility with highway safety, its incompatibility with Park policy should also be represented.

This application should be refused.

Kindest regards,

Claire Harrison.

Comments on hedge and related issues on land west of Highfield re NYM21/0351/OU.

Tim Reed

FPCR (16.12.2021) has provided a report for hedgerow translocation.

There is a series of issues that needs to be borne in mind **before any consideration** of their proposals. These include:

1. The Highways Authority has provided advice (13.12.2021) that the proposal should be rejected on Highways grounds.
2. Give the Highways' opinion all other issues become secondary, but are noted here for information and in support of a rejection of the application.
3. FPCR has based its assumptions on false premises: that the splays required are **68.2m** to the west and **47.4m** to the east (total splays =115.6m), with a minimum 8.5m entrance; a total of **124.1m to accommodate**.
4. **Highways did not accept the claim that visibility could be measured at 0.9m into the road.** It stated the visible distance was 48m- leaving 20m unaccounted for. As a result the splays become more critical, and the job of FPCR more impossible still.
5. In estimating splay distances, the traffic report submitted by the **applicant failed to apply the correct calculation for the downhill speeds (ATC02)** due to omitting to use the formula for speeds >60kph. This was noted in my previous comments.
6. Corrected splay calculations for the downhill speeds at ATC02 give a revised splay distance of 119.89m + 2.4m of **122.9m, not 68.2m . That is a difference of 54.7m**
7. Adding the lower splay of 47.4m, and a minimum of 8.5m for an entrance, then the corrected total splays to be accommodated are 122.9m to the south + 47.4m to the north of an 8.5m opening: **a minimum of 170.3m of splays alone +8.5m opening= 178.8m to fit in – not 124.1m** . This cannot be accommodated within the landholding of the applicant, or without affecting and requiring assistance from other landowners.
8. Highways has noted that the **previous 68.2m** splays suggested by the applicant **could not be met in the southerly direction. Highways stated the achievable distance at kerb line was c48m.**
Adding **another 54.7m to that impossible 68.2m makes that more impossible still**, no matter what might be suggested for the front hedge
9. As the entrance will be used by both domestic and agricultural vehicles (the applicant's diagrams show that an entrance at the rear of the property leads into a field) the setback must be at least 2.4m, not 2m- further affecting the southern and northern splays
10. FPCR suggested that the hedge had to be moved due to existing problems to accommodate splays. That was based on the incorrect splay estimate at ATC02. An additional 54.7m would be required. That is not possible.
11. Given the problems with the splay, the hedge option is academic, and the FPCR report should be rejected as a result. The estimates of FPCR have been based on false premises and there is no way that its suggestions can be met with the errant splay distances, and certainly not with corrected splay distances.

The report is not relevant, and the application should be rejected outright on Highways grounds .

Dr Tim Reed, c/o The Pond House, Sledgates, Fylingthorpe, YO22 4QE

29.12.2021

Comments on the applicant's partial response to Highways dated 17 11 2021 for NYM/2021/0351/OU and related issues

Dr Timothy Reed BA MA DPhil FCIEEM CBiol, The Pond House, Sledgates YO22 4QE

Summary

NYMNP needs:

- A proper evaluation of the traffic risk. The figures provided show thousands of speeding cars. AMA and the applicant need to accept it is not a quiet country lane as its assertions claim.
- To accept that 85%ile speeds at ATC02 were so fast as to be outside of the expectations of the Manual for Streets 2. That totally contradicts claims by AMA and the applicants on road safety.
- To recognise that the applicant used wrong parameters for ATC02 in calculating a splay when traffic was in excess of 60kph at ATC02. That means a major revision of placing of any access/ ingress point- which may not be possible.
- To recognise that corrected splays should be a minimum of c 169m: more than the current site frontage.
- To recognise that the road traffic data confirm that the site is a traffic risk- as concluded in previous refusals of earlier applications- and should be rejected on Highways grounds.
- Correct use of such data as it has been provided; the references used are unsupportive, as are the figures for hedge impacts. Assertions are made, but facts and data omitted to the detriment of any reasoned evaluation by NYMNP.
- A proper biodiversity baseline that is in line with its own Advisory notes: a 2022 survey.
- Recognition that the planning application requires loss of c70% - and now with corrected splays, it requires far more - to accommodate repositioned splays (if possible) of a hedgerow meeting the 1997 Hedgerow Regulations. Losing this is untenable, and out of line with Park Policies.
- To accept that the plan will not even begin to reach matching the proposed loss to the front hedge and wall and its rich ground flora, a hedge that cannot be magically returned by planting shrubs. The lack of valid botanical or ecological data for the field (new surveys cannot now be carried out before April 2022 per JNCC (2010) Handbook for Phase 1 Habitat survey) remains a major problem .

It is for the applicant to provide valid responses for use by the Planning Authority. Yet again, that has yet to be done.

NYMNP needs to recognise that there is little merit in the proposal, the material, the erroneous data and the assertions. On these simple grounds, the application should be refused on highways and biodiversity grounds. The Highways issue is compelling.

The applicant, through his agent, Mr Flatman, has provided some additional material. It manages to mis-represent a number of elements that should have been considered, ignores others and presents a very partial and poorly based assessment. Many of the concerns raised in July 2021 and earlier are still valid. The new material contains fundamental data flaws and errors, and show the site needs **refusal on both road traffic and environmental grounds.**

1.Information Gaps

Before proceeding to look at the traffic details, it might help NYMNP to consider the biodiversity element that the applicant has ignored, again, and which was covered in earlier critiques of the application. Rather than repeat these- **they still stand, and NYMNP is referred to those on file-** it will help to note several issues which were not covered in detail before.

In the initial application form, which is assumed still to be extant, the applicant answered “no “ to the question in Box 12:

- *“Are there Trees or hedges on the proposed development site?”*

Having previously claimed there were no hedges, then there would be no impact, the applicant now recognises the hedges exist (but length still unstated) and a substantial portion of the front hedge and linked wall will need to be removed (c70%).

It has been established from 3 surveys in 2021 that the front hedge meets the Hedgerow Regulations 1997 criteria. This matters, as Box 13 *Biodiversity and Geological Conservation* on the Planning Application Form asks:

“Is there a reasonable likelihood of the following being affected adversely or conserved or enhanced within the application site, or on land adjacent to or near the application site?”

The applicant- **WITHOUT any survey data for the site stated “no” three times to**

- Priority and protected species- whilst there is documented use of the site by barn owls, bats and badgers
- Important habitats- there is a hedge meeting the 1997 Hedgerow Regulations
- Geological importance

Clearly, it is curious to have stated **“no”** on the basis of no or unsubmitted knowledge. NYMNP as a planning authority needs an evidence-based decision before it can proceed. There was no evidence provided.

The Planning Application Form refers the applicant to Guidance Notes. In this case, that would be Planning Advice Note 2 (NYMNP 2011) *“ Planning and biodiversity”*.

Note 2 refers to PPS9 and the risks of significant harm to biodiversity interests, and the basis for refusal if this harm cannot be significantly mitigated. This applies here, as the applicant wishes to rip out a long length of protected hedge (and supporting wall) which has developed over more than a century: with a significant ground flora, and replace it with some shrubs. That is to compare chalk with cheese. I will return to this later.

In point 5 of Note 2 the note looks at the design/pre-application stage. It says:

“The starting point for any development proposal is a site analysis for which should identify any features of wildlife value including:

- *Landscape features such as copses, marsh land old grassland **and hedges”***

“Use this information to assess relative importance of habitats, animals and features and assess impacts”

The applicant **totally** ignored these notes, and there is no baseline whatever for the site; on that basis the site cannot be assessed by NYMNP- and should be rejected on that basis too.

It would appear that NYMNP took the unverifiable assertions of no interest there by the applicant at face value, and there is still **no ecological appraisal** for the site. The applicant has grudgingly accepted that there **is** a hedge on the site. That seems to be a major focus of the current amended notes of November 2021.

Note 2, p5 continues

“All applications are screened for potential protected species, valuable habitats and other ecological implications”

How, when **or if** NYMNP did this screening is **not clear** in any of the consultation documents on the NYMNP planning website. That is unfortunate, as Note 2 continues:

“Where it is considered that a site of nature conservation value or protected species may be adversely affected by a development proposal, an ecological survey may be required”

The NYMNP has not sought, nor received from the applicant, any data in line with its own guidance, and has made inferred decisions on the basis of a totally unsubstantiated set of assertions. To come to a conclusion without any evidence is unprofessional.

If NYMNP is to consider this application seriously, then it requires data that are fit for purpose; data that are currently missing, and which as a result make the application inconsistent with its own planning submission requirements. At the moment, NYMNP has no basis for accepting the proposal.

Does this matter? Yes, the major thrust of the application is to remove a significant length of hedge and supporting wall of 1997 Hedgerow Regulations standard: the hedge does exist. It will also require clearance of a lightly grazed damp agricultural field that may well have botanical interest: use of the precautionary principle would be wise here, and for NYMNP to request the ecological survey that it states in Planning Advice Note 2 that is normally to be expected. It cannot currently consider a survey as part of the application – as one has not taken place for the field. For the hedge, the value under the 1997 Regulations has been established from surveys carried out by 2 professional ecologists in 2021.

Note any field assessment of the hedge by the Park, in a case of a proposal for its removal in whole or part, cannot be botanically determined on a single visit, as the 3 surveys over the course of the summer 2021 showed changes in the ground flora that a single visit would not pick up. Single lists are unreliable- a point made too by the applicant’s ecologist The Park thus needs to rely on the 2021 data collected by ecological professionals: these show a hedge exceeding 1997 Hedgerow Regulations criteria.

2. Road Traffic matters

I have previously noted with interest the very selective partial response from the Applicant to the queries from Highways of August 2021. Highways asked for new speed counting data which accompanied 2 notes from Mr Flatman:

- 10.11.2021
- 17.11.2021

2a] 10.11.2021

Here Mr Flatman refers to having undertaken new road traffic counts, referred to as Technical Note 9 of 9.11.2021. He also notes the further movement of the proposed site access. He also noted the

possible further still movement after a site meeting on 12.11.2021, and some form of basis for defending hedgerow removal.

Please note the additional work has led to a revision of site access position - the revised proposed access can be found within the attached Technical Note. I am meeting the architect on Friday to review / revise the indicative site layout accordingly - this will include further information / justification on replanting of the hedge and new planting within the site. I will issue the updated layout drawing on Friday / Monday. Hopefully then you will have all requested information in terms of highways and the hedge such that a positive recommendation can be made.

Note that replanting presumes excision / ripping out of the existing 1997 Regulations quality hedge. That should be a warning flag to NYMNP, and is in clear contradiction of the applicant's earlier claims (no hedge) and unaltered application form. It will be shown that NYMNP does not have all of the information it needs.

2b] 17.11.2021

Here Mr Flatman makes several contentious assertions, including

As previously advised, we believe the highways case is now comprehensive and robust and clearly supports a new access to the site. The proposed access will not harm highway safety and the provision of up to 5 dwellings will not give rise to any capacity issues on the network.

Previous submissions from Mr Flatman have also had "robust" assertions that were later found wanting. This applies here too.

In this submission Mr Flatman talks expansively about the front hedge; remember it did not exist on the application form. He also talks in terms that have no meanings.

As for the frontage hedge, this would be replanted along the proposed visibility splays. The principle / practicality of replanting / relocation of the hedge can be achieved and we would envisage details to be agreed via a suitably worded condition so that your landscape and ecology colleagues can be assured that the replanting is sensitively undertaken. The indicative layout proposes replanting of 6.5m to the west of the access and 34.5m to the east. The revised access position actually enables a longer (34.5m) stretch of hedge to be 'retained' along the road frontage which will result in a strong boundary feature along the road frontage as currently exists. Please note we are also proposing additional hedge planting along the rear boundary of the site so there is a net gain in terms of hedgerow habitat as part of the proposal. We feel this weighs in support of the proposal.

Sentence 1 refers to a removed hedge: you can't replant if it remains. It is at threat (and by implication the underpinning stone wall).

Sentence 2 That is invidious, as it accepts destruction of a 1997 Regulations hedge. Were this to be considered there would need to be a heavily controlled management and follow up clause. That should be in line with the recent Environment Bill for demonstrable net gain. No such data are provided.

Sentence 3 is also wrong. SK/006 shows a west opening and hedge removal of c8.5 m , and not 6. This, plus 34.5m = 43m (See later for errors in the splay distances). It is now clear that those estimates by Mr Flatman are wrong.

Sentence 4 is also wrong. With a (wrongly) estimated 43m of hedge **and wall** removed on a frontage of 60.2m, according to SK/006, unaffected length is 4.3m to the west and c 12.9 to the east. This = 17.2m retained at most, NOT 34.5m. It may be less as the existing gate is left clear according to Fig 0215_SLE_102.

Note that errors in the set back distance would reduce this further too.

Sentence 5 is unquantified. Using SK/006, the target needed would be 43m. The gap at the back is 32.7 m. Of this, Fig 0215_SLE_102 shows a 4.5m agricultural gate. That infers a SHORTFALL of at least 14.8m, **that is a LOSS, not an unquantified net gain**

Overall, Mr Flatman is significantly in error in simple numbers; **that matters**. It will be shown later that these estimates are far from correct.

In the following para he states:

“The existing hedge will be replanted along the frontage”

That may be taken to infer a severe removal of the hedge length – as numbers above suggest. You cannot replant an existing hedge.

NB IN LIGHT OF THE REAPPRAISAL OF TECHNICAL NOTE 9, AND ATCO2, MUCH OF THE DISCUSSION IMMEDIATELY ABOVE MAY BE ACADEMIC UNLESS THE APPLICANT CAN SHOW HOW THEIR SPLAYS- WHEN CORRECTLY CALCULATED- CAN BE ACCOMODATED WITHIN THEIR HOLDING. THAT WAITS TO BE SEEN.

2c] Technical Note 9

AMA set out to capture up and down traffic flows at 2 locations for a seven-day period:

ATC1 North (looking uphill to the south)

ATC2 South Splay (looking downhill to the north)

AMA describes October as a neutral month; the term was used in lock-down for the December 2020 data set too.

It appears that there were problems in data collection. Nonetheless Mr Flatman claims that they are both robust and comprehensive.

Examination of the data is instructive about the scale of speeding past the site in both periods. It is very apparent that the site is not on a quiet country lane.

Count/speed data

ATC1's 7-day data set is summarised as 85% ile speed 32.7mph (52.6 kmph)

ATC2's 7-day data set is summarised as 85%ile speed 38.4 mph (**61.7 kmph**)

It might help to tabulate some of the actual figures, to provide a clear indication of just **how busy** the road is, and how fast vehicles travel; this is far from a quiet road, with – according to the data presented by AMA- **some 8813- 8897 vehicles** passing the site in each of the two recorded 7-day periods.

Table 1 shows the traffic at ATC01. This is the lower of the two sites, and the nearside traffic going uphill is recorded as moving south. Table 1 covers the period 1-7.10.2021. Note that the location of ATC01 was well within a 30mph zone and approached from the heart of the village up a hill.

	No cars left hand (s)side	No cars N&S	No cars >30mph on S side	No cars >30 mph N&S
Total over 7 days	4347	8813	616	1036
Per day	621	1259	88	148

Table 1. Data for cars passing and > 30 mph at ATC01 1-7.10 2021

Numbers of cars in this ‘neutral’ month were c 100% higher than the previous skewed (December 2020) sample, confirming that previous sample’s unsuitability.

Table 1 indicates that over a 7-day period there was a heavy volume of traffic (4347 vehicles moving S, 4466 moving N). At a point c 70m below the planned egress point for the proposed development, coming from within a within the 30mph zone, **well over 600 cars were speeding >30 mph around a corner approaching the entrance**. Note that cars are normally parked (Fig 1) on the other side of the road, making this a dangerous pinch point. Speeding cars passing both ways were **in excess of 1000** during that week.

Table 2 (ATC02) indicates that road traffic safety is a real issue. Traffic coming downhill on the left approaching the would-be entrance is within a 30mph zone. Table 2 indicates that of the 4340 vehicles recorded on the downhill side during the 7 days 12- 18.10.2021, some **1939 were in excess of 30 mph, and 13 were > 45mph** as they approached the site, and a line of parked cars forcing them into the centre of the road at speed. Taking vehicles going up and downhill (8897) past the planned site opening during that period, **some 2863 were>30 mph**.

	No cars left hand (N) side	No cars N&S	No cars >30mph on N side	No cars >30 mph N&S
Total over 7 days	4340	8897	1939	2863
Per day	620	1271	277	409

Table 2. Data for cars passing and > 30 mph at ATC02 12-18.10.2021

Put simply, the road is busy, and many cars (**1000- 3000 per week**) **exceed the 30 mph speed limit**. As noted above:

- ATC1’s 7-day data set is summarised as 85%ile speed **32.7mph (52.6 kmph)**
- ATC2’s 7-day data set is summarised as 85%ile speed **38.4 mph (61.7 kmph)**

That is **not** what *The Manual for Streets 2* would describe as either a

“ *slow speed situation* “ or

“*a lightly-trafficked rural lane*”

Indeed, speeds recorded at ATC02 were outside those expected in MFS2.

As shown above, by exceeding 60kph, that affects both the calculation of the splay on the south side, and in addition the required stand-back distance of 2.4m (MFS 2 10.5.6) should be used-meaning that visibility splays will necessarily require **more hedge (and wall) to be removed**.

Put simply, large volumes of cars pass the site (it is **not** a country lane; and is in a built-up area; hence the in-fill claim) and large volumes of cars regularly exceed 30 mph, making this far from a safe location as claimed by the applicant. This also affects the standback distance and figures provided by Mr Flatman.

NOTE: The MFS2 that Mr Flatman and AMA rely on was written for normal roads (≤ 60kph). That we have a far from normal road in terms of speeding (85%ile is 61.8 kph at ATC02). MFS2 para 10.1.3 put it thus:

“This section provides guidance on SSDs where the 85th percentile speeds are up to 60 kph”

Here we are dealing with recorded 85thile speeds of 61.8 kph. That is unsafe. It also requires changing some of the parameters in the SSD calculation for ATC02- something **not done by AMA**, and results in fundamental changes to the splay results at the uphill end of the proposed development entry.

Visibility splay calculations: unsafe to use without correction

AMA provides splay estimates based on data for ATC1 and ATC2.

ATC1= min 47.4m ATC2= min 68.2 m

The 85thile speeds were ATC1 52.63 kph **and ATC2 61.8kph.**

According to Mfs2, where speeds are beyond 60 kph calculations need revision, and splays will be also different from those provided by AMA. (See Annex 1 for a simple explanation).

AMA provided data for two locations ATC01 and ATC 02. Traffic at the uphill site (ATC01) was slower than the downhill (ATC02). In their calculations AMA presented an equation for SSD:

$$SSD = vt + v^2/2(d + 0.1a)$$

According to MFS2 it should include an omitted bracket and a power function:

$$SSD=vt+(v^2/2(d+0.1a))$$

The values that are entered in depend on the speed recorded (MFS2). **Beyond 60kph** values for driver perception reaction time rise to 2 seconds from 1.5, and deceleration drops to 2.45 m/s² from 4.41 (Mfs2 Table 10.1). These affect the calculations. AMA was correct for ATC01, but wrong for ATC02. **That matters.** (see annex 1 for a helpful explanation by Notts County Council)

It might help to set out the issue simply for ATC02, as MFS2 requires some figures to change >60 kph.

AMA calcs	V (km)	V as m/s	t>60 kph	d (m/s ²) if >60 kph	a	0.1a
AMA figures	61.8	17.17	AMA used 1.5 s	4.41	-7.27	-0.727
Correct figures per mfs2	61.8	17.17	2s	2.45	-7.27	-0.727

That means that there is a basic error in the calculation of SSD for ATC02. **The figures for both t and d need to be adjusted if >60kph wet weather 85%ile (MFS2 Table 10.1, para 10.1.3; Annex 1).**

T is required to be 2s not 1.5s

D is required to be 2.45 not 4.41

This means that as T is bigger, and D is now smaller, there are likely to be large changes in the SSD estimate- as T is now c30% larger, and D is now c 55% smaller than before.

Also, the equation as set out by AMA is in error. A bracket has been omitted. It should read :

$$SSD=vt+(v^2/2(d+0.1a))$$

[NB MfS2 was produced for situations where 85%ile speeds **are 60 kph or less**. Here at ATC02 we are outside of that category – faster. Nonetheless, data in MfS2 allow recalculation of speeds using Table 10.1 in Section 10.1.13. See also Annex 1 below]

Rerunning the correct equation, with the correct entries for occasions where 85%ile speeds are >60kph figure , the result is a substantially bigger SSD than AMA provided.

AMA said that SSD was 65.8m + 2.4m = 68.21. Using the correct t=2s, rather than 1.5s, and adjusted d as =2.45, rather than 4.41 it significantly alters the calculation of SSD and the resultant splay

SSD entry	AMA	Corrected data per MfS2
V	17.17	17.17
T	1.5	2
Vt	25.76	34.34
V ²	294.81	294.81
d	4.41	2.45
D+ 0.1a	3.68	1.72
2(d+0.1a)	7.36	3.446

In the figures adjusted for >60kph measured wet weather speed the new data are as follows

$$VT= 34.34 \text{ not } 25.76$$

$$D= 2.45 \text{ not } 4.41$$

These affect the results of the correctly expressed SSD equation.

$$34.34 + (294.81/3.446) = 34.34 +85.55$$

$$\text{SSD is now } 119.89\text{m} + 2.4= 122.29\text{m}$$

That means the two splays (c 169m) are now wider than the width of the property; to be achieved it would have to remove other local hedges not owned by the applicant. That may not be acceptable.

AMA and the applicant need to explain why it omitted to provide calculations for >60kph for ATC02. By doing so, it was in serious error of misleading any lay reader or appraiser. It needs to show how splay of 169m can be accommodated within its own property boundary, and not others' . This seems unlikely .

Clearly, to fit in any opening, and not cut into neighbours' hedges and wall (assuming an incorrect splay of 68.21m)- as in the previous case- a new hole had to be found by Mr Flatman and AMA, along with more direct impact on the hedge: the hedge that was ignored earlier on, and one that meets the 1997 Hedgerow Regulations criteria. That required a new Design in Appendix C SK/006.- a corrected southern splay will requires a further redesign.

To defend this AMA writes:

As per NYCC policy, given the site is for less than six dwellings and is a private drive, a 2m setback is considered to be NYCC policy compliant.

In the previous application, this incorrect figure was also used. I noted then that:

"NO policy reference is provided to allow a third party to assess another unverifiable claim by the applicant. This should be unacceptable to the Park."

If we assume that they are referring to NYCC's 1998 Residential Design Guide, then on p 90 it stated that the DESIRABLE splay distance is **2.4m** for 6 or fewer houses, **NOT 2m** as inferred. Note it was shown above that the same standback figure of **2.4m would be in line with MfS2**- the very reference that AMA uses/ claims to have used. As a result, there is no basis for AMA's assertions; they are without foundation.

Putting a figure of 2.4m into SK/006 will move the location of the splay, and further impact on the hedge and wall, and that of neighbours on both side. **Add in here the revised splay calculations and there is a major problem.**

The near left approach for ATC02 recorded **1939 very fast cars (almost 45% of the whole total were going >30 mph)**- cars that are pushed across the road by parked vehicles 24 hours a day into the oncoming side up the hill. Yet, AMA feels happy to suggest for the opposite side of the road **where 924 cars** were also recorded speeding around the corner that:

The southern splay at 68.2m is offset from the nearside kerb by 0.9m. It should be noted that this splay is not into oncoming vehicular traffic and is the offside lane, therefore vehicles would be highly unlikely to be oncoming towards the junction and on rare occasions overtaking vehicles, which is not considered likely given the residential 30mph area.

AMA ignores the fact that cars are parked 24 hours a day into and on the road opposite the proposed site ingress and buses/ lorries and cars all have to cross the line as a matter of course. Cars will be oncoming those as a matter of course on the uphill section, not as a rare event. AMA has no realism.



Figure 1. Parking opposite the proposed site 06.31 4.8.2021

The AMA data are unsafe, and claims on splays, speeds and setbacks need to be corrected

Given the problems with:

- The fact that cars obstruct the downhill (fast) section of the road
- That cars/vans/ lorries and buses will normally cross onto the central line as a matter of course
- That 1000+-c2900 vehicles speed (> 30 mph) past the possible site entrance per week- making the site entrance a risky location; observed in a previous (2008) appeal refusal for the site. This is neither a low speed location, nor a quiet country lane
- That using a correct (2.4m), rather than incorrect (2m) setback affects the placing of the splays, and their further impacts on the loss of hedge and wall
- That calculations for ATCO2 were not adjusted to meet >60kph as expected by MfS2
- **That revised splay calculations require a southern splay of 122m to fit in somehow (and c169m for both splays)**, as well as a 2.4m standback, it is hard to understand how the applicant can proceed due to traffic safety issues
- Splay-related losses are incorrect as shown in SK/006, and will be far bigger than claimed
- Readjusted splays will be needed to accommodate the results of revised > 60kph SSD calculations
- The claims of no net loss to hedges and walls and offsetting are simply wrong. Even with a mainly planted back hedge there is still a **net loss** of linear features. **There is no net gain**
- **With correctly calculated splays, the 'gain' claimed by Mr Flatman is illusory**

- A line of planted shrubs is not in any way, shape or form equivalent to a hedge that meets the 1997 Regulations. The hedge is at risk.
- As the DEFRA (<https://www.gov.uk/guidance/countryside-hedgerows-regulation-and-management>) puts it:

“A countryside hedgerow is a boundary line of bushes which can include trees. A hedgerow is protected, meaning you cannot remove it, if it meets the following criteria for:

- *length*
- *location*
- *‘importance’*

..... **Location**

A hedgerow is protected if it's on or next to:

- *land used for agriculture or forestry*

..... **‘Importance’**

A hedgerow is important, and is protected, if it's at least 30 years old and meets at least one of these criteria:

- *includes [woody species](#) and [associated features](#) as specified in [Schedule 1, Part II Criteria, paragraph 7\(1\)](#) of the Hedgerow Regulations - the number of woody species needed to meet the criteria is one less in northern counties*

The front hedgerow- as has been established in 2021- meets these criteria.

In addition, the applicant never supplied biodiversity data for NYMNP evaluation, and NYMNP in turn has not met its own Planning Advice Note 2, and has made decisions in a data vacuum. The applicant should provide the material needed (but omitted) as part of its application- data that NYMNP omitted to seek. NYMNP risks making a totally unformed evidence-deficient decision, counter to its own policies.

For NYMNP to proceed it needs:

- A proper evaluation of the traffic risk. The figures provided show thousands of speeding cars. AMA and the applicant need to accept it is not the quiet country lane that its assertions claim.
- To accept that 85%ile speeds at ATC02 were **so fast as to be outside of the expectations of the Manual for Streets 2**. That totally contradicts claims by AMA and the applicants on road safety.
- To recognise that the applicant used wrong parameters for ATC02 in calculating a splay when traffic were in excess of 60kph at ATC02. That means a major revision of placing of any access/ ingress point- which may not be possible.
- To recognise that splays should be a minimum of c 169m: more than the current site frontage.
- To recognise that the road traffic data confirm that the site is a traffic risk- as concluded in previous refusals of earlier applications- and should be rejected on Highways grounds.
- Correct use of such data as it has been provided; the references used are unresponsive, as are the figures for hedge impacts. Assertions are made, but facts and data omitted to the detriment of any reasoned evaluation by NYMNP.
- A proper biodiversity baseline that is in line with its own Advisory notes: a 2022 survey.

- Recognition that the planning application requires loss of c70% - **and now with corrected splays, it requires far more** - to accommodate repositioned splays (if possible) of a hedgerow meeting the 1997 Hedgerow Regulations. Losing this is untenable, and out of line with Park Policies.
- To accept that the plan will not even begin to reach matching the proposed loss to the front hedge and wall and its rich ground flora, a hedge that cannot be magically returned by planting shrubs.

It is for the applicant to provide valid responses for use by the Planning Authority. Yet again that has yet to be done.

NYMNP needs to recognise that there is little merit in the proposal, the material, the erroneous data and the assertions. On these simple grounds, the application should be refused on highways and biodiversity grounds. The Highways issue is compelling.

Annex 1 from <https://www.nottinghamshire.gov.uk/media/2902370/33-visibility-splays.pdf>

Stopping Sight Distance (SSD)

Part 3.3

SSD is calculated using the following equation:

$$\text{SSD} = vt + \frac{v^2}{2(d+0.1a)}$$

v = speed (or velocity) (m/s) (85%ile wet-weather measured speed)

Note: Dry-weather speeds can be converted by adding 4kph

t = driver perception-reaction time (s)

t = 1.5s if ≤ 37 mph (60 kph) 85%ile wet-weather measured speed

t = 2.0s if ≥ 37 mph (60 kph) 85%ile wet-weather measured speed

d = deceleration (m/s²)

d = 4.41 m/s² if $< 5\%$ HGVs

d = 3.68 m/s² if $> 5\%$ HGVs or bus lane

d = 2.45 m/s² if ≥ 37 mph (60 kph) 85%ile wet-weather measured speed

a = longitudinal gradient (%) (+ for upgrades and – for downgrades)

From: [General](#)
To: [Planning](#)
Subject: FW: FAO Hilary Saunders
Date: 09 December 2021 14:26:54

From: Clare Harrison
Sent: 09 December 2021 14:23
To: General <general@northyorkmoors.org.uk>
Subject: FAO Hilary Saunders

Comments on the applicant's amendments 17 11 2021 for NYM/2021/0351/OU and related issues.

Dear Hilary,

I am sorry to be writing to you again regarding yet another application on this site of such special interest on Sledgates. I do not intend to revisit all previous objections made over the last decade and a half, though many of them still stand.

Can I thank you for forwarding the amendments, to the amendments of the amended plans for outline planning permission for this historically very contentious site. The new submissions have made interesting reading.

Overall I am left perplexed to understand why the NYMNPA are not implementing their own policies in relation to this application and are preferring instead to hide behind the 'coat tails' of the Highway Authority. Sledgates has not changed. The road has not changed. The volume of traffic remains consistently high and so one wonders why with all of the historical refusals many of them involving dire warnings about safety from Highways, we are still intent on waiting their instruction. Don't we know it already?

As for the new information supplied to yourselves and Highways for consideration, I notice that, once again, an incomplete and in my view, suspect, data set has been proffered. Is it usual for an applicant and the Highways assessing group acting on their behalf to pick and choose the data that best fit their narrative? Or, is it more usual for a transparent submission to be made, one which is initiated on a certain date and ends on a certain date? The data collected between those two dates being used to best reflect and honest interpretation of the situation being analysed. I am not an analyst of data, I have no skill in this area but one would have thought that that would be how a transparent data set

could be obtained?

The one received is a hotch potch of cherry picked data, the uphill traffic data and downhill traffic data having been chosen from different weeks. I assume these were selected to best reflect how quiet and lightly trafficked Sledgates is? As it is, it serves only to illustrate, even in its manipulated presentation, how busy and fast Sledgates is and has been since Robin Hood's Bay became such a tourist destination. I wonder what the results might have been from a complete survey, not initiated at the start of a fuel crisis? The installed speed strips remain in place, are they to be a permanent installation or just a noisy intrusion? I wonder when or if they will be removed.

The only demonstrable benefit of this development is financial, to the developer and to those standing to gain by its development. So why is the NYMNPA so reticent in confining this application to the permanently denied category? Either to NYMNPA policies apply or they do not. My understanding is, that they apply. Why then are they not being more stridently implemented? Why is it that, once again, a local community is tasked with identifying the errors, half truths and inconsistencies of this application and ALL of its attendant variants?

My overwhelming impression is that everything is being done to help secure permission for this application, in the face of equally overwhelming evidence against it.

Who stands to gain?

Kindest regards,
Claire Harrison.

From:
To: [Planning](#)
Subject: FW: call for rejection of application NYM/2021/0351/OU
Date: 08 December 2021 12:44:53

I have had no receipt for the email below, and the attachment is too large for a general objection
Could you please confirm receipt, and pass it to Mrs Saunders
Thanking you in anticipation

Tim Reed

From: Dr Tim Reed
Sent: 08 December 2021 10:13
To: 'Hilary Saunders'
Subject: call for rejection of application NYM/2021/0351/OU

Dear Mrs Saunders,

Please find a set of detailed comments on the additional material provided by the applicant in support of NYM/2021/0351/OU. These accompany this short covering note.

The application should be rejected on Highways road safety grounds, biodiversity grounds, purely practical grounds (data are misrepresented and cannot be used with any certainty) and procedural grounds.

Nothing is presented to disavow the earlier Inspector's conclusions. To the contrary:

- the applicant's data show that thousands of vehicles pass the site > 30mph every week
- the 85%percentile speed was so high that it was outside speed expected for built up areas covered by MfS2
- the applicant failed to recognise that the speeds at point ATC02 were so high that amended values were formally required for splay calculations. These were not used by the applicant.
- correct values in the updated formulae showed splay requirements were far in excess of the applicant's claims; unable to be met within the planned landholding
- use of incorrect set-back distances were a further problem to claims made without support by the applicant

In addition, unverifiable claims are made for minimal impacts to the front hedge ; a hedge that exceeds 1997 Hedgerow Regulations criteria, and for which there are professionally collected data across a summer. These show that a single data sample would be inappropriate for validation of 1997 status; the NYMNP needs to instead use a full list of both shrubs and ground flora reflecting the changing pattern of the seasons: a data set that the NYMNP has to hand. The front hedge and its supporting wall are both at significant risk of destruction.

The applicant has failed to provide any ecological data for the field site, precluding any decision by the Park- data which the Park failed to seek (out of line with NYMNP policies and its own planning guidance)- and on which in its absence it cannot rule no effect. Collecting supplementary data late on in the period Nov 2021- March 2022 would be out of any known and nationally accepted survey standard period (JNCC 2010).

In summary: the application falls on multiple grounds. The material for ATC02 just confirms there is no basis for its acceptance. For NYMNP rejection is the only option.

Could you please confirm receipt of this note.

Tim Reed
The Pond House
Sledgates

Comments on the applicant's partial response to Highways dated 17 11 2021 for NYM/2021/0351/OU and related issues

Dr Timothy Reed BA MA DPhil FCIEEM CBiol, The Pond House, Sledgates YO22 4QE

Summary

NYMNP needs:

- A proper evaluation of the traffic risk. The figures provided show thousands of speeding cars. AMA and the applicant need to accept it is not a quiet country lane as its assertions claim.
- To accept that 85%ile speeds at ATC02 were so fast as to be outside of the expectations of the Manual for Streets 2. That totally contradicts claims by AMA and the applicants on road safety.
- To recognise that the applicant used wrong parameters for ATC02 in calculating a splay when traffic was in excess of 60kph at ATC02. That means a major revision of placing of any access/ ingress point- which may not be possible.
- To recognise that corrected splays should be a minimum of c 169m: more than the current site frontage.
- To recognise that the road traffic data confirm that the site is a traffic risk- as concluded in previous refusals of earlier applications- and should be rejected on Highways grounds.
- Correct use of such data as it has been provided; the references used are unsupportive, as are the figures for hedge impacts. Assertions are made, but facts and data omitted to the detriment of any reasoned evaluation by NYMNP.
- A proper biodiversity baseline that is in line with its own Advisory notes: a 2022 survey.
- Recognition that the planning application requires loss of c70% - and now with corrected splays, it requires far more - to accommodate repositioned splays (if possible) of a hedgerow meeting the 1997 Hedgerow Regulations. Losing this is untenable, and out of line with Park Policies.
- To accept that the plan will not even begin to reach matching the proposed loss to the front hedge and wall and its rich ground flora, a hedge that cannot be magically returned by planting shrubs. The lack of valid botanical or ecological data for the field (new surveys cannot now be carried out before April 2022 per JNCC (2010) Handbook for Phase 1 Habitat survey) remains a major problem .

It is for the applicant to provide valid responses for use by the Planning Authority. Yet again, that has yet to be done.

NYMNP needs to recognise that there is little merit in the proposal, the material, the erroneous data and the assertions. On these simple grounds, the application should be refused on highways and biodiversity grounds. The Highways issue is compelling.

The applicant, through his agent, Mr Flatman, has provided some additional material. It manages to mis-represent a number of elements that should have been considered, ignores others and presents a very partial and poorly based assessment. Many of the concerns raised in July 2021 and earlier are still valid. The new material contains fundamental data flaws and errors, and show the site needs **refusal on both road traffic and environmental grounds.**

1.Information Gaps

Before proceeding to look at the traffic details, it might help NYMNP to consider the biodiversity element that the applicant has ignored, again, and which was covered in earlier critiques of the application. Rather than repeat these- **they still stand, and NYMNP is referred to those on file-** it will help to note several issues which were not covered in detail before.

In the initial application form, which is assumed still to be extant, the applicant answered “no “ to the question in Box 12:

- *“Are there Trees or hedges on the proposed development site?”*

Having previously claimed there were no hedges, then there would be no impact, the applicant now recognises the hedges exist (but length still unstated) and a substantial portion of the front hedge and linked wall will need to be removed (c70%).

It has been established from 3 surveys in 2021 that the front hedge meets the Hedgerow Regulations 1997 criteria. This matters, as Box 13 *Biodiversity and Geological Conservation* on the Planning Application Form asks:

“Is there a reasonable likelihood of the following being affected adversely or conserved or enhanced within the application site, or on land adjacent to or near the application site?”

The applicant- **WITHOUT any survey data for the site stated “no” three times to**

- Priority and protected species- whilst there is documented use of the site by barn owls, bats and badgers
- Important habitats- there is a hedge meeting the 1997 Hedgerow Regulations
- Geological importance

Clearly, it is curious to have stated **“no”** on the basis of no or unsubmitted knowledge. NYMNP as a planning authority needs an evidence-based decision before it can proceed. There was no evidence provided.

The Planning Application Form refers the applicant to Guidance Notes. In this case, that would be Planning Advice Note 2 (NYMNP 2011) *“ Planning and biodiversity”*.

Note 2 refers to PPS9 and the risks of significant harm to biodiversity interests, and the basis for refusal if this harm cannot be significantly mitigated. This applies here, as the applicant wishes to rip out a long length of protected hedge (and supporting wall) which has developed over more than a century: with a significant ground flora, and replace it with some shrubs. That is to compare chalk with cheese. I will return to this later.

In point 5 of Note 2 the note looks at the design/pre-application stage. It says:

“The starting point for any development proposal is a site analysis for which should identify any features of wildlife value including:

- *Landscape features such as copses, marsh land old grassland **and hedges”***

“Use this information to assess relative importance of habitats, animals and features and assess impacts”

The applicant **totally** ignored these notes, and there is no baseline whatever for the site; on that basis the site cannot be assessed by NYMNP- and should be rejected on that basis too.

It would appear that NYMNP took the unverifiable assertions of no interest there by the applicant at face value, and there is still **no ecological appraisal** for the site. The applicant has grudgingly accepted that there **is** a hedge on the site. That seems to be a major focus of the current amended notes of November 2021.

