

Planning Inspectorate Reference:

APP/W9500/W/22/3301450

Local Planning Authority Reference:

NYM/2021/0351/OU

## North York Moors National Park Authority

Town and Country Planning Act 1990

Appeal by: SIW Properties

Against: Refusal of outline planning permission for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Location: Land west of Highfield, Sled Gates, Fylingthorpe, nr Whitby, North Yorkshire

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### Statement by Local Planning Authority For Written Representations Appeal

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## 1.0 Introduction

- 1.1 This Statement refers to the refusal of outline planning permission for the construction of up to 5 no. principal residence dwellings with associated vehicular access, with details of the appearance, landscaping, layout and scale of development being considered through the reserved matters application on a site to the west of a property known as Highfield, Sled Gates, Fylingthorpe, nr Whitby. The application was refused by North York Moors National Park Authority (NYMNPA) as the Local Planning Authority (LPA) on 12 January 2022.

### Appeal Site and the Surrounding Area

- 1.1 The location of the site is towards the southwest edge of the village of Fylingthorpe, approximately 7.5km south of Whitby. Sledgates is a C-class road and an important gateway into the village from the south. The A171 Whitby-Scarborough Road is about one mile away. There is some housing development on both sides and opposite, but the built-up part of the village ends a little further up the hill to the west.
- 1.2 The site is part of a grass field which gradually slopes up from north to south. A footway of about 1.8 m runs along the roadside. There is a low stone retaining wall along the roadside which has historically been topped by a hedgerow.
- 1.3 The western boundary of the site, with the adjacent house, includes a hedgerow and trees. There is a field gate at the top west end of the road frontage. The road frontage is approximately 57 metres but the rear boundary of about 35 metres.
- 1.4 Adjacent to the appeal site on the west side is a detached house known as Keldy. Immediately to the east is part of a separate field which is in different ownership, and which has been fenced off. East of that is a row of four houses, the first one of which is known as Highfield. Opposite are houses, mainly small and semi-detached. The houses opposite have only limited off-road parking and so there are often vehicles parked along the highway.
- 1.5 Downhill to the East of the site is a sharp bend in the road, which restricts visibility. The speed limit along the site frontage is 30mph, and changes to the National speed limit approximately 120m to the west.

## 2.0 Relevant Site History

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- 2.1 Three separate outline applications for residential development were refused between 1983 and 1986 (NYM/4/29/0243, 243A and 243B) with the 1986 refusal also being dismissed at appeal (see Appendix B). 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.
- 2.2 Outline planning permission was again refused in 2005 (NYM/2004/0449/OU) 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.
- 2.3 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 sightlines could not be achieved.
- 2.4 Permission was again refused in 2007 (NYM/2007/0146/FL) for the construction of 2 detached dwellings and the formation of a new access. This was again dismissed at appeal (See Appendix B)
- 2.5 A further application was refused in 2010 (NYM/2021/0278/FL) 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

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infill site was “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.

3.5 The Local Development Plan has now been superseded by the 2020 Local Plan which has reverted back to allowing development on some larger sites and consequently the proposal being considered at this appeal was submitted.

### 3.0 Proposed Development and the Decision

3.1 The proposal to which this application relates seeks outline planning permission for the construction of up to 5 no. principal residence dwellings with associated access comprising a new single point of access centrally along the site frontage.

3.2 The application received the normal statutory publicity. There were objections from the Highway Authority on the grounds of inadequate sight lines and visibility and concerns from the National Park Authority’s Ecology Team regarding the potential impact of the proposals on the historic hedgerow. Written letters of objection were also received from Fylingdales Parish Council and from the occupiers of 16 nearby properties.

3.3 The application was considered by the Director of Planning and refused under powers delegated to him by the Planning Committee, on 12 January 2022 for the following reason: -

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 Park’s Statutory Purposes as set out in

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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.

#### 4.0 Planning Policy and Guidance

5.1 This section covers both the statutory Development Plan and the general implications of the location of the appeal site within a National Park.

5.2 At the time of decision, the Development Plan for the area formally consisted of the North York Moors Local Plan which was adopted by the NPA on 27 July 2020. (The Development Plan now also consists of the Whitby Business Park Area Action Plan (2014, the Helmsley Local Plan (2015) and the Minerals and Waste Joint Plan (2022) though these do not contain policies relevant to this appeal). The most relevant policies in the determination of this appeal are considered to be:

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.

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.

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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 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.

The National Planning Policy Framework - Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) does not change the statutory status of the Development Plan as the starting point for decision making but is an important material consideration in the determination of an application. Development that accords with an up-to-date Local Plan should be approved, and conversely development that conflicts should be refused unless other material considerations indicate otherwise. The North York Moors Local Plan (NYMLP) was adopted on 27 July 2020 under the provisions of the Town and Country Planning (Local Planning)(England) Regulations 2012 and does not conflict with national policies in the NPPF. It is therefore up-to-date and should be the starting point for any planning decision making in the North York Moors National Park.

The Government's commitment to the protection of National Parks is clearly set out in the NPPF (July 2021). Paragraph 176 says that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection.

Furthermore, whilst at the heart of the NPPF is a presumption in favour of sustainable development, Paragraph 176 also confirms that the scale and extent of development within these designated areas should be limited. It is clear therefore that the NPPF expects a different approach to be taken in National Parks both to plan making and decision taking compared with other areas outside of designated National Parks.