Note 2, p5 continues

“All applications are screened for potential protected species, valuable habitats and other ecological implications”

How, when or if NYMNP did this screening is **not clear** in any of the consultation documents on the NYMNP planning website. That is unfortunate, as Note 2 continues:

“Where it is considered that a site of nature conservation value or protected species may be adversely affected by a development proposal, an ecological survey may be required”

The NYMNP has not sought, nor received from the applicant, any data in line with its own guidance, and has made inferred decisions on the basis of a totally unsubstantiated set of assertions. To come to a conclusion without any evidence is unprofessional.

If NYMNP is to consider this application seriously, then it requires data that are fit for purpose; data that are currently missing, and which as a result make the application inconsistent with its own planning submission requirements. At the moment, NYMNP has no basis for accepting the proposal.

Does this matter? Yes, the major thrust of the application is to remove a significant length of hedge and supporting wall of 1997 Hedgerow Regulations standard: the hedge does exist. It will also require clearance of a lightly grazed damp agricultural field that may well have botanical interest: use of the precautionary principle would be wise here, and for NYMNP to request the ecological survey that it states in Planning Advice Note 2 that is normally to be expected. It cannot currently consider a survey as part of the application – as one has not taken place for the field. For the hedge, the value under the 1997 Regulations has been established from surveys carried out by 2 professional ecologists in 2021.

Note any field assessment of the hedge by the Park, in a case of a proposal for its removal in whole or part, cannot be botanically determined on a single visit, as the 3 surveys over the course of the summer 2021 showed changes in the ground flora that a single visit would not pick up. Single lists are unreliable- a point made too by the applicant’s ecologist The Park thus needs to rely on the 2021 data collected by ecological professionals: these show a hedge exceeding 1997 Hedgerow Regulations criteria.

2. Road Traffic matters

I have previously noted with interest the very selective partial response from the Applicant to the queries from Highways of August 2021. Highways asked for new speed counting data which accompanied 2 notes from Mr Flatman:

- 10.11.2021
- 17.11.2021

2a] 10.11.2021

Here Mr Flatman refers to having undertaken new road traffic counts, referred to as Technical Note 9 of 9.11.2021. He also notes the further movement of the proposed site access. He also noted the

possible further still movement after a site meeting on 12.11.2021, and some form of basis for defending hedgerow removal.

Please note the additional work has led to a revision of site access position - the revised proposed access can be found within the attached Technical Note. I am meeting the architect on Friday to review / revise the indicative site layout accordingly - this will include further information / justification on replanting of the hedge and new planting within the site. I will issue the updated layout drawing on Friday / Monday. Hopefully then you will have all requested information in terms of highways and the hedge such that a positive recommendation can be made.

Note that replanting presumes excision / ripping out of the existing 1997 Regulations quality hedge. That should be a warning flag to NYMNP, and is in clear contradiction of the applicant's earlier claims (no hedge) and unaltered application form. It will be shown that NYMNP does not have all of the information it needs.

2b) 17.11.2021

Here Mr Flatman makes several contentious assertions, including

As previously advised, we believe the highways case is now comprehensive and robust and clearly supports a new access to the site. The proposed access will not harm highway safety and the provision of up to 5 dwellings will not give rise to any capacity issues on the network.

Previous submissions from Mr Flatman have also had "robust" assertions that were later found wanting. This applies here too.

In this submission Mr Flatman talks expansively about the front hedge; remember it did not exist on the application form. He also talks in terms that have no meanings.

As for the frontage hedge, this would be replanted along the proposed visibility splays. The principle / practicality of replanting / relocation of the hedge can be achieved and we would envisage details to be agreed via a suitably worded condition so that your landscape and ecology colleagues can be assured that the replanting is sensitively undertaken. The indicative layout proposes replanting of 6.5m to the west of the access and 34.5m to the east. The revised access position actually enables a longer (34.5m) stretch of hedge to be 'retained' along the road frontage which will result in a strong boundary feature along the road frontage as currently exists. Please note we are also proposing additional hedge planting along the rear boundary of the site so there is a net gain in terms of hedgerow habitat as part of the proposal. We feel this weighs in support of the proposal.

Sentence 1 refers to a removed hedge: you can't replant if it remains. It is at threat (and by implication the underpinning stone wall).

Sentence 2 That is invidious, as it accepts destruction of a 1997 Regulations hedge. Were this to be considered there would need to be a heavily controlled management and follow up clause. That should be in line with the recent Environment Bill for demonstrable net gain. No such data are provided.

Sentence 3 is also wrong. SK/006 shows a west opening and hedge removal of c8.5 m , and not 6. This, plus 34.5m = 43m (See later for errors in the splay distances). It is now clear that those estimates by Mr Flatman are wrong.

Sentence 4 is also wrong. With a (wrongly) estimated 43m of hedge **and wall** removed on a frontage of 60.2m, according to SK/006, unaffected length is 4.3m to the west and c 12.9 to the east. This = 17.2m retained at most, NOT 34.5m. It may be less as the existing gate is left clear according to Fig 0215_SLE_102.

Note that errors in the set back distance would reduce this further too.

Sentence 5 is unquantified. Using SK/006, the target needed would be 43m. The gap at the back is 32.7 m. Of this, Fig 0215_SLE_102 shows a 4.5m agricultural gate. That infers a SHORTFALL of at least 14.8m, **that is a LOSS, not an unquantified net gain**

Overall, Mr Flatman is significantly in error in simple numbers; **that matters**. It will be shown later that these estimates are far from correct.

In the following para he states:

“The existing hedge will be replanted along the frontage”

That may be taken to infer a severe removal of the hedge length – as numbers above suggest. You cannot replant an existing hedge.

NB IN LIGHT OF THE REAPPRAISAL OF TECHNICAL NOTE 9, AND ATCO2, MUCH OF THE DISCUSSION IMMEDIATELY ABOVE MAY BE ACADEMIC UNLESS THE APPLICANT CAN SHOW HOW THEIR SPLAYS- WHEN CORRECTLY CALCULATED- CAN BE ACCOMODATED WITHIN THEIR HOLDING. THAT WAITS TO BE SEEN.

2c] Technical Note 9

AMA set out to capture up and down traffic flows at 2 locations for a seven-day period:

ATC1 North (looking uphill to the south)

ATC2 South Splay (looking downhill to the north)

AMA describes October as a neutral month; the term was used in lock-down for the December 2020 data set too.

It appears that there were problems in data collection. Nonetheless Mr Flatman claims that they are both robust and comprehensive.

Examination of the data is instructive about the scale of speeding past the site in both periods. It is very apparent that the site is not on a quiet country lane.

Count/speed data

ATC1's 7-day data set is summarised as 85% ile speed 32.7mph (52.6 kmph)

ATC2's 7-day data set is summarised as 85%ile speed 38.4 mph (**61.7 kmph**)

It might help to tabulate some of the actual figures, to provide a clear indication of just **how busy** the road is, and how fast vehicles travel; this is far from a quiet road, with – according to the data presented by AMA- **some 8813- 8897 vehicles** passing the site in each of the two recorded 7-day periods.

Table 1 shows the traffic at ATC01. This is the lower of the two sites, and the nearside traffic going uphill is recorded as moving south. Table 1 covers the period 1-7.10.2021. Note that the location of ATC01 was well within a 30mph zone and approached from the heart of the village up a hill.

	No cars left hand (s)side	No cars N&S	No cars >30mph on S side	No cars >30 mph N&S
Total over 7 days	4347	8813	616	1036
Per day	621	1259	88	148

Table 1. Data for cars passing and > 30 mph at ATC01 1-7.10 2021

Numbers of cars in this 'neutral' month were c 100% higher than the previous skewed (December 2020) sample, confirming that previous sample's unsuitability.

Table 1 indicates that over a 7-day period there was a heavy volume of traffic (4347 vehicles moving S, 4466 moving N). At a point c 70m below the planned egress point for the proposed development, coming from within a within the 30mph zone, **well over 600 cars were speeding >30 mph around a corner approaching the entrance**. Note that cars are normally parked (Fig 1) on the other side of the road, making this a dangerous pinch point. Speeding cars passing both ways were **in excess of 1000** during that week.

Table 2 (ATC02) indicates that road traffic safety is a real issue. Traffic coming downhill on the left approaching the would-be entrance is within a 30mph zone. Table 2 indicates that of the 4340 vehicles recorded on the downhill side during the 7 days 12- 18.10.2021, some **1939 were in excess of 30 mph, and 13 were > 45mph** as they approached the site, and a line of parked cars forcing them into the centre of the road at speed. Taking vehicles going up and downhill (8897) past the planned site opening during that period, **some 2863 were >30 mph**.

	No cars left hand (N) side	No cars N&S	No cars >30mph on N side	No cars >30 mph N&S
Total over 7 days	4340	8897	1939	2863
Per day	620	1271	277	409

Table 2. Data for cars passing and > 30 mph at ATC02 12-18.10.2021

Put simply, the road is busy, and many cars (**1000- 3000 per week**) **exceed the 30 mph speed limit**. As noted above:

- ATC1's 7-day data set is summarised as 85%ile speed **32.7mph (52.6 kmph)**
- ATC2's 7-day data set is summarised as 85%ile speed **38.4 mph (61.7 kmph)**

That is **not** what *The Manual for Streets 2* would describe as either a

" slow speed situation " or

"a lightly-trafficked rural lane"

Indeed, speeds recorded at ATC02 were outside those expected in MFS2.

As shown above, by exceeding 60kph, that affects both the calculation of the splay on the south side, and in addition the required stand-back distance of 2.4m (MFS 2 10.5.6) should be used-meaning that visibility splays will necessarily require **more hedge (and wall) to be removed**.

Put simply, large volumes of cars pass the site (it is **not** a country lane; and is in a built-up area; hence the in-fill claim) and large volumes of cars regularly exceed 30 mph, making this far from a safe location as claimed by the applicant. This also affects the standback distance and figures provided by Mr Flatman.

NOTE: The MFS2 that Mr Flatman and AMA rely on was written for normal roads (≤ 60kph). That we have a far from normal road in terms of speeding (85%ile is 61.8 kph at ATC02). MFS2 para 10.1.3 put it thus:

“This section provides guidance on SSDs where the 85th percentile speeds are up to 60 kph”

Here we are dealing with recorded 85thile speeds of 61.8 kph. That is unsafe. It also requires changing some of the parameters in the SSD calculation for ATC02- something **not done by AMA**, and results in fundamental changes to the splay results at the uphill end of the proposed development entry.

Visibility splay calculations: unsafe to use without correction

AMA provides splay estimates based on data for ATC1 and ATC2.

ATC1= min 47.4m ATC2= min 68.2 m

The 85thile speeds were ATC1 52.63 kph **and ATC2 61.8kph.**

According to Mfs2, where speeds are beyond 60 kph calculations need revision, and splays will be also different from those provided by AMA. (See Annex 1 for a simple explanation).

AMA provided data for two locations ATC01 and ATC 02. Traffic at the uphill site (ATC01) was slower than the downhill (ATC02). In their calculations AMA presented an equation for SSD:

$$SSD = vt + v^2/2(d + 0.1a)$$

According to MFS2 it should include an omitted bracket and a power function:

$$SSD=vt+(v^2/2(d+0.1a))$$

The values that are entered in depend on the speed recorded (MFS2). **Beyond 60kph** values for driver perception reaction time rise to 2 seconds from 1.5, and deceleration drops to 2.45 m/s² from 4.41 (Mfs2 Table 10.1). These affect the calculations. AMA was correct for ATC01, but wrong for ATC02. **That matters.** (see annex 1 for a helpful explanation by Notts County Council)

It might help to set out the issue simply for ATC02, as MFS2 requires some figures to change >60 kph.

AMA calcs	V (km)	V as m/s	t>60 kph	d (m/s ²) if >60 kph	a	0.1a
AMA figures	61.8	17.17	AMA used 1.5 s	4.41	-7.27	-0.727
Correct figures per mfs2	61.8	17.17	2s	2.45	-7.27	-0.727

That means that there is a basic error in the calculation of SSD for ATC02. **The figures for both t and d need to be adjusted if >60kph wet weather 85%ile (MFS2 Table 10.1, para 10.1.3; Annex 1).**

T is required to be 2s not 1.5s

D is required to be 2.45 not 4.41

This means that as T is bigger, and D is now smaller, there are likely to be large changes in the SSD estimate- as T is now c30% larger, and D is now c 55% smaller than before.

Also, the equation as set out by AMA is in error. A bracket has been omitted. It should read :

$$SSD=vt+(v^2/2(d+0.1a))$$

[NB MfS2 was produced for situations where 85%ile speeds **are 60 kph or less**. Here at ATC02 we are outside of that category – faster. Nonetheless, data in MfS2 allow recalculation of speeds using Table 10.1 in Section 10.1.13. See also Annex 1 below]

Rerunning the correct equation, with the correct entries for occasions where 85%ile speeds are >60kph figure , the result is a substantially bigger SSD than AMA provided.

AMA said that SSD was 65.8m + 2.4m = 68.21. Using the correct t=2s, rather than 1.5s, and adjusted d as =2.45, rather than 4.41 it significantly alters the calculation of SSD and the resultant splay

SSD entry	AMA	Corrected data per MfS2
V	17.17	17.17
T	1.5	2
Vt	25.76	34.34
V ²	294.81	294.81
d	4.41	2.45
D+ 0.1a	3.68	1.72
2(d+0.1a)	7.36	3.446

In the figures adjusted for >60kph measured wet weather speed the new data are as follows

$$VT= 34.34 \text{ not } 25.76$$

$$D= 2.45 \text{ not } 4.41$$

These affect the results of the correctly expressed SSD equation.

$$34.34 + (294.81/3.446) = 34.34 +85.55$$

$$\text{SSD is now } 119.89\text{m} + 2.4= 122.29\text{m}$$

That means the two splays (c 169m) are now wider than the width of the property; to be achieved it would have to remove other local hedges not owned by the applicant. That may not be acceptable.

AMA and the applicant need to explain why it omitted to provide calculations for >60kph for ATC02. By doing so, it was in serious error of misleading any lay reader or appraiser. It needs to show how splay of 169m can be accommodated within its own property boundary, and not others' . This seems unlikely .

Clearly, to fit in any opening, and not cut into neighbours' hedges and wall (assuming an incorrect splay of 68.21m)- as in the previous case- a new hole had to be found by Mr Flatman and AMA, along with more direct impact on the hedge: the hedge that was ignored earlier on, and one that meets the 1997 Hedgerow Regulations criteria. That required a new Design in Appendix C SK/006.- a corrected southern splay will requires a further redesign.

To defend this AMA writes:

As per NYCC policy, given the site is for less than six dwellings and is a private drive, a 2m setback is considered to be NYCC policy compliant.

In the previous application, this incorrect figure was also used. I noted then that:

"NO policy reference is provided to allow a third party to assess another unverifiable claim by the applicant. This should be unacceptable to the Park."

If we assume that they are referring to NYCC's 1998 Residential Design Guide, then on p 90 it stated that the DESIRABLE splay distance is **2.4m** for 6 or fewer houses, **NOT 2m** as inferred. Note it was shown above that the same standback figure of **2.4m would be in line with MfS2**- the very reference that AMA uses/ claims to have used. As a result, there is no basis for AMA's assertions; they are without foundation.

Putting a figure of 2.4m into SK/006 will move the location of the splay, and further impact on the hedge and wall, and that of neighbours on both side. **Add in here the revised splay calculations and there is a major problem.**

The near left approach for ATC02 recorded **1939 very fast cars (almost 45% of the whole total were going >30 mph)**- cars that are pushed across the road by parked vehicles 24 hours a day into the oncoming side up the hill. Yet, AMA feels happy to suggest for the opposite side of the road **where 924 cars** were also recorded speeding around the corner that:

The southern splay at 68.2m is offset from the nearside kerb by 0.9m. It should be noted that this splay is not into oncoming vehicular traffic and is the offside lane, therefore vehicles would be highly unlikely to be oncoming towards the junction and on rare occasions overtaking vehicles, which is not considered likely given the residential 30mph area.

AMA ignores the fact that cars are parked 24 hours a day into and on the road opposite the proposed site ingress and buses/ lorries and cars all have to cross the line as a matter of course. Cars will be oncoming those as a matter of course on the uphill section, not as a rare event. AMA has no realism.



Figure 1. Parking opposite the proposed site 06.31 4.8.2021

The AMA data are unsafe, and claims on splays, speeds and setbacks need to be corrected

Given the problems with:

- The fact that cars obstruct the downhill (fast) section of the road
- That cars/vans/ lorries and buses will normally cross onto the central line as a matter of course
- That 1000+-c2900 vehicles speed (> 30 mph) past the possible site entrance per week-making the site entrance a risky location; observed in a previous (2008) appeal refusal for the site. This is neither a low speed location, nor a quiet country lane
- That using a correct (2.4m), rather than incorrect (2m) setback affects the placing of the splays, and their further impacts on the loss of hedge and wall
- That calculations for ATCO2 were not adjusted to meet >60kph as expected by Mfs2
- **That revised splay calculations require a southern splay of 122m to fit in somehow (and c169m for both splays)**, as well as a 2.4m setback, it is hard to understand how the applicant can proceed due to traffic safety issues
- Splay-related losses are incorrect as shown in SK/006, and will be far bigger than claimed
- Readjusted splays will be needed to accommodate the results of revised > 60kph SSD calculations
- The claims of no net loss to hedges and walls and offsetting are simply wrong. Even with a mainly planted back hedge there is still a **net loss** of linear features. **There is no net gain**
- **With correctly calculated splays, the 'gain' claimed by Mr Flatman is illusory**

- A line of planted shrubs is not in any way, shape or form equivalent to a hedge that meets the 1997 Regulations. The hedge is at risk.
- As the DEFRA (<https://www.gov.uk/guidance/countryside-hedgerows-regulation-and-management>) puts it:

“A countryside hedgerow is a boundary line of bushes which can include trees. A hedgerow is protected, meaning you cannot remove it, if it meets the following criteria for:

- *length*
- *location*
- *‘importance’*

..... **Location**

A hedgerow is protected if it's on or next to:

- *land used for agriculture or forestry*

..... **‘Importance’**

A hedgerow is important, and is protected, if it's at least 30 years old and meets at least one of these criteria:

- *includes [woody species](#) and [associated features](#) as specified in [Schedule 1, Part II Criteria, paragraph 7\(1\)](#) of the Hedgerow Regulations - the number of woody species needed to meet the criteria is one less in northern counties*

The front hedgerow- as has been established in 2021- meets these criteria.

In addition, the applicant never supplied biodiversity data for NYMNP evaluation, and NYMNP in turn has not met its own Planning Advice Note 2, and has made decisions in a data vacuum. The applicant should provide the material needed (but omitted) as part of its application- data that NYMNP omitted to seek. NYMNP risks making a totally unformed evidence-deficient decision, counter to its own policies.

For NYMNP to proceed it needs:

- A proper evaluation of the traffic risk. The figures provided show thousands of speeding cars. AMA and the applicant need to accept it is not the quiet country lane that its assertions claim.
- To accept that 85%ile speeds at ATC02 were **so fast as to be outside of the expectations of the Manual for Streets 2**. That totally contradicts claims by AMA and the applicants on road safety.
- To recognise that the applicant used wrong parameters for ATC02 in calculating a splay when traffic were in excess of 60kph at ATC02. That means a major revision of placing of any access/ ingress point- which may not be possible.
- To recognise that splays should be a minimum of c 169m: more than the current site frontage.
- To recognise that the road traffic data confirm that the site is a traffic risk- as concluded in previous refusals of earlier applications- and should be rejected on Highways grounds.
- Correct use of such data as it has been provided; the references used are unhelpful, as are the figures for hedge impacts. Assertions are made, but facts and data omitted to the detriment of any reasoned evaluation by NYMNP.
- A proper biodiversity baseline that is in line with its own Advisory notes: a 2022 survey.

- Recognition that the planning application requires loss of c70% - **and now with corrected splays, it requires far more** - to accommodate repositioned splays (if possible) of a hedgerow meeting the 1997 Hedgerow Regulations. Losing this is untenable, and out of line with Park Policies.
- To accept that the plan will not even begin to reach matching the proposed loss to the front hedge and wall and its rich ground flora, a hedge that cannot be magically returned by planting shrubs.

It is for the applicant to provide valid responses for use by the Planning Authority. Yet again that has yet to be done.

NYMNP needs to recognise that there is little merit in the proposal, the material, the erroneous data and the assertions. On these simple grounds, the application should be refused on highways and biodiversity grounds. The Highways issue is compelling.

Annex 1 from <https://www.nottinghamshire.gov.uk/media/2902370/33-visibility-splays.pdf>

Stopping Sight Distance (SSD)

Part 3.3

SSD is calculated using the following equation:

$$\text{SSD} = vt + \frac{v^2}{2(d+0.1a)}$$

v = speed (or velocity) (m/s) (85%ile wet-weather measured speed)

Note: Dry-weather speeds can be converted by adding 4kph

t = driver perception-reaction time (s)

t = 1.5s if ≤ 37 mph (60 kph) 85%ile wet-weather measured speed

t = 2.0s if ≥ 37 mph (60 kph) 85%ile wet-weather measured speed

d = deceleration (m/s²)

d = 4.41 m/s² if $< 5\%$ HGVs

d = 3.68 m/s² if $> 5\%$ HGVs or bus lane

d = 2.45 m/s² if ≥ 37 mph (60 kph) 85%ile wet-weather measured speed

a = longitudinal gradient (%) (+ for upgrades and – for downgrades)

Highfield Cottage
Sledgates
Fylingthorpe
YO22 4TZ.
1st December 2021



Dear Hilary Saunders
NYMNP A
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

Ref Planning Application NYM/2021/0351/OU

My objections to the above application made in June 2021 still stand.

Although Mr Flatman has provided additional material to try and substantiate his opinion that the amended application is now robust and answers all of the outstanding concerns it misrepresents and ignores many of the issues.

The applicant has finally accepted that there is a hedge on the site despite saying on the application form that there isn't (see question in Box 12 on the application form) . No analysis has taken place despite the applicant being referred to, ' Planning and Biodiversity ' in the guidance notes on the application form.

It has been established that the hedge does qualify as being protected under the 1997 Regulations from two surveys carried out in 2021.

The applicant states that the site is for less than six dwellings and is a private drive, therefore a 2 metre setback is considered to be NYCC policy compliant. On page 90 of the NYCC's 1998 Residential Design Guide it states that the desirable splay distance is 2.4 metres for six or fewer houses. The Manual for Streets states that 2.4 metres should normally be used. A minimum of 2 metres MAY be used on some very lightly trafficked and slow speed situations.

The new data provided by the applicant shows that in the week 1.10.21 to 7.10.21 over 1,000 vehicles were exceeding the 30mph speed limit and on the week 12.10.21 to 18.10.21 over 2,800 vehicles were exceeding the speed limit. The data shows that the site entrance is not on a road that is subject to slow speeds.

The applicant also ignores the fact that buses, lorries and cars have to cross the centre line of the road coming down the hill past the proposed entrance as vehicles are parked on the other side of the road. These important points were raised by the Inspector in 2008 (ref APP/w9509/a/07/2056979) . The Design Manual for Roads and Bridges says that if an entrance to a private development is used for private vehicles and agricultural vehicles the splay must be set back to 4.5 metres from the carriageway. The amended application shows that there is only one entrance to the site which has to be used to gain access to the field at the rear by agricultural vehicles. A sight line set back 2 metres from the road is NOT applicable.

The latest speed survey undertaken by the applicant only goes to show how detrimental this application is to highway safety . The claim made by Mr. Flatman that, ' the highways case is now comprehensive and robust and clearly supports a new access to the site, the proposed new access will not harm highway safety ' is clearly wrong and is only opinion that is not supported by any credible evidence.

If the splay were increased to 2.4 metres the required sight lines would still not be achievable as it would require the removal of the hedge not belonging to the applicant. No mention has been made by the applicant of the required removal of the wall below the hedge. This would need to be removed as was stated by highways in the submission dated 24.06.2021.

Many incorrect statements have been made on the application .

Box 12 on the application asks 'Are there trees or hedges on the proposed development site?'
The applicant answered NO.

The applicant states there are NO protected species or important habitats or geologically important features

No data has been provided by the applicant with reference to the guide lines required by the NYMNP as set out in the guidance notes on the application form.

A statement made by the applicant to Highways that, in the manual for Roads and Bridges ,document CA185 vehicle speed management it permits a reduction of 2.5 mph for wet weather. The LHA do not accept the comment, it is generally accepted that this is acceptable to a maximum of 600m from the nearside kerb ' as the LHA are not aware of such allowance in the CA185 document. Although it does include an increase for when the weather is wet.

Mr Flatman's statement that the highways case is now comprehensive and robust is shown to be incorrect as was his assertion for the previous traffic data.

The statement that the southern splay of 68.2m (which is incorrect) is offset from the nearside kerb by 0.4m. It should be noted that this splay is not into oncoming vehicular traffic and is the offside lane, therefore vehicles would be highly unlikely to be oncoming towards the junction and on rare occasions overtaking vehicles, which is not considered likely given the residential 30mph area.

This statement completely ignores the Inspector's comments made in 2007 that there are cars parked alongside the road in front of houses opposite the proposed development site. The parked vehicles oblige vehicles approaching the site from the southwest to pull out partly across the centre line of the road.

The latest traffic data provided by the applicant shows how many vehicles are exceeding the 30mph speed limit and that the road is NOT lightly trafficked or subject to LOW speeds.

The calculation for the visibility splays for ATC1 are correct at 47.4 m ,but the calculations for ATC2 are NOT. The 85th percentile speeds were ATC 1 ,52.63 kph and ATC 2, 61.8 kph.

Manual for Streets maintain that speeds over 60 kph need a different calculation than those used for speeds below 60 kph.

The 85th percentile speeds for vehicles passing ATC 2 is over 60 kph therefore the figures given for the sight lines required going south quoted by AMA (68.2m) is WRONG. Drivers perception reaction time increases from 1.5 seconds to 2 seconds and deceleration drops to 2.45 m/s from 4.41 (Manual for Streets table 10.1)

These figures alter the SSD quoted by AMA from 68.2m to $119.89\text{m} + 2.4 = 122.29\text{m}$. The equation as used by AMA is incorrect as a bracket has not been used which makes a correct calculation impossible. Mr Flatman and AMA have provided incorrect information which is completely misleading to anyone trying to make an objective judgement of the application.

From the date of the first application to the present date NO credible data has been provided by the applicant ,only opinion and assertions that have been shown to be erroneous. Many of the Parks own policies would have to be abandoned and highway safety ignored were this application to be granted.

This application should be refused.

Yours sincerely,

Mr. J. B. Ryder .

**Middlethorpe, Sledgate Farm
Sled Gates
Fylingthorpe
Whitby
YO22 4TZ**

Friday, 03 December 2021

Dear Mrs Saunders,

NYM21/0351/OU - land to the west of Highfield, Sled Gates, Fylingthorpe.

Thank you for your recent letter asking me for my comments on the latest of the many and somewhat confusing revisions to this application. In addition to the comments in my earlier letters dated 13 May, 5 July and 6 August, which still stand, I have taken the time to read the latest material from the applicant's agent dated 17/11/2021 and I have come to much the same conclusion as before – that the applicant is selective in his responses and the data he uses, and the speed survey should be a great cause of concern to the LHA – it certainly is to those of us who live here. Furthermore, for the sight lines and visibility to be achieved it will be necessary to rip out a hedge that has status under the 1997 Regulations a setback of only 2.0 metres, a concession which I do not believe is permissible under the MfS2 or NYCC Guidance in this context. There are errors in the calculation of the visibility splay which, if it is to be achieved, it would have to remove other hedges outside the applicant's ownership (I have sent a more comprehensive analysis of the flawed and incorrect SSD calculations to Mr Lyth at Highways, but it should be given consideration in any determination), and this seems unlikely. I continue to object to the revised application on grounds similar to those previously expressed, notably:

1. The harm to highway safety – which is no less than it was in 2007 and the latest speed survey by the applicant only serves to reinforce this view.
2. The applicant's claim that various regulations support the changes made to the visibility splay calculations in this revised application are no more than self-serving, selective assertions and contain fundamental errors in the way that they have been calculated (see my letter 26/11/2021 to Ged Lyth at Highways). They lack rigour and do not take account of the calculations outlined in MfS and NYCC Guidance 10/08/94.
3. The loss of a hedge of 1997 Hedgerow Regulations standard and field biodiversity.

1.The harm to highway safety – which is no less than it was in 2007 and the latest speed survey by the applicant only serves to reinforce this view.

Instead of one single data set comparing traffic flows and speeds over the same period, we have two. Whatever the reason for this, (and I set aside my own personal thoughts on the matter) I can only conclude that it simply isn't good enough and doesn't meet the LHA's requirement for a data set that is incontrovertible and not open to question. It is, in my view, presenting two data sets at different points when what is required is one single data set over the same period. I regard what is being presented as unreliable and I would urge the LHA to treat it with the same caution.

The speed and the number of vehicles travelling both uphill (ATC 1 Northern) and downhill (ATC 2 Southern) is concerning. The 7- day data set shows average speeds:

ATC 01 85% 32.7 mph

ATC 02 85% 38.4 mph

ATC 01 is an uphill site, yet **616 vehicles exceeded the 30mph speed limit over the 7-day period** of the survey.

ATC 02 is a downhill site, yet **1939 vehicles exceeded the 30mph speed limit over the 7-day period** of the survey.

Overall, the data, although it has limitations both in the way it has been done and fundamental errors in the calculation of the SSD, shows quite clearly that this is a very busy road, even in a 'neutral' month, and a very large number of vehicles exceed the speed limit.

As previously stated, there is no true comparison between the data sets and this is a concern, but it is clear that cars regularly exceed the speed limit in both directions, and by a significant margin. The claim by the applicant that: "*the highways case is now comprehensive and robust and clearly supports a new access to the site. The proposed new access will not harm highway safety ...*" is simply an assertion that is not backed up by the evidence, and the evidence from the surveys shows that the road is used by a large number of vehicles, many of which exceed the 30 mph speed limit and this has implications for the applicant's preferred and unjustified standback distance in the visibility splay calculations.

2.The applicant's claim that various regulations support the changes made to the visibility splay calculations in this revised application are no more than self-serving, selective assertions. They lack rigour and do not take account of the calculations outlined in MfS and NYCC Guidance 10/08/94.

Once again, I point to the clarity and veracity in paragraph 10 of the Planning Inspector's report 14/01/2008:

"...measured to the centre line of the road, the splay would be substantially better (2.4 x40 or 2 x 60.7) but MfS is clear that the centre line measurements should only apply where there is a special circumstance such as a physical barrier to prevent cars crossing into the other lane. In this case there is informal paving for cars to park along the roadside in front of the houses opposite I saw that, despite generous overall road width at this point and centre-line marking, these parked cars oblige vehicles to approaching the site from the southwest to pull out, partly across the centre-line of the road. I, therefore, consider this alternative measurement inappropriate in the case."

The southern approach recorded very fast traffic with almost 45% at speeds greater than 30mph. In spite of this, and the visual evidence we have earlier provided of residents' cars parked on the road opposite 24/7, the applicant ignores these issues and claims contentiously and naively that:

'The southern splay at 68.2m is offset from the nearside kerb by 0.9m. It should be noted that this splay is not into oncoming vehicular traffic and is the offside lane, therefore vehicles would be highly unlikely to be oncoming towards the junction and on rare occasions overtaking vehicles, which is not considered likely given the residential 30mph area.

This ignores the fact that residents' cars are parked 24/7 on the road opposite the proposed site entrance and, consequently, almost all vehicles on the downhill have to cross the central line – 45% of which are at speeds in excess of 30mph.

The applicant is selective in what he quotes from Appendix A1 of the NYCC Guidance 10/8/94. The NYCC Guidance clearly states: “2.4m DESIRABLE at minor access serving less than 6 dwellings: 2.0m MINIMUM at access serving less than 6 dwellings”.

It then goes on to say that: “Where the actual speed of traffic has been measured, the 85th percentile wet weather speed on the road should be used”. It is unclear from the data whether this point by the LHA has been addressed by the applicant and how it can be seen to have been addressed?

There are fundamental errors in the calculation of the SSD for ATC02 (see my letter to Ged Lyth 26/11/2021). Using the correct SSD of 122.9m means the splay is much wider than the width of the property; to be achieved it would have to remove other hedges outside the applicant's ownership. That may not be likely.

In view of this, I would say that this revised proposal has many of the same flaws as the previous proposals and I have come to the same conclusion as that of the Planning Inspector in 2008.

3.The loss of a hedge of 1997 Hedgerow Regulations standard and field biodiversity.

The application is only made possible if the hedge on the front of the site is removed – a hedge that the initial application failed to mention! It also relies upon the development of an agricultural field, the value of which in terms of its biodiversity has never been ascertained. What we do know is that the value of the hedge under the 1997 Regulations has been established from surveys carried out by 2 professional ecologists. The loss of both the hedge and the features in the landscape need careful appraisal and justification. The application is silent on this aspect.

Conclusion

The revised application draws on 2 data sets taken at different times. That alone is unreliable, and it is impossible to make reasonable statistical comparisons. There are fundamental errors in the calculation of the SDD for ATC02. The status of the hedgerow is in question, there is selective use of the NYCC Guidance 1994, no mention is made of the previous Planning Inspector's report and there is no attempt by the applicant to refute its veracity. Many of the responses are unconvincing and I see no reason why the Planning Inspector's decision in 2008 should be overturned.

I would hope that any further consideration of this application will include a site visit and a meeting with local residents.

I look forward to hearing from you.

Kind regards,

Bob McGovern

Highfield Cottage
Sledgates
Fylingthorpe
1st December 2021

NYMPA
The Old Vicarage
Bondgate
Helmsley
York

Ref Planning application NYM/2021/0351/OU

Dear Hilary Saunders,

My objections to this planning application remain.

On road safety grounds alone the application should be refused by the highway authority . It is not possible to obtain the necessary sight lines to ensure road safety is not compromised. The road is busy, especially at certain times of the year made worse by vehicles parked opposite the proposed site.

The various traffic surveys undertaken by the applicant show that the road is busy with many vehicles exceeding the speed limit in both directions .

If the park authority looked closely at this site, as presumably they have, they will realise that the hedge, which the applicant only recently became aware of ,will need to be removed. They will presumably also realise that the applicant will need to seek permission from neighbouring properties to remove their hedge to obtain the necessary visibility splay. Permission has not been sought but I suspect this would be a futile exercise.

On many other grounds it is very difficult to see why the park authority has not refused this application and there is considerable local unease about the authorities apparent reluctance to act . The planning authority has had a plentiful supply of evidence about the lack of consideration to the environmental impact and the numerous errors on his application .

I am aware that these and many other issues have been pointed out to the park on numerous occasions not least by the Inspector when this site went to appeal on previous occasions.

It is difficult not to be frustrated by the need to so frequently write to offer the same information on the same site with mere tweaking of erroneous and I feel quite misleading information provided by Mr Flatman.

Yours sincerely

Dear Hilary Saunders

My objections to the planning application which I have made previous still stands. The site lines on the new application still cannot be achieved even with Mr Flatmans new traffic survey. The buses and lorries still have to cross the centre line and use the pavement on occasions to pass due to cars parked legally outside their property. The proposed development site has been refused planning permission several times since 1986 by highways and the national parks planners.

Since 1986 the traffic has increased emencley due to the popularity of Robin Hoods Bay. I believe that this planning application should be Refused on both traffic and environmental grounds.

Please acknowledge my email

Yours Faithfully
John

Collinson

2,Kingston Garth,
Fylingthorpe,
Whitby.
N. Yorkshire.
YO22 4UN

Dear Mrs Saunders,

NYM/2021/0351/OU

I would like to object to the plans for Sledgates Fylingthorpe on the following grounds.

Traffic coming into the village gets worse and worse every year, buses every half hour, a lot of hikers walking up and down, and a lot of delivery wagons. Certainly a lot more so since we objected last time. I can't understand why anyone would think it safe to have a new development on Sledgates.

Planning applications have been refused before because of inadequate sight lines, I don't think anything has changed.

A lot of properties in the village are now holiday homes, we don't need any more.

The field contains a lot of wildlife which would disappear if this planning goes ahead.

Here's hoping we can stop this dangerous planning application.

Yours Faithfully
Mr&Mrs R Storey.

4. Can't. No way would Northallerton
Sanction it.

5. Problem was taken to the European
Court 3 times and turned down.

6. Site lines are too narrow -

7. Also they intend it to be a bigger
project so there would be endless
traffic in and out - daily

8. The Buses have to wait to pass
Some days with the parking and
other traffic - The Durslem lorry
holds things up on emptying day -

Mans faithfully

& Family -

New 11/10/21
Sledgates
Fylingthorpe

Mon 22nd Nov. 21

Dear Sir/Madam,

In reply to your letter -
re. outline planning on Sledgates.
Can't understand why it's still being
sought.

1. Nat. Park Committee came out
last time and said it wasn't
infertile so wouldn't do.

2. We had to prove Sledgates had always
been a road not a street - which
we did.

3. The hedge Ancient on a road
we had an expert who proved the
correct amount of species grew
in it thus proving it was ancient

4. Northallerton Highways said Whithy
hadn't any right to sanction it

**Middlethorpe, Sledgate Farm
Sled Gates
Fylingthorpe
Whitby
YO22 4TZ**

Tuesday, 14 September 2021

Dear Mrs Saunders,

NYM21/0351/OU - land to the west of Highfield, Sled Gates, Fylingthorpe.

Thank you for your email 9 September responding to my questions regarding the status of the hedge. In that email, and in your earlier email 31 August, you confirm that the hedge is a material planning consideration in the planning balance and consideration of this application. Although we agree on this, your response doesn't answer my question as to why, given the expert opinion and surveys undertaken by Bell and Reed (twice), and the advice from the Authority's own Ecologist that expert surveys should be undertaken, why the Authority seems reluctant to consider the importance of the hedge **outside** the remit of this application?

The history of the hedge and the number of professional surveys that have been done over the years, including by the applicant (Mr Bell) and Dr. Reed this year, point to a richness of Schedule 2 and Schedule 3 species; more than enough, it seems to me, for the Authority to extend protection to the hedge against any unsuitable seasonal management. You will be aware that the Authority had concerns in 2003 on inappropriate management (very much an atypical management style, contrary to the Regulations)¹ and so warned the landowner not to undertake such work without first contacting the Authority. The Authority restated its concerns in 2005.

In conclusion, I would like to ask a number of questions:

1. Does the Authority believe that the 3 sets of data provided by Reed (spring) Bell (early summer) and Reed (late summer) are insufficient for it to make a determination on the status of the hedge under the 1997 Hedgerow Regulations? If so, why?
2. In view of the history of the site and the Authority's concerns in both 2003 and 2005 on the coppicing and management of the hedge, are you able to warn the landowner not to undertake such work without reference to the Authority?
3. Will the Authority take a reactive approach to the determination of the status of the hedge under the Hedgerow Regulations and threats to its retention, or might it not be better all round to consider a more proactive approach so that both this applicant and any future applicant is aware of the constraints?

I look forward to hearing from you, and for a definitive answer. I am happy for this letter to appear on the website.

Kind regards,

Bob McGovern

¹ DEFRA The Hedgerow Regulations 1997: A guide to the law and good practice. 4.16 & 4.17

Middlethorpe, Sledgate Farm
Sled Gates
Fylingthorpe
Whitby
YO22 4TZ

Friday, 6 August 2021

Dear Mrs Saunders,

NYM21/0351/OU - land to the west of Highfield, Sled Gates, Fylingthorpe.

Thank you for your recent letter asking me for my comments on the (many and somewhat confusing) revisions to this application, the **Highways REFUSAL and the officer's subsequent questions to the applicant**. In addition to the comments in my earlier letters dated 13 May and 5 July, which still stand, I have taken the time to read the **NYCC Guidance 1994** that you kindly had sent to me and I have framed a number of my responses in the context of that guidance and point to the selective way in which the applicant has used it. I object to the revised application on similar grounds notably:

1. The harm to highway safety – which is no less than it was in 2007
2. Inadequate, incorrect and constantly changing information from the applicant which makes it difficult for the lay reader to be clear about his intentions and what is informing the outcome

For ease of reference, this letter provides **MY RESPONSE** to each of the Highways officer's comments, and the applicant's response in the same order.

NYCC Comment 1

The details refer to the fact that two surveys were carried out but the locations have not been mentioned. Can these locations be confirmed and ideally shown how close they are to the 57 metres south west of the proposed junction and 40 metres north east.

AMA Response 1

Both ATCs were located along Sled Gates at the extremities of the proposed visibility splays. Details of both the locations for both the eastern and western ATC points are provided in Figure 1.

MY RESPONSE 1

The data provided by the applicant on the number of cars travelling northeast and southwest along Sled Gates show significant disparity and cannot be reconciled by the small number of dwellings between the survey points. A comprehensive analysis of the data has been sent to the Highways officer. Furthermore, the location of the survey point on the downhill side is disputed by residents. Overall, the data is unreliable.

NYCC Comment 2

The surveys were done in Dec 2020. December is not a typical neutral traffic month as specified by the Department of transport Design Manual for Roads and Bridges CA18. Can the applicant provide any information as to why this timing should be considered appropriate.

AMA Response 2

Comments are noted. Although December is not considered by DMRB to be a typical neutral month for traffic, it is considered that the speeds observed along Sled Gates would not be affected and remain constant throughout the year as the road environment is that of a residential area.

Any seasonal variance such as the summer holiday period would result in higher traffic volumes and would be much more likely to lead to reduced speeds approaching the site access as there would be more vehicles on the road, thus suggesting the surveys undertaken are fit for purpose.

MY RESPONSE 2

The fact that the country was emerging from Covid lockdown is ignored by the applicant. This period can in no way be viewed as typical. It is a fact that this is one of only two main routes into Fylingthorpe and Robin Hood's Bay with a transient, visitor population as well as permanent residents. The applicant provides no proof for his assertion that higher traffic volumes in the summer months would be more likely to reduce speeds. I could assert the opposite – and would then be expected to back up my claim with verifiable data. I expect no less from the applicant.

NYCC Comment 3

For the vision splays to be achievable, it is relying on neither of the two neighbouring plots to have any hedges or vegetation growing over the highway boundary. Traditionally, the local Highway Authority would only write to the owners of the properties with any over hanging vegetation concerns following a routine inspection or an inspection following a complaint.

AMA Response 3

As detailed within the AMA Proposed Access & Visibility Splays drawing number: 20940/SK004 already submitted to the LPA / LHA, both the eastern and western visibility splays from the proposed site access are drawn within the applicant's land ownership or within the highway boundary.

The topographical survey this is plotted upon fully details existing hedgerows and boundary locations, which the splays avoid in their entirety. The splays are not encroached upon by vegetation or boundaries and as such is not considered to be an issue.

As per NYCC policy, given the site is for less than six dwellings and is a private drive a 2m setback is NYCC policy compliant. This is reflected in an updated visibility splays plan, SK-005, in Appendix B of this document. Further detail is provided in later AMA comments.

MY RESPONSE 3

I have now had time to read the NYCC Guidance 1994 that the applicant refers to in the final paragraph above and would make the following points:

- 1. The applicant is selective in what he quotes from Appendix A1 of the NYCC Guidance 10/8/94. The NYCC Guidance clearly states: "2.4m DESIRABLE at minor access serving less than 6 dwellings: 2.0m MINIMUM at access serving less than 6 dwellings".**
- 2. It then goes on to say that: "Where the actual speed of traffic has been measured, the 85th percentile wet weather speed on the road should be used". The applicant claims that he can rely upon dry weather speed as the baseline for his speed calculations in spite the Highways officer asking him to apply the wet weather reduction. Doing so would move the speed into the >37mph category and make the standard stopping distance some 66.85m. In view of all of the other flaws that have been identified so far, I would say that this points to much the same conclusion as that of the Planning Inspector in 2008.**

3. I would, therefore, point to the clarity and veracity in paragraph 10 of the Planning Inspector's report 14/01/2008:

"....measured to the centre line of the road, the splay would be substantially better (2.4 x40 or 2 x 60.7) but MfS is clear that the centre line measurements should only apply where there is a special circumstance such as a physical barrier to prevent cars crossing into the other lane. In this case there is informal paving for cars to park along the roadside in front of the houses opposite I saw that, despite generous overall road width at this point and centre-line marking, these parked cars oblige vehicles to approaching the site from the southwest to pull out, partly across the centre-line of the road. I, therefore, consider this alternative measurement inappropriate in the case."

4. The NYCC Guidance 1994 is clear that Minor Access Ways should be no more than 25m long; have sufficient on-plot parking for residents and visitors; provide at least one parking space for deliveries/casual callers, that space to be convenient for all dwellings served and clear of the driveway or turning area and provide a turning head for cars. In view of the gradient of the road and the informal parking opposite the site, I think these aspects of the application should be carefully reviewed by Highways.

There have been no physical changes to the road since 2008, save for increased use by cars, caravans, service vehicles, buses and speeding cyclists.

Any on-site review would conclude, as most residents have, that to achieve the splays there would have to be some alteration of the hedges in adjoining properties.

NYCC Comment 4

On the clear understanding that the work needed to make the alterations as shown on the plan will require removing the current hedgerow and wall at the back of the existing footway.

AMA Response 4

Comments are noted, the hedgerow would be located to the rear of the proposed splays to ensure these are maintained free of obstruction. This would be delivered at the developer's expense.

MY RESPONSE 4

This is a confusing response. It is not clear what it means. The splays are currently encroached upon by a hedgerow, and the NYMNP Ecologist agrees that it should now be surveyed to determine its status under the Hedge Regulations 1998. The applicant's survey has been shown to be partial, at best. The work done to date would suggest that the hedge is a candidate for protection and retention.

NYCC Comment 5

The figure of 36mph is taking into account a reduction of 2.5mph for wet weather reduction but the survey was carried out over 7 days, therefore this reduction should not apply.

AMA Response 5

All survey days were undertaken in dry weather, therefore it is appropriate to apply this wet weather speed reduction, which the proposed visibility splays achieve.

In addition and when considering the proposed splays, NYCCs design guide recognises the use of Manual for Streets (MfS) standards for visibility splay based on the following criterion, which this site meets as a 30mph speed limit:

'All highways within the built up / urban area, which may include 20, 30 or 40 mph zones are to be classified as "streets" and the visibility requirements set out in MfS are to be applied unless the 85th percentile speed is found to be greater than 37 mph / 60 kph.'

As the speeds surveys detail that the 85th percentile speeds fall below 37mph, the visibility splays of the site access meet the NYCC Highways standard. In addition these would not result in any severe impact upon highway capacity or road safety and as such are acceptable in highways terms.

MY RESPONSE 5

The Highways officer is quite clear that the applicant should disapply the wet weather reduction. The applicant has chosen not to do this and defends it using selective MfS calculations that, as outlined in my RESPONSE 3, were rejected by the Planning Inspector in 2008.

NYCC Comment 6

No consideration to the incline of the road appears to have been taken into consideration. Have the gradients at the points surveyed being measured.

AMA Response 6

At worst, the incline of the road over the full length of the visibility splay is 1:10, therefore for robustness we have considered it at this gradient to calculate any adjustment to the resulting splay.

On the basis that the 36mph is the adjusted wet weather speed, the following calculation has been applied based on MfS.

We have appended an updated visibility splays plan (SK-005) to this note based on a 64.4m SSD for the western visibility splay. This splay is offset from the nearside kerb by 240mm into the carriageway.

It is generally accepted that this is acceptable to a maximum of 600m from the nearside kerb as this would be the width of a cyclist, which is a minimum 'vehicle' width.

It should be noted that this splay is not into oncoming vehicular traffic and is the offside lane, therefore vehicles would be highly unlikely to be oncoming towards the junction and on rare occasions overtaking vehicles, which is not considered likely given the residential 30mph area.

On this basis the splays are considered to be highly robust and in line with MfS standards which NYCC consider to be appropriate for implementation based on their own policy documentation.

MY RESPONSE 6

The applicant's response is heavy on assertions, but it offers no verifiable data on which to evaluate these claims.

NYCC Comment 7

As the road is a bus route, an allowance for a safe stopping distance of these vehicles should be applied.

AMA Response 7

As set out in MfS2, Paragraph 10.1.12, buses travel at 90% of the average speed for all vehicles on a 30mph road.

As detailed in the submitted Highways Supporting Statement, the average speed in this instance was 31.3mph and buses travelling at 90% would be 28.2mph. As such the SSD calculations provided in Comment 6 and shown on the updated SK-005 appended are more than sufficient to cater for bus stopping distances and are considered acceptable.

MY RESPONSE 7

Once again, the applicant's response is unclear and cannot be verified. It relies upon similar calculations to those in Comment 6 that are unverifiable.

CONCLUSION

The applicant's response is heavy with assertions and the data on the number of cars travelling northeast and southwest along Sled Gates show significant disparity and cannot be reconciled by the small number of dwellings between the indicated survey points. Furthermore, the location of the survey point on the downhill side is disputed by residents. Overall, the data is unreliable, the status of the hedgerow is in question, there is selective use of the NYCC Guidance 1994, no mention is made of the previous Planning Inspector's report and there is no attempt by the applicant to refute its veracity. Many of the responses are unconvincing and I see no reason why the Planning Inspector's decision in 2008 should be overturned.

Bob McGovern

From: Bob McGovern
Sent: 01 September 2021 09:20
To: Hilary Saunders
Subject: Re: NYM21/0351/OU - land to the west of Highfield, Sled Gates, Fylingthorpe. FAO: Hilary Saunders

Dear Mrs Saunders,

Thank you for your helpful response. It does seem to go on, doesn't it! We can only hope that the next traffic survey will be conducted in a more robust way.

There remains, however, the issue of the hedge. You refer to it as a material planning consideration, and I agree with you. My concern is that NYMNP has recently been provided with expert data from Dr Reed (a professional and highly regarded ecologist) and it clearly indicates that the hedge should be afforded protection. Dr Reed's work incorporates the partial and caveated survey by (Bell) the applicant, and it meets the condition from the NYMNP Ecologist that a survey should be undertaken to determine the status of the hedge. I am concerned on two counts: the hedge may be irreparably damaged by seasonal cutting and, more importantly, that additional traffic surveys and debates about visual splays will ignore the status of the hedge and assume that it can be ripped out.

In view of the expert and irrefutable data that has been submitted by Dr Reed, I would like to know who in NYMNP is responsible for taking the determination of the hedge forward and how we might progress this as swiftly as possible, both to protect the hedge but also to prevent any more time wasting debate about visual splays and access to the site. You will be aware that Highways agreed with the applicant that the hedge should be removed in order to achieve the visual splays in their application, but this is now contentious if, as the species data suggests, it is afforded protection.

I look forward to hearing from you. I am happy for you to put this email on the website if you feel it necessary to do so.

Kind regards

Bob McGovern

Middlethorpe, Sledgate Farm
Sled Gates
Fylingthorpe
YO22 4TZ

Sent from my iPad

On 31 Aug 2021, at 07:55, Hilary Saunders

wrote:

Dear Mr McGovern,

Thank you for your email which I have also forwarded to our admin team with regards to your queries regarding the uploading of comments onto our website.

Unfortunately, I am unable to advise you regarding a likely determination date as the applicant has commissioned further traffic surveys which will then need to be considered by the Highway Authority.

Once the results of the surveys have been received I will send out further consultations to interested parties.

Certainly the concerns regarding the hedge are a material planning consideration, but I also need a firm view from the Highways Authority.

I do appreciate how frustrating it is for you and other local residents that this application is taking so long to determine, but it is important that I have all the necessary consultation responses.

Kind regards

Hilary

Mrs Hilary Saunders MRTPI
Planning Team Leader (Development Management)
North York Moors National Park
The Old Vicarage
Bondgate
Helmsley
York
YO62 5BP

From: Bob McGovern
Sent: 29 August 2021 16:21
To: Hilary Saunders
Subject: Fwd: NYM21/0351/OU - land to the west of Highfield, Sled Gates, Fylingthorpe. FAO: Hilary Saunders and Ged Lyth

Dear Mrs Saunders

There are, I know, many responses to this constantly changing application and managing them on the website must be quite a challenge. I see that my latest letter (attached) has been deleted from the most recent responses. I'm sure that this is an oversight and it will be replaced and considered.

I wonder if you have any news on the likely date for determination of the application and how Dr Reed's expert advice on the hedge will be taken forward?

I look forward to hearing from you.

Kind regards,

Bob McGovern

Sent from my iPad

Begin forwarded message:

From: Bob McGovern
Date: 6 August 2021 at 12:21:01 BST
To: hilary Saunders

Subject: NYM21/0351/OU - land to the west of Highfield, Sled Gates, Fylingthorpe. FAO: Hilary Saunders and Ged Lyth

Dear Mrs Saunders and Mr Lyth,

I trust you are both well. I attach my latest response to this amended application and I am happy for it to appear on the website.

Kind regards,

Bob McGovern

Middlethorpe
Sledgate Farm

Sled Gates
Fylingthorpe
Whitby
North Yorkshire
YO22 4TZ

c/o The Pond House
Sledgates
17.8.2021

Dear Mrs Saunders,

You will be aware that, as Mr Bell, the ecologist hired by the applicant observed, the detectability of plant species varies across the course of the year. In my appendix to an earlier note- which I repeat here- I observed that the non-woody species community viewed from the path was rich, far more so than Mr Bell's limited list on what is assumed to have been a short check of both sides of the hedge. In addition, we do not know just how long he spent looking, as it was reported to be very limited due to a road traffic accident occasioned by his vehicle.

*APPENDIX 1 Non-woody Plant Species recorded from Hedge 1: 07.00- 07.30 and 16.30-17.00
4.4.2021 in clear conditions by Dr T M Reed FCIEEM*

Grasses

Cocks foot *Dactylis glomerata*
Yorkshire fog *Holcus lanatus*
Red fescue *Festuca rubra*
Bent *Agrostis tenuis*
Fine leaved sheep's fescue *Festuca tenuifolia*

Harts tongue fern *Asplenium scolopendrium*

Primrose *Primula vulgaris*

Dog violet *Viola riviniana*

Wild strawberry *Fragaria vesca*

Goose grass *Gallium aparine*

Red Valerian *Centranthus ruber*

Herb robert *Geranium robertianum*

Bush vetch *Vicia sepium*

Greater stitchwort *Stellaria holostea*

Hogweed *Heracleum sphondylium*

Sweet cicely *Myrris odorata*

Stinging nettle *Urtica dioica*

Lords and ladies *Arum maculatum*

Smooth sowthistle *Sonchus asper*

Creeping thistle *Cirsium arvense*

Ivy *Hedera helix*

Bramble *Rubus fruticosus agg.*

Nipplewort *Lapsana communis*

The list included 6 Schedule 2 Woodland Species. In addition, Mr Bell found 5 Schedule 3 woody species.

In view of the possibility of changes across the summer, I took a further look at the hedge on 12.8.2021 between 06.10 and 07.40 in clear conditions. As before, the review was from the path side. This time I looked at both woody and woodland species. I can confirm that there were the 5

Schedule 3 woody species reported by Mr Bell: ash, blackthorn, holly, dog rose and hawthorn. In addition, there were sycamore, bramble, and ivy.

Mr Bell recorded only 2 grasses, which was surprising. 4 additional species of grass were recorded, in addition to those found in early spring, making 9 in total. There were 8 new species of flowering plants, ranging from common species such as groundsel through to Schedule 2 species such as wood avens, barren strawberry and tormentil. Overall, including ferns, four more Schedule 2 woodland species were noted- **making 10 Schedule 2 woodland species** from the two visits in early spring and late summer. That more than meets the Hedgerow Regulations number. As expected, early spring species such as lords and ladies, primrose and dog violet were not apparent in late summer; confirming the limitations intimated by Mr Bell- and why his survey was inappropriate for categorical use.

What this suggests is that the hedgerow is species rich: in both Schedule 2 and Schedule 3 species; more than enough to require a formal confirmation under the Hedgerow Regulations of 1997. This should be undertaken by the Park in 2022 before any permissions can be determined. **Or, the Park can accept up to date data now available to it for its decision under the Regs.** From the differences in Appendices 1 and 2 shown here, it should be noted that a **single visit alone** would be inadequate to provide a full list for the hedgerow if undertaken in 2022.

It also means that, given its richness of Schedule 2 and Schedule 3 species identified in Appendices 1 and 2, and if the Park ecologist's retains her concern that further definitive surveys (NB there are now three sets of data from 2021 that indicate that the Hedgerow exceeds the 1997 Regs) should be undertaken prior to any possible approval (it is clear from 2021 surveys that a single visit is unlikely to be definitive), the Park should give urgent consideration to protection of the hedge against any unsuitable management practices in the interim.

Also, See Annex 1.

APPENDIX 2: Woodland and woody Plant Species recorded from Hedge 1: 06.10- 07.40 on 12.8.2021 by Dr T M Reed FCIEEM in clear conditions

Trees & shrubs (yellow= Schedule 3)

Ash *Fraxinus excelsior*

Holly *Ilex aquifolium*

Blackthorn *Prunus spinosa*

Hawthorn *Crataegus monogyna*

Rose *Rosa spp*

Sycamore *Acer pseudoplanatus*

Bramble *Rubus fruticosus*

Ivy *Hedera helix*

Flowering plants & ferns (Yellow= Schedule 2)

Petty spurge *Euphorbia peplus*

Goose grass *Gallium aparine*

Red Valerian *Centranthus ruber*

Herb robert *Geranium robertianum*

Wood avens *Geum urbanum*

Tormentil *Potentilla erecta*

Barren strawberry *Potentilla sterilis*

Soft shield fern *Polystichum setiferum*

Bush vetch *Vicia sepium*

Tufted vetch *V. cracca*

Silverweed *Potentilla anserina*

Hedge woundwort *Stachys sylvatica*

Greater stitchwort *Stellaria holostea*

Hogweed *Heracleum sphondylium*

Sweet cicely *Myrris odorata*

Stinging nettle *Urtica dioica*

Ribwort plantain *Plantago lanceolata*

Dandelion *Taraxacum spp*

Meadow vetchling *Lathyrus pratensis kinbg*

Groundsel *Senecio vulgaris*

Rough chervil *Chaerophyllum temulum*

Smooth sowthistle *Sonchus asper*

Creeping thistle *Cirsium arvense*

Ivy *Hedera helix*

Bramble *Rubus fruticosus agg.*

Nipplewort *Lapsana communis*

Grasses

Cocks foot *Dactylis glomerata*

Yorkshire fog *Holcus lanatus*

Red fescue *Festuca rubra*

Sheeps fescue *F ovina*

Bent *Agrostis tenuis*

Tall fescue *Festuca arundinacea*

False oat grass *Arrhenatherum elatius*

Wood brome *Bromus ramosus*

Dr Tim Reed CBiol FCIEEM

ANNEX 1

In Supplementary Planning Document 3 of the NYMP Local Plan it states for this hedge on an agricultural field:

“With their introduction in 1997, the Hedgerow Regulations make it an offence to remove or destroy most countryside hedges without notifying and obtaining permission from the Authority, which must assess the importance of a hedgerow against a set of historical and wildlife criteria.

The Regulations apply to any hedgerow which:

•Grows in, or adjacent to any common land, Local Nature Reserve, Site of Special Scientific Interest, or land used for agriculture, forestry of the breeding or keeping of horses, ponies or donkeys and has a continuous length of at least 20 metres, or if less than 20 metres, meets another hedgerow at each end.”

The hedgerow fronting Sledgates meets this criterion. The text continues:

“•In calculating the total length of a hedgerow, any gap resulting from a contravention of these regulations and any gap not exceeding 20 metres should be treated as part of the hedgerow. A hedgerow, which meets another hedgerow, is to be treated as ending at the point of intersection or junction.”

The hedgerow meets this criterion. It continues:

“To qualify as 'important', a hedgerow must be at least 30 years old and at least 20m long (although shorter hedges can be included if linked to other hedgerows) and meet at least one of the following summarised criteria:

- It marks a pre-1850 parish or township boundary
- It incorporates an archaeological feature.
- It is part of, or associated with, an archaeological site.
- It marks the boundary of, or is associated with a pre-1600 estate or manor.
- It forms an integral part of a pre-Parliamentary enclosure field system.
- It contains certain categories of species of bird, animals or plants listed in the Wildlife and Countryside Act **or Joint Nature Conservation Committee(JNCC) publications.**
- It meets a number of ecological criteria relating to its component woody species and associated environmental features.”

Under JNCC <https://data.jncc.gov.uk/data/ca179c55-3e9d-4e95-abd9-4edb2347c3b6/UKBAP-BAPHabitats-17-Hedgerows.pdf> a hedgerow is defined as:

“Hedgerows The definition of this priority habitat has been amended from the pre-existing Habitat Action Plan for ancient and/or species-rich hedgerows (<https://webarchive.nationalarchives.gov.uk/20110303150113/http://www.ukbap.org.uk/UKPlans.aspx?ID=7>).

A hedgerow is defined as any boundary line of trees or shrubs over 20m long and less than 5m wide, and where any gaps between the trees or shrub species are less than 20m wide (Bickmore, 2002).

Any bank, wall, ditch or tree within 2m of the centre of the hedgerow is considered to be part of the hedgerow habitat, as is the herbaceous vegetation within 2m of the centre of the hedgerow. All hedgerows consisting predominantly (i.e. 80% or more cover) of at least one woody UK native species are covered by this priority habitat, where each UK country can define the list of woody species native to their respective country. Climbers such as honeysuckle and bramble are recognised as integral to many hedgerows, however they require other woody plants to be present to form a distinct woody boundary feature, as such they are not included in the definition of woody species.

The definition is limited to boundary lines of trees or shrubs, and excludes banks or walls without woody shrubs on top of them. Based on an analysis of Countryside Survey data, using the threshold of at least 80% cover of any UK native woody species, it is estimated that 84% of countryside hedgerows in GB would be included. References Bickmore, C.J. (2002) Hedgerow survey handbook: a standard procedure for local surveys in the UK. London, DEFRA"

The Hedgerow more than meets the 1997 Hedgerow Regulations.

Comments of planning application NYM/2021/0351/OU Land west of Highfield, Fylingthorpe.

By: Dr Tim Reed, BA, MA, D.Phil, C.Biol, FCIEEM.

I wish to object to this application on a number of planning grounds, including:

1. Incorrect statements in the application summary
2. Unsupported assertions in supporting documents
3. Surface water and sewage grounds- as set out by Yorkshire water on 21.6.2021
4. Highways grounds: safety and visibility- including the recent 2021 Highways Objections
5. Without clear locations for traffic recording sites, it is impossible to determine the validity of any of the claims; the splays might well be bigger than suggested. It is impossible to tell. That is a planning issue.
6. Delivery of the claimed visibility splay relies on the hedgerows of others, not just the developer
7. Failure to apply Policies and Supplementary documents as set out in the Local Plan 2020, or the NPPF 2019 .
8. The incorrect ignoring of ecological data by the applicant, and the potential 1997 Hedgerow Regulations status of the front hedge
9. The unsupported and factually incorrect advisory opinions and comments from the Park Ecologist
10. The front hedge appears to meet the requirements of the 1997 Hedgerow Regulations.

For clarity I will review each of the documents and iterations shown on the Planning Portal for this application, concluding with a short note at the end of the review. Nothing shown on the Portal does other than suggest the application should be refused.

1. Application Summary

There are several apparent errors in the Application Summary, including:

10/11. Foul Sewage and Surface Runoff. In 10, the box states how sewage will be removed is unknown. Surface runoff is given as disposed by the sewage system. One of these may be right, but which, if either, is uncertain and this needs clarifying. As the sewage system (Yorkshire Water 2021) is unable to take additional surface water, this is a basic issue.

12 Trees and Hedges. The form states there are **no hedges** or trees on the proposed development. The Design and Access Statement (DAS) states (p6):

“There are several trees around the perimeter of the site some of which are to be retained.

Existing boundary walls/ fences and hedges are to be retained wherever possible to retain character of the development site.”

Either the application or the DAS is wrong. The DAS shows photographs of the hedge and trees on p7. The application form is in error. Also, the trees are on an adjacent property, and their retention is not in the gift of the developer.

13. Priority and protected species. The form states that there are no priority or protected species on the site, or on land nearby. That is in error. The field is part of a barn owl territory, and observed to visit on a daily basis, as are badgers. Records of both on video, along with roe deer, are available on

request. The applicant provided no basis or accompanying evidence or reference (there are no desk or field surveys) to support their incorrect claim.

22. Pre-application advice. It is noted that there were pre-application discussions between Alistair Flatman and Hilary Saunders of NYMNP. Details are not provided. It is assumed that these did not include biodiversity and planning gain; that may explain the errors in 13 and the failure to provide the expected desk search data and a preliminary ecological appraisal (PEA) in the application. That is a basic omission in terms of the 2020 Local Plan and the NPPF 2019.

2. Highways Supporting Statement

The applicants have provided a slim document in support of their application. They omit to note that several previous applications were refused on Highways grounds. These include:

NYM/2006/0652/FL – on visibility grounds

NYM/2007/0146/FL- on highways safety grounds.

It may help to refer to the core points from the Inspector's Appeal notes in ref APP/W9500/A/07/2056979/WF as these summarise the conditions then, **and these still apply**. In the Appeal Decision, the Inspector noted in (7):

The Sledgates, a C classified road, passes through Fylingthorpe and is the secondary approach into nearby Robin Hood's Bay (a key tourist attraction in the area) from the A171; the main approach is via the B1447. The traffic flow on it has been recorded as 1000 vehicles per day, according to the appellant it is 200 vehicles per hour in the summer. Although the appeal site is at the edge of the settlement, visually it is within it; it lies opposite a row of close-set semi-detached houses and is between more well spaced larger detached houses and bungalows, with a paved and kerbed footway along its frontage on this side. The road has standard street lights. From the definitions set out above I consider that it is of the type intended to fall within the standards referred to in MfS.

The Inspector continued, looking at splays and speeds, noting that there were typically cars parked opposite the proposed site entry.

8. Visibility splays at the kerbline of 2.4 x 56.4m (2 x 56.0m) to the northeast, downhill from the access, and 2 x 24.5m (2 x 60.7m to the centre line of the road) to the southwest, uphill are proposed. The Highway Authority has accepted that these are achievable and would provide views at a driver's eyeline above the existing bank. MfS sets out, at table 7.1 a stopping sight distance (SSD), adjusted for car bonnet length, of 43m at 30 miles per hour and the visibility splays proposed would achieve this to the northeast, but would fall substantially short to the southwest, in the uphill direction.
9. Sledgates descends steeply from the A171 and there are tight bends, with a gradient of 25%, about 300m from the southeast end of the appeal site, which slow traffic down substantially. However, I have seen that traffic from this direction speeds up as the road reduces in gradient and straightens before the appeal site. Although the 30mph speed restriction for the village commences about 120m to the southeast of the site, a traffic speed survey, carried out by the Highway Authority in 2007, recorded 85th percentile speeds downhill at this point of 38mph. The MfS indicates a 59m adjusted SSD for speeds of 37mph – more than twice the distance achievable in this direction.
10. I realise that, measured to the centre line of the road, the splay would be substantially better (2.4 x 40 or 2 x 60.7m) but MfS is clear that centre line measurements should only apply where there is a special circumstance such as a physical barrier to prevent cars crossing into the other lane. In this case there is informal paving for cars to park along the roadside in front of the houses opposite and the verge leading to this is also worn where cars are parked there. I saw that, despite the generous overall road width at this point and centre-line marking, these parked cars oblige vehicles approaching the site from the southwest to pull out, partly across the centre-line of the road. I, therefore, consider this alternative measurement inappropriate in this case.

11. I note the appellant's contention that speeds on this stretch are less than those recorded and that the Authority did not indicate whether the recorded speeds were measured during wet or dry weather. However, the appellant has not provided alternative survey information. Nevertheless, taking the lower speed suggested of 34mph (adjusted for wet weather) an interpolated SSD of 48m would be required. Even setting the design speed for the access as the 30mph speed limit, the proposed access would substantially fail to provide the 43m SSD recommended by the recently reduced standards. According to MfS, the 24.5m distance proposed would be suitable for traffic travelling at less than 22mph. Whilst MfS promotes a flexible application of standards where these are difficult to achieve, it expects other measures to be introduced to justify a reduction. It seems to me that without additional measures to improve visibility in this direction from the site, or reduce the speed of traffic passing it, the proposal would significantly compromise highway safety.
12. I have read that the Highway Authority may be installing traffic calming measures in the vicinity of the site and if implemented these may change the design speed for the proposed access. However, apart from yellow bordered chevron signs to highlight the bends described above I saw few other measures to slow traffic and in the absence of a detailed scheme, with anticipated design speeds and an implementation programme I have reached my decision on the basis of the current circumstances. No accident injuries have been recorded in relation to this stretch of highway. Nevertheless, this is not sufficient justification to set aside the recently significantly reduced nationally recommended design standards for this type of road access.
13. I conclude that the proposal would harm highway safety, contrary to national and local policy.

Nothing significant has changed since that Appeal Decision was issued.

NOTE: there is no way of knowing from the report where the locations of the east and west recording locations were sited; that fundamentally affects the reliability of the data offered.

The Applicant correctly notes that the proposed site ingress and egress is within a 30 mph area. Yet 55% of vehicles approaching downhill were, according to the applicant, going more than 30mph- with 5 > 45mph.

They state that they undertook two 7-day ATC surveys on 3-9 12 2021. Their proposed splays of 58m to the west and 40m to the east would still be a problem- just as they were at the last Appeal failure.

In addition, the survey dates cannot be cited as typical: they were within a time of limited public mobility under Covid restrictions. On that basis they are at best partially indicative, not conclusive, and need substantiating for a second period- especially as the road is far busier in summer when the road is an access line for the very popular village of Robin Hood's Bay. December in a partial lock-down is not representative and a maximum 5 day mean of 695 vehicles is atypical. Going back to the 2008 decision, in a time of lower vehicle ownership it states:

7. The Sledgates, a C classified road, passes through Fylingthorpe and is the secondary approach into nearby Robin Hood's Bay (a key tourist attraction in the area) from the A171; the main approach is via the B1447. The traffic flow on it has been recorded as 1000 vehicles per day, according to the appellant it is 200 vehicles per hour in the summer. Although the appeal site is at the edge of the settlement, visually it is within it; it lies opposite a row of close-set semi-detached houses and is between more well spaced larger detached houses and bungalows, with a paved and kerbed footway along its frontage on this side. The road has standard street lights. From the definitions set out above I consider that it is of the type intended to fall within the standards referred to in MfS.

It is clear that the data offered by the Applicant in 2021 are far from normal.

In addition, the data are presented in a selective summary form. No base data are given in an appendix. The mode, range and /or standard deviation would help understand the data; none are provided. No raw data are provided to assess claims/ summaries. The applicant is also selective in not telling the numbers beyond 35 and 40 mph.

Much is made of the times of exit and ingress. No data from that survey period were provided to see the rate of passing of a proposed entry site at expected morning and evening egress and ingress times.

It is stated that there are no existing road safety issues. I would refer to the Appeal Decisions noted above, and to the 2021 Highways Objection.

A second, more representative period is also needed: one not in a period of restriction under Covid. That numbers could be at least 25% less than those 15+ years ago seems unlikely.

The conclusions are based on an atypical, selective and poorly provided set of data. The proposal needs more probity. Nothing obviously has changed to override the 2008 Appeal Decision.

NOTE: the visibility splay diagrams in the PPS show that hedges owned by others beyond the site would also have to be managed, as well as that on the site, in order to achieve minimal visibility. That may not be agreeable, and cannot be presumed or enforced.

3. Planning Policy Statement (PPS)

1.3 & 1.4 refer to pre-policy discussions- those are not documented- and it is impossible to tell what was covered, and how representative these paragraphs are. Biodiversity and protected species are a material planning issue under the NERC Act 2006 <https://www.legislation.gov.uk/ukpga/2006/16/contents>, but appears to have been selectively omitted.

1.11 states there are no trees on the site. That is contrary to the design and access statement p 6 & 7. The PPS is confused.

1.14 The proposal cuts through, and requires alterations to an existing hedgerow dating to Victorian times or earlier. That is not mentioned. Nor is the hedge. The hedge is suitable (see (9) below) for consideration for protection under the 1997 Hedgerow Regulations.

1.19 The details submitted omit a biodiversity desk or field assessment – a PEA (CIEEM 2018 <https://cieem.net/resource/guidance-on-preliminary-ecological-appraisal-gpea/>).

2.1 The NPPF

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf was updated in 2019. Both the NPPF and the NYMP Local Plan 2020 expect net gain.

2.18. As there is no biodiversity baseline, nor data to accompany the application, it cannot be said that para 170 is met; it is not.

2.20 Unsubstantiated statements are made without any survey or other data. The conclusions are without fact or foundation and require a PEA at the very least.

2.24 This cannot be accepted as there are no biodiversity data to accompany the application, nor to confirm contradictory claims in the Design and Access Statement.

The applicant references the 2020 LA plan

<https://www.northyorkmoors.org.uk/planning/framework/local-plan> in paras 2.25 onwards. A number of policies are omitted. These include:

Policy A: Achieving National Park Purposes and Sustainable Development states that:

“Sustainable development means development which:

Is of a high quality design and scale which respects and reinforces the character of the local landscape and the built and historic environment;

b) Supports the function and vitality of communities by providing appropriate and accessible development to help meet local need for housing or services, facilities, energy or employment opportunities;

c) Protects or enhances natural capital and the ecosystem services they provide;

d) Maintains and enhances geodiversity and biodiversity through the conservation and enhancement of habitats and species”

There is no reference to this policy, nor to maintaining habitat or species: both are ignored without any obvious basis.

Strategic Policy C- Quality and design of Development states:

“To maintain and enhance the distinctive character of the National Park, development will be supported where:

1. The proposal is of a high quality design that will make a positive contribution to the local environment in accordance with the principles set out in the North York Moors National Park Authority Design Guide;

2. The proposal incorporates good quality construction materials and design details that reflect and complement the architectural character and form of the original building and/or that of the local vernacular;

3. The siting, orientation, layout and density of the proposal complement existing buildings and the form of the settlement, preserving or enhancing views into and out of the site and creating spaces around and between buildings which contribute to the character and quality of the locality;

4. The scale, height, massing and form of the proposal are compatible with surrounding buildings and will not have an adverse impact upon the amenities of adjoining occupiers;

5. Sustainable design and construction techniques are incorporated in the proposal including measures to minimise waste and energy use and where appropriate use energy from renewable sources;

6. A good quality landscaping and planting scheme which reinforces local landscape character, increases habitat connectivity and makes use of appropriate native species forms an integral part of the proposal;

7. Proposals enhance local wildlife and biodiversity, for example through the inclusion of nesting boxes and bat roosts;”

This is neither referenced nor met. 6 & 7 are ignored. 7 was alluded to in the ecologist advice of 6.6.2021.

In addition, there is no recognition of:

“Strategic Policy H - Habitats, Wildlife, Biodiversity and Geodiversity

1. The conservation, restoration and enhancement of habitats, wildlife, biodiversity and geodiversity in the North York Moors National Park will be given great weight in decision making.

2. All development and activities will be expected to:

a) Maintain and where appropriate enhance features of ecological value and recognised geodiversity assets;

b) Maximise opportunities to strengthen the integrity and resilience of habitats and species within the National Park and provide a net gain in biodiversity; including those species for which the National Park supports a significant proportion of the regional or national populations and those found at the edge of their range. Examples would include nightjar, honey buzzard, goshawk and turtle dove; and

c) Maintain and where appropriate enhance existing wildlife connections and landscape features such as water courses, disused railway lines, hedgerows and tree lines for biodiversity as well as for other green infrastructure and recreational uses.

3. Development proposals that are likely to have a harmful impact on protected or valuable sites or species will only be permitted where it can be demonstrated that:

a) There are no alternative options that would avoid or reduce the harm to the protected or valuable interest;

b) Suitable mitigation measures to avoid or reduce the harm have been incorporated into the proposals and will be maintained in order to retain their biodiversity or geodiversity benefits;

c) Any residual harmful impacts have been offset through appropriate habitat enhancement, restoration or creation on site or elsewhere; and

d) The wider sustainability benefits of the development outweigh the harm to the protected or valuable interest”

1 & 2 are ignored. There are no baselines, data, or attempts in their absence to enhance or seek net gain. That is outside of Park Policy.

The applicant has been selective on the recognition of trees and hedgerows on the site. Under NYMNP Local Plan 2020 Policy ENV1 – Trees , woodlands, Traditional Orchards and Hedgerows it states:

“There will be a presumption in favour of the retention and enhancement of existing trees, woodland, traditional orchards and hedgerows of value on all developments.

Where a development would result in the unavoidable loss of an existing tree, orchard or hedgerow but the wider sustainability benefits of the development clearly outweigh the loss, proposals will be expected to minimise harm and provide a net biodiversity and amenity gain, with appropriate replacement of lost trees or hedgerows.

Development will not be permitted that would lead to loss of or damage to ancient woodland and aged or veteran trees found outside ancient woodland unless there are wholly exceptional reasons and the need for, and benefits of the development in that location clearly outweigh the loss”

The hedgerow in question that would be broken is with merit (and meets the 1997 Hedgerow Regulations – see (9) below), and under Supplementary Planning Document 3 of the NYMP Local Plan it states for this hedge on an agricultural field:

“With their introduction in 1997, the Hedgerow Regulations make it an offence to remove or destroy most countryside hedges without notifying and obtaining permission from the Authority, which must assess the importance of a hedgerow against a set of historical and wildlife criteria.

The Regulations apply to any hedgerow which:

- *Grows in, or adjacent to any common land, Local Nature Reserve, Site of Special Scientific Interest, or land used for agriculture, forestry of the breeding or keeping of horses, ponies or donkeys and has a continuous length of at least 20 metres, or if less than 20 metres, meets another hedgerow at each end.”*

The hedgerow fronting Sledgates meets this criterion. The text continues:

“•In calculating the total length of a hedgerow, any gap resulting from a contravention of these regulations and any gap not exceeding 20 metres should be treated as part of the hedgerow. A hedgerow, which meets another hedgerow, is to be treated as ending at the point of intersection or junction.”

The hedgerow meets this criterion. It continues:

“To qualify as 'important', a hedgerow must be at least 30 years old and at least 20m long (although shorter hedges can be included if linked to other hedgerows) and meet at least one of the following summarised criteria:

- *It marks a pre-1850 parish or township boundary*
- *It incorporates an archaeological feature.*
- *It is part of, or associated with, an archaeological site.*
- *It marks the boundary of, or is associated with a pre-1600 estate or manor.*
 - *It forms an integral part of a pre-Parliamentary enclosure field system.*
- *It contains certain categories of species of bird, animals or plants listed in the Wildlife and Countryside Act or Joint Nature Conservation Committee (JNCC) publications.*
 - *It meets a number of ecological criteria relating to its component woody species and associated environmental features.”*

Under JNCC <https://data.jncc.gov.uk/data/ca179c55-3e9d-4e95-abd9-4edb2347c3b6/UKBAP-BAPHabitats-17-Hedgerows.pdf> a hedgerow is defined as:

“Hedgerows The definition of this priority habitat has been amended from the pre-existing Habitat Action Plan for ancient and/or species-rich hedgerows (<https://webarchive.nationalarchives.gov.uk/20110303150113/http://www.ukbap.org.uk/UKPlans.aspx?ID=7>).

A hedgerow is defined as any boundary line of trees or shrubs over 20m long and less than 5m wide, and where any gaps between the trees or shrub species are less than 20m wide (Bickmore, 2002).

Any bank, wall, ditch or tree within 2m of the centre of the hedgerow is considered to be part of the hedgerow habitat, as is the herbaceous vegetation within 2m of the centre of the hedgerow. All hedgerows consisting predominantly (i.e. 80% or more cover) of at least one woody UK native species are covered by this priority habitat, where each UK country can define the list of woody species native to their respective country. Climbers such as honeysuckle and bramble are recognised as integral to many hedgerows, however they require other

woody plants to be present to form a distinct woody boundary feature, as such they are not included in the definition of woody species.

The definition is limited to boundary lines of trees or shrubs, and excludes banks or walls without woody shrubs on top of them. Based on an analysis of Countryside Survey data, using the threshold of at least 80% cover of any UK native woody species, it is estimated that 84% of countryside hedgerows in GB would be included. References Bickmore, C.J. (2002) Hedgerow survey handbook: a standard procedure for local surveys in the UK. London, DEFRA"

The hedgerow flanking Sledgates meets this criterion.

The NYMP Supplementary Guidance Part 3 (2020) further stated on p68 that:

"The Authority must determine if a hedgerow is 'important' prior to its proposed removal."

NOTE: the planning application, as initially submitted, does **not** recognise the existence of the hedgerow. Updates to the application show its existence and planned part retention and part removal. The Guidance continues:

"The regulations do not apply to any hedgerow within the curtilage of, or marking a boundary of a dwelling house.

The removal of any hedgerow is permitted if it is required:

- *for the making of a new opening to replace an existing access to land, provided that the existing gap is replanted within 8 months;*
- *for obtaining temporary access to any land to assist in an emergency;*
- *for obtaining access to land where another means of access is not available or is available only at disproportionate cost;*
- *for the purposes of national defence;*
- *for carrying out development for which planning permission has been granted or, in some cases, is deemed to have been granted;*
- *for carrying out work under the relevant acts for the purpose of flood defence or land drainage;*
- *for preventing the spread of, or ensuring the eradication of plant or tree pests notifiable under plant health legislation;*
- *for the carrying out by the Secretary of State of his highway functions;*
- *for carrying out any felling, lopping or cutting back required or permitted under the relevant act to prevent the obstruction of or interference with electric lines and plant or to prevent danger; or*
- *for the proper management of the hedgerow.*

In considering the retention of hedges on a development site priority will be given to those hedges which are deemed to be important under the Hedgerow Regulations."

As the hedge exists, and planning permission is being sought- and has not been granted- removal is not currently permitted. As it also meets the 1997 Hedgerow Regulations it is important.

The guidance continues:

"Although domestic garden hedgerows do not fall under the Hedgerow Regulations criteria, they are nevertheless important habitats and landscape features that should, where appropriate, be preserved within the National Park."

It should be noted that p68 states:

*“It is a criminal offence to remove a hedgerow in contravention of the Hedgerow Regulations. Please note that this is a summary and for the avoidance of any doubt it is recommended that you clarify whether your proposed works are exempt well in advance of when you propose to carry them out. **If you are uncertain whether proposed works fall within the remit of the Regulations, you are advised to contact the Authority’s Conservation Officer.**”*

As such, there is risk of an offence, no matter how unwitting, in removing the hedge without a proper assessment; below I show (see Section 9- and the report by Bell (2021)) that it meets the 1997 Regulations.

DEFRA <https://www.gov.uk/guidance/countryside-hedgerows-regulation-and-management> notes that:

“A hedgerow is protected if it’s:

- *more than 20m long with gaps of 20m or less in its length*
- *less than 20m long, but meets another hedge at each end*

Location

A hedgerow is protected if it’s on or next to:

- *land used for agriculture or forestry*
- *land used for breeding or keeping horses, ponies or donkeys*
- *common land*
- *a village green*
- *a site of special scientific interest*
- *a [protected European site](#) such as a special area of conservation or special protection area*
- *a local or national nature reserve*
- *land belonging to the state*

In this case, the field is sheep-grazed and hence comes under the category of agricultural land. It meets other hedges too.

DEFRA continues:

‘Importance’

A hedgerow is important, and is protected, if it’s at least 30 years old and meets at least one of these criteria:

- *marks all or part of a parish boundary that existed before 1850*
- *contains an archaeological feature such as a [scheduled monument](#)*
- *is completely or partly in or next to an archaeological site listed on a [Historic Environment Record \(HER\)](#), (formerly a Sites and Monuments Record)*
- *marks the boundary of an estate or manor or looks to be related to any building or other feature that’s part of the estate or manor that existed before 1600*
- *is part of a field system or looks to be related to any building or other feature associated with the field system that existed before 1845 - you can check the County Records Office for this information*
- *contains [protected species](#) listed in the Wildlife and Countryside Act 1981*
- *contains species that are endangered, vulnerable and rare and identified in the [British Red Data](#) books*
- *includes [woody species](#) and [associated features](#) as specified in [Schedule 1, Part II Criteria, paragraph 7\(1\)](#) of the Hedgerow Regulations - the number of woody species needed to meet the criteria is one less in northern counties*

Under the 1997 Hedgerow Regulations

<https://www.legislation.gov.uk/ukxi/1997/1160/schedules/made> the hedge is of interest, with photographic evidence putting it back to at least 1902.

The hedge contains at least 5 (Schedule 3) woody species (Ash, Hawthorn, Holly, Rose and Blackthorn) as stated by Bell (2021) in a formal survey on 22.6.2021 reported to the Park on 28.8.2021 (see Section 9 below). Sitting on top of a low stone wall, with few gaps and at least 3 Schedule 2 woodland species in any one metre, next to a road and footpath, it meets the need for protection under the 1997 Regulations. This needs to be recognised by the Park **before** any planning consideration; it is unsupported by the personal opinion of the Park ecologist. This also places it as protected under the NYMNP 2020 Supplementary Planning Document.

As noted earlier, for the Visibility Splay to be achieved, the existing hedge (meeting the 1997 Hedgerow Regulations) and supporting wall would need to be severely managed/ removed- although the applicant's various later iterations make unsupported claims to the contrary. The Splay, as indicated by the Applicant, would also encroach onto adjacent landowners' hedges to meet the required visibility.

On p14 in 3.22 and 3.23 Alistair Flatman for the applicant concludes, without merit that:

"...with regard to technical reports, it is considered that the proposal complies with relevant National and Local Planning Policies"

As the referencing is selective, and many National Park Policies were omitted, there is little basis for that conclusion. In 4.22, Flatman again states, without evidence being sought or produced, that:

"The proposed development will not give rise to any ecological or landscape (tree) harm"

There is no basis for that unsubstantiated claim. Indeed, as the Design & Access Statement p7 lists the following alongside 4 photos:

"Key Features

-Significant Tree covering and vegetation to the eastern perimeter of the site. "

Conclusion to 3: Planning Policy Statement

1. The text is selective in its choice of information, policies, the limited data presented and how they are interpreted.
2. The data are contradicted by other documents provided as part of the application.
3. There is no basis for claims of no biodiversity impact, as data have been neither sought nor provided, and the hedgerow is being ignored. The Hedgerow is protected and cannot be removed without permission. It needs consideration under the 1997 Regulations. The unsupported opinion of the Park Ecologist- in the absence of data, and using 15+ year old documents – is without merit. 2021 surveys confirm the value of the hedge under the 1997 Regulations.
4. There is no reference to net gain, nor are there data that would allow this to be assessed.
5. The application sits poorly when compared against NYMP policies that it has chosen to omit.

4. Design and Access Statement P1 Issue 23.4.2021

The DAS summarises the context of the proposed site. This is done in text and photograph. On p 6 there is a plan view of the site, and the accompanying text states:

“Both the Northern and Southern boundaries are common to both the development and the adjacent to residential development, all existing arboricultural feature such as hedge rows and tree are to be retained”

This recognises there are trees and hedges- contrary to the application sheets and the PPS. The trees are not owned by, nor on, the development proposal land.

On p7 there is clear statement under Key Features of:

“significant tree covering and vegetation to eastern perimeter of the site”

It is perhaps meant to be western? Nonetheless, the photos show a vigorous, diverse, hedge and trees. The trees are in the garden of another property.

On p12, there is a conclusion without any discussion in the previous text, or indeed the PPS, when it says:

*“The scheme would **generate environmental gain** through the creation of an attractive residential development, benefiting not only visual but also residential amenity.”*

Nowhere in the application is there any evaluation of environmental gain in any sense; there is none in this section of the application.

5. Revised Layout dated 25.5.2021

This short note indicates a change of plan: for 5, rather than fewer houses. It also notes that the owner believes he owns all of the margins within the visibility splay. As it appears to be the same as that dated 10/5/2021, where the margins of the splay include at least one hedge on a separate property, that is incorrect.

6. Ecological advice of Elspeth Ingleby, NYMNP Ecologist dated 7.6.2021

Amongst the listed Statutory Consultees for the application is “Internal- Conservation”.

Members of the professional ecologists’ body, CIEEM (the ecologist is ACIEEM) are expected to follow the standards set and expected by CIEEM: including application of CIEEM Standards and following BS 42020 (BSI 2013). This requires a clear, supported, objective and rigorous evaluation of a case.

As a Statutory Consultee, any advice would need to be suitably backed up and testable at a possible Inquiry. This would not appear to be the case.

There are various concerns that make the advice issued in early June unsafe for use in planning terms. These include:

1. **Data Age.** The ecologist notes that there are no data post 2006 on file, yet gives an opinion. As an ACIEEM, she should be aware of the problems of out of date data. CIEEM (2019) notes in an advisory note “ON THE LIFESPAN OF ECOLOGICAL REPORTS & SURVEYS” that:

“It is important that planning decisions are based on up-to-date ecological reports and survey data”

This is clear and simple. For survey data more than 3 years old CIEEM states:

“The report is unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated”

By the date of her initial advice (7.6.2021), no updated data had been provided by the developer (there is no Preliminary Ecological Appraisal (PEA)), nor did the ecologist seek such data. On that basis alone the early June assessment is unsafe. (note there is now a very limited hedge survey dated 22.6.2021; there is still no full PEA site or desk survey)

In spite of the absence of recent data (post 2006), in the absence of a field visit, or any basis for an informed conclusion, the ecologist then concluded:

“I accept that..the reasons for concluding it would not need to be retained under the Hedgerow Regs have not altered in that time”

That is an unsupported personal opinion (BS 42020, CIEEM 2016). Her later (18 June 2021) opinion was also issued in advance of data being provided.

2. Professional judgement and personal opinion: In their review of Professional practice and judgment by CIEEM members, CIEEM ¹ (2016) noted there is a difference between personal opinion and substantiated advice (BS 42020 2013). As they noted p58:

“a professional ecologist should be able to justify clearly the decisions or recommendations that they have made, and should be able to show which issues and interests have been considered and the weight attached to each in reaching that judgement.”

That was not done here. And in p59 they note that:

“If..statements cannot be substantiated , they are no more than simple personal opinion and should be challenged actively until the position is either proven to be false and consequently withdrawn or is supported through reasoned argument and backed up with adequate evidence.”

What we have here in early June is personal opinion. On that basis the Consultee advice is unsuited for use.

3. Hedgerow Regulations 1997. In her early June opinion the ecologist contends that potential coverage of the hedge under the 1997 Hedgerow Regulations would not be applicable as there is a planning application for the hedge:

“Whilst the Hedgerow Regulations do not apply where a planning application has been submitted”

However, the NYMP Supplementary Guidance Part 3 (2020) states on p68 that:

“The Authority must determine if a hedgerow is ‘important’ prior to its proposed removal.”

Note, the ecologist had no personal knowledge of the hedge, no recent data, and no basis for her views. To aver that the Regs would not apply is to misunderstand the role of the Regs. As Mrs Saunders, Planning Team Leader (Development Management) noted in an email to me of 16.6.2021:

¹ CIEEM Professional Standards Committee (2016) Pragmatism, proportionality and professional judgement. *In Practice* 91: 57-61.

“In terms of the Hedgerow Regulations, the legislation specifies that a separate hedgerow removal application isn’t required if it forms part of a planning application, but that would still be a consideration of a proposal”

That contradicts the ecologist’s statement.

4. Reliability of advice: In BSI 42020 p 19, which CIEEM supports through its Professional Competency Framework, it states:

“Development proposals that are likely to affect biodiversity should be informed by expert advice. This should be based on objective professional judgement informed by sound scientific method and evidence, and be clearly justified through documented reasoning”

In summary: the ecologist’s advice of 7.6.2021 is unsound, unsupported by recent data, and lacks any clear justification or documentation, and is unsafe for use in planning terms.

7. Splays etc

On 8 June 2021, Mr Flatman noted that in claimed NYCC guidance- as this is not referenced, it cannot be checked and is unverifiable- changes make the splay acceptable. But he does note under his new model that the splay to the west adds 9m. How this would be achieved without affecting a neighbour’s hedge is unclear and not mentioned. Without validation he states:

“The hedge and wall have not been plotted in the Z axis on the topo, however a simple assumption that these would be re-aligned to the rear of the splay is an acceptable approach.”

To whom, and under what circumstances, and why, this might be acceptable is not clear.

8. Hedge Changes

On 14 June 2021 Mr Flatman amended his plans, again. This time he took the ecologist’s advice that holes in the front hedge (which of course may yet be protected under the Regs) should be minimised.

In addition, he accepted that the new SE boundary should be planted to create a native hedge.

There is a further hedge beyond the new boundary, which needs recognising.

9. Hedgerow Regulations and Surveys: Park Ecologist and Middleton Bell reports listed 29.6.2021

On 18 June Mrs Saunders of NYMNP Planning Dept emailed Mr Flatman as follows:

“Dear Alistair,

*Please see below comments from the Authority’s Ecologist that an up to date hedgerow assessment of the hedge in question should be undertaken by a suitably qualified ecologist. **The assessment should provide an opinion on whether the hedgerow would qualify as an important hedge under the Hedgerow Regulations by satisfying one or more of the ‘wildlife value’ criteria (paragraphs 6 to 8 of the Regulations).**”*

In the piece I have highlighted in bold, it clearly states that if one or more wildlife criteria applied, the Hedge No 1 would likely qualify as 'important' under the Hedgerow Regulations. To confirm its status either way, the Ecologist recommended that a survey be undertaken. That survey was subsequently commissioned by the developer and undertaken in late June 2021.

On the 18th of June 2021 the Park Ecologist (Elsbeth Ingleby) lodged an opinion on the Hedge No 1- the hedge that fronts the road (referred to elsewhere as the north hedge). That opinion was lodged before any Survey Report. On the 28th of June 2021 a report was forwarded by Robert Bell on Hedge No 1 and other hedges on the site.

Both the Ecologist's opinion, and the Report by Bell suffer from problems and misapprehensions.

In short: Bell confirms that there is likely a firm basis for Hedgerow Regulations on the grounds of woody species- contrary to the opinion of the Park Ecologist. Photos of the hedge earlier in the year, supplementing Bell's late survey, and data from a survey of non-woody species in the hedge undertaken on 4.4.2021 (Appendix 1), show that there are 5+ woodland species in the hedge as well as 5 woody species: making the hedge covered under the 1997 Hedgerow Regulations.

Misapprehensions and the Hedge No 1 on Sledgates

Recent notes on the Park Planning Portal for NYM/2021/0351/OU by Ingleby (dated 18.6.2021) and Bell (dated 28.6.2021) are interesting by being largely problematic and misapprehensions.

It is important that these are examined in turn, to correct misapprehensions regarding the hedge.

1. Ingleby 18.6.2021.

The Park Ecologist makes a number of points. Her opinion pre-dated the survey report by Bell. That is unusual.

In her note of 7.6.2021 she had indicated that potential coverage of the hedge under the 1997 Regulations would not be applicable as there is a planning application for the hedge:

"Whilst the Hedgerow Regulations do not apply where a planning application has been submitted".

It should be noted that the NYMP Supplementary Guidance Part 3 (2020) stated on p68 that:

"The Authority must determine if a hedgerow is 'important' prior to its proposed removal."

As Mrs Saunders, Planning Team Leader (Development Management) noted to me in an email of 16.6.2021:

"In terms of the Hedgerow Regulations, the legislation specifies that a separate hedgerow removal application isn't required if it forms part of a planning application, but that would still be a consideration of a proposal".

That is not the same as the ecologist stated.

The Ecologist seeks to correct the misapprehension for this Agricultural hedge on farmed land, but does so poorly.

She noted that to be an 'important' hedge, as Mrs Saunders had also noted to Mr Flatman, then one or more criteria need to be met. To understand how these apply requires robust, reliable data; data

yet to be received by the Park. Note that in more general terms, the Park has neither sought nor received a Preliminary Ecological Appraisal (PEA). As the site around the hedge is used by protected species such as barn owls, badgers and bats, it would be assumed that the Park might refer to DEFRA's

"Guidance **Prepare a planning proposal to avoid harm or disturbance to protected species.**
<https://www.gov.uk/guidance/prepare-a-planning-proposal-to-avoid-harm-or-disturbance-to-protected-species>"

This includes the statement that:

"The LPA can refuse planning permission if the surveys:

- *are carried out at the wrong time of the year, are not up to date or do not follow standard survey guidelines without appropriate justification*
- *do not provide enough evidence for them to assess the likely impact on the species and its supporting habitat"*

That seems to apply here, as there are no surveys, as no PEA was sought or provided.

The Park Ecologist mentions the 3 wildlife criteria, and the woody species under Schedule 3 of the 1997 Regulations. She also mentions previous surveys. Copies of those forms were provided by the Bell Report in the same web site posting. These help to understand misapprehensions. The Ecologist stated that **three woody** species were found by previous surveys.

The 2003 survey took place shortly after a drastic cut and clearance of the formerly tall hedge left the hedge bottom open. The visit was on 27 March 2003. **Four** species listed under Schedule 3 woody species (holly, ash, hawthorn and Rosa spp) were noted. The same **4** species were noted on a survey in August 2002, along with a range of species on Schedule 2 (woodland species). The 2003 report noted a caveat for the Schedule 2 species:

"The inspection took place before most plant species have emerged, and so should only be taken as an indication of the range of species contained, rather than as a species list"

The early survey does allow some sight of the early (vernal) species that disappear later in the year, or become covered by more luxuriant growth. That is important to note, given the 2021 survey results and limitations noted later by Bell (2021). Similarly, other later-emerging species would be missed.

The Park Ecologist noted that:

"Assuming that the site contains at least three qualifying woodland ground flora species (as it did previously) this site would have three associated features. To qualify with three associated features, at least five woody species would need to be present"

The Park Ecologist stated that, as there were only **3** woody species (**there were 4**), the hedge failed to meet the Hedgerow Regs criteria (note the report from Bell had yet to arrive at NYMNP, but Ingleby was making *ex ante* decisions without those data), but that:

"To qualify with three associated features, at least five woody species would need to be present".

That means one more woody species would need to occur, not two. Bell (2021) also cites an undated partial note (file ref 2076/3/) by F Hugill that shows only 3 woody species (ash, rose spp and hawthorn); holly, which is widespread in 2021, and noted in both 2002 and 2003 was omitted.

So, there are problems with interpreting old data. Also, the data are > 15 years old.

The Park Ecologist then generalises about data age. I assume that this refers to CIEEM's 2019 document "*On the Lifespan of ecological reports and surveys*". She states that the age of data depends on what is being assessed. She then says:

"Two years is considered a rough guide"

That is a misapprehension, as CIEEM clearly states that between 18 month to 36 months

" the likelihood of surveys needing to be updated increases with time"

After 3 or more years:

"The report is unlikely to still be valid, and most if not all , of the surveys are likely to need to be updated"

The Ecologist then, without considering the data caveats in both old and new (Bell 2021) reports- again *ex ante* and without supporting evidence, states **categorically**:

" My professional opinion is that the likelihood of new woody species (included under Schedule 3 of the Hedgerow Regulations) becoming established in a managed hedge on the edge of a village environment since the previous assessment was conducted is small"

Note that there was an initial misapprehension about previous species lists which missed one woody species in her reading and opinion.

To safeguard her opinion, and:

" in order to make absolutely sure that nothing has been missed"

she called for a third-party botanical report- having not been to the site herself. That report controverted her opinion (Bell 2021). It also showed that it too missed species.

Summary:

1. There are basic misapprehensions on the Hedgerow Regulations.
2. There are basic misapprehensions on the old reports , including the caveats on detectability and number of woody species.
3. There are basis misapprehensions on the suitability of data age for planning use .

2. Bell 2021: "*Subject: land west of Highfield- Hedgerow Assessment- Letter Report.*"

Bell was commissioned to look at the Front Hedge (Hedge 1) and see whether it met the criteria in Paragraphs 6-8 of the Schedule 1 of the 1997 Hedgerow Regulations.

He noted that:

“ The hedgerow, which is the subject of this report, was surveyed twice in 2003 and once c.2005, with survey data obtained at this time kindly supplied by Elspeth Ingleby, an Ecologist for North Yorkshire Moors National Park Authority. Historic survey information is supplied in Appendix 1 of this report, with the findings of the c.2005 survey presented first followed by the findings of the two 2003 surveys.”

Appendix 1 in Bell shows survey data from 2002, 2003 and an undated survey by the Park- presumed to be 2005.

He also surveyed 2 other hedgerows on the site. How long the surveys took on 22 June is unexpectedly undocumented. This may also have affected the results; this cannot be determined. He notes that all plant species in or at the bottom of the hedge H1 were apparently recorded; there were only two grass species recorded. That is unlikely given the time of year.

The reliability of the late June survey is affected by timing within the year. Just as the 2003 survey noted problems with early in the year species lists, so there are some due to late surveys too as Bell noted:

“Limitations

The hedgerow assessment was undertaken in late June, a time when some spring growing (vernal) species of woodland plant may have died back. Signs of such species were searched for, however, it is accepted that some species, particularly where they are present at low levels of abundance, could have been overlooked”

That is very important, as a number of the woodland species listed on Schedule 2 come into that vernal category.

It may help to show the very marked changes in the hedge between early Spring and very late June, as woodland species recorded by neighbours were not apparently visible to Bell as the hedge was very luxuriant by the time of his survey.

Photos included below show that on 4 April 2021 the hedge was relatively open, and ground flora species were readily visible from the path. By June 22nd the vista was dramatically different. This affected the recording of Schedule 2 (woodland species) in the ground flora. This in turn influenced the interpretation of the Hedgerow Regulations criteria. This is the basis for misapprehension of the botanical composition of the hedge.

The species list for Hedge 1 recorded on 22 June 2021 is interesting for both what it includes (5 woody species) as what it apparently excludes (>1 woodland species) and the apparent occurrence of just two grass species.²

Results in Bell (2021) for Hedge 1

Woody species: Bell found 5 woody species (hawthorn, ash, blackthorn, holly, dog rose). The Park Ecologist had posited just three.- although reports cited 4. He recorded only 1 woodland species (3

² Appendix 1 is a list of ground layer species recorded on 4.4.2021 by Dr T M Reed FCIEEM. This includes a wider range of species than shown later in the year by Bell; many missed in the late June survey are classed as vernal by Bell.

were needed to meet the Regs criteria- more were present earlier in 2021, as shown in the photos below). That short list is incorrect. The hedge does meet the Regs.

In Table 1 Bell shows a partial summary of his results. He notes that two out of three features needed for the Regs were present on his survey: a wall, and limited gaps. Because of the problems (noted in his limitations section) of a late survey he did not add the third feature: 3 or more woodland species. Table 1 is a misapprehension of the full botanical status of the Hedge 1. Earlier surveys would have found a wider list (see Appendix 1 in this objection).



Hedgerow 1 on 4 April 2021

By 22 June the same length looked very different in Bell's report:



Schedule 2 Species noted in the hedge bottom on 4.4.2021 included: primrose, lords and ladies and dog violet and wild strawberry (see Appendix 1).



Primrose and lords and ladies 4.4.2021: before covering up by nettles in late June when they were missed

Bell's results of the woody survey controvert the Park Ecologist's personal opinion on the composition of the hedge: it started off with at least 4 woody species in previous surveys (not 3) and now has 5 species, as does Hedge 2. The Park Ecologist has been working under a misapprehension.

Assessment in Bell (2021) for Hedge 1

Bell states, correctly, that:

"To classify as Important with five woody species present within a 30m length, H1 would need to have three associated features"

He then states- incorrectly as shown- that:

" it has only two such features (a bank or wall supporting the hedgerow, and less than 10% gaps)."

He also states that:

"Only a single woodland species, as included on Schedule 2 of The Hedgerow Regulations was recorded from H1 during the 2021 survey, with this species comprising herb-robert Geranium robertianum."

We have shown above using photographic evidence, and a survey on 4.4.2021, that there were at least 5 woodland species present in 2021.

Oddly, Bell omits to consider the very limitation that he noted above- the time of year on detectability- in affecting his lists. The species he missed in his late survey would have been enough :

*" Were at least three woodland species present within one metre, in any direction, of the outermost edges of the hedgerow, **then this would result in the hedge meeting a third additional criteria (sic)**".*

This criterion was met in 2021.

He continued, without referencing the time of year:

"Assuming that the number of woodland species associated with H1 has declined, then this may be either as a result of increased shading due to hedge growth since coppicing (carried out c.2002), or increased competition from bramble Rubus fruticosus agg. or fast growing species indicative of nutrient enrichment such as nettle Urtica dioica, creeping thistle Cirsium arvense and cleavers Galium aparine."

His assumption was a misapprehension: it was the timing within the year, that he had noted in his limitations section (but ignored) , that was the key reason why he failed to note the woodland species so late in June 2021.

Bell (2021) lists only 2 grass species. Cocksfoot, Yorkshire fog, bent and fine leaved sheep's fescue were also present in April 2021, as were the first 3 in 2003. This omission may also be seasonal too due to overgrowth in the hedge.

Conclusion:

Both the Park Ecologist and Bell are under a misapprehension. The Hedge 1 likely qualifies under the Hedgerow Regs due to its 5 woody species and on 3 grounds:

- a bank or wall supporting the hedgerow,
- less than 10% gaps
- more than 3 woodland species

On this basis the Park needs to reassess its advice. Bell showed that the Park Ecologist was incorrect in her opinion. The status of the hedgerow is a material consideration in the planning application.

SUMMARY OF OBJECTION

The application fails to provide suitable data, omits basic material, is selective with its use and interpretation of policies and is internally contradictory. On these grounds, and its mis-use of materials, it is unsafe for planning determination.

It does not meet local or national biodiversity policies. It threatens an agricultural hedge covered by NYMNP policies, which also likely meets the 1997 Hedgerow Regulations.

It fails on traffic grounds, and requires proper road traffic data. The grounds on which it was refused at Appeal in 2008 remain valid. These are repeated in the Highways Authority Comments and refusal of 2021.

It fails on waste water and sewer drainage grounds: Yorkshire Water (2021).

The Park's initial 7.6.2021 ecological advice on the northern hedge was based on no up-to-date factual evidence. The subsequent professional opinion stated on 18.6 has been shown to be incorrect, and controverted by the Botanical Report by Bell of 28.6.2021. That was also shown to be affected by omission of woodland species noted in early April by a qualified ecologist. Many of those species were also noted in previous surveys that took place earlier in the year than Bell's 22.6.2021 visit.

It is clear that the hedgerow is likely covered by the 1997 Hedgerow Regulations and should not be altered/realigned or otherwise damaged under the terms of the Regulations.

On the basis of the above planning-related matters, starting with the Highways issues, the application should be refused.

Dr Timothy Reed

c/o The Pond House, Sledgates, Fylingthorpe, Whitby, YO22 4QE

Grasses

Cocks foot *Dactylis glomerata*
Yorkshire fog *Holcus lanatus*
Red fescue *Festuca rubra*
Bent *Agrostis tenuis*
Fine leaved sheep's fescue *Festuca tenuifolia*

Harts tongue fern *Asplenium scolopendrium*
Primrose *Primula vulgaris*
Dog violet *Viola riviniana*
Wild strawberry *Fragaria vesca*
Goose grass *Gallium aparine*
Red Valerian *Centranthus ruber*
Herb robert *Geranium robertianum*
Bush vetch *Vicia sepium*
Greater stitchwort *Stellaria holostea*
Hogweed *Heracleum sphondylium*
Sweet cicely *Myrris odorata*
Stinging nettle *Urtica dioica*
Lords and ladies *Arum maculatum*
Smooth sowthistle *Sonchus asper*
Creeping thistle *Cirsium arvense*
Ivy *Hedera helix*
Bramble *Rubus fruticosus agg.*
Nipplewort *Lapsana communis*

From: Dr Tim Reed
Sent: 22 July 2021 14:40
To: Hilary Saunders
Subject: net gain guidance and land west of Highfield

Dear Mrs Saunders,

I trust that I find you and your colleagues well.

I attach a short note from CIEEM, which your ecologist may have referred you to? If not, it might help that you are aware, given the Park's adherence to biodiversity offsets and gain in planning guidance (e.g. Strategic Policy H) . It also covers needs under forthcoming National legislation. It would apply to NYM/2021/0351/OU

The note is short. I would draw your attention to Section 7 in particular. This addresses the security of compensatory/ net gain actions, and the need for at least 30 years security. As there is a proposal to offset the proposed front hedge destruction (which is contentious, I think you would agree) then it would be important to legally secure any off set's/ compensation's survival- should the application go ahead. The current application has no such consideration. Covenants and funding are covered. Of course, the potential Hedgerow Regulations status might make this more contentious still, and basically academic.

Could you please confirm receipt of this email.

regards

Tim Reed



Good Practice Requirements for Delivering Biodiversity Net Gain (On- and Off-Site)

New policies coming into effect in 2021 in England, and in development in other parts of the UK, will require Biodiversity Net Gain (BNG) to be demonstrated following certain types of development. The BNG Principles are set out in guidance produced by CIEEM, CIRIA and IEMA¹, but these do not address important implementation and delivery mechanisms. This document sets out requirements for good practice in the implementation of BNG through the ‘mitigation hierarchy’ (including off-site offsets) and mechanisms such as habitat banking.

CIEEM advises that these requirements be followed by developers and their consultants to demonstrate tangible and lasting gains in habitats that will contribute to gains in biodiversity at different scales and in accordance with ambitions for recovery of ecosystems and the benefits they provide.

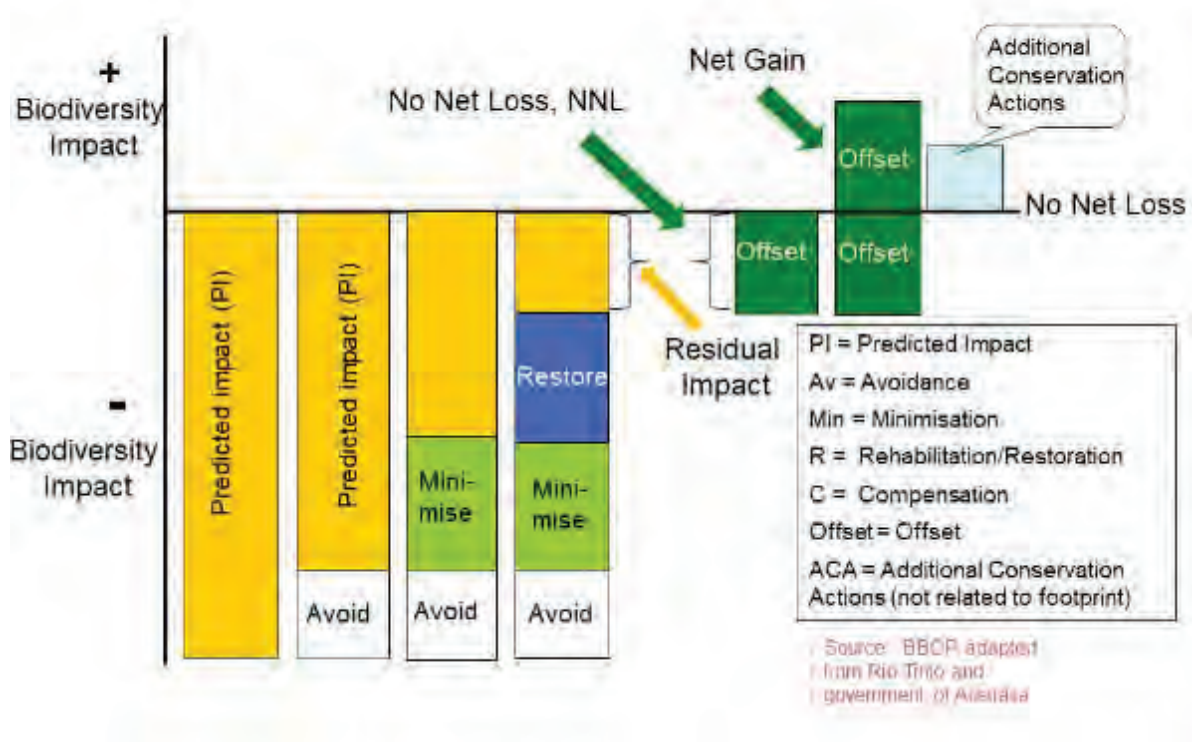
Achieving BNG requires appropriate action to avoid and minimise impacts in accordance with the mitigation hierarchy, followed by efforts to restore damaged habitats within development sites. If residual impacts remain despite such efforts, offsets must be provided off-site. Achieving BNG therefore rests on integrated efforts through all of these steps, to limit impacts and deliver enhancements to the extent required (see Figures 1 and 2).

Figure 1. The mitigation hierarchy

Avoid:	Habitats are retained
Minimise:	Development is redesigned to limit the extent of the land take from natural habitats
Restore:	Condition of on-site habitat is improved (e.g. degraded habitat is brought back into good condition)
Offset/Compensate:	Create habitat of similar type where it did not previously occur, or enhance existing habitat elsewhere
Additional Actions:	Use to achieve the desired target level of gain

¹ <https://cieem.net/wp-content/uploads/2019/02/Biodiversity-Net-Gain-Principles.pdf>

Figure 2. Achieving net gain for biodiversity



Actions implemented to achieve BNG must be designed to demonstrate gains in comparison with a genuine baseline. It is not acceptable to destroy or damage habitats in anticipation of BNG requirements in order to apparently increase the level of gain that can be achieved.

These BNG delivery good practice requirements are applicable to the terrestrial, freshwater and coastal environments. They are intended to complement existing legislative requirements (e.g. planning permission, EclA, SEA, consents, etc.).

We recognise that demand for different types of habitat credits will vary, but biodiversity restoration and enhancement should be a primary driver of BNG offsets, rather than solely development demand.

As with the BNG Principles and Guidance, irreplaceable habitats are outside the scope of these requirements since destruction of irreplaceable habitats cannot be considered to deliver BNG.

1. Implement the best practice principles for BNG

Offsetting is part of the mitigation hierarchy and should only be used if other options for reducing residual impacts on affected habitats (including retention, restoration or enhancement on-site) have been fully explored. Impacts should be avoided where possible and developers should identify how they have sought to avoid impacts.

Habitats should not be considered as ‘retained’ unless it is possible to demonstrate, with good evidence, that they will remain functional in the context of the development, with key ecological processes in place, for the duration of the BNG commitment.

2. Use appropriate tools and competent expertise and advice

Tools for quantifying losses and gains should be populated with data generated by competent ecological professionals, based on first-hand evidence of the affected habitats and their context.

Specialist knowledge should be used to determine what should be retained, what gains are achievable and optimal locations for off-site habitat creation/enhancement to benefit affected species populations or contribute to, for example, Nature Recovery Networks or Shoreline Management Plans.

3. Create an offset which is ecologically coherent, viable and which adds value

Replacement habitats should be ecologically equivalent to those which have been lost, and not selected based on ease of creation. In general, for example, terrestrial habitats should not be used to replace marine habitats. In all cases, a biodiversity offset must be appropriate to the ecology of the offset site; for example, trees should not be planted on valuable grassland or heathland habitat.

The principle of ‘like for like or better’ should be applied in terms of habitat type and distinctiveness. If habitats to be lost are of low distinctiveness, consideration can be given to targeting an offset to deliver other local habitat priorities through trading up options. If habitats to be lost are of higher distinctiveness, efforts should be made to minimise trade-offs between habitat types, to avoid cumulative loss of habitats that are harder to recreate. Offsets should be created in the location where most appropriate biodiversity benefit can be gained – this may not necessarily be on or adjacent to the development site. To deliver BNG the offset cannot be an intervention that would have happened anyway without the development’s contribution, and the boundaries of the offset must be clear. When joining a larger strategic scheme such as a habitat bank, it should be clear that the bank has a transparent and auditable system of tracking and extinguishing biodiversity credits.

4. Create an offset of appropriate scale and context

The size of the offset should not be smaller than the size of the habitat lost. The use of an appropriate metric (such as the Defra metric in England) will normally ensure that the size of the offset is roughly matched to the area lost and may be bigger because of the various risk multipliers. Attention should be placed on the local and wider landscape contexts of the offset, ensuring that the site remains locally appropriate and that landscape-scale functionality is retained or enhanced. For example, it may be

appropriate for the offset to follow linear features or join existing habitats rather than being created in one block.

5. Design offsets that provide habitats for the range of species likely to be affected by the development

In many cases this may be achieved by delivering an offset as close as possible to the site of habitat loss, as long as ecological coherence (and, for example, risks from disturbance) are accounted for. However, where this is not possible or not appropriate, then consideration should be given to the species the offset could support in identifying a suitable location and/or species issues should be dealt with by uplifting the offset requirement through the risk multiplier attached to distinctiveness.

6. Choose bigger, better and more joined-up sites for offsets

Ecological theory and practice clearly demonstrates that large, well-connected sites are better for biodiversity than small or isolated sites. Notwithstanding the need to deliver green infrastructure within development sites and to secure biodiversity for local people, ultimately the purpose of BNG is to provide a contribution to reversing the crisis of biodiversity loss. Offsets must therefore benefit biodiversity first. A small offset is likely to perform better as part of a larger initiative such as a Nature Improvement Area, strategic rewilding initiative or habitat bank than in isolation.

7. Ensure the offset is secured

A legal agreement should be in place (such as a lease, Conservation Bank Agreement, Conservation Covenant, etc.) to ensure that the offset site cannot be lost (for example, through a change in ownership) for the duration of the offset requirement.

If a landowner brings forward an offset for to sell 'biodiversity credits' in the absence of a credit retailer or habitat bank, the agreement should be between the landowner and the local authority, who in turn would be responsible for enforcing the legal agreement, for example via a Section 106 agreement in England.

The offset must exist and be funded in the long-term (in England the Environment Bill will mandate 30 years), and for longer if by mutual agreement.

All on- and off-site BNG delivery should be registered on a public BNG registry (the Environment Bill will mandate this in England for off-site delivery), otherwise the biodiversity gain plan is open to legal challenge against a planning application being subsequently permitted.

All on- and off-site BNG delivery must have security of funding for at least 30 years.

8. Develop a clear plan for how the offset will be delivered

A plan should be in place before the loss of the development site is consented, which sets out how the offset would be created and managed, identifying whether this is delivered directly by the developer or via the purchase of biodiversity credits. If not part of a credit scheme already on the public BNG Registry, a BNG Management and Monitoring Plan for the offset should be developed by an appropriately experienced ecologist.

9. Monitor the offset and adapt management where needed

The offset should be monitored at the agreed frequency by a suitably qualified and experienced ecologist. Where the offset is not achieving its objectives, additional management should be put in place to ensure that the biodiversity outcomes for which it was designed are delivered.

10. Ensure the offset has adequate funding and is legally enforceable

The funding mechanisms for biodiversity offsets will vary but in all cases this must be sufficient for the initial works, annual/regular maintenance and management to bring to target condition, ecological monitoring and any adaptive/restorative works that may be needed. This funding should be evidenced as part of the consenting for the offset whether the developer is paying through a commercial service provider (e.g. a broker) or where the local planning authority has levied a tariff in the absence of a specific site.

The use of, for example, a Conservation Credit Purchase Agreement which details the number and type of credits purchased, the location of where the credits have been raised (either a bespoke offset site or a habitat bank), together with a Letter of Sale and a Conservation Credit Certificate containing number, location and type, is an appropriate approach.

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Comments of planning application NYM/2021/0351/OU Land west of Highfield, Fylingthorpe.

By: Dr Tim Reed, BA, MA, D.Phil, C.Biol, FCIEEM.

I wish to object to this application on a number of planning grounds, including:

1. Incorrect statements in the application summary
2. Unsupported assertions in supporting documents
3. Surface water and sewage grounds- as set out by Yorkshire water on 21.6.2021
4. Highways grounds: safety and visibility- including the recent 2021 Highways Objections
5. Without clear locations for traffic recording sites, it is impossible to determine the validity of any of the claims; the splays might well be bigger than suggested. It is impossible to tell. That is a planning issue.
6. Delivery of the claimed visibility splay relies on the hedgerows of others, not just the developer
7. Failure to apply Policies and Supplementary documents as set out in the Local Plan 2020, or the NPPF 2019 .
8. The incorrect ignoring of ecological data by the applicant, and the potential 1997 Hedgerow Regulations status of the front hedge
9. The unsupported and factually incorrect advisory opinions and comments from the Park Ecologist
10. The front hedge appears to meet the requirements of the 1997 Hedgerow Regulations.

For clarity I will review each of the documents and iterations shown on the Planning Portal for this application, concluding with a short note at the end of the review. Nothing shown on the Portal does other than suggest the application should be refused.

1. Application Summary

There are several apparent errors in the Application Summary, including:

10/11. Foul Sewage and Surface Runoff. In 10, the box states how sewage will be removed is unknown. Surface runoff is given as disposed by the sewage system. One of these may be right, but which, if either, is uncertain and this needs clarifying. As the sewage system (Yorkshire Water 2021) is unable to take additional surface water, this is a basic issue.

12 Trees and Hedges. The form states there are **no hedges** or trees on the proposed development. The Design and Access Statement (DAS) states (p6):

“There are several trees around the perimeter of the site some of which are to be retained.

Existing boundary walls/ fences and hedges are to be retained wherever possible to retain character of the development site.”

Either the application or the DAS is wrong. The DAS shows photographs of the hedge and trees on p7. The application form is in error. Also, the trees are on an adjacent property, and their retention is not in the gift of the developer.

13. Priority and protected species. The form states that there are no priority or protected species on the site, or on land nearby. That is in error. The field is part of a barn owl territory, and observed to visit on a daily basis, as are badgers. Records of both on video, along with roe deer, are available on

request. The applicant provided no basis or accompanying evidence or reference (there are no desk or field surveys) to support their incorrect claim.

22. Pre-application advice. It is noted that there were pre-application discussions between Alistair Flatman and Hilary Saunders of NYMNP. Details are not provided. It is assumed that these did not include biodiversity and planning gain; that may explain the errors in 13 and the failure to provide the expected desk search data and a preliminary ecological appraisal (PEA) in the application. That is a basic omission in terms of the 2020 Local Plan and the NPPF 2019.

2. Highways Supporting Statement

The applicants have provided a slim document in support of their application. They omit to note that several previous applications were refused on Highways grounds. These include:

NYM/2006/0652/FL – on visibility grounds

NYM/2007/0146/FL- on highways safety grounds.

It may help to refer to the core points from the Inspector's Appeal notes in ref APP/W9500/A/07/2056979/WF as these summarise the conditions then, **and these still apply**. In the Appeal Decision, the Inspector noted in (7):

The Sledgates, a C classified road, passes through Fylingthorpe and is the secondary approach into nearby Robin Hood's Bay (a key tourist attraction in the area) from the A171; the main approach is via the B1447. The traffic flow on it has been recorded as 1000 vehicles per day, according to the appellant it is 200 vehicles per hour in the summer. Although the appeal site is at the edge of the settlement, visually it is within it; it lies opposite a row of close-set semi-detached houses and is between more well spaced larger detached houses and bungalows, with a paved and kerbed footway along its frontage on this side. The road has standard street lights. From the definitions set out above I consider that it is of the type intended to fall within the standards referred to in MfS.

The Inspector continued, looking at splays and speeds, noting that there were typically cars parked opposite the proposed site entry.

8. Visibility splays at the kerbline of 2.4 x 56.4m (2 x 56.0m) to the northeast, downhill from the access, and 2 x 24.5m (2 x 60.7m to the centre line of the road) to the southwest, uphill are proposed. The Highway Authority has accepted that these are achievable and would provide views at a driver's eyeline above the existing bank. MfS sets out, at table 7.1 a stopping sight distance (SSD), adjusted for car bonnet length, of 43m at 30 miles per hour and the visibility splays proposed would achieve this to the northeast, but would fall substantially short to the southwest, in the uphill direction.
9. Sledgates descends steeply from the A171 and there are tight bends, with a gradient of 25%, about 300m from the southeast end of the appeal site, which slow traffic down substantially. However, I have seen that traffic from this direction speeds up as the road reduces in gradient and straightens before the appeal site. Although the 30mph speed restriction for the village commences about 120m to the southeast of the site, a traffic speed survey, carried out by the Highway Authority in 2007, recorded 85th percentile speeds downhill at this point of 38mph. The MfS indicates a 59m adjusted SSD for speeds of 37mph – more than twice the distance achievable in this direction.
10. I realise that, measured to the centre line of the road, the splay would be substantially better (2.4 x 40 or 2 x 60.7m) but MfS is clear that centre line measurements should only apply where there is a special circumstance such as a physical barrier to prevent cars crossing into the other lane. In this case there is informal paving for cars to park along the roadside in front of the houses opposite and the verge leading to this is also worn where cars are parked there. I saw that, despite the generous overall road width at this point and centre-line marking, these parked cars oblige vehicles approaching the site from the southwest to pull out, partly across the centre-line of the road. I, therefore, consider this alternative measurement inappropriate in this case.

11. I note the appellant's contention that speeds on this stretch are less than those recorded and that the Authority did not indicate whether the recorded speeds were measured during wet or dry weather. However, the appellant has not provided alternative survey information. Nevertheless, taking the lower speed suggested of 34mph (adjusted for wet weather) an interpolated SSD of 48m would be required. Even setting the design speed for the access as the 30mph speed limit, the proposed access would substantially fail to provide the 43m SSD recommended by the recently reduced standards. According to MfS, the 24.5m distance proposed would be suitable for traffic travelling at less than 22mph. Whilst MfS promotes a flexible application of standards where these are difficult to achieve, it expects other measures to be introduced to justify a reduction. It seems to me that without additional measures to improve visibility in this direction from the site, or reduce the speed of traffic passing it, the proposal would significantly compromise highway safety.
12. I have read that the Highway Authority may be installing traffic calming measures in the vicinity of the site and if implemented these may change the design speed for the proposed access. However, apart from yellow bordered chevron signs to highlight the bends described above I saw few other measures to slow traffic and in the absence of a detailed scheme, with anticipated design speeds and an implementation programme I have reached my decision on the basis of the current circumstances. No accident injuries have been recorded in relation to this stretch of highway. Nevertheless, this is not sufficient justification to set aside the recently significantly reduced nationally recommended design standards for this type of road access.
13. I conclude that the proposal would harm highway safety, contrary to national and local policy.

Nothing significant has changed since that Appeal Decision was issued.

NOTE: there is no way of knowing from the report where the locations of the east and west recording locations were sited; that fundamentally affects the reliability of the data offered.

The Applicant correctly notes that the proposed site ingress and egress is within a 30 mph area. Yet 55% of vehicles approaching downhill were, according to the applicant, going more than 30mph- with 5 > 45mph.

They state that they undertook two 7-day ATC surveys on 3-9 12 2021. Their proposed splays of 58m to the west and 40m to the east would still be a problem- just as they were at the last Appeal failure.

In addition, the survey dates cannot be cited as typical: they were within a time of limited public mobility under Covid restrictions. On that basis they are at best partially indicative, not conclusive, and need substantiating for a second period- especially as the road is far busier in summer when the road is an access line for the very popular village of Robin Hood's Bay. December in a partial lock-down is not representative and a maximum 5 day mean of 695 vehicles is atypical. Going back to the 2008 decision, in a time of lower vehicle ownership it states:

7. The Sledgates, a C classified road, passes through Fylingthorpe and is the secondary approach into nearby Robin Hood's Bay (a key tourist attraction in the area) from the A171; the main approach is via the B1447. The traffic flow on it has been recorded as 1000 vehicles per day, according to the appellant it is 200 vehicles per hour in the summer. Although the appeal site is at the edge of the settlement, visually it is within it; it lies opposite a row of close-set semi-detached houses and is between more well spaced larger detached houses and bungalows, with a paved and kerbed footway along its frontage on this side. The road has standard street lights. From the definitions set out above I consider that it is of the type intended to fall within the standards referred to in MfS.

It is clear that the data offered by the Applicant in 2021 are far from normal.

In addition, the data are presented in a selective summary form. No base data are given in an appendix. The mode, range and /or standard deviation would help understand the data; none are provided. No raw data are provided to assess claims/ summaries. The applicant is also selective in not telling the numbers beyond 35 and 40 mph.

Much is made of the times of exit and ingress. No data from that survey period were provided to see the rate of passing of a proposed entry site at expected morning and evening egress and ingress times.

It is stated that there are no existing road safety issues. I would refer to the Appeal Decisions noted above, and to the 2021 Highways Objection.

A second, more representative period is also needed: one not in a period of restriction under Covid. That numbers could be at least 25% less than those 15+ years ago seems unlikely.

The conclusions are based on an atypical, selective and poorly provided set of data. The proposal needs more probity. Nothing obviously has changed to override the 2008 Appeal Decision.

NOTE: the visibility splay diagrams in the PPS show that hedges owned by others beyond the site would also have to be managed, as well as that on the site, in order to achieve minimal visibility. That may not be agreeable, and cannot be presumed or enforced.

3. Planning Policy Statement (PPS)

1.3 & 1.4 refer to pre-policy discussions- those are not documented- and it is impossible to tell what was covered, and how representative these paragraphs are. Biodiversity and protected species are a material planning issue under the NERC Act 2006 <https://www.legislation.gov.uk/ukpga/2006/16/contents>, but appears to have been selectively omitted.

1.11 states there are no trees on the site. That is contrary to the design and access statement p 6 & 7. The PPS is confused.

1.14 The proposal cuts through, and requires alterations to an existing hedgerow dating to Victorian times or earlier. That is not mentioned. Nor is the hedge. The hedge is suitable (see (9) below) for consideration for protection under the 1997 Hedgerow Regulations.

1.19 The details submitted omit a biodiversity desk or field assessment – a PEA (CIEEM 2018 <https://cieem.net/resource/guidance-on-preliminary-ecological-appraisal-gpea/>).

2.1 The NPPF

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf was updated in 2019. Both the NPPF and the NYMP Local Plan 2020 expect net gain.

2.18. As there is no biodiversity baseline, nor data to accompany the application, it cannot be said that para 170 is met; it is not.

2.20 Unsubstantiated statements are made without any survey or other data. The conclusions are without fact or foundation and require a PEA at the very least.

2.24 This cannot be accepted as there are no biodiversity data to accompany the application, nor to confirm contradictory claims in the Design and Access Statement.

The applicant references the 2020 LA plan

<https://www.northyorkmoors.org.uk/planning/framework/local-plan> in paras 2.25 onwards. A number of policies are omitted. These include:

Policy A: Achieving National Park Purposes and Sustainable Development states that:

“Sustainable development means development which:

Is of a high quality design and scale which respects and reinforces the character of the local landscape and the built and historic environment;

b) Supports the function and vitality of communities by providing appropriate and accessible development to help meet local need for housing or services, facilities, energy or employment opportunities;

c) Protects or enhances natural capital and the ecosystem services they provide;

d) Maintains and enhances geodiversity and biodiversity through the conservation and enhancement of habitats and species”

There is no reference to this policy, nor to maintaining habitat or species: both are ignored without any obvious basis.

Strategic Policy C- Quality and design of Development states:

“To maintain and enhance the distinctive character of the National Park, development will be supported where:

1. The proposal is of a high quality design that will make a positive contribution to the local environment in accordance with the principles set out in the North York Moors National Park Authority Design Guide;

2. The proposal incorporates good quality construction materials and design details that reflect and complement the architectural character and form of the original building and/or that of the local vernacular;

3. The siting, orientation, layout and density of the proposal complement existing buildings and the form of the settlement, preserving or enhancing views into and out of the site and creating spaces around and between buildings which contribute to the character and quality of the locality;

4. The scale, height, massing and form of the proposal are compatible with surrounding buildings and will not have an adverse impact upon the amenities of adjoining occupiers;

5. Sustainable design and construction techniques are incorporated in the proposal including measures to minimise waste and energy use and where appropriate use energy from renewable sources;

6. A good quality landscaping and planting scheme which reinforces local landscape character, increases habitat connectivity and makes use of appropriate native species forms an integral part of the proposal;

7. Proposals enhance local wildlife and biodiversity, for example through the inclusion of nesting boxes and bat roosts;”

This is neither referenced nor met. 6 & 7 are ignored. 7 was alluded to in the ecologist advice of 6.6.2021.

In addition, there is no recognition of:

“Strategic Policy H - Habitats, Wildlife, Biodiversity and Geodiversity

1. The conservation, restoration and enhancement of habitats, wildlife, biodiversity and geodiversity in the North York Moors National Park will be given great weight in decision making.

2. All development and activities will be expected to:

a) Maintain and where appropriate enhance features of ecological value and recognised geodiversity assets;

b) Maximise opportunities to strengthen the integrity and resilience of habitats and species within the National Park and provide a net gain in biodiversity; including those species for which the National Park supports a significant proportion of the regional or national populations and those found at the edge of their range. Examples would include nightjar, honey buzzard, goshawk and turtle dove; and

c) Maintain and where appropriate enhance existing wildlife connections and landscape features such as water courses, disused railway lines, hedgerows and tree lines for biodiversity as well as for other green infrastructure and recreational uses.

3. Development proposals that are likely to have a harmful impact on protected or valuable sites or species will only be permitted where it can be demonstrated that:

a) There are no alternative options that would avoid or reduce the harm to the protected or valuable interest;

b) Suitable mitigation measures to avoid or reduce the harm have been incorporated into the proposals and will be maintained in order to retain their biodiversity or geodiversity benefits;

c) Any residual harmful impacts have been offset through appropriate habitat enhancement, restoration or creation on site or elsewhere; and

d) The wider sustainability benefits of the development outweigh the harm to the protected or valuable interest”

1 & 2 are ignored. There are no baselines, data, or attempts in their absence to enhance or seek net gain. That is outside of Park Policy.

The applicant has been selective on the recognition of trees and hedgerows on the site. Under NYMNP Local Plan 2020 Policy ENV1 – Trees , woodlands, Traditional Orchards and Hedgerows it states:

“There will be a presumption in favour of the retention and enhancement of existing trees, woodland, traditional orchards and hedgerows of value on all developments.

Where a development would result in the unavoidable loss of an existing tree, orchard or hedgerow but the wider sustainability benefits of the development clearly outweigh the loss, proposals will be expected to minimise harm and provide a net biodiversity and amenity gain, with appropriate replacement of lost trees or hedgerows.

Development will not be permitted that would lead to loss of or damage to ancient woodland and aged or veteran trees found outside ancient woodland unless there are wholly exceptional reasons and the need for, and benefits of the development in that location clearly outweigh the loss”

The hedgerow in question that would be broken is with merit (and meets the 1997 Hedgerow Regulations – see (9) below), and under Supplementary Planning Document 3 of the NYMP Local Plan it states for this hedge on an agricultural field:

“With their introduction in 1997, the Hedgerow Regulations make it an offence to remove or destroy most countryside hedges without notifying and obtaining permission from the Authority, which must assess the importance of a hedgerow against a set of historical and wildlife criteria.

The Regulations apply to any hedgerow which:

- *Grows in, or adjacent to any common land, Local Nature Reserve, Site of Special Scientific Interest, or land used for agriculture, forestry of the breeding or keeping of horses, ponies or donkeys and has a continuous length of at least 20 metres, or if less than 20 metres, meets another hedgerow at each end.”*

The hedgerow fronting Sledgates meets this criterion. The text continues:

“•In calculating the total length of a hedgerow, any gap resulting from a contravention of these regulations and any gap not exceeding 20 metres should be treated as part of the hedgerow. A hedgerow, which meets another hedgerow, is to be treated as ending at the point of intersection or junction.”

The hedgerow meets this criterion. It continues:

“To qualify as 'important', a hedgerow must be at least 30 years old and at least 20m long (although shorter hedges can be included if linked to other hedgerows) and meet at least one of the following summarised criteria:

- *It marks a pre-1850 parish or township boundary*
- *It incorporates an archaeological feature.*
- *It is part of, or associated with, an archaeological site.*
- *It marks the boundary of, or is associated with a pre-1600 estate or manor.*
 - *It forms an integral part of a pre-Parliamentary enclosure field system.*
- *It contains certain categories of species of bird, animals or plants listed in the Wildlife and Countryside Act or Joint Nature Conservation Committee (JNCC) publications.*
 - *It meets a number of ecological criteria relating to its component woody species and associated environmental features.”*

Under JNCC <https://data.jncc.gov.uk/data/ca179c55-3e9d-4e95-abd9-4edb2347c3b6/UKBAP-BAPHabitats-17-Hedgerows.pdf> a hedgerow is defined as:

“Hedgerows The definition of this priority habitat has been amended from the pre-existing Habitat Action Plan for ancient and/or species-rich hedgerows (<https://webarchive.nationalarchives.gov.uk/20110303150113/http://www.ukbap.org.uk/UKPlans.aspx?ID=7>).

A hedgerow is defined as any boundary line of trees or shrubs over 20m long and less than 5m wide, and where any gaps between the trees or shrub species are less than 20m wide (Bickmore, 2002).

Any bank, wall, ditch or tree within 2m of the centre of the hedgerow is considered to be part of the hedgerow habitat, as is the herbaceous vegetation within 2m of the centre of the hedgerow. All hedgerows consisting predominantly (i.e. 80% or more cover) of at least one woody UK native species are covered by this priority habitat, where each UK country can define the list of woody species native to their respective country. Climbers such as honeysuckle and bramble are recognised as integral to many hedgerows, however they require other

woody plants to be present to form a distinct woody boundary feature, as such they are not included in the definition of woody species.

The definition is limited to boundary lines of trees or shrubs, and excludes banks or walls without woody shrubs on top of them. Based on an analysis of Countryside Survey data, using the threshold of at least 80% cover of any UK native woody species, it is estimated that 84% of countryside hedgerows in GB would be included. References Bickmore, C.J. (2002) Hedgerow survey handbook: a standard procedure for local surveys in the UK. London, DEFRA"

The hedgerow flanking Sledgates meets this criterion.

The NYMP Supplementary Guidance Part 3 (2020) further stated on p68 that:

"The Authority must determine if a hedgerow is 'important' prior to its proposed removal."

NOTE: the planning application, as initially submitted, does **not** recognise the existence of the hedgerow. Updates to the application show its existence and planned part retention and part removal. The Guidance continues:

"The regulations do not apply to any hedgerow within the curtilage of, or marking a boundary of a dwelling house.

The removal of any hedgerow is permitted if it is required:

- *for the making of a new opening to replace an existing access to land, provided that the existing gap is replanted within 8 months;*
- *for obtaining temporary access to any land to assist in an emergency;*
- *for obtaining access to land where another means of access is not available or is available only at disproportionate cost;*
- *for the purposes of national defence;*
- *for carrying out development for which planning permission has been granted or, in some cases, is deemed to have been granted;*
- *for carrying out work under the relevant acts for the purpose of flood defence or land drainage;*
- *for preventing the spread of, or ensuring the eradication of plant or tree pests notifiable under plant health legislation;*
- *for the carrying out by the Secretary of State of his highway functions;*
- *for carrying out any felling, lopping or cutting back required or permitted under the relevant act to prevent the obstruction of or interference with electric lines and plant or to prevent danger; or*
- *for the proper management of the hedgerow.*

In considering the retention of hedges on a development site priority will be given to those hedges which are deemed to be important under the Hedgerow Regulations."

As the hedge exists, and planning permission is being sought- and has not been granted- removal is not currently permitted. As it also meets the 1997 Hedgerow Regulations it is important.

The guidance continues:

"Although domestic garden hedgerows do not fall under the Hedgerow Regulations criteria, they are nevertheless important habitats and landscape features that should, where appropriate, be preserved within the National Park."

It should be noted that p68 states:

*“It is a criminal offence to remove a hedgerow in contravention of the Hedgerow Regulations. Please note that this is a summary and for the avoidance of any doubt it is recommended that you clarify whether your proposed works are exempt well in advance of when you propose to carry them out. **If you are uncertain whether proposed works fall within the remit of the Regulations, you are advised to contact the Authority’s Conservation Officer.**”*

As such, there is risk of an offence, no matter how unwitting, in removing the hedge without a proper assessment; below I show (see Section 9- and the report by Bell (2021)) that it meets the 1997 Regulations.

DEFRA <https://www.gov.uk/guidance/countryside-hedgerows-regulation-and-management> notes that:

“A hedgerow is protected if it’s:

- *more than 20m long with gaps of 20m or less in its length*
- *less than 20m long, but meets another hedge at each end*

Location

A hedgerow is protected if it’s on or next to:

- *land used for agriculture or forestry*
- *land used for breeding or keeping horses, ponies or donkeys*
- *common land*
- *a village green*
- *a site of special scientific interest*
- *a [protected European site](#) such as a special area of conservation or special protection area*
- *a local or national nature reserve*
- *land belonging to the state*

In this case, the field is sheep-grazed and hence comes under the category of agricultural land. It meets other hedges too.

DEFRA continues:

‘Importance’

A hedgerow is important, and is protected, if it’s at least 30 years old and meets at least one of these criteria:

- *marks all or part of a parish boundary that existed before 1850*
- *contains an archaeological feature such as a [scheduled monument](#)*
- *is completely or partly in or next to an archaeological site listed on a [Historic Environment Record \(HER\)](#), (formerly a Sites and Monuments Record)*
- *marks the boundary of an estate or manor or looks to be related to any building or other feature that’s part of the estate or manor that existed before 1600*
- *is part of a field system or looks to be related to any building or other feature associated with the field system that existed before 1845 - you can check the County Records Office for this information*
- *contains [protected species](#) listed in the Wildlife and Countryside Act 1981*
- *contains species that are endangered, vulnerable and rare and identified in the [British Red Data](#) books*
- *includes [woody species](#) and [associated features](#) as specified in [Schedule 1, Part II Criteria, paragraph 7\(1\)](#) of the Hedgerow Regulations - the number of woody species needed to meet the criteria is one less in northern counties*

Under the 1997 Hedgerow Regulations

<https://www.legislation.gov.uk/ukxi/1997/1160/schedules/made> the hedge is of interest, with photographic evidence putting it back to at least 1902.

The hedge contains at least 5 (Schedule 3) woody species (Ash, Hawthorn, Holly, Rose and Blackthorn) as stated by Bell (2021) in a formal survey on 22.6.2021 reported to the Park on 28.8.2021 (see Section 9 below). Sitting on top of a low stone wall, with few gaps and at least 3 Schedule 2 woodland species in any one metre, next to a road and footpath, it meets the need for protection under the 1997 Regulations. This needs to be recognised by the Park **before** any planning consideration; it is unsupported by the personal opinion of the Park ecologist. This also places it as protected under the NYMNP 2020 Supplementary Planning Document.

As noted earlier, for the Visibility Splay to be achieved, the existing hedge (meeting the 1997 Hedgerow Regulations) and supporting wall would need to be severely managed/ removed- although the applicant's various later iterations make unsupported claims to the contrary. The Splay, as indicated by the Applicant, would also encroach onto adjacent landowners' hedges to meet the required visibility.

On p14 in 3.22 and 3.23 Alistair Flatman for the applicant concludes, without merit that:

"...with regard to technical reports, it is considered that the proposal complies with relevant National and Local Planning Policies"

As the referencing is selective, and many National Park Policies were omitted, there is little basis for that conclusion. In 4.22, Flatman again states, without evidence being sought or produced, that:

"The proposed development will not give rise to any ecological or landscape (tree) harm"

There is no basis for that unsubstantiated claim. Indeed, as the Design & Access Statement p7 lists the following alongside 4 photos:

"Key Features

-Significant Tree covering and vegetation to the eastern perimeter of the site. "

Conclusion to 3: Planning Policy Statement

1. The text is selective in its choice of information, policies, the limited data presented and how they are interpreted.
2. The data are contradicted by other documents provided as part of the application.
3. There is no basis for claims of no biodiversity impact, as data have been neither sought nor provided, and the hedgerow is being ignored. The Hedgerow is protected and cannot be removed without permission. It needs consideration under the 1997 Regulations. The unsupported opinion of the Park Ecologist- in the absence of data, and using 15+ year old documents – is without merit. 2021 surveys confirm the value of the hedge under the 1997 Regulations.
4. There is no reference to net gain, nor are there data that would allow this to be assessed.
5. The application sits poorly when compared against NYMP policies that it has chosen to omit.

4. Design and Access Statement P1 Issue 23.4.2021

The DAS summarises the context of the proposed site. This is done in text and photograph. On p 6 there is a plan view of the site, and the accompanying text states:

“Both the Northern and Southern boundaries are common to both the development and the adjacent to residential development, all existing arboricultural feature such as hedge rows and tree are to be retained”

This recognises there are trees and hedges- contrary to the application sheets and the PPS. The trees are not owned by, nor on, the development proposal land.

On p7 there is clear statement under Key Features of:

“significant tree covering and vegetation to eastern perimeter of the site”

It is perhaps meant to be western? Nonetheless, the photos show a vigorous, diverse, hedge and trees. The trees are in the garden of another property.

On p12, there is a conclusion without any discussion in the previous text, or indeed the PPS, when it says:

*“The scheme would **generate environmental gain** through the creation of an attractive residential development, benefiting not only visual but also residential amenity.”*

Nowhere in the application is there any evaluation of environmental gain in any sense; there is none in this section of the application.

5. Revised Layout dated 25.5.2021

This short note indicates a change of plan: for 5, rather than fewer houses. It also notes that the owner believes he owns all of the margins within the visibility splay. As it appears to be the same as that dated 10/5/2021, where the margins of the splay include at least one hedge on a separate property, that is incorrect.

6. Ecological advice of Elspeth Ingleby, NYMNP Ecologist dated 7.6.2021

Amongst the listed Statutory Consultees for the application is “Internal- Conservation”.

Members of the professional ecologists’ body, CIEEM (the ecologist is ACIEEM) are expected to follow the standards set and expected by CIEEM: including application of CIEEM Standards and following BS 42020 (BSI 2013). This requires a clear, supported, objective and rigorous evaluation of a case.

As a Statutory Consultee, any advice would need to be suitably backed up and testable at a possible Inquiry. This would not appear to be the case.

There are various concerns that make the advice issued in early June unsafe for use in planning terms. These include:

1. **Data Age.** The ecologist notes that there are no data post 2006 on file, yet gives an opinion. As an ACIEEM, she should be aware of the problems of out of date data. CIEEM (2019) notes in an advisory note “ON THE LIFESPAN OF ECOLOGICAL REPORTS & SURVEYS” that:

“It is important that planning decisions are based on up-to-date ecological reports and survey data”

This is clear and simple. For survey data more than 3 years old CIEEM states:

“The report is unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated”

By the date of her initial advice (7.6.2021), no updated data had been provided by the developer (there is no Preliminary Ecological Appraisal (PEA)), nor did the ecologist seek such data. On that basis alone the early June assessment is unsafe. (note there is now a very limited hedge survey dated 22.6.2021; there is still no full PEA site or desk survey)

In spite of the absence of recent data (post 2006), in the absence of a field visit, or any basis for an informed conclusion, the ecologist then concluded:

“I accept that..the reasons for concluding it would not need to be retained under the Hedgerow Regs have not altered in that time”

That is an unsupported personal opinion (BS 42020, CIEEM 2016). Her later (18 June 2021) opinion was also issued in advance of data being provided.

2. Professional judgement and personal opinion: In their review of Professional practice and judgment by CIEEM members, CIEEM ¹ (2016) noted there is a difference between personal opinion and substantiated advice (BS 42020 2013). As they noted p58:

“a professional ecologist should be able to justify clearly the decisions or recommendations that they have made, and should be able to show which issues and interests have been considered and the weight attached to each in reaching that judgement.”

That was not done here. And in p59 they note that:

“If..statements cannot be substantiated , they are no more than simple personal opinion and should be challenged actively until the position is either proven to be false and consequently withdrawn or is supported through reasoned argument and backed up with adequate evidence.”

What we have here in early June is personal opinion. On that basis the Consultee advice is unsuited for use.

3. Hedgerow Regulations 1997. In her early June opinion the ecologist contends that potential coverage of the hedge under the 1997 Hedgerow Regulations would not be applicable as there is a planning application for the hedge:

“Whilst the Hedgerow Regulations do not apply where a planning application has been submitted”

However, the NYMP Supplementary Guidance Part 3 (2020) states on p68 that:

“The Authority must determine if a hedgerow is ‘important’ prior to its proposed removal.”

Note, the ecologist had no personal knowledge of the hedge, no recent data, and no basis for her views. To aver that the Regs would not apply is to misunderstand the role of the Regs. As Mrs Saunders, Planning Team Leader (Development Management) noted in an email to me of 16.6.2021:

¹ CIEEM Professional Standards Committee (2016) Pragmatism, proportionality and professional judgement. *In Practice* 91: 57-61.

“In terms of the Hedgerow Regulations, the legislation specifies that a separate hedgerow removal application isn’t required if it forms part of a planning application, but that would still be a consideration of a proposal”

That contradicts the ecologist’s statement.

4. Reliability of advice: In BSI 42020 p 19, which CIEEM supports through its Professional Competency Framework, it states:

“Development proposals that are likely to affect biodiversity should be informed by expert advice. This should be based on objective professional judgement informed by sound scientific method and evidence, and be clearly justified through documented reasoning”

In summary: the ecologist’s advice of 7.6.2021 is unsound, unsupported by recent data, and lacks any clear justification or documentation, and is unsafe for use in planning terms.

7. Splays etc

On 8 June 2021, Mr Flatman noted that in claimed NYCC guidance- as this is not referenced, it cannot be checked and is unverifiable- changes make the splay acceptable. But he does note under his new model that the splay to the west adds 9m. How this would be achieved without affecting a neighbour’s hedge is unclear and not mentioned. Without validation he states:

“The hedge and wall have not been plotted in the Z axis on the topo, however a simple assumption that these would be re-aligned to the rear of the splay is an acceptable approach.”

To whom, and under what circumstances, and why, this might be acceptable is not clear.

8. Hedge Changes

On 14 June 2021 Mr Flatman amended his plans, again. This time he took the ecologist’s advice that holes in the front hedge (which of course may yet be protected under the Regs) should be minimised.

In addition, he accepted that the new SE boundary should be planted to create a native hedge.

There is a further hedge beyond the new boundary, which needs recognising.

9. Hedgerow Regulations and Surveys: Park Ecologist and Middleton Bell reports listed 29.6.2021

On 18 June Mrs Saunders of NYMNP Planning Dept emailed Mr Flatman as follows:

“Dear Alistair,

*Please see below comments from the Authority’s Ecologist that an up to date hedgerow assessment of the hedge in question should be undertaken by a suitably qualified ecologist. **The assessment should provide an opinion on whether the hedgerow would qualify as an important hedge under the Hedgerow Regulations by satisfying one or more of the ‘wildlife value’ criteria (paragraphs 6 to 8 of the Regulations).**”*

In the piece I have highlighted in bold, it clearly states that if one or more wildlife criteria applied, the Hedge No 1 would likely qualify as 'important' under the Hedgerow Regulations. To confirm its status either way, the Ecologist recommended that a survey be undertaken. That survey was subsequently commissioned by the developer and undertaken in late June 2021.

On the 18th of June 2021 the Park Ecologist (Elsbeth Ingleby) lodged an opinion on the Hedge No 1- the hedge that fronts the road (referred to elsewhere as the north hedge). That opinion was lodged before any Survey Report. On the 28th of June 2021 a report was forwarded by Robert Bell on Hedge No 1 and other hedges on the site.

Both the Ecologist's opinion, and the Report by Bell suffer from problems and misapprehensions.

In short: Bell confirms that there is likely a firm basis for Hedgerow Regulations on the grounds of woody species- contrary to the opinion of the Park Ecologist. Photos of the hedge earlier in the year, supplementing Bell's late survey, and data from a survey of non-woody species in the hedge undertaken on 4.4.2021 (Appendix 1), show that there are 5+ woodland species in the hedge as well as 5 woody species: making the hedge covered under the 1997 Hedgerow Regulations.

Misapprehensions and the Hedge No 1 on Sledgates

Recent notes on the Park Planning Portal for NYM/2021/0351/OU by Ingleby (dated 18.6.2021) and Bell (dated 28.6.2021) are interesting by being largely problematic and misapprehensions.

It is important that these are examined in turn, to correct misapprehensions regarding the hedge.

1. Ingleby 18.6.2021.

The Park Ecologist makes a number of points. Her opinion pre-dated the survey report by Bell. That is unusual.

In her note of 7.6.2021 she had indicated that potential coverage of the hedge under the 1997 Regulations would not be applicable as there is a planning application for the hedge:

"Whilst the Hedgerow Regulations do not apply where a planning application has been submitted".

It should be noted that the NYMP Supplementary Guidance Part 3 (2020) stated on p68 that:

"The Authority must determine if a hedgerow is 'important' prior to its proposed removal."

As Mrs Saunders, Planning Team Leader (Development Management) noted to me in an email of 16.6.2021:

"In terms of the Hedgerow Regulations, the legislation specifies that a separate hedgerow removal application isn't required if it forms part of a planning application, but that would still be a consideration of a proposal".

That is not the same as the ecologist stated.

The Ecologist seeks to correct the misapprehension for this Agricultural hedge on farmed land, but does so poorly.

She noted that to be an 'important' hedge, as Mrs Saunders had also noted to Mr Flatman, then one or more criteria need to be met. To understand how these apply requires robust, reliable data; data

yet to be received by the Park. Note that in more general terms, the Park has neither sought nor received a Preliminary Ecological Appraisal (PEA). As the site around the hedge is used by protected species such as barn owls, badgers and bats, it would be assumed that the Park might refer to DEFRA's

"Guidance **Prepare a planning proposal to avoid harm or disturbance to protected species.**
<https://www.gov.uk/guidance/prepare-a-planning-proposal-to-avoid-harm-or-disturbance-to-protected-species>"

This includes the statement that:

"The LPA can refuse planning permission if the surveys:

- *are carried out at the wrong time of the year, are not up to date or do not follow standard survey guidelines without appropriate justification*
- *do not provide enough evidence for them to assess the likely impact on the species and its supporting habitat"*

That seems to apply here, as there are no surveys, as no PEA was sought or provided.

The Park Ecologist mentions the 3 wildlife criteria, and the woody species under Schedule 3 of the 1997 Regulations. She also mentions previous surveys. Copies of those forms were provided by the Bell Report in the same web site posting. These help to understand misapprehensions. The Ecologist stated that **three woody** species were found by previous surveys.

The 2003 survey took place shortly after a drastic cut and clearance of the formerly tall hedge left the hedge bottom open. The visit was on 27 March 2003. **Four** species listed under Schedule 3 woody species (holly, ash, hawthorn and Rosa spp) were noted. The same **4** species were noted on a survey in August 2002, along with a range of species on Schedule 2 (woodland species). The 2003 report noted a caveat for the Schedule 2 species:

"The inspection took place before most plant species have emerged, and so should only be taken as an indication of the range of species contained, rather than as a species list"

The early survey does allow some sight of the early (vernal) species that disappear later in the year, or become covered by more luxuriant growth. That is important to note, given the 2021 survey results and limitations noted later by Bell (2021). Similarly, other later-emerging species would be missed.

The Park Ecologist noted that:

"Assuming that the site contains at least three qualifying woodland ground flora species (as it did previously) this site would have three associated features. To qualify with three associated features, at least five woody species would need to be present"

The Park Ecologist stated that, as there were only **3** woody species (**there were 4**), the hedge failed to meet the Hedgerow Regs criteria (note the report from Bell had yet to arrive at NYMNP, but Ingleby was making *ex ante* decisions without those data), but that:

"To qualify with three associated features, at least five woody species would need to be present".

That means one more woody species would need to occur, not two. Bell (2021) also cites an undated partial note (file ref 2076/3/) by F Hugill that shows only 3 woody species (ash, rose spp and hawthorn); holly, which is widespread in 2021, and noted in both 2002 and 2003 was omitted.

So, there are problems with interpreting old data. Also, the data are > 15 years old.

The Park Ecologist then generalises about data age. I assume that this refers to CIEEM's 2019 document "*On the Lifespan of ecological reports and surveys*". She states that the age of data depends on what is being assessed. She then says:

"Two years is considered a rough guide"

That is a misapprehension, as CIEEM clearly states that between 18 month to 36 months

" the likelihood of surveys needing to be updated increases with time"

After 3 or more years:

"The report is unlikely to still be valid, and most if not all , of the surveys are likely to need to be updated"

The Ecologist then, without considering the data caveats in both old and new (Bell 2021) reports- again *ex ante* and without supporting evidence, states **categorically**:

" My professional opinion is that the likelihood of new woody species (included under Schedule 3 of the Hedgerow Regulations) becoming established in a managed hedge on the edge of a village environment since the previous assessment was conducted is small"

Note that there was an initial misapprehension about previous species lists which missed one woody species in her reading and opinion.

To safeguard her opinion, and:

" in order to make absolutely sure that nothing has been missed"

she called for a third-party botanical report- having not been to the site herself. That report controverted her opinion (Bell 2021). It also showed that it too missed species.

Summary:

1. There are basic misapprehensions on the Hedgerow Regulations.
2. There are basic misapprehensions on the old reports , including the caveats on detectability and number of woody species.
3. There are basis misapprehensions on the suitability of data age for planning use .

2. Bell 2021: "*Subject: land west of Highfield- Hedgerow Assessment- Letter Report.*"

Bell was commissioned to look at the Front Hedge (Hedge 1) and see whether it met the criteria in Paragraphs 6-8 of the Schedule 1 of the 1997 Hedgerow Regulations.

He noted that:

“ The hedgerow, which is the subject of this report, was surveyed twice in 2003 and once c.2005, with survey data obtained at this time kindly supplied by Elspeth Ingleby, an Ecologist for North Yorkshire Moors National Park Authority. Historic survey information is supplied in Appendix 1 of this report, with the findings of the c.2005 survey presented first followed by the findings of the two 2003 surveys.”

Appendix 1 in Bell shows survey data from 2002, 2003 and an undated survey by the Park- presumed to be 2005.

He also surveyed 2 other hedgerows on the site. How long the surveys took on 22 June is unexpectedly undocumented. This may also have affected the results; this cannot be determined. He notes that all plant species in or at the bottom of the hedge H1 were apparently recorded; there were only two grass species recorded. That is unlikely given the time of year.

The reliability of the late June survey is affected by timing within the year. Just as the 2003 survey noted problems with early in the year species lists, so there are some due to late surveys too as Bell noted:

“Limitations

The hedgerow assessment was undertaken in late June, a time when some spring growing (vernal) species of woodland plant may have died back. Signs of such species were searched for, however, it is accepted that some species, particularly where they are present at low levels of abundance, could have been overlooked”

That is very important, as a number of the woodland species listed on Schedule 2 come into that vernal category.

It may help to show the very marked changes in the hedge between early Spring and very late June, as woodland species recorded by neighbours were not apparently visible to Bell as the hedge was very luxuriant by the time of his survey.

Photos included below show that on 4 April 2021 the hedge was relatively open, and ground flora species were readily visible from the path. By June 22nd the vista was dramatically different. This affected the recording of Schedule 2 (woodland species) in the ground flora. This in turn influenced the interpretation of the Hedgerow Regulations criteria. This is the basis for misapprehension of the botanical composition of the hedge.

The species list for Hedge 1 recorded on 22 June 2021 is interesting for both what it includes (5 woody species) as what it apparently excludes (>1 woodland species) and the apparent occurrence of just two grass species.²

Results in Bell (2021) for Hedge 1

Woody species: Bell found 5 woody species (hawthorn, ash, blackthorn, holly, dog rose). The Park Ecologist had posited just three.- although reports cited 4. He recorded only 1 woodland species (3

² Appendix 1 is a list of ground layer species recorded on 4.4.2021 by Dr T M Reed FCIEEM. This includes a wider range of species than shown later in the year by Bell; many missed in the late June survey are classed as vernal by Bell.

were needed to meet the Regs criteria- more were present earlier in 2021, as shown in the photos below). That short list is incorrect. The hedge does meet the Regs.

In Table 1 Bell shows a partial summary of his results. He notes that two out of three features needed for the Regs were present on his survey: a wall, and limited gaps. Because of the problems (noted in his limitations section) of a late survey he did not add the third feature: 3 or more woodland species. Table 1 is a misapprehension of the full botanical status of the Hedge 1. Earlier surveys would have found a wider list (see Appendix 1 in this objection).



Hedgerow 1 on 4 April 2021

By 22 June the same length looked very different in Bell's report:



Schedule 2 Species noted in the hedge bottom on 4.4.2021 included: primrose, lords and ladies and dog violet and wild strawberry (see Appendix 1).



Primrose and lords and ladies 4.4.2021: before covering up by nettles in late June when they were missed

Bell's results of the woody survey controvert the Park Ecologist's personal opinion on the composition of the hedge: it started off with at least 4 woody species in previous surveys (not 3) and now has 5 species, as does Hedge 2. The Park Ecologist has been working under a misapprehension.

Assessment in Bell (2021) for Hedge 1

Bell states, correctly, that:

"To classify as Important with five woody species present within a 30m length, H1 would need to have three associated features"

He then states- incorrectly as shown- that:

" it has only two such features (a bank or wall supporting the hedgerow, and less than 10% gaps)."

He also states that:

*"Only a single woodland species, as included on Schedule 2 of The Hedgerow Regulations was recorded from H1 during the 2021 survey, with this species comprising herb-robert *Geranium robertianum*."*

We have shown above using photographic evidence, and a survey on 4.4.2021, that there were at least 5 woodland species present in 2021.

Oddly, Bell omits to consider the very limitation that he noted above- the time of year on detectability- in affecting his lists. The species he missed in his late survey would have been enough :

*" Were at least three woodland species present within one metre, in any direction, of the outermost edges of the hedgerow, **then this would result in the hedge meeting a third additional criteria (sic)**".*

This criterion was met in 2021.

He continued, without referencing the time of year:

*"Assuming that the number of woodland species associated with H1 has declined, then this may be either as a result of increased shading due to hedge growth since coppicing (carried out c.2002), or increased competition from bramble *Rubus fruticosus* agg. or fast growing species indicative of nutrient enrichment such as nettle *Urtica dioica*, creeping thistle *Cirsium arvense* and cleavers *Galium aparine*."*

His assumption was a misapprehension: it was the timing within the year, that he had noted in his limitations section (but ignored) , that was the key reason why he failed to note the woodland species so late in June 2021.

Bell (2021) lists only 2 grass species. Cocksfoot, Yorkshire fog, bent and fine leaved sheep's fescue were also present in April 2021, as were the first 3 in 2003. This omission may also be seasonal too due to overgrowth in the hedge.

Conclusion:

Both the Park Ecologist and Bell are under a misapprehension. The Hedge 1 likely qualifies under the Hedgerow Regs due to its 5 woody species and on 3 grounds:

- a bank or wall supporting the hedgerow,
- less than 10% gaps
- more than 3 woodland species

On this basis the Park needs to reassess its advice. Bell showed that the Park Ecologist was incorrect in her opinion. The status of the hedgerow is a material consideration in the planning application.

SUMMARY OF OBJECTION

The application fails to provide suitable data, omits basic material, is selective with its use and interpretation of policies and is internally contradictory. On these grounds, and its mis-use of materials, it is unsafe for planning determination.

It does not meet local or national biodiversity policies. It threatens an agricultural hedge covered by NYMNP policies, which also likely meets the 1997 Hedgerow Regulations.

It fails on traffic grounds, and requires proper road traffic data. The grounds on which it was refused at Appeal in 2008 remain valid. These are repeated in the Highways Authority Comments and refusal of 2021.

It fails on waste water and sewer drainage grounds: Yorkshire Water (2021).

The Park's initial 7.6.2021 ecological advice on the northern hedge was based on no up-to-date factual evidence. The subsequent professional opinion stated on 18.6 has been shown to be incorrect, and controverted by the Botanical Report by Bell of 28.6.2021. That was also shown to be affected by omission of woodland species noted in early April by a qualified ecologist. Many of those species were also noted in previous surveys that took place earlier in the year than Bell's 22.6.2021 visit.

It is clear that the hedgerow is likely covered by the 1997 Hedgerow Regulations and should not be altered/realigned or otherwise damaged under the terms of the Regulations.

On the basis of the above planning-related matters, starting with the Highways issues, the application should be refused.

Dr Timothy Reed

c/o The Pond House, Sledgates, Fylingthorpe, Whitby, YO22 4QE

Grasses

Cocks foot *Dactylis glomerata*
Yorkshire fog *Holcus lanatus*
Red fescue *Festuca rubra*
Bent *Agrostis tenuis*
Fine leaved sheep's fescue *Festuca tenuifolia*

Harts tongue fern *Asplenium scolopendrium*
Primrose *Primula vulgaris*
Dog violet *Viola riviniana*
Wild strawberry *Fragaria vesca*
Goose grass *Gallium aparine*
Red Valerian *Centranthus ruber*
Herb robert *Geranium robertianum*
Bush vetch *Vicia sepium*
Greater stitchwort *Stellaria holostea*
Hogweed *Heracleum sphondylium*
Sweet cicely *Myrris odorata*
Stinging nettle *Urtica dioica*
Lords and ladies *Arum maculatum*
Smooth sowthistle *Sonchus asper*
Creeping thistle *Cirsium arvense*
Ivy *Hedera helix*
Bramble *Rubus fruticosus agg.*
Nipplewort *Lapsana communis*

**Middlethorpe, Sledgate Farm
Sled Gates
Fylingthorpe
Whitby
YO22 4TZ**

Monday, 5 July 2021

Dear Hilary Saunders

Comments on Planning application NYM/2021/0351/OU Land west of Highfield, Sled Gates, Fylingthorpe, YO21 4TZ

Thank you for your recent letter asking me for my comments on the (many and somewhat confusing) revisions to this application. In addition to the comments in my letter dated 13 May, which still stand, I object to the revised application on similar grounds, notably:

1. The harm to highway safety – which is no less than it was in 2007
2. Inadequate, incorrect and constantly changing information from the applicant which makes it difficult for the lay reader to be clear about his intentions and what is informing the outcome

1 The harm to highway safety

Along with all of the other objectors whose letters you have received, I refer to the fact that several previous applications have been refused on Highways grounds and the Planning Inspector's dismissal of the applicant's appeal (APP/W9500/A/07/2056979) in January 2008 set out a very clear rationale for the dismissal, along with a number of reasons why, in her view, acceptable visibility splays could not be achieved. Paragraph 10 of her report is of particular significance in the context of this substantially unchanged application, save for the fact that it proposes three more dwellings on the same site and, as such, adds to traffic on and off the site:

"10. I realise that, measured to the centre line of the road, the splay would be substantially better (2.4 x 40 or 2 x 60.7) but MfS is clear that centre line measurements should only apply where there is a special circumstance such as a physical barrier to prevent cars crossing into the other lane. In this case there is informal parking for cars to park along the roadside in front of the houses opposite and the verge leading to this is also worn where cars are parked there. I saw that, in spite of the generous overall road width at this point and centre-line marking, these parked cars oblige vehicles to pull out, partly across the centre-line of the road. I, therefore, consider this alternative measurement inappropriate in this case."

What, I would ask, has changed in this time? In addition, and as concisely as I can be, I contend that the following issues rule out an approval of this application:

- The visibility splays that have been calculated to support this application do not, in any way, provide reassurance that the tests set out in the above paragraph are met and both of the splays have been calculated to include land adjacent to the site that is not in the applicant's ownership and has hedges and trees that would need to be managed. How is this possible?
- The application is unclear as to whether the current hedgerow at the front will be maintained at a safe height, or whether the hedgerow and the wall will be removed and replanted. Which is it?

- The informal parking areas opposite the site have no legal basis and do not provide sufficient width for modern cars or the larger vehicles that use them. There is every possibility that vehicles leaving the site would need to cross the carriageway.
- Parking for the 5 houses is barely sufficient and visitors to the dwellings on the site who might park on the road would cause further issues with visibility.
- If the existing field gate access is to be closed off and replaced with the proposed access point, how will tractors and agricultural vehicles safely access the site? It is clear that they will need to use the new entrance to the site to access the field behind it - a gateway in the back hedgerow is indicated for that purpose.
- Are residents and members of the public expected to be reassured by a survey that was started on 03 December 2020, the day we emerged, partially, from Covid lockdown, and accept that the findings are reasonable and representative? The data does contain some alarming statistics. The proposed site is within a 30mph zone and 55% of vehicles approaching downhill were, according to the data, travelling at speeds in excess of 30mph and 5 at speeds greater than 45mph.
- The gradient of the road is a significant issue. In the absence of a site visit it would be hard for decision-makers to appreciate the impact this has on sight lines. The data gives no indication as to whether this has been taken into account.
- We have had a much more normal spring and early summer. Traffic volumes increase significantly year-on-year. In line with this, we have cars and caravans that are generally larger and wider even than those in 2007. There are 3 buses in each direction every hour in the summer months. We can't change the topography, but we can expect to be kept safe.
- The Planning Inspector's view in 2008 was that the application would harm highway safety and was based on a much more realistic range of traffic data, including the number of vehicles using the road. I would suggest that, if anything, the traffic, including the size and type of vehicles, has increased significantly since 2008 and the average speeds, in both directions, are likely to be greater even than those indicated in this survey in the period immediately after the Covid lockdown in December 2020.

2 Inadequate and incorrect information on the application form and supporting documents

I have referred to a number of issues in my earlier letter and these have not been addressed by the applicant in any of his numerous iterations since. The means by which foul sewage and water run off will be dealt with is unclear and needs clarifying. Both land drains and mains water and sewage drainage are a particular issue at that point on Sled Gates and from the staining on the road surface at the proposed site entrance the issues can be easily observed.

The Design and Access Statement is at odds with the application form which states that there are no hedges or trees. The hedgerow is of particular significance and merit and has a significant part to play in determining any visibility splay. The recent survey (21 June) by the applicant points to an abundance of species and, whilst it contends that the hedgerow does not have legal protection, there is a difference of opinion on this and I will write to you separately and in greater detail on this. The hedge and a number of trees in the adjoining fields (both uphill and downhill and not in the applicant's ownership) would have to be maintained at a height that would allow adequate visibility splays and the application is quiet on how this would be managed or enforced.

Both the hedgerow and the field are with merit and the status of the hedge in terms of protection from development under the Hedgerow Regulations is subject to challenge (additional letter to follow). I don't accept the applicant's assertion that the application satisfies local and national policies in this regard or that it will enhance the road scene.

Summary

The application does nothing to address the very clear and well stated concerns of the Planning Inspector's dismissal in 2008. There is a very well-argued case that the proposal would harm highway safety, contrary to local and national policy. The application either ignores issues of biodiversity and planning gain and is selective with the interpretation of local and national guidance on all issues.

In view of the previous failed applications and the very clear quasi-judicial views expressed by the Planning Inspector in 2008, I would expect that both the NYMNP and the Highways Authority to consider very carefully whether this proposal has any merit and to have those views aired in a public meeting to discuss the proposal before any determination. I look forward to hearing from you on this point.

Kind regards

Bob McGovern.

**Middlethorpe, Sledgate Farm
Sled Gates
Fylingthorpe
YO22 4TZ**

Monday, 5 July 2021

Dear Hilary Saunders,

NYM/2021/0351/OU - Comments on Hedgerow Assessment by Middleton Bell at the request of the Authority's Ecologist

Thank you for your recent letter asking for my comments on the many changes to this application. They have been so numerous that it is hard to keep track of what is being proposed and how the application addresses the many concerns expressed by consultees. In common with other responses, I focus my comments on things that have not changed over time.

I have sent you a detailed letter with regard to the need for Highway safety. This letter outlines my concerns regarding the status of the hedgerow and a request for a reconsideration of the status of Hedge No 1 and its potential for protection under the Hedgerow Regulations 1997 based on the evidence contained within this letter.

Misapprehensions and the Hedge No 1 on Sledgates

Recent notes on the Park Planning Portal for NYM/2021/0351/OU by Ingleby (dated 18.6.2021) and Bell (dated 28.6.2021) are interesting, but they are largely incorrect and result in misapprehensions.

It is important that these are examined in turn, as this may help correct misapprehensions regarding the hedge.

1. Ingleby 18.6.2021.

The Park Ecologist makes a number of points.

In her note of 7.6. she indicated that potential coverage of the hedge under the 1997 Regulations would not be applicable as there is a planning application for the hedge:

"Whilst the Hedgerow Regulations do not apply where a planning application has been submitted".

As Mrs Saunders, Planning Team Leader (Development Management) noted in an email of 16.6.2021:

"In terms of the Hedgerow Regulations, the legislation specifies that a separate hedgerow removal application isn't required if it forms part of a planning application, but that would still be a consideration of a proposal".

That is not the same as the ecologist stated.

The Ecologist seeks to correct that misapprehension for this Agricultural hedge on farmed land but does so poorly.

She noted that to be an 'important' hedge, one or more criteria need to be met. To understand how these apply requires robust, reliable data; yet to be received by the Park. The Park has neither sought nor received a Preliminary Ecological Appraisal (PEA). As the site around the hedge is used by protected species such as barn owls, badgers and bats, we had assumed that the Park might refer to DEFRA's :

“Guidance Prepare a planning proposal to avoid harm or disturbance to protected species.

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That means one more would need to occur. Bell (2021) also cites an undated note (file ref 2076/3/) by F Hugill that shows only 3 woody species (ash, rose spp and hawthorn); holly, which is widespread in 2021, and noted in both 2002 and 2003 was omitted.

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Note that there was an initial misapprehension about previous species lists which missed one woody species in her reading.

To safeguard her opinion, she called for a third-party botanical report- having not been to the site herself. That report controverted her opinion (Bell 2021).

Summary:

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apparently recorded; there were only 2 grass species recorded. That is unlikely given the time of year.

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In Table 1 Bell shows a partial summary of his results. He notes that two out of three features needed for the Regs were present on his survey: a wall, and limited gaps. Because of the problems (noted in his limitations section) of a late survey he did not add the third feature: 3 or more woodland species. Table 1 is a misapprehension of the botanical status of the Hedge 1.



Hedgerow 1 on 4 April 2021

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Schedule 2 Species noted in the hedge bottom on 4.4.2021 included: primrose, lords and ladies and dog violet and wild strawberry



Primrose and lords and ladies 4.4.2021: before covering up by nettles in late June when they were missed

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Assessment in Bell (2021) for Hedge 1

Bell states, correctly, that:

"To classify as Important with five woody species present within a 30m length, H1 would need to have three associated features"

He then states- incorrectly as we have shown- that:

" it has only two such features (a bank or wall supporting the hedgerow, and less than 10% gaps)."

He also states that:

"Only a single woodland species, as included on Schedule 2 of The Hedgerow Regulations was recorded from H1 during the 2021 survey, with this species comprising herb-robert Geranium robertianum."

Wild strawberry 15.4.2021

We have shown above using photographic evidence from early spring that there were at least 5 woodland species present in 2021.

Oddly, Bell omits to consider the very limitation that he noted above- the time of year on detectability- in affecting his lists. The species he missed in his late survey would have been enough :

*“ Were at least three woodland species present within one metre, in any direction, of the outermost edges of the hedgerow, **then this would result in the hedge meeting a third additional criteria** (sic)”.*

This criterion was met in 2021.

He continued, without referencing the time of year:

*“Assuming that the number of woodland species associated with H1 has declined, then this may be either as a result of increased shading due to hedge growth since coppicing (carried out c.2002), or increased competition from bramble *Rubus fruticosus* agg. or fast growing species indicative of nutrient enrichment such as nettle *Urtica dioica*, creeping thistle *Cirsium arvense* and cleavers *Galium aparine*.”*

His assumption was a misapprehension: it was the timing within the year, that he had noted in his limitations section (but ignored) , that was the key reason why he failed to note the woodland species so late in June 2021.

Bell (2021) lists only 2 grass species. Cocksfoot, Yorkshire fog, and bent were also present in April 2021, as in 2003. This omission may also be seasonal too.

Conclusion:

The evidence would suggest that both the Authority's Ecologist and Bell are under a misapprehension. The Hedge 1 qualifies under the Hedgerow Regulations due to its 5 woody species and on 3 grounds:

- a bank or wall supporting the hedgerow,
- less than 10% gaps
- more than 3 woodland species

The Report by Bell confirms that there are 5 woody species.

On this basis I take the view that NYMNP and the Authority's Ecologist needs to reassess the advice provided by the applicant and make a determination on Hedge 1 with regard to Hedgerow Regulations 1997.

I am sure that you will share this letter with the Authority's Ecologist, and I look forward to a response to the very significant issues raised herein.

Kind regards,

Bob McGovern

Briar Lea
Sledgates
Fylingthorpe
North Yorkshire
YO22 4TZ

With regard to Planning application NYM/2021/0351/OU
Land west of Highfield, Sled Gates, Fylingthorpe, YO21 4TZ

I request that my objection to the above planning application is considered by both NYMNP and NYCC Highways Department.

I live on the opposite side of the road to the proposed housing development and have done so for 9 years, so have a good idea of the issues involved and the grounds for serious concern should this application be approved.

This application has only just come to the attention of me and my adjacent neighbours as we have had no information about it and have received no notification from anyone in the Planning Department, but simply heard rumours.

On an earlier public consultation with village residents some length of time ago, about possible development of a number of sites, there were a lot of objections expressed about any development of this land stated above (which has historically been used for agricultural purposes) including many on the basis of traffic safety.

However, it seems that with regard to this application most people are completely quite unaware that it is now being considered (there have been no 'planning application notices' posted in the area) which restricts any real opportunity for village residents to express their views. Perhaps, consequently, in the interests of transparency there should be a public and well advertised consultation with village residents?

I'm aware that there have been a number of similar applications previously submitted (only these were for fewer dwellings than the current application) that have been sensibly and understandably rejected, on the grounds that there is no way of accessing the site apart from an entrance on Sledgates, which has been repeatedly deemed to be unsafe for this purpose.

There are only two routes into the Robin Hood's Bay. The first is from the Whitby to Scarborough Road via Hawsker, and the second is from the same road by via Sledgates (the proposed access for this development).

As Robin Hood's Bay becomes increasingly popular every year (which is driven by the huge amount of media coverage it receives, so the increase is likely to continue), the traffic situation into, and within, the village presents considerable problems – there is a lack of adequate parking in Robin Hood's Bay centre which means both entry roads, including Sledgates, are regularly lined with cars parked partly on verges and partly on the road, lines of them sometimes stretching nearly back to the main road.

Presumably the people who would be living in those houses may have several cars per household and will also have visitors seeking access and parking?

Similarly no consideration appears to have been given to the reality of construction vehicles accessing the site, or access for those involved with the provision of services to the houses.

It's hard to ignore the worrying matter that, for this application, the Traffic survey that consideration of safety issues seems to seek to rely on, was carried out in during December just gone, when the whole country was still in lockdown - so no tourists were visiting, and in addition even local residents weren't using their cars much, as people were working from home, home schooling their children and we weren't allowed to travel.

Additionally during the 'sample' period the buses were only running hourly, unlike in other times of the year when they run half-hourly and sometimes in peak season every 20 minutes in both directions.

As a result this survey surely can't be taken seriously or given any credibility whatsoever as an indication of typical traffic flow? It's like measuring 'customer footfall' at night when a busy shop is shut.

In the main holiday season the roads are extremely busy and in normal times there really isn't a 'quiet season' for Robin Hood's Bay anymore. The flow of tourists continues.

Among other matters that don't appear to have been acknowledged is the pedestrian flow along what is a narrow pavement on that stretch of road. Motorhomes often park at the top of Sledgates and their owners walk into the village, as do visitors in Bed and Breakfast at the top of the hill. Many pupils from Fyling Hall school regularly use the footpath to access the school to and from the village during term-time and groups of them walking up and down are a regular feature during term time. Many children from this stretch of the road also regularly walk to school or to the park along it.

Additionally, as I have already mentioned, the piece of land that this application proposes to develop has been agricultural land for a long time and as a result has a huge variety of wildlife, in addition to the sheep who graze it annually (the lambs are a welcome sight each spring).

We watch the bats that roost there and fly over at night, the barn owl flies across it and hunts in it, we have seen so many types of birds (including bullfinches who are becoming increasingly rare) appearing in and out of the boundary hedges, the badgers come over the road from there and deer regularly wander around it.

Finally, I'd point out that the Appeal in January 2008 was rejected on the basis of very sensible submissions by the Highways Department, who considered that the application to develop the land for housing should *not* be approved on the basis of very real safety concerns about site access, all of which still apply. I'd also draw attention to the fact that since then (2008) the number of visitors to the village, and the resulting increase in traffic volume, has increased enormously and so the concerns raised then are even more relevant now. This is due to increase even further due to concerns about future lockdowns and accessibility of breaks abroad, which has increased tourism and holidays within the UK and this and this only seems set to continue.

Please note and pass on my concerns to all involved.

Yours sincerely

Jo Parry

From:
To: [Planning](#)
Subject: sledgates
Date: 16 June 2021 13:34:02

Dear Hilary Saunders

I am aware that you will have already received a good deal of correspondence in connection with this contentious site.

There are a few concerns which I wish to raise in light of recent developments. I have always felt that there has been openness and transparency when I have had contact with the NYMNPA over planning matters. However, in common with others I am now feeling anxious about the way this whole application is developing .

The almost invisible planning application notice posted in the LEAST conspicuous position has raised concern among local residents.

Secondly the ever shifting date when comments need to be in by, are we now on the third and how many more are to follow?

Thirdly the absolutely incredibly inaccurate submission by the ecologist from the NYMNPA was shocking because of its woeful inattention to facts. This was drawn to my attention and when I did a little research, not as an expert, I could see within an short time that this was not the careful professional submission we have come to expect.

I realise that the applicant is determined to get planning permission on this valuable site but he must play by the rules and there is already much evidence that this is not happening.

It is a privilege to live within the National Park for many reasons ,but it is essential that the professional standards and adherence to policies do not bow to pressure from those wishing to profit by destroying the special qualities of this supposedly protected landscape.

Like others I feel a visit to the proposed site would be helpful and would go some way to restore confidence in the whole process. I do hope my comments will be received in the supportive way they are intended.

Louise Ryder

From:
To: [Planning](#)
Subject: Planning application NYM/2021/0351/OU
Date: 16 June 2021 11:08:17

Dear Hilary Saunders,

I strongly object to the advice given by Elspeth Ingleby to the NYMNPA about the hedge on the proposed development site in Sledgates , Fylingthorpe for five houses.

The CIEEM , which Ms Ingleby is a member of, in 2019 issued an advice note on date age in planning applications," On the lifespan of Ecological Reports and Surveys."

It says,"It is important that planning decisions are based on up -to-date ecological reports and survey data."

For surveys carried out more that 3 years old the CIEEM states," the report is unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated (subject to an assessment by a professional ecologist.)

The data Ms Ingleby uses is 15 years old, is irrelevant ,there has been no visit to the site and no factual evidence to support her advice.

The statement that Hedgerow Regulations of 1997 do NOT apply because an application has been made, is wrong.

Planning permission has to be granted before The Hedgerow Regulations are invalid.

The NYMNPA policies and THE Hedgerow Regulations need to be reviewed so that a correct evaluation can be made before any decision is arrived at.

The advice is not credible , it is a personal opinion contrary to the standards set out by the British Biodiversity Standard BS42020 which states, "The evidence underpinning all ecological advice and reports should be robust and obtained using reproducible scientific methods that allow the reliability of date to be verified."

It goes on to say."There are many reasons and increasing demands for full disclosure of the underlying data used to support ecological opinion. **This is even more important when there is uncertainty or scepticism by the public , third parties or other professionals over the claims sometimes made in ecological reports. Full disclosure helps reduce uncertainty and scepticism.**"

It also says that ecological judgement and advice should be based on sound scientific principles and be as objective as possible to avoid biased, unwarranted or exaggerated interpretation of the results presented.

The British Biodiversity Standards also stress that decision-makers should expect the advice they receive from a consultee to be based on the highest standards levels of professional scrutiny of planning application and supporting documents. They also confirm that it expects CIEEM members to apply their standards.

Ms Ingleby has not given any evidence to support her personal opinion which clearly falls well below the standards that are expected of someone in her position and fails to recognise the guidelines set out by the CIEEM and the British Biodiversity Standards.

I would hope for a speedy reply regarding the unsubstantiated and erroneous comments made in the report by the professional ecologist at the NYMNPA

Mr John Ryder

Highfield Cottage
Sledgates
Fylingthorpe
Whitby
YO22 4TZ
11 June 2021

Comments on Planning application NYM/2021/0351/OU Land west of Highfield, Sledgates.
Fylingthorpe, YO21 4TZ

I wish to object to the planning application for several reasons:

1. Section 11 of the application asks, "How surface water is to be disposed of?"
The answer given is, by the main sewer."

In 2005 Yorkshire Water said, the local public sewer network does not have the capacity to accept any discharge of surface water from the proposed site."

In section 3.10.1 of Manual for Streets it says ,
"Discharge of private water into highway drainage systems will not be permitted under any circumstances."

2. Section 12 of the application asks, Are there any trees or hedges on the proposed site?"
The answer by the applicant is" no."
This is clearly wrong as the boundary between the proposed site and the highway is a hedge.

Section 12 of the application also asks , Are there trees or hedges on land adjacent to the proposed development site that could influence the development?"
There are trees and a hedge to the west and to the east of the site both of which would be affected by the required site line criteria.

3. Section 13 of the application , Biodiversity and Geological Conservation.
The applicant has said no to A B and C without providing any evidence to support this claim. The site is well known to local residents for badgers, deer, barn owls foxes and hares, (photographic evidence is available)
4. Section 15, The application is for Market Housing . This would be contrary to the North York Moors National Park Planning policy.

5 Highways

The proposed development site has been refused planning permission several times since 1986.

2nd December 1986 Ref NYM4?29/2438/PA/SM/JMS
Planning permission was refused for the following reasons.

"The local planning authority considers that clear visibility of 70 metres cannot be achieved along the public highway in either direction from a point 2.4 metres from the carriageway edge measured down the centre line of the access and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety."

This site has been the subject of three previous applications and two informal submissions all of which were refused on highway grounds.

A. The first application for four building sites was refused on grounds of poor highway visibility.

B The second application provided for the existing hedgeline and wall facing into Sledgates be lowered and cleared to provide sight lines in accordance with the Highway Authority's requirements. This was considered to be detrimental to the character of this part of the village and **did not satisfy the planning and its criteria regarding environmental quality.**

This application was subject to appeal in 1987 and was dismissed
Appeal Ref T/APP/ P2731/A/86/57334/P4

Permission was refused on 26th August 2005 for four dwellings and garages.
Ref NYM/2004/0449/OU/FL

“The proposed development by reason of its design, form, general appearance and works necessary to create a safe access would result in an alien and unduly obtrusive form of development which would harm the character and appearance of this important gateway into Fylingthorpe village. As such the proposal would be contrary to Local Plan Policies H2 and BE6.”

The application was refused by the Highway Authority in September 2006 for two detached two storey dwellings.
Application No. 06/0652/FL

“The local planning authority considers that clear visibility of 60 metres in north easterly direction and 90 metres in a south westerly direction cannot be achieved along the public highway from a point 2.4 metres from the carriageway edge measured down the centre line of the access and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety.”

This application was also refused by the North York Moors National Park on the 10th November 2006 Ref. NYM/2006/0652/FL

“The local authority considers that clear visibility of 60 metres in a north easterly direction cannot be achieved along the public highway from a point 2.4 metres from the carriageway edge measured down the centre line of the access and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. As such the proposal would be contrary to the provision of Local Plan Policy T7 which seeks to ensure developments **do not prejudice highway safety or the environmental characteristics of the locality.**”

Application was again made in February 2007 .

Ref. NYM/2007/0146/FL and was refused on the 5th April 2007.

An appeal was made against the decision by the North York Moors National Park and a site visit was made on the 14th January 2008.

Ref APP/W9500/A/07/ 2056979

Appeal Decision, the Inspector noted in (7):

The Sledgates, a C classified road, passes through Fylingthorpe and is the secondary approach into nearby Robin Hood's Bay (a key tourist attraction in the area) from the A171; the main approach is via the B1447. The traffic flow on it has been recorded at 1,000 vehicles per day, according to the appellant it is 200 vehicles per hour in the summer. Although the appeal site is at the edge of the

settlement, visually it is within it; it lies opposite a row of close set semi-detached houses and is between more well spaced larger detached houses and bungalows, with a paved and kerbed footway along its frontage on this side. The road has standard street lights. From the definitions set out above I consider that it is of the type intended to fall within the standards referred to in MFS.

The inspector continued looking at splays and speeds, noting that there were typically cars parked opposite the proposed site entry.

8. Visibility splays at the kerblines of 2.4 x 56.4 metres (2 x 56.6 metres) to the northeast, downhill from the access, and 2 x 24.5 (2 x 60.7) to the centre line of the road) to the southwest, uphill are proposed. The Highway Authority has accepted that these are achievable and would provide views at a driver's eyeline above the existing bank. MFS sets out, at table 7.1 a stopping sight distance (SSD), adjusted for car bonnet length, of 43 metres at 30 miles per hour and the visibility splays proposed would achieve this to the north east, but would fall substantially short to the southwest, in the uphill direction.

9 Sledgates descends steeply from the A171 and there are tight bends, with a gradient of 25%, about 300 m from the southeast end of the appeal site, which slow traffic down substantially. However, I have seen that traffic from this direction speeds up as the road reduces in gradient and straightens before the appeal site. Although the 30mph speed restriction for the village commences about 120 metres to the southeast of the site, a traffic speed survey, carried out by the Highway Authority in 2007, recorded 85th percentile speeds downhill at the point of 38mph. The MFS indicates a 59 m adjusted SSD for speeds of 37 mph- more than twice the distance achievable in this direction.

10. I realise that, measured to the centre line of the road, the splay would be substantially better (2.4 x 40 or 2 x 60.7m) but MFS is clear that the centre line measurements should only apply where there is a special circumstance such as a physical barrier to prevent cars crossing the other lane. In this case there is informal paving for cars to park along the roadside in front of the houses opposite and the verge leading to this is also worn where cars are parked there. I saw that, despite the generous overall road width at this point and centre line marking, these parked cars oblige vehicles approaching the site from the southwest to pull out, partly across the centre-line of the road. I, therefore, consider this alternative measurement inappropriate in this case.

11. I note the appellant's contention that speeds on this stretch are less than those recorded and that the Authority did not indicate whether the recorded speeds were measured during wet or dry weather. However, the appellant has not provided alternate survey information. Nevertheless, taking the lower speeds suggested of 34mph (adjusted for wet weather) an interpolated SSD of 48mph would be required. Even setting the design speed for the access as the 30mph speed limit, the proposed access would substantially fail to provide the 43m SSD recommended by the recently reduced standards. According to MFS, the 24.5m distance proposed would be suitable for traffic travelling at less than 22mph. Whilst MFS promotes a flexible application of standards where these are difficult to achieve, it expects other measures to be introduced to justify a reduction. It seems to me that without additional measures to improve visibility in this direction from the site, or reduce the speed of the traffic passing it, the proposal would significantly compromise highway safety.

12 I have read that the Highway Authority may be installing traffic calming measures in the vicinity of the site and if implemented these may change the design speed for the proposed access. However, apart from the yellow bordered chevron signs to highlight the bends described above I saw few other measures to slow traffic and in the absence of a detailed scheme, with anticipated

design speeds and an implementation programme I have reached my decision on the basis of current circumstances. No accident injuries have been recorded in relation to this stretch of highway. Nevertheless, this is not sufficient justification to set aside the recently significantly reduced nationally recommended design standards for this type of road access.

13. I conclude that the proposal would harm highway safety, contrary to national and local policy.

The applicant correctly says the proposed site access is within a 30 mph area. But 55% of vehicles coming downhill were recorded at more than 30mph with five doing 45mph.

The proposed splays of 58 metres to the west and 40 metres to the east are only obtainable if the hedge on land, NOT belonging to the developer, either side of the site, is removed or taken down to a level which would result in the hedge not being maintainable. Without the use of the land either side of the development site the visibility splays would be reduced to approximately 31 metres in an easterly direction and 55 metres in a westward direction.

The site line proposed is clearly shown the applicant's submission AMA/20940/SK001

The application submitted to the NYMNP on the 4th May 2021 shows visibility splays of 2.4 x 35 metres to the east and 2.4 x 57 metres to the west.

The submission to Highways on 10th May 2021 shows visibility splays of 2.4 x 40 metres to the east and 2.4 x 58 metres to the west.

This clearly shows land either side of the proposed development site not owned by the developer is needed to obtain these visibility splays.

There is a clear discrepancy between the outline planning application (submitted to the NYMPA) showing the visibility splays and the submission made to The Highways Authority. In section 1.14 of the proposal to The Highways Authority the agent says, "the proposed means of access has been informed by speed survey works and has been subject to pre application discussions with NYCC Highways. There is **no objection** to the proposed access point."

Which of the contradictory visibility splays were discussed with The Highways Authority ?

The date of the survey is not representative of the normal traffic flow as it was taken under covid restrictions for public mobility and in the winter.

The applicant's submission that over 5 days an average of 695 vehicles a day is at odds with the inspectors report of 2008, which says that the traffic flow has been recorded at 1,000 vehicles per day and 200 vehicles per hour in the summer.

It is very unlikely that the traffic flow has reduced over the last 14 years.

7. The application showing the layout of the proposed development and the new access clearly shows that there is no entrance made available for agricultural vehicles to access the field at the rear.

The Manual for Streets section 2.17.1 says,

"Manual for Streets are not applied to any existing roads where the recorded 85th percentile speed is metres 37.5 mph or more."

The Highway Authority considers that a splay of 2 x 70 metres in both directions is needed. It derives the standard from those in its own Residential Design Guide which are the same as in the Design Manual for Roads and Bridges.

The Design Manual for Roads and Bridges also says that if an entrance to a private development is used for private vehicles and agricultural vehicles the splay must be set back to 4.5 metres from the carriageway.

The traffic survey carried out by The Highways Authority in 2007 recorded 85th percentile speeds downhill at this point of 38 mph.

The conclusions the applicant is making are based on poor traffic data taken under unusual circumstances .

8 The hedgerow at the boundary between the development site and the highway would need to be removed or taken down to a level that it would be impossible to maintain without the hedge being destroyed. Under the Supplementary Planning Document 3 of the NYMNP Local Plan the hedge qualifies as a hedge on an agricultural field.

The hedge is protected by park policies and with a range of woody species, and at least five trees/shrubs -including ash,holly, wildrose, hawthorn and blackthorn so should come under the protection of the 1997 Hedgerow Regulations.

“ With their introduction in 1997 ,The Hedgerow Regulations make it an offence to remove or destroy most countryside hedges without notifying and obtaining permission from the authority, which must assess the importance of a hedgerow against a set of historical and wildlife criteria.”

The planning application does NOT even recognise the existence of a hedgerow, See section 12 of the application.

In conclusion, the application fails to provide suitable information and is extremely selective with use of policies and their interpretation and is quite contradictory. It fails to meet national Biodiversity policies and local ones. It gives very poor traffic data.
The two differing submissions for the visibility splays is of real concern.

This application should be REFUSED.

Yours sincerely

Mr John Ryder

Highfield Cottage
Sledgates
Fylingthorpe
Whitby
YO22 4TZ
11th June 2021

Planning Application NYM/2021/03351/OU

I wish to object to this planning application on a number of grounds.

“ The North York Moors National Park is committed to supporting development only where the development will make a positive contribution to the local environment.”

It is not clear how this proposed development will do this.

This proposed development will necessitate the destruction of part of a stone wall and hedge to create a new access. A long section of hedge will need to be reduced in height, to the extent that it will be unsustainable, in order to create the necessary sight line. Interestingly, the hedge will need to be reduced to the east and west of the proposed site including hedges not currently owned by the applicant. This is clearly visible on the line drawn on plans submitted to the Highway Authority which differ significantly from the plans submitted to the NYMNPA.

I wonder whether this is an oversight on the applicant's behalf?

I have recently looked at photographs of this hedge, reduced to ground level on the instructions of the same owner several years ago. This was an attempt to get the necessary visibility splays prior to a previous application. You will recall that this was a move the senior ranger was critical of and he monitored the hedge until it was restored.

Will local wildlife and biodiversity be enhanced by this development, as required in Strategic Policy C -Design, requires?

All this despite the applicant claiming that there are no hedges or trees on site, which there obviously are.

The developer states that the land is, “of little worth” but he provides no evidence to support this statement. The apparently non-existent hedge is in fact a species rich hedge dating to at least Victorian times and the existing field is currently grazed by sheep, making it agricultural land. In addition to information about the hedge given to the NYMNPA there is evidence available of barn owls, roe deer, hares badgers and foxes using the land on a regular basis.

What does constitute, “land of little worth” mean? Is this entirely a subjective judgement on the applicant's behalf? Perhaps he overlooked the fact that agricultural land, especially land which has not had fertilisers on it for many years and supports a whole range of wildlife is not, “of little worth.”

I could not see on the submitted plans how access into the remaining area of farmland was to be achieved given the need for an agricultural access for vehicles. Perhaps the long term intention is that this will not continue to be farmland?

I know that the the NYNPA are well aware of the history of contentious planning applications on this site, dating back to 1986, which have been turned down on grounds of road safety. The

Planning Inspectors dismissal at appeal in January 2008 made it clear that the appeal was dismissed on grounds of road safety because acceptable visibility splays could not be achieved.

The proposed site is in a 30 m.p.h. area on the applicant's own admission this is frequently exceeded. It is on a steep hill and is one of two routes into the honey pot of Robin Hoods Bay. Local residents will testify to the daily difficulties encountered using this road. The idea that the road traffic survey done in winter, during covid restrictions imposed on travel, is ludicrous, it is in no way representative. I note that the applicant gives the winter timetable for buses and not the one every twenty minutes in both directions which operates in the summer. Perhaps this too is an oversight.

To balance existing data perhaps a survey might be done in summer to take account of the increase in tourist traffic, both cycles making their way to the cinder track, or tourist traffic with large motor homes cars and caravans and coaches, and of course numerous pedestrians completing the Coast to Coast walk as well as local walks. There are two horse riding centres in the village as well as numerous individual horse riders who have to cope with traffic every time they venture on this road, it is difficult to see how the proposed development takes their needs into account. The NYMNP authority who are monitoring the daily use of car parks at the top of Sledgates by all manner of mobile homes know first hand that tourism is rising in the area.

Would the Highway authority be prepared to ensure that a more representative survey takes place?

The Planning Inspectors view in 2008 was that the application would harm road safety. One can hardly suppose that the traffic flow is reduced or slower now. It would be remarkable if The Highway Authority were to recommend approval in the face of local and national policies on which previous applications have been refused.

Although members of the planning committee attended a site meeting would it be sensible if they again visited this site to see for themselves the difficulties which need to be overcome to ensure that there is no increased risk to road and footpath users? They were convinced last time.

Once again this site has been the subject of discussion at a recent Parish Council meeting, their opposition to this site remains unaltered as they are regular users of this road.

This application is difficult to respond to because of uncertainty as to what is being applied for, is it outline planning permission on a windfall site or market housing or principal housing, or..? Is it possible to have this clarified?

There seems to have been a quite deliberate lack of transparency on the applicant's behalf and a very careful selection of relevant data presented to the authority.

I believe that this application should be refused,

Louise Ryder

Copstall,
Sledgates,
Fylingthorpe.
N. Yorks.

YO22 4TZ.

10th June 2021

Planning Application

NYM/2021/0335/04

I write to object to the above planning application.

I must state first of all that I should not have been made aware of this application but for my neighbour's notification.

I am an elderly person living on my own in possession of a disabled badge and needing the help of a walking stick. I understand the notice has been displayed on my side of the road but further up the hill. There is no footpath on this side of the road! The increase in the volume of traffic makes it hazardous to either walk up the road or to cross to the other side, when I have been able to cross it has been the return that has proved dangerous. From the opposite pavement there is no view round the bend up Sledgates and speeding cyclists make no noise.

I am fully aware of the reasons for previous planning applications being turned down and fail to see that anything has changed except the speed and volume of traffic which has increased beyond measure. Yours faithfully Marg W. Thewick

Sledgates Cottage,
Sledgates,
Fylingthorpe
Whitby
YO22 4TZ
10th June 2021

Planning application
Nym/2021/0351/01

Dear Sir/madam, We are writing in regards
the planning application
Nym/2021/0351/01
that we are strongly against it.

The safety of road users is of great concern
as access is going to be a danger, both to
pedestrians and road users. The footpath is used
on a daily basis by walkers, pupils from the local
school, Fyling Hall and by residents.

Apparently a road survey was carried out in the
winter season, during covid and a lockdown, not really
an accurate measure of the traffic on the road
which with the increase in the number of visitors to
the area is very busy. There is a very high volume
of holiday traffic - caravans, motorhomes, motorbikes, trips
buses, also a half hourly bus service between
Middlesbrough and Scarborough. The road is also
used by horse riders. This section of road is
30 mph - but that is likely, adhered to.
The first traffic survey in 1986 stated that
there was too much traffic then!

Cars are frequently parked up Sledgates, causing the road to narrow even further.

A Yorkshire Water Survey done in 2005 stated that the drainage was inadequate and is not capable of getting rid of the potential volume of water away. This would cause great issues.

For the necessary sidelines to be in, it would mean that the hedges would have to be nearly cut off the way down, however, the hedges to the left and right of the proposed access are not cured by the developer, this in itself is that going to be achieved.

The developer states that there aren't any hedges or trees on the proposed building land, which is totally untrue.

The field is full of wildlife, birds, deer, badgers, foxes, hares and rabbits as well as having wildflowers in it.

We are always being urged to keep the countryside, and not destroy natural habitat, we are developing this field is just doing that.

We hope that our objection, along those of our neighbours will be taken into consideration when renewing this planning application, as it clearly isn't a viable site for development.

Regards

Mrs C. Wittering

Mr K. Wittering

Coppergarth
Sledgates
Fylingthorpe
Whitby
YO22 4TZ

9th June 2021

Dear Hilary Saunders,

I hope you are well.

I wish to object to planning application NYM/2021/0351/OU

Firstly, I was annoyed to be told about the proposed planning application by a neighbour, despite the fact that I live directly opposite the proposed site and the fact that my land is wrongly claimed by the applicant as belonging to him. The applicant shows the site line passing through land belonging to me without any consultation, something I informed the NYMNP about by telephone. Some time after being made aware of this planning application and after I had made my phone call, a planning notice application was posted on a pole on the opposite side of the road where there is no public footpath and outside a property unrelated to the site. The notice is barely visible to anyone walking up or down the road as they are always walking on the side of the road where there is a footpath.

As numerous previous planning applications for this site have been refused on grounds of highway safety because of the impossibility of obtaining safe sight lines, why would this be different? I am aware that the planning authority has been alerted to these issues related to highway safety. The idea of carrying out a traffic census in winter and in the covid limitations of travel indicated that the applicant is trying to present a completely one sided view of how much traffic there is. The traffic of all kinds has certainly increased since the last refusal at appeal. I think the applicant has misunderstood how busy this road is or else he has deliberately done a survey at a time which gives a false picture.

I understand that the NYMNP authority have been sent photographic evidence of the traffic jams occurring when large vehicles such as buses coaches lorries and large camper vans are trying to pass. In the summer this happens on a daily basis partly as the number of service buses doubles so that there are 6 buses per hour.

The applicant, in addition to claiming land as his own which does not belong to him states that there are no hedges or trees on the proposed site. This is obviously untrue.

He also states that the land has no protected species on it or on land nearby. That is also wrong. The field is part of barn owl territory which I have observed on a daily basis and I regularly see badgers, deer, foxes and other wild life in and around the field which is currently grazed by sheep and therefore agricultural land. I have seen no evidence of this land being artificially fertilised for many years which adds to its ecological value.

Surely one of the responsibilities of the NYMNP is to protect biodiversity and not allow the distinctive character of the landscape to be destroyed which would include an old stone wall and ancient hedge (even though the applicant claims they do not exist).

As far as I can see there is no provision for access into the agricultural land at the back of the proposed site and I wonder why this is since agricultural vehicles do use the present entrance. Why is this? Does the NYMPA condone the destruction of old hedges and walls which are existing boundaries to fields without maintaining existing entrances or is this in contravention of their own policies?

There is a real problem with drainage of this area which is on a steep hill and when there is heavy rainfall the existing drainage system can not cope and the road often floods as a result. The applicant states that how sewerage will be removed is unknown but surface run off is given as disposed by the sewerage system. At best this is contradictory .

I am convinced that this application should be refused in line with the many objections raised by the previous refusal at appeal, all of which remain unaltered apart from the fact that the traffic flow is heavier and speeds faster and vehicles larger.

In addition I believe that the applicant has made many attempts to deliberately omit information and also presented mis information.

I am aware that this proposed development has been discussed at the last Parish Council meeting and the decision was made to object to it. The local representatives on the Parish Council are only too aware of the difficulties of increased traffic in the area and they agreed this proposed development would be contrary to road safety.

Yours sincerely

Mr John Collinson.

From:

Sent: 09 June 2021 21:31

To:

Subject: Objection planning application NYM/2021/0351/OU

Northview
Sledgates
Fylingthorpe
Whitby
YO22 4TZ
9th June 2021

I wish to object to the planning applications NYM/2021/0351/OU Land West of Highfield, Sledgates, Fylingthorpe.

There have been numerous previous applications for this site and all have been refused on the grounds of highway safety due to the impossibility of obtaining safe sight lines. In what way has this changed?

Sledgates is a single carriageway road which services an extremely popular tourist area, the volume of traffic increases hugely during the holiday season, bus services also double during the holiday season and I often witness tailbacks caused by the volume of traffic, buses trying to pass each other and/or parked vehicles, agricultural vehicles struggling to get through etc. Despite this it was deemed appropriate to carry out a traffic census during a Pandemic immediately after a lockdown and when holidaying was still restricted.... How could this possibly give an accurate assessment of the normal levels of traffic on this road? The proposed development site is currently part of an agricultural field and yet the plans show no access to the rest of the field.

The applicant states that there are no trees or hedges on or adjacent to the site. This is blatantly incorrect. The site is bordered by an ancient hedge consisting of multiple and diverse species and a very old dry stone wall which is a habitat for many species. A full tree survey should therefore accompany the application.

The field itself is of high ecological value, the land is currently low intensity agricultural land grazed by sheep and as such host to a diverse range of species. It is regularly frequented by deer, foxes, badgers, bats, birds of prey including buzzards and multiple species of owl are regularly viewed hunting the area. The land is quite marshy and as such is also home to frogs, toads, newts etc. The site and land adjacent to it could certainly be home to protected and priority species and likewise are extremely important habitats, as such I feel it imperative that full surveys are carried out.

Drainage is another issue which hasn't been adequately addressed in the application. It is a big problem in this area which is on a steep hill, whenever we have heavy rain the current drains cannot cope leading to flooding lower down in the village. Further pressure on the existing drainage system will clearly increase this problem.

Kind regards

Mrs S J Pickering

08/06/2021

Cambronne,
Sledgates,
Fylingthorpe,
Whitby.
YO22 4TZ.

Dear Sir/Madam,

With regards to the planning application : NYM/2021/0351/OU I would like to inform you that I strongly oppose to this going ahead.

My main concern is for the safety of road users as any access is going cause dangers for highway safety with both vehicles and pedestrians. The footpath is used regularly by a high volume of pupils from Fylinghall School, up and down to the village and for Church services on a Sunday.

Evidently a traffic survey has been carried out over the winter months, out of the holiday season and whilst most people were in `lockdown` measures I do not consider this appropriate to measure the volume of traffic using this narrow main road in and out of the village. The first traffic survey done in 1986 with regards to this planning application stated there was too much traffic then, so as you can appreciate there is far more now with the increase in visitors to the area. There is now a constant stream of caravans and motorhomes all year round and also Arriva buses, mainly double deckers, which are on a half hourly service between Middlesbrough and Scarborough. The section of road is in the 30mph zone but very rarely is this adhered to!

As there are no yellow lines down either side of the road, cars are frequently parked outside properties too, causing the road to be narrowed even more in places.

A Yorkshire Water survey done in 2005 stated that the drainage was also inadequate and is not capable of getting rid of taking the volume of potential surface water away? This would once again cause serious issues?

Evidently to obtain the necessary sightlines it would mean that the hedges would have to be dropped down to almost ground level, as I understand it the hedges to left and right are privately owned and not the developers? Surely this will cause issues if the owners refuse to adhere to this? The applicant also states that there are no hedges or trees on the proposed land which is untrue as there obviously are and the area is a haven for wildlife...birds, deer, hares, rabbits and a beautiful barn owl, as well as the field being full of wildflowers .

I hope my objection, along with those of my neighbours will be considered as this site is not viable for development.

Would you kindly send me a receipt to say you have received this objection.

Kind Regards

Mr T Collinson.

2,Kingston Garth,
Fylingthorpe,
Whitby.
N. Yorkshire.
YO22 4JN

Dear Mrs Saunders,

NYM/2021/0351/OU

I would like to object to the plans for Sledgates Fylingthorpe on the following grounds.
A traffic survey was conducted in December 2020 while we were in lockdown, hardly any traffic at all, now there is continuous traffic, buses every 30 minutes.

There is also two caravan parks in the village so camper vans and caravans up and down. Also there are always cars parked on the side of the road.

Planning applications have been refused before because of inadequate sight lines nothing has changed. Any access road would comprise highway safety.

The applicant says there are no hedges on the site, but there are.

The field contains a lot of wildlife which would disappear if this planning goes ahead.

I have lived in the village all my life some of it on Sledgates and over the years the amount of traffic just gets worse every year.

Here's hoping sense will prevail and can keep the heritage of the National Park.

Yours Faithfully

Mr&Mrs R Storey.

ref: planning application NYM/2021/0351/04



FYLING HALL SCHOOL

NYMNP/PA

Robin Hood's Bay YO22 4QD

09 JUN 2021

Web: www.fylinghall.org

I.S.A. I.S.C. B.S.A.

June 8th 2021.

Dear Hilary,

I write to object to this so-called amended application for houses on Redcates.

The planned access road is on an almost limited bend, cars of residents opposite necessitate pulling over the middle line of the road and this increases the danger. Traffic is increasing all the time, especially week-ends.

I write most forcefully to object because of the children, particularly the boarders of Fyling Hall. They have to commute on this route, go to the village at week-ends.

to spend their pocket money, and to
visit their paper friends. There is a
footpath which they are urged to use, (!)
but this will be presumably removed?
This is an extra and undesirable hazard,
in an already dangerous bend, and could
lead to injury or worse.

Apart from my primary concern
for the children's safety, I think this
will be an eyesore - hedges going,
wild life affected. And the traffic is
vastly increased since the original application,
caravan and mobile homes seem to now
be another part of silage overfill:

On a personal note, I hope
you are well and providing sanity
in the unceasing world. It would
be good to see you again when
things become clearer. I remember
with gratitude our past meetings.
I can't be a bit but manage somehow!

Keep safe, with best wishes
and thanks for all you do

NYMNP

07 JUN 2021

Mrs Paula Andrews

Keldy

Stedgates

Fylingthorpe

Whitby

YO22 4T2

Your Ref: NYM/2021/0351/00

Dear Mrs Saunders,

I enclose my address in reference to the objection of the building of 5 houses on land west of Highfield which I omitted on my email.

Regards

Mrs Paula Andrews

From: General
Sent: 01 June 2021 15:29
To: Planning
Subject: FW: Objection letter

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: Paula Andrews
Sent: 01 June 2021 14:32
To: General
Subject: Objection letter

Comments on planning application NYM/2021/0351/OU Land west of Highfield, Sledgates, Fylingthorpe, YO21 4TZ

I wish to object to the above application due to ;

Highway safety.

I understand the previous 3 applications have been turned down due to highway safety.

As the road has become busier, especially now with increased traffic, caravans, motor homes and lorries , I don't think things have changed. The road layout hasn't altered or the visibility splays. Also with the application increased for

permission for 2 houses, this has increased to 5 with the obvious problems associated with more cars emerging onto a busy narrow road on a blind bend.

Also the traffic survey carried out beginning 3rd December as we began to come out of lockdown was laughable as the road was still quiet.

If it had been done this weekend, or any other weekend in summer, the results would have been quite different.

Regards

Sent from my iPad

NYMNP

27 MAY 2021

North York Moors National Park
The Old Vicarage
Bondgate
Helmsley
YORK
YO62 5BP

Magnolia
Sledgates
Fylingthorpe
Whitby
North Yorkshire

22-5-20

Dear Sir or Madam:

Re: Land for Development on Sledgates Road, Fylingthorpe, Whitby

I am writing to forward my concerns of the above development as I live directly opposite the proposed site. Myself and my family are all strongly against this development taking place. I have lived on this road for 36 years and over the this time we have been able to look at the beautiful views of Ravenscar this being one of the reasons why I choose to live here.

I also do not wish to have a terrace of houses looking directly in to my property which would disrupt our privacy.

Sledgates Road is already becoming an extremely busy road especially on weekends and holiday times. The development access is set to come out onto this main road and also just after a blind corner which is already an extremely dangerous part of the road and we think this could end up being probably a fatal situation.

I cannot express enough my concerns over this development happening and feel sickened that there is a possibility of yet another development making villages look unsightly and over developed.

Yours faithfully,

Mr & Mrs Hodgson

NYMNP

02 JUN 2021

Newthorpe
Sledgates
Fylingthorpe —

30th May '21 —

~~Dear Sir/Madam,~~

Once again plans are in for consideration with regards to land at Sledgates — for building

A few years ago we objected to a project and had to prove

- 1) Sledgates was a Road not a Street —
 - 2) The Hedgerow was an ancient hedge on a wall (we had an expert assessment)
 - 3) The National Park Committee came out and said it wasn't infill
 - 4) Naturalists Highways overruled Whitty and said they didn't approve
 - 5) It was then taken to the European Court 3 times and was refused!
- So what has changed?..?

**Middlethorpe, Sledgate Farm
Sled Gates
Fylingthorpe
Whitby
YO22 4TZ**

Thursday, 13 May 2021

Comments on Planning application NYM/2021/0351/OU Land west of Highfield, Sled Gates, Fylingthorpe, YO21 4TZ

I wish to object to this application on a number of grounds:

1. The harm to highway safety
2. Inadequate and incorrect information on the application form and supporting documents

1a The harm to highway safety

Several previous applications have been refused on Highways grounds and the Planning Inspector's dismissal of the applicant's appeal (APP/W9500/A/07/2056979) in January 2008 set out a very clear rationale for the dismissal, along with a number of reasons why, in her view, acceptable visibility splays could not be achieved. Paragraph 10 of her report is of particular significance in the context of this substantially unchanged application, save for the fact that it proposes three more dwellings on the same site and, as such, adds to traffic on and off the site:

"10. I realise that, measured to the centre line of the road, the splay would be substantially better (2.4 x 40 or 2 x 60.7) but MfS is clear that centre line measurements should only apply where there is a special circumstance such as a physical barrier to prevent cars crossing into the other lane. In this case there is informal parking for cars to park along the roadside in front of the houses opposite and the verge leading to this is also worn where cars are parked there. I saw that, in spite of the generous overall road width at this point and centre-line marking, these parked cars oblige vehicles to pull out, partly across the centre-line of the road. I, therefore, consider this alternative measurement inappropriate in this case."

I contend that the visibility splays (58m to the west and 40m) that have been calculated to support this application do not, in any way, provide reassurance that the tests set out in the above paragraph are met. Furthermore, the diagram in Appendix C of the applicant's Planning and Highways Statement indicates that both of the splays have been calculated to include land adjacent to the site that is not in the applicant's ownership. There are at least four further issues on the visibility splays: how will the hedgerow be maintained at a safe height, particularly that which is not owned by the applicant but included in the splay calculation; the informal parking areas opposite the site have no legal basis and do not provide sufficient width for modern cars or the larger vehicles that use it; visitors to the dwellings on the site who might park on the road would cause further issues with visibility, and if the existing field gate access (1:12 Planning Statement) is to be closed off and replaced with the proposed access point, how will tractors and agricultural vehicles safely access the site?

1b The traffic survey and road safety

I live at the top of Sled Gates and I and members of my family use the Trod and the footpath almost every day, in all weather conditions, to walk into the village and the local shops. Last summer my grandchildren placed Teddy Edward on the bench out with my property looking downhill to record the number and speed of the vehicles on the descent and ascent. Alas, poor Teddy Edward's Notebook has gone missing, but I would suggest that his survey might have greater credibility than the one in this application by AMA. Are residents and members of the public expected to be reassured by a survey that was started on 03 December 2020, the day we emerged, partially, from Covid lockdown, and accept that the findings are reasonable and representative? I have faith in the abilities of my young grandchildren to treat the applicant's survey with greater scepticism and I would hope that the planning authorities will take a similar view. Nevertheless, the data does contain some alarming statistics. The proposed site is within a 30mph zone and 55% of vehicles approaching downhill were, according to the data, travelling at speeds in excess of 30mph and 5 at speeds greater than 45mph. In spite of this the supporting documents state that there are no road safety issues. The applicant's own data, for all of its faults and partial methodology, does not support this ridiculous assertion.

The Planning Inspector's view in 2008 was that the application would harm highway safety and was based on a much more realistic range of traffic data, including the number of vehicles using the road. Given the obvious inadequacy of the traffic data in this application, I don't see how anything can change from that decision in 2008. I would suggest that, if anything, the traffic, including the size and type of vehicles, has increased significantly since 2008 and the average speeds, in both directions, are likely to be greater even than those indicated in this survey in the period immediately after the Covid lockdown in December 2020.

Inadequate and incorrect information on the application form and supporting documents

The means by which foul sewage and water run off will be dealt with is unclear and needs clarifying. Both land drains and mains water and sewage drainage are a particular issue at that point on Sled Gates and from the staining on the road surface at the proposed site entrance the issues can be easily observed.

The Design and Access Statement is at odds with the application form which states that there are no hedges or trees. The hedgerow is of particular significance and merit and has a significant part to play in determining any visibility splay. The hedge has an abundance of species and there is no reason not to expect a presumption in favour of its retention, but both the hedge and the hedge in the adjoining fields (both uphill and downhill and not in the applicant's ownership) would have to be maintained at a height that would allow adequate visibility splays and the application is quiet on how this would be managed or enforced.

Both the hedgerow and the field are with merit. There is no biodiversity data to support the application, but the field is known to me as one that is a rich source for barn owls, deer and badgers. The field is sheep-grazed and, as such, is farmland. I don't accept the applicant's assertion that the application satisfies local and national policies in this regard or that it will enhance the road scene.

Summary

The application does nothing to address the very clear and well stated concerns of the Planning Inspector's dismissal in 2008. There is a very well-argued case that the proposal would harm highway safety, contrary to local and national policy. The application either ignores issues of biodiversity and planning gain and is selective with the interpretation of local and national guidance on all issues.

In view of the previous failed applications and the very clear quasi-judicial views expressed by the Planning Inspector in 2008, I would expect that both the NYMNP and the Highways Authority to consider very carefully whether this proposal has any merit and to have those views aired in a public meeting to discuss the proposal before any determination. I look forward to hearing from you on this point.

Kind regards

Bob McGovern.

From: planning@northyorkmoors.org.uk
To: [Planning](#)
Subject: Comments on NYM/2021/0351/OU - Case Officer Mrs H Saunders - Received from Mr Chris Bancroft at Muir Lea Stores, Muir Lea New Road, Robin Hoods Bay, North Yorkshire, United Kingdom, YO22 4SF
Date: 13 May 2021 11:09:25

Concerns about access due to the busy nature of the road and the proximity to the blind curve in the road. The double decker buses struggle already due to parked cars in the village.

Also of permission is given could a clause be added so not holiday rentals or second homes. Already enough in the village and not enough locals living in the area to staff the local businesses and clean the cottages during the peak seasons.

Comments made by Mr Chris Bancroft of Muir Lea Stores, Muir Lea New Road, Robin Hoods Bay, North Yorkshire, United Kingdom, YO22 4SF

Comment Type is Adverse Comments

North York Moors National Park Authority

Delegated decision report

Application reference number: NYM/2021/0351/OU

Development description: outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Site address: Land west of Highfield, Sled Gates, Fylingthorpe

Parish: LCPs of Fylingdales and Hawsker-cum-Stainsacre

Parish: Fylingdales

Case officer: Mrs Hilary Saunders

Applicant: SIW Properties

c/o agent,

Agent: Alistair Flatman Planning

fao: Mr Alistair Flatman, 24 West End Grove, Horsforth, Leeds, West Yorkshire, LS18 5JJ,

Director of Planning's Recommendation

Refusal for the following reason(s)

Refusal reason code	Refusal reason text
1	The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. The proposal is therefore contrary to Policy CO2 and CO7 of the North York Moors Local Plan which only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety.
2	The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.

Consultation responses

Parish

Object

22 December 2021 –Previously registered comprehensive objections remain. In addition, further reasons for objection are as follows:-

Significant speeding both uphill and downhill; splay calculations were in error; setback distance is wrong; no basis for unquantified claims of net gain on hedge removal and shrub planting; a full hedge flora cannot be magically returned by planting shrubs; the applicant has provided no biodiversity data for NYMNP to evaluate; there is no reason to change the decisions of previous applications that were refused on highways grounds.

12 August 2021 – The traffic survey suggests that the traffic is lighter than 20 years ago –the survey was done in December during a pandemic lockdown! The second monitoring point indicated on the plans was not there, also according to the figures somehow vehicles went missing between the two points.

This road is busier than it has ever been. Cyclists are following the route of the Tour de Yorkshire and their numbers have increased exponentially.

Cars have to park on the right hand side of the road as the houses do not have drives and garages. Cars park on both sides. The road is narrow and buses cannot pass each other. The pavement is used regularly by the bus going up hill.

The Inspector who dismissed the appeal said the land/access should not be used until the Highway Department did work on the road or put a scheme in place to reduce the speed of the traffic. Nothing has changed.

The ecological survey of the hedge was only done at one time of year and no allowance has been made for other species that become obvious earlier or later in the year.

5 July 2021 - The sight lines information given to the Highways Department is different to the ones on the plans. The owners of the hedges that have to be taken down to allow for the proper sight lines have still not been approached for permission.

26 May 2021 -This is not a windfall site. The 4 inch diameter sewage pipe is at capacity, there is also the problem of the discharge of private water. The plans are an inaccurate representation of the hedges and trees on the site and adjacent properties. There has been no reasonable ecological survey.

The applicants omit to note that several previous applications were refused on Highways grounds, including:

Document title

NYM/2006/0652/FL – on visibility grounds

NYM/2007/0146/FL- on highways safety grounds.

14 years later a survey took place near the end of a lockdown on 3-9 December 2021 and found only 75% of that number- very atypical. As Govt advised us all to stay at home, it is a gross underestimate. It is unlikely that 14 years on, with a much higher vehicle ownership, that traffic has declined. Of course, it was in winter in a period of Covid restrictions, not a normal summer's set of days.

The Applicant noted that the proposed site ingress and egress is within a 30 mph area. Yet 55% of vehicles approaching downhill were, according to the applicant, going more than 30mph- with 5 > 45mph. That affects the splays. Delivering their proposed splays of 58m to the west and 40m to the east would still be a problem- just as they were at the last Appeal failure.

Given the fact there hasn't been any traffic calming measures implemented or even considered the reasons for the Inspectors decision still stands in 2021.

The splays as drawn would affect a Victorian-era hedge. The hedge should be protected and subject to a final botanical survey may well come under the 1997 Hedgerow Regulations for protection as well. There is not just one fence to be considered, the sight lines rely on neighbours being willing or to cut their fences down. In fact they might be breaking the law if they do so as they are agricultural hedges.

The application ignores any biodiversity interests or possible net gains (required by both the NYMNP Local Plan of 2020 and the 2019 NPPF) as there are not desk or field surveys. It ignores most of the relevant sections of the 2020 NYMNP Local Plan and the Supplementary Planning Document 3.

The Parish Council Objection to the application is based on all the above items.

Highways

Recommend refusal - The LHA are not aware of where an allowance to say the Y distance looking left can be adjusted away from the nearside kerblin for the reason that the oncoming traffic will not be at this location. The far side does frequently have parked cars on the road which has the resulting effect of pushing the oncoming vehicles, including buses, out into the near side lane. Therefore the LHA does not accept the claim that the visibility can be measured at a point 0.9 metres out into the road.

Section 7.7.7 of Manual for streets does say that the X value for measuring visibility can be adjusted to 2 metres for lightly trafficked roads and as the proposed access is a private drive and the flows of traffic on the major road are relatively low, the LHA are willing to agree that this can be applied for this location.

The applicant's calculations in determining the required visibility splays include small adjustments for gradients, wet weather etc. The LHA has not evaluated these figures as it does not have a bearing on the ultimate conclusion that the LHA has made. The proposals for the downhill, north side visibility is that a distance of 47.4 metres is required. The latest revised plan, AMA/20940/SK/006 dated 09/11/2021 shows this to be achievable by moving the access point southwards from the previous layout. The applicant has claimed that the Y value of 47.4 can be achieved but this is relying on the X value being relaxed to 2 metres and the hedges are maintained so that it does not overhang the proposed highway extents.

For the uphill, south side, the required visibility distance is 68.2 metres. The applicant claims that the Y value visibility can be achieved only by taking a point 0.9 metres out from the kerbline into the carriageway. The achievable distance on the kerbline is in the region of 48 metres. These figures are relying on the X value being relaxed to 2 metres and the hedges of the neighbouring properties maintained so that they do not overhang the existing highway extents.

Yorkshire Water

No objections subject to conditions

Environmental Health

No objections

Third party responses

The following people all object for some or all of the reasons stated below:

Mr McGovern, Middlethorpe, Sledgate Farm, Sled Gates, Fylingthorpe

Dr T Reed, The Pond House, Sledgates

Mr C Bancroft, Muir Lea Stores, Muir Lea New Road, Robin Hoods Bay

V A Mennell, Newthorpe, Sledgates

Mrs S J Pickering, Northview, Sledgates, Fylingthorpe

Mr & Mrs Wittering, Sledgates Cottage, Fylingthorpe

Mr & Mrs Ryder, Highfield Cottage, Sledgates, Fylingthorpe

Mr & Mrs Storey, 2 Kingston Garth, Fylingthorpe

Mr J Collinson, Coppergarth, Sledgates, Fylingthorpe

Mr T Collindon, Cambronne, Sledgates, Fylingthorpe

Mrs C Harrison, Moorland Rise, Sledgates, Fylingthorpe

Jo Parry, Briar Lea, Sledgates, Fylingthorpe

MW Hardwick, Copsford, Sledgates

Mrs P Andrews, Keldy, Sledgates

Mrs White, Flying Hall School, Robin Hoods Bay

Mr & Mrs Hodgson, Magnolia, Sledgates

- Harm to highway safety – which is no less than it was in 2007 and the latest speed survey by the applicant only serves to reinforce this view.
- 3 previous applications have been refused due to highway safety and the road has become busier with increased traffic, caravans, motorhomes, no change to previous reasons .
- The loss of a hedge of 1997 Hedgerow Regulations standard and field biodiversity.
- Loss of privacy and outlook.
- The buses and lorries still have to cross the centre line and use the pavement on occasions to pass due to cars parked legally outside their property.
- The proposed development site has been refused planning permission several times since 1986 by highways and the national parks planners.
- Since 1986 the traffic has increased due to the popularity of Robin Hoods Bay.
- A lot of properties in the village are now holiday homes, we don't need any more.
- The field contains a lot of wildlife which would disappear if this planning goes ahead.
- None of the previous and numerous applications have been successful, either at first attempt, or at appeal. Could there be very valid reasons for this, reasons that are still applicable today?
- The ancient hedge and stone wall that line the path along the frontage of the field currently mean that road safety and visibility splays cannot be achieved.
- The complete decimation of an ancient hedge and stone wall over the complete span of the frontage onto Sledgates, in the region of 90-meters, and the creation of a path of approximately 3 meters width, to replace the narrow village path that has existed for centuries, might too be alien and somewhat out of place?
- This, in the 'important gateway' to the village.
- The new hedge would, by necessity, have to be repositioned some three, perhaps four feet back into the field, completely altering the streetscape that has existed for hundreds of years. As there is a 'presumption' that ancient hedges and pathways be retained within the National Park, is completely unacceptable.
- The refusal of 2005 application, which was for four dwellings left the existing hedge intact and was refused because the works necessary to create a safe access would result in an alien and unduly obtrusive form of development.'
- Proposal pays scant regard to Highway Safety, the maintenance and enhancement and particular character of the village or the healthy protection, retention and enhancement of the biodiverse ancient areas of our special home.
- Incorrect statements in the application summary.
- Unsupported assertions in supporting documents.
- Delivery of the claimed visibility splay relies on the hedgerows of others, not just the developer.
- This hedge qualifies as important as it has a bank or wall supporting the hedgerow; less than 10% gaps and more than 3 woodland species.
- There are only two routes into the Robin Hood's Bay. The first is from the Whitby to Scarborough Road via Hawsker, and the second is from the same road by via Sledgates (the proposed access for this development). As Robin Hood's Bay

becomes increasingly popular, the traffic situation into, and within, the village presents considerable problems. There is a lack of adequate parking in Robin Hood's Bay centre which means both entry roads, including Sledgates, are regularly lined with cars parked partly on verges and partly on the road, lines of them sometimes stretching nearly back to the main road. Presumably the people who would be living in those houses may have several cars per household and will also have visitors seeking access and parking?

- Similarly no consideration appears to have been given to the reality of construction vehicles accessing the site, or access for those involved with the provision of services to the houses.
- Among other matters is the pedestrian flow along what is a narrow pavement on that stretch of road. Motorhomes often park at the top of Sledgates and their owners walk into the village, as do visitors in Bed and Breakfast at the top of the hill. Many pupils from Fyling Hall school regularly use the footpath to access the school to and from the village during term-time and groups of them walking up and down are a regular feature during term time. Many children from this stretch of the road also regularly walk to school or to the park along it.
- We watch the bats that roost there and fly over at night, the barn owl flies across it and hunts in it, we have seen so many types of birds (including bullfinches who are becoming increasingly rare) appearing in and out of the boundary hedges, the badgers come over the road from there and deer regularly wander around it.
- The Appeal in January 2008 was rejected on the basis of very sensible submissions by the Highways Department, who considered that the application to develop the land for housing should not be approved on the basis of very real safety concerns about site access, all of which still apply.
- The means by which foul sewage and water run off will be dealt with is unclear and needs clarifying. Both land drains and mains water and sewage drainage are a particular issue at that point on Sled Gates and from the staining on the road surface at the proposed site entrance the issues can be easily observed.
- The proposed development site is currently part of an agricultural field and yet the plans show no access to the rest of the field.
- The field itself is of high ecological value, the land is currently low intensity agricultural land grazed by sheep and as such host to a diverse range of species. It is regularly frequented by deer, foxes, badgers, bats, birds of prey including buzzards and multiple species of owl are regularly viewed hunting the area. The land is quite marshy and as such is also home to frogs, toads, newts etc. The site and land adjacent to it could certainly be home to protected and priority species and likewise are extremely important habitats, as such I feel it imperative that full surveys are carried out.
- Parking for the 5 houses is barely sufficient and visitors to the dwellings on the site who might park on the road would cause further issues with visibility.
- If the existing field gate access is to be closed off and replaced with the proposed access point, how will tractors and agricultural vehicles safely access the site? It is

clear that they will need to use the new entrance to the site to access the field behind it - a gateway in the back hedgerow is indicated for that purpose.

Publicity expiry

Site notice expiry date – 16 June 2020

View of application site heading up Sledgates away from the village. Site is behind hedgerow and photo demonstrates bend in the road



View down the hill on Sledgates towards village of Fylingthorpe – application site just out of view to the right



Hedgerow on left proposed to be removed and demonstrates poor sightlines



View into site from adjacent land to east



Background

This application relates to part of a field fronting onto the main 'C' class road that runs through the village of Fylingthorpe. The front of the site is bounded by a low stonewall which has historically been topped by a hedgerow.

The site is located towards the edge of the village. The character of this part of the village derives in part from the mix of short terraces adjacent the site to the east and larger detached dwellings in spacious grounds to the west. On the opposite side of the road are a number of small semi-detached houses.

Outline Planning Permission for the erection of two dwellings on this site was refused in 1987 and dismissed at appeal. Notably the Planning Inspector considered that residential development here would constitute infill between the centre of the village and development to the west but considered that the works required to create a safe highway access would likely to require major alterations to the hedge and wall, which could have an adverse impact on the character and appearance of the locality. Prior to this appeal refusal, two applications were refused over the space of three years, one for 6 houses and one for 4.

Planning permission was again refused in 2005 for the construction of two pairs of semi-detached dwellings set back from the back edge of the pavement. With this application it was proposed that the existing front boundary wall and hedge would be removed, with a new stone faced retaining wall and hedgerow being re-created further back from the road in order to achieve the necessary sightlines. New tree and hedgerow planting would be undertaken at the rear of the site and the existing row of mature trees on the western boundary would be retained with some additional planting also being undertaken. A 1.5 metre boundary fence would be erected on the eastern boundary with the adjacent dwellings. This application was refused on the basis that the design, form and general appearance of the development would result in an alien and unduly obtrusive form of development which would harm the character and appearance of this important gateway site into Fylingthorpe village.

Full planning permission was then refused again in 2006, for the erection of two 4 bedroom detached houses with associated garaging, with vehicular access being from a similar (relocated approximately 3.5m further along site boundary) point as the existing field access. This application was refused on the basis that adequate sight-lines could not be achieved.

A further application was refused in 2010 for the erection of two 4 bedroom detached dwellings with associated garaging with vehicular access. This application was refused because at that time the previous local plan had been superseded by the Local Development Framework which had introduced a change (Core Policy J) with a tighter definition on infill plots which stated that an infill site is "a small gap within a continuously built up frontage within the main built up area of the settlement which can accommodate no more than one dwelling".

Furthermore, Core Policy J also sought to resist speculative development. The proposal did not comply with the requirements of CPJ.

The Local Development has now been superseded by the 2020 Local Plan which has reverted back to allowing development on some larger sites and consequently this current application was submitted. This application is in outline form and seeks permission for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale).

Main issues

Local Plan

Strategic Policy A – National Park Purposes – seeks to take a positive approach to new development, in line with the presumption in favour of sustainable development and where decisions are consistent with National Park statutory purposes:

1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park;
2. To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

It is explained within the Policy text that sustainable development means development which maintains and enhances geodiversity and biodiversity through conservation and enhancement of habitats and species.

Policy CO7 - Housing in Larger Villages – Sets out that in order to support the wider service function of Larger Villages, principal residence and affordable housing will only be permitted on suitable small sites (suitable for up to 5 dwellings) within the main built up area of the village only, with proposals meeting the need for smaller dwellings.

Policy CO2 – Highways - only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety; the external design and layout and associated surfacing works take into account, as appropriate, the needs of all users including cyclists, walkers, horse riders and users of mobility aids; and highway detailing, road improvements and street furniture are sensitive to the character, heritage, built form and materials of the area, the need to conserve and enhance biodiversity and are the minimum required to achieve safe access.

Policy ENV1 - Trees, Woodlands, Traditional Orchards and Hedgerows - states that there will be a presumption in favour of the retention and enhancement of existing trees, woodland, traditional orchards and hedgerows of value on all developments.

Where the wider sustainability benefits of the development clearly outweigh the loss, proposals will be expected to minimise harm and provide a net biodiversity and amenity gain, with appropriate replacement of lost trees or hedgerows.

Material Considerations

The main issues in this case are considered to be whether this site constitutes a suitable site under Policy CO7, whether its development complies with the criteria set out in that policy and whether the proposed development complies with the requirements of other Local Plan policies, especially highway safety and natural habitats.

It is considered that this does comprise a suitable small site within the main built up area of the village of Fylingthorpe and so falls to be considered under Policy CO7. Previous Planning Inspectors found at appeal that:

“The site is on the edge of the village with small, semi-detached properties opposite and larger detached dwellings in spacious grounds to the west.

I consider that development of the appeal site would be infill between the centre of the village and the development to the west”.

The Inspector went on to dismiss that appeal as he considered it had not been satisfactorily shown that an environmentally sensitive access could be achieved. This is particularly pertinent to the current application.

Whilst accepting that the site might comprise a suitable site in terms of Policy CO7 consideration must be given as to whether the site can achieve safe access which is a requirement of Policy CO7 as well as Policy CO2.

The Highway Authority has given the proposals extensive considerations and the applicant’s agent has submitted a number of traffic surveys and plans in an effort to overcome the Highway Authority concerns. However, the Highways Authority have concluded that satisfactory sightlines cannot be achieved and have consequently recommended refusal on highway safety grounds.

In terms of the issue of the hedgerow, during consideration of previous applications, evidence was found, to suggest that this hedgerow was in place prior to 1845, and although there are some discrepancies between maps as to whether or not this was a hedge or a fence, the presence of this boundary prior to 1845 makes it historically important. In view of this, it has not previously been considered desirable to lose this defined boundary.

The Authority’s Ecologist has been consulted on the current application and has advised that based on the data available, it is considered that the hedge is worthy of retention under the hedgerow regulations. However, it understands that whilst considered worthy of retention under the hedgerow regulations, its removal could still

be authorised by an approved planning application as that legislation overrides the hedge regulations, but that this should be considered in the planning balance. All hedgerows containing native woody species are considered priority habitats. This does not give them firm legal protection but does mean that as a public body we have to have a 'due regard' for their importance when undertaking our functions. If consented for removal it would mean that the mitigation and compensation requirements would be higher than for non-priority habitat so that we can ensure that overall biodiversity loss is not permitted.

In view of the above it is considered that the proposal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.

Conclusion

In view of the above it is considered that the proposals would have a detrimental impact on highways safety and result in undesirable habitat loss. Consequently, the proposal would be contrary to Policies CO2, CO7 and ENV1 and refusal is recommended.

Pre-commencement conditions

N/A

Contribution to Management Plan objectives

N/A

Explanation of how the Authority has worked positively with the applicant/agent

Refusal (No Amendments Requested/Departure from Development Plan)

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and concluded that the scheme represents a form of development so far removed from the vision of the sustainable development supported in the Development Plan that no changes could be negotiated to render the scheme acceptable and thus no changes were requested.

North York Moors National Park Authority

LOCAL PLAN

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North York Moors
National Park

- b) The design minimises impact on visual amenity, including the character and appearance of the locality and the wider landscape; and
- c) They will not result in unacceptable harmful impacts upon features of ecological, archaeological, architectural or historic value.

Explanation

- 7.7 This policy is intended to ensure that adequate infrastructure is or can be made available to support new development and that the development of any new infrastructure is sensitive to its location within a National Park. It also states that contributions from developers may be sought to eliminate or mitigate the impact of any new development. Examples could include highways improvements, the provision of affordable housing, community facilities, new areas of community space or new green infrastructure.
- 7.8 The Authority's approach to negotiating developer contributions will take into account the proposed development's impact on National Park special qualities. Contributions will be sought where they are necessary and directly, fairly and reasonably related in scale and kind to the development. Applicants are encouraged to contact the Authority at an early stage in such cases so that negotiations can take place in a timely manner. The Authority will consider financial viability provided the agreed contribution remains sufficient to make the development acceptable.

Policy CO2 - Highways

New development will only be permitted where:

1. It is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety;
2. The external design and layout and associated surfacing works take into account, as appropriate, the needs of all users including cyclists, walkers, horse riders and users of mobility aids; and
3. Highway detailing, road improvements and street furniture are sensitive to the character, heritage, built form and materials of the area, the need to conserve and enhance biodiversity and are the minimum required to achieve safe access.

New roads and significant road widening schemes are not considered appropriate in the National Park and will not be permitted unless it can be robustly demonstrated that they will meet a compelling need which cannot be met in any other way and are acceptable in terms of landscape and other impacts.

Explanation

- 7.9 Many local residents within the National Park rely on their own vehicles. However, other residents are without access to a car, for all or part of the time. Alternative modes of transport, including bus services and the rail network will remain important to many.
- 7.10 As the National Park Authority is not the Highway Authority for its area it is not responsible for the day to day operation and maintenance of roads. There are two highway authorities who administer the National Park area, North Yorkshire County Council and Redcar & Cleveland Borough Council. The North Yorkshire County Council and Redcar & Cleveland Local Transport Plans set out the broader strategic approach to the issues of transport and accessibility within the National Park. Section 62 of the 1995 Environment Act places a duty on all relevant authorities to have regard to National Park purposes when operating within the boundaries of or affecting the National Park. This applies to transport providers and operators.
- 7.11 The National Park Authority consults the relevant highway authority on planning applications. In the case of a development which will generate a significant amount of movement a Travel Plan will need to be prepared.
- 7.12 New road schemes and upgrading can have a significant impact upon the landscape and the natural environment of the National Park. Government policy³⁴ states that there is a strong presumption against any significant road widening or the building of new roads through a National Park, save in exceptional circumstances, such as the demonstration of a compelling need that could not be met by any reasonable alternative. The Authority will therefore continue to resist major road proposals within its area. Local Transport Plans do not identify any major new road schemes in the National Park. A Strategic Transport Plan has been prepared by Transport for the North³⁵.

Policy CO3 - Car Parks

New parking facilities will only be permitted where:

1. It is the only way to solve existing identified parking problems;
2. It will benefit the needs of both communities and visitors to the National Park;
3. It uses an existing or previously developed site unless it can be demonstrated that no such suitable sites are available; and
4. The scale, design, siting, layout, and surfacing do not have an unacceptable impact on the natural beauty, wildlife or cultural heritage of the National Park.

Explanation

- 7.13 New car parks will need to be very carefully designed, sited and landscaped. Large car parks can detract significantly from the character of their location

³⁴English National Parks and the Broads UK Government Vision and Circular, March 2010, paragraph 85. National Policy Statement for National Networks, Dec 2014, para 5.152. ³⁵Transport for the North is a public and private sector partnership working to develop and deliver strategic transport infrastructure across the North of England

Objectives - National Park Statutory Purposes and Duty:

1. Conserve and enhance the natural beauty, wildlife and cultural heritage of the North York Moors National Park.
2. Promote opportunities for the understanding and enjoyment of the special qualities of the National Park.
3. Whilst achieving the above seek to foster the economic and social well-being of local communities.

Introduction

- 3.1 This part of the Plan sets out our spatial strategy and some of the key 'strategic' policies the Authority will use to help direct and influence new development in the future. The term 'strategic' means that they are policies held to be particularly important in achieving the Authority's long term objectives.

Strategic Policy A - Achieving National Park Purposes and Sustainable Development

Within the North York Moors National Park a positive approach to new development will be taken, in line with the presumption in favour of sustainable development set out in the National Planning Policy Framework and where decisions are consistent with National Park statutory purposes:

1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park;
2. To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

Where there is an irreconcilable conflict between the statutory purposes the Sandford Principle will be applied and greater weight will be attached to the first purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park.

Sustainable development means development which:

- a) Is of a high quality design and scale which respects and reinforces the character of the local landscape and the built and historic environment;
- b) Supports the function and vitality of communities by providing appropriate and accessible development to help meet local need for housing or services, facilities, energy or employment opportunities;
- c) Protects or enhances natural capital and the ecosystem services they provide;
- d) Maintains and enhances geodiversity and biodiversity through the conservation and enhancement of habitats and species;

- e) Builds resilience to climate change through adaptation to and mitigation of its effects;
- f) Makes sustainable use of resources, including using previously developed land wherever possible; and
- g) Does not reduce the quality of soil, air and water in and around the National Park.

Explanation

- 3.2 The North York Moors is a nationally significant, special place and part of the cultural and natural heritage of the nation. As such, proposals for new development will need to be carefully located and designed so that they respect the ‘statutory purposes’ which underpin its status as a National Park. The Authority will continue to recognise that the evolution of the National Park needs to be sensitively managed, through a philosophy of ‘careful planning’.
- 3.3 It is standard practice for development plans to contain a policy which sets out a presumption in favour of sustainable development as set out in National Policy (NPPF, paragraph 11). In terms of plan-making this presumption does not apply where policies in the NPPF protect areas of particular importance such as National Parks where there are strong reasons for restricting the scale of development. Scale is recognised at paragraph 172 of the NPPF which states that the scale and extent of development within designated areas should be limited. Therefore an important principle which runs through all the policies in this Plan is that development in the National Park should be small in scale in order to conserve and enhance the natural beauty and cultural heritage of the North York Moors. Further guidance on what is meant by ‘small in scale’ is explained in the supporting text to the relevant policies.
- 3.4 Strategic Policy A is intended to set out what the National Park Authority considers to be sustainable development in the National Park context and links a positive approach to new development with a need to ensure compatibility with National Park purposes. A positive approach to appropriate new development will therefore be taken and the Authority will always work with applicants jointly to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions in the National Park.
- 3.5 As a general development principle, development in the National Park should avoid conflict with the two national park statutory purposes. In the event that a proposal for development would create a conflict between the two purposes the decision maker will adhere to the ‘Sandford Principle’ which requires that greater weight is attached to the conservation and enhancement of the National Park¹⁸.

¹⁸The National Parks and Access to the Countryside Act, 1949, Section 11A(2), as inserted by Section 62 of the 1995 Environment Act

Strategic Policy M - Housing

To help meet the needs of local communities a minimum of 551 new homes (29 per year) will be completed over the period of this Plan.

These homes will be delivered through the development of sites allocated in the Helmsley Local Plan and in Policy ENV13, Environmental Enhancement Sites; through windfall development, including custom and self-build housing, on suitable small sites in listed settlements; through affordable housing schemes on rural exception sites and through proposals put forward in accordance with a Whole Estate Plan approved by the National Park Authority.

The Authority will support proposals for a variety of tenures, types and sizes of dwellings within the National Park, including accommodation for older people and those needing special facilities, care or support at home. Schemes will be expected to meet the need for smaller dwellings.

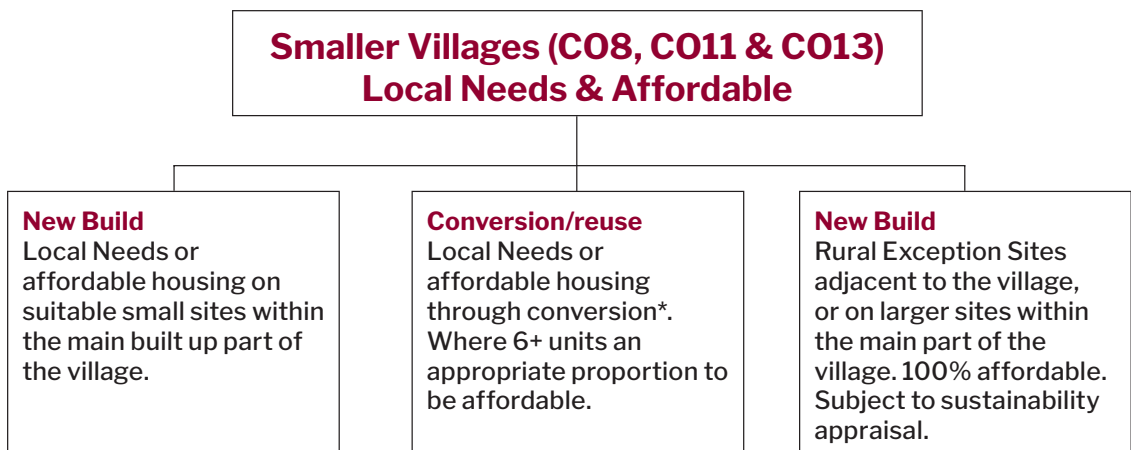
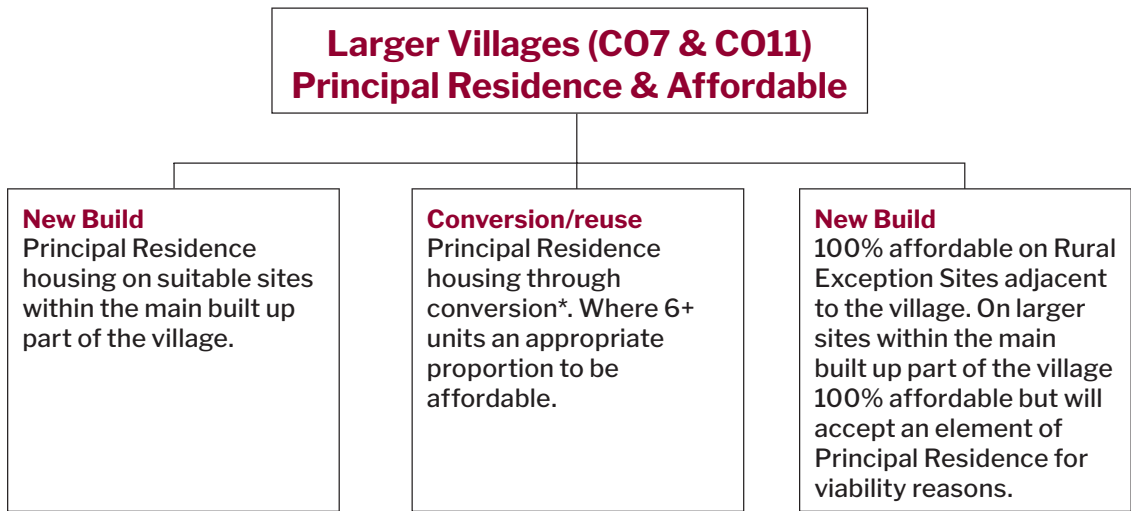
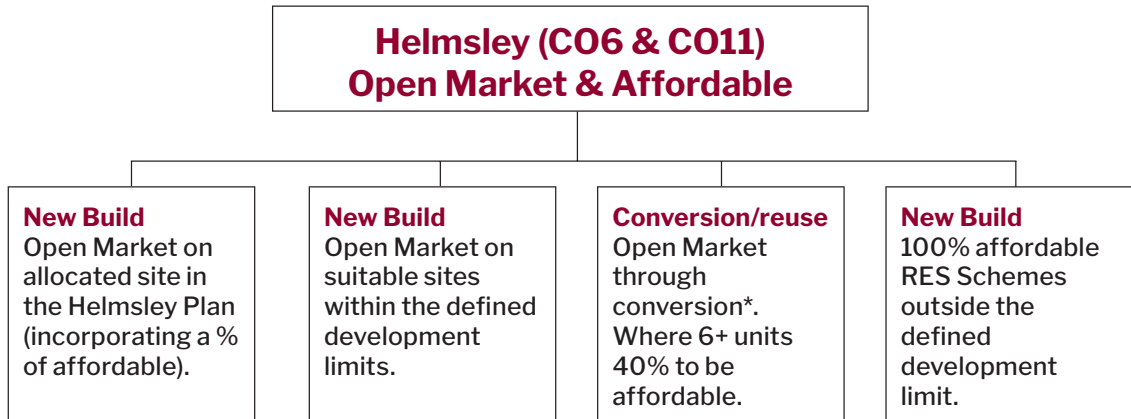
All proposals should be of a high quality design and construction to ensure that the character and distinctiveness of the built environment and local landscape are maintained.

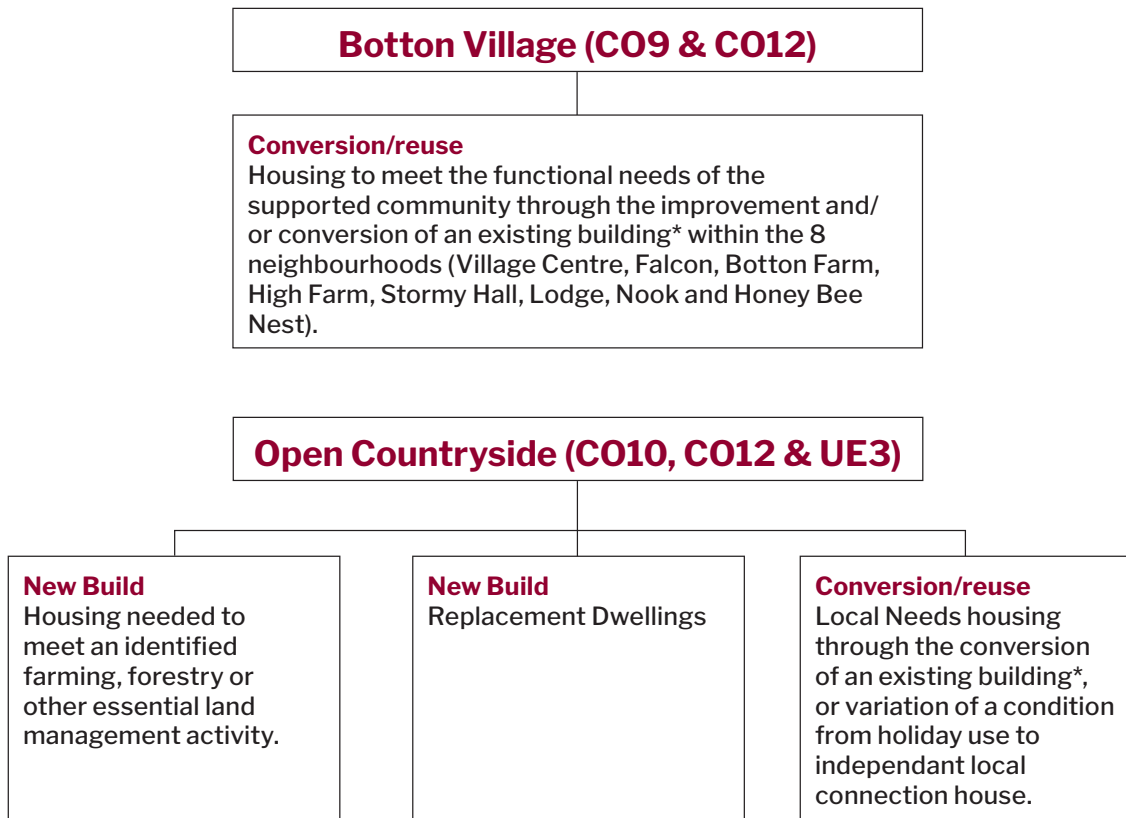
Explanation

- 7.22 The National Park lies within commuting distance of Teesside, York and Leeds and also attracts people who want to retire or buy holiday homes. Demand for housing is strong and house prices have been high in relation to the rest of the Yorkshire and Humber region for many years. Affordability remains a problem for many communities. Increasing levels of second home ownership can also reduce the vitality of villages particularly in villages close to the coast and in the most attractive moorland villages.
- 7.23 Opportunities for new housing development that supports National Park purposes are very limited and need to be considered carefully in terms of how they can best support local communities. As a protected landscape the conservation of open countryside and important undeveloped spaces within villages is a fundamental part of the first National Park purpose. The Government makes clear through the National Parks Circular that National Parks are not suitable locations for unrestricted housing, and that the focus should be on providing for local housing needs through the provision of affordable housing and housing to support local employment opportunities and key services. The NPPF also requires that great weight should be given to conserving landscape and scenic beauty in the National Parks and identifies them as areas where development should be restricted. This Plan therefore focusses on meeting local housing need rather than meeting the objectively assessed need for new homes in line with national policy.
- 7.24 The strategy for housing in this Local Plan is:
- a) To meet a significant element of housing demand and need in the Local Service Centre of **Helmsley**, in order to help widen local housing choice and support local services. This will be achieved through the development of land allocated for new open market and affordable housing in the adopted Helmsley Local Plan and through Policy CO6.

- b) To allow for a more limited amount of housing including principal residence and affordable housing on suitable small sites in **Larger Villages**. The aim is to have a flexible approach to new housing that will help stem population decline and support the vitality of the local economy and services in these communities whilst respecting the character and form of the built environment. This will be achieved through Policies CO7 and CO11.
- c) To permit small schemes of local needs housing on suitable small sites in **Smaller Villages** to meet the needs of local people in a way that will maintain the tranquil rural character of these settlements. This will be achieved through Policies CO8, CO11 and CO13.
- d) To encourage the delivery of affordable housing to meet local needs and provide new housing opportunities for a younger population across all settlements. This will be achieved by encouraging affordable schemes in Larger and Smaller Villages through Policy CO11, **Rural Exception Sites**, which allows affordable dwellings that meet a specifically identified local needs on sites where housing development would not normally be permitted.
- e) To protect **Open Countryside** from inappropriate housing development, in line with established national policy whilst recognising that some new housing may be needed as an exception to help meet the needs of agricultural, forestry or other essential land management workers. This will be achieved through Policy CO10.
- f) To avoid new homes becoming **second or holiday homes**. This will be achieved by applying principal residence and/or local connection restrictions to all new housing other than in Helmsley. This will be achieved through Policies CO7, CO8 and CO13.
- g) To achieve a more balanced population demographic by encouraging **smaller, more affordable homes** to provide more choice in the housing stock and help retain a younger population demographic. This will be achieved through Strategic Policy M and Policies CO6, CO7 and CO8.

7.25 The following guide helps to explain this strategy:





*A building which contributes to the character of the local built environment and reflects the vernacular architecture of the North York Moors; or is important in terms of its connection with local history or culture; or a building that is unique to the local area; or a building which represents a good surviving example of an historic architectural style; or a building of exceptionally high quality and design.

Amount and location of new housing

- 7.26 No land is allocated for housing in this Local Plan apart from any housing elements of Environmental Enhancement Sites (Policy ENV13). Housing delivery will be through land allocated in the Helmsley Local Plan, development of suitable small sites in Smaller and Larger Villages (including custom and self-build housing), conversions and affordable housing ‘exception’ sites identified in conjunction with Rural Housing Enablers.
- 7.27 A Strategic Housing Market Assessment (SHMA) was carried out in 2016 which noted that the key requirement in the National Park is for affordable housing to meet local needs. The SHMA concluded that an annual figure of 29 dwellings, mainly 1 and 2 bedroom units for affordable housing and smaller 2 and 3 bedroom units for general housing needs, together with some specialist housing for the growing elderly population would meet local needs and have the potential to stabilise population levels. There is little need for larger properties. The nationally described method of calculating housing need and the ‘Housing Delivery Test’ does not apply in National Parks.
- 7.28 The Plan anticipates that a minimum of 551 new homes (29 per year) will be completed between 2016 and 2035. However, decisions regarding new house building will not be driven by the number of dwellings that are to be

provided; instead they will be based on whether the proposal will help to meet community needs whilst being of a quality that respects National Park purposes. It is recognised that National Park communities face problems of housing affordability, declining population and loss of services. Small scale, sensitively designed schemes which are assets to the community will therefore be supported regardless of past building rates. The rate of 29 new homes per year should be regarded as a minimum and will not be used to put a moratorium on new housing development once it is reached. A Housing Trajectory showing anticipated housing delivery over the lifetime of the Plan is at Appendix 5. Should monitoring of the trajectory reveal that the rate of 29 homes per year is not being reached over a sustained period, policies relating to housing supply in this Plan will be reviewed.

- 7.29 A supporting Land Availability Assessment (LAA) indicates which sites in the National Park may be suitable for development and which have permission for development. This will be updated annually.
- 7.30 Proposals for residential development in Helmsley will be determined in accordance with the policies in the Helmsley Local Plan. The Helmsley Local Plan was produced jointly by the National Park Authority and Ryedale District Council and adopted in July 2015. It sets out a vision for Helmsley and includes housing policies which cover residential development on allocated sites, windfall development and affordable housing provision. Proposals for residential development in Helmsley will be determined in accordance with these policies.
- 7.31 Policies C06, C07 and C08 allow for housing development on suitable small sites in Helmsley and villages listed in the settlement hierarchy. These sites must be within the main built up area and have satisfactory access to the existing public highway. They must be of a scale that is appropriate to the size and function of the settlement. This will generally be sites capable of accommodating no more than five dwellings in Helmsley and the Larger Villages and no more than two dwellings in Smaller Villages. Development proposals must be well related to the form and grain of the existing surrounding residential development and should make efficient use of the available space. This means allowing scope for the full capacity of the site to be developed in future if the initial proposal is for just part of the site.
- 7.32 Suitable small sites may not always be a gap within a continuously built up frontage but they will always fit in with the existing pattern of the settlement. It is not intended to allow consolidation of sporadic outlying development or to allow villages to expand into open countryside. Gaps created by the development of rural exception sites which are not part of the main built up area of the settlement will not be considered to be suitable small sites. It is also important to recognise the amenity value of certain undeveloped spaces within the main built up area of settlements and therefore not every site will be considered suitable for new housing.
- 7.33 The National Park contains many settlements with a loose knit character where there is existing outlying development beyond the main core area. In these settlements the outlying development and any land between it and the core area are not regarded as part of the main built up area of the village. Any small plots of land within an existing frontage of the outlying development would not therefore be regarded as suitable small sites. Where settlements contain a number of built

up areas it is intended that the housing policies will apply solely to the central main built up part of the settlement.

Types of housing

- 7.34 Policies within this Local Plan support the provision of a range of types of housing. The vast majority of existing housing in the National Park is open market housing without any restrictions regarding occupation or price and more open market dwellings are being provided in Helmsley in accordance with the Helmsley Local Plan.
- 7.35 **Principal residence housing.** A form of market housing controlled by a mechanism which ensures it can be lived in by anyone but only as their main residence. Villages where a large proportion of properties are used as second homes can suffer from a lack of vitality particularly during winter months and this can lead to an erosion of the sense of community within the village. Local services and facilities can also decline in the absence of all year round support. Requiring new dwellings to be occupied as a principal residence avoids further loss of stock to second homes in the National Park whilst enabling the local economy to benefit by providing new housing for people coming into the area to live, work and contribute to the local community. The Authority will therefore allow principal residence housing in Larger Villages to support their service function.
- 7.36 Principal residence housing must be used as the principal residence of the household living in it but does not have any price restrictions or any local connection requirements. Although there is likely to be a small reduction in the value of the dwelling compared with an open market dwelling, the reduction is significantly less than with a local connection condition. Principal residence requirements will be secured through a planning condition and will be monitored by the Authority.
- 7.37 **Local needs housing.** Since 1992 the Authority has used local occupancy conditions to ensure that new housing is used to meet the needs of local people. There is ongoing local support for this approach which is continued for new housing development in Smaller Villages and for conversion of buildings in Open Countryside. In comparison with previous policies, however, the criteria used to determine local occupancy have been widened and are now referred to as 'local connection' criteria. Their aim is to ensure that new housing developments in Smaller Villages are for the benefit of existing and future residents who make a contribution to the National Park society and economy. Policy C013 sets out the criteria that will be applied to local needs housing schemes. The local connection requirement will be secured through a planning condition and will be monitored by the Authority.
- 7.38 **Affordable housing.** In recent years many small affordable housing schemes have been successfully developed in the National Park through partnership working with Rural Housing Enablers, Registered Providers (housing associations), Local Housing Authorities and Homes England (formerly the Homes and Communities Agency) as part of the North Yorkshire Strategic Housing Project. These schemes have delivered social and affordable rented housing as well as shared ownership dwellings in local communities and this Local Plan supports the provision of further affordable dwellings which meet local needs.

- 7.39 Affordable housing is defined in the NPPF and the same definition is included in the Glossary to this Plan (Appendix 4). Recent changes to the definition of affordable housing mean that many different types of housing development now come under the umbrella of affordable housing, including ones that have not so far been common in the National Park such as discounted market sales housing and affordable private rent. Such new forms of affordable housing mean that local landowners and small developers as well as Registered Providers may now put forward affordable schemes in the National Park provided they comply with policies in this Plan, including that the proposed dwellings will remain affordable in perpetuity.
- 7.40 The link between local incomes and prices on the open market is a key factor in the assessment of affordability and the Authority will be looking for schemes where the monthly rent and/or mortgage costs are less than 30% of gross monthly household income. If proposals are for any form of low cost home ownership, the Authority will also look at the level of deposit needed to secure a mortgage as this can take a property out of reach of people who need affordable housing. Applicants should be aware that some affordable models, for example, developments where sales are discounted below the prevailing market value, may still not deliver genuinely affordable options for local residents and these would not be supported by the Authority. Similarly, affordable rents may need to be less than 80% of local open market rents to be affordable for local households.
- 7.41 Occupancy of affordable dwellings will be restricted by means of a Section 106 agreement or planning condition to those in housing need who require affordable housing and also have strong links to the local community. The agreement or condition will require the dwellings to remain affordable in perpetuity.

Size of new dwellings

- 7.42 There is a predominance of larger homes within the existing housing stock in the National Park. In 2011 44.2% of homes were detached houses, compared to 22.6% for England and Wales, and there were 3.1 bedrooms on average per house compared to 2.7 nationally. At the same time there is a trend towards smaller households and there is also evidence that affordability is a problem, particularly for younger people needing to set up home for the first time.
- 7.43 In order to achieve a better balance within the housing stock, all new build housing developments within Larger and Smaller Villages together with new build 'windfall' developments in Helmsley should meet the need for smaller dwellings. The exact size of units in individual proposals will need to take account of the character of any surrounding development and the particular circumstances of the site but as a general principle the Authority is looking for housing development that will meet the growing need for dwellings for smaller households.

Policy ENV1 - Trees, Woodlands, Traditional Orchards and Hedgerows

There will be a presumption in favour of the retention and enhancement of existing trees, woodland, traditional orchards and hedgerows of value on all developments.

Where a development would result in the unavoidable loss of an existing tree, orchard or hedgerow but the wider sustainability benefits of the development clearly outweigh the loss, proposals will be expected to minimise harm and provide a net biodiversity and amenity gain, with appropriate replacement of lost trees or hedgerows.

Development will not be permitted that would lead to loss of or damage to ancient woodland and aged or veteran trees found outside ancient woodland unless there are wholly exceptional reasons and the need for, and benefits of the development in that location clearly outweigh the loss.

Explanation

- 4.31 Trees, woodland and hedgerows are integral to the character of the National Park and form an important element of the landscape, providing valuable habitats for wildlife as well as delivering environmental benefits such as carbon storage, flood risk management and opportunities for recreation. There will be a presumption in favour of the retention of all trees and hedgerows of value and in considering development proposals the Authority will look at the ecological, visual, amenity and landscape value of existing trees and hedgerows on site.
- 4.32 In the majority of cases development will be able to be sited so as to retain trees, hedgerows or woodland which are of value within a scheme. In appropriate

cases, applicants will be required to provide a detailed tree survey and arboricultural impact assessment to show the location, species, canopy size and root system spread of existing trees and the impact of the proposed work, including any work to underground services. In addition applicants may be required to provide a method statement, tree protection plan and management plan to ensure that trees are protected during construction works and managed appropriately thereafter. Where the loss of particular features cannot be avoided and is justified by wider sustainability benefits, the Authority will require replacement planting on site, normally using native species, which provides a net biodiversity and amenity gain. Applicants should refer to British Standard recommendations when drawing up proposals for appropriate net gain.

- 4.33 Particular emphasis will be placed on the protection of areas of ancient woodland and ancient or veteran trees. Planning permission will be refused where development proposals will directly or indirectly result in loss or damage to such features, including damage to their setting in the landscape, unless the need for and benefits of development in that location clearly outweigh their loss.
- 4.34 Planning conditions or, where appropriate, Section 106 agreements and Tree Preservation Orders will be used to ensure that features are retained or, where removal of trees is proposed, to ensure replacement planting or other enhancement measures to compensate for any feature lost directly or indirectly as a result of the development. Applicants should refer to the Design Guide Supplementary Planning Document - Part 3 - Trees and Landscape. The Authority will also use Natural England guidance²⁴ when considering developments affecting ancient woodland, ancient trees and veteran trees.



Planning Notice

Town and Country Planning (Development Management Procedure) Order 2015 Notice under Article 15

Application Number NYM/2021/0351/OU
Applicant SIW Properties
Site Address Land west of Highfield, Sled Gates,
Fylingthorpe,

Proposal outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Following the Government's cautious easing of national restrictions since 29 March 2021 and the recent easing from 17 May, Planning Officers are now available to meet on site or at the office in Helmsley by prior appointment and subject to adherence to the Authority's Covid-19 safeguarding protocol (in the case of pre-application advice this will be subject to the normal fees). The office in Helmsley is likely to re-open to the public on 21 June, however until this date staff will be available to answer telephone calls and receive mail during normal office hours. For further information visit our [Planning Coronavirus Webpage](#).

Documents for the application(s) are available under the application reference number on the Planning Explorer section of the Authority's website which can be accessed by scanning the QR code below or at: <http://planning.northyorkmoors.org.uk/Northgate/PlanningExplorer/ApplicationSearch.aspx>.

Any comments you may have on the application(s) should be made **within 21 days** of the date of this notice. Where the consultation period extends over a Bank Holiday an additional day is given for each Bank Holiday that falls within this period. You may comment by using the Authority's online consultation response form, by email (planning@northyorkmoors.org.uk), letter or fax.

Please be aware that any views submitted will be available for public inspection and will be published on the Authority's website, under the provision of the Access to Information Act.

Mr C M France
Director of Planning
North York Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York, YO62 5BP
website: www.northyorkmoors.org.uk



Date of Notice:

email: planning@northyorkmoors.org.uk
tel: 01439 772700

North York Moors National Park Authority

LOCAL PLAN

July 2020

Policy CO7 - Housing in Larger Villages

In order to support the wider service function of Larger Villages, principal residence and affordable housing will only be permitted:

1. On suitable small sites within the main built up area of the village only. Proposals will be expected to meet the need for smaller dwellings;
2. As a conversion of an existing building which lies within the main built up area and makes a positive contribution to the character of the settlement. Where a conversion will create six or more new dwellings an appropriate proportion should be affordable, in line with national policy and subject to viability.

i) PLANNING HISTORY

Recent Application: NA

Recent Enquiries: 17392 - HS

ii) CONSTRAINTS

Conservation Area: / Listed Building: Grade:

Flood plain (Zone 1), PROW, TPO/Hedgerow Monuments, PSR, Section 3 Coast, SAC, SSSI, Ant Mons, Nat Trust, Article 4, RAF, SPA, **Section 3 Woodland 250m**, Section 3 Moorland, Historic P&G, Registered Common Land, Mining Hazards, Heritage Coast, Ancient Woodland, Dev't low risk (coal referral), Dev't high risk (coal consultation), MOD, Wind turbine buffer, **ponds 500m buffer**, FC roads/legal buffer, HE Scheduled Monument, **SSSI Impact Zone**, Estate Landowners, S106 Agreement, Source protection zones ½, **hedgerow notifications**

Road Class: C

iii) CONSULTATIONS

Parish
Highways
EHO
Cons@
Police - Traffic

Highfield
Keldy

iv) ADVERTISEMENT

In the Authority's opinion would the development:

affect the setting or appearance of a Conservation Area?

NA If **'NO'** give a reason why:

Affect a Listed Building

NA If **'NO'** give a reason why:

Affect the setting of a Listed Building?

NA If **'NO'** why:

Affect a Public Right of Way?

NA If **'NO'** why:.

Site Notice Required: Yes

Advertisement Required: No Reason:

Paper: (Please select)

v) DEVELOPMENT DESCRIPTION (to be completed by Planning Team Leader)

outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Does this need amending? No (if yes please indicate amendments in red for additions / yellow for deletion)

vi) SCREENING OPINION

EIA Schedule 1/Schedule 2: No If Schedule 2, is statement required NA

EIA: No 16 wks

vii) POLICY INFORMATION

Relevant RSS/EU Dirs/HRA: (Planning Team Leader to Complete)

Major Application: No (13 weeks) Departure: No County Matter: No

Brownfield/**Greenfield**/Agr conversion/Non-Agr conversion Net change to no. of dwellings: +5

5 residential units or more or 200 sqm or more or non residential floorspace? Yes 10% Renewables:
Not Required outline app