The North York Moors National Park was formally designated in 1952 under the National Parks and Access to the Countryside Act 1949. The two key purposes

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are to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks and to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public. When it appears that there is conflict between these purposes the 'Sandford principle' confirms that greater weight should be given to the first purpose, the conservation of the landscape (English National Parks and the Broads Circular 2010), 'Environment Act 1995, part III: 'National Parks' DoE, 11 September 1996.

## 5.0 Local Planning Authority's Case

6.1 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.

6.2 Firstly, it is considered that this site 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".

6.3 However, the Inspector went on to dismiss the previous appeal as it was considered it had not been satisfactorily shown that an environmentally sensitive access could be achieved. This is particularly pertinent to the current application.

### Highway Safety

6.4 Whilst accepting that the site might comprise a suitable site in terms of Policy CO7, consideration also needs to be given as to whether the site can achieve safe access which is a requirement of Policy CO7 as well as Policy CO2.

6.5 The Local Highway Authority (LHA) gave the proposals extensive consideration and the applicant's agent submitted a number of traffic surveys and plans in order to overcome the Highway Authority concerns. However, the Highway Authority concluded that satisfactory sightlines could not be achieved and consequently recommended refusal on highway safety grounds.

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6.6 In response to the arguments put forward by the appellants agent, the LHA advised that there were no allowances to reduce sightline distances looking left away from the nearside kerb line for the reason that the oncoming traffic would not be at this location; the far side frequently has parked cars on the road which has the resulting effect of pushing the oncoming vehicles, including buses, out into the near side lane. Therefore, it was not considered acceptable for the visibility to be measured at a point 0.9 metres out into the road.

6.8 Furthermore, for vision splays to be improved, it relies on neither of the two neighbouring plots having any hedges or vegetation growing over the highway boundary.

6.9 In order to improve sight lines to the maximum possible, taking into account the restraints of neighbouring land ownership, the scheme proposes removal of the historic hedge and the boundary wall at the front of the site which comprises the second reason for refusal.

#### Hedgerow

6.10 In terms of the issue of the hedgerow; during the 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.

6.11 The Authority's Ecologist was consulted on the appeal proposal and advised that based on the data available, the hedge is worthy of retention under the hedgerow regulations. 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 the National Park Authority must have a 'due regard' for their importance when undertaking its functions. If consented for removal it would mean that the mitigation and compensation requirements would be higher than for non-priority habitat so that it is ensured that overall biodiversity loss is not permitted.

6.12 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 criterion 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. 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 previous applications and appeals on the site.

- 6.13 The ecological opinion provided by the appellants Ecological consultant (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 the survey was undertaken was 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 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).
- 6.14 Whilst it is accepted that it cannot be proved that the hedge should be counted as 'of importance' under the Regulations on the basis of the photograph provided by in a third-party comment, it is considered 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 2021 when woodland flora may have died back or been repressed and hidden due to later growth of lush species.
- 6.15 However, 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 Natural Environment and Rural Communities Act) and therefore in line with the NPA Statutory Purposes the Authority would not want to see this habitat lost or detrimentally affected by the proposals.

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## 7.0 Matters of Common Ground

7.1 Policy CO7 of the NYMLP aims to support services and maintain the economic vitality of Larger Villages within the National Park by permitting the development of principal residence or affordable housing on suitable sites within the main built-up part of the village. The National Park Authority is of the view that the appeal site does comprise a small site within the main built-up area of the village of Fylingthorpe and the provision of principal residence housing would be in accordance with Policy CO7 if there were not the issues relating to highway safety and hedgerows as set out above.

7.2 Archaeology - 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. However, this would not prevent development of the site, subject to appropriate planning conditions.

## 8.0 Conclusion

8.1 As set out above, the Highway Authority concluded that satisfactory sightlines could not be achieved, and the proposal would therefore be unacceptable as it would be detrimental to Highway Safety. In addition, the only way to improve visibility splays would rely on two neighbouring properties cutting back any hedges or vegetation growing over the highway boundary and the removal of the historic hedge and the boundary wall at the front of the site.

8.2 In view of the above it is considered that in addition to compromising Highway Safety, the proposal would result in habitat loss, contrary to the National Park's 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.

8.3 Therefore, the NPA respectfully requests that the Inspector dismisses the appeal. However, should the Inspector be mindful to allow the appeal, a list of conditions which the NPA would wish to see imposed are attached at Appendix A.

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## APPENDIX A

### Conditions

1. The development hereby permitted shall be commenced on or before whichever is the earlier of the following dates:
  - i) three years from the date of this permission;
  - ii) the expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.
2. The application property hereby permitted, shall be used as a principal residential dwelling and for no other purpose including any other use in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 2020 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). The property shall be the only or principal home of the main occupant and it shall be occupied by the main occupant for at least 80% of the calendar year in the event that the main occupant occupies more than one property. The property shall not be occupied by the main occupant as a second home. The occupants shall supply to the local planning authority (within 14 days of the local planning authority's request to do so) such information as the local planning authority may reasonably require in order to determine compliance with this condition. For the avoidance of doubt the property shall not be used as a single unit of holiday letting accommodation.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order), no development within Schedule 2, Part 1, Classes A to H of that Order shall take place without a further grant of planning permission being obtained from the Local Planning Authority.
4. No external lighting shall be installed in the development hereby permitted until details of lighting have been submitted to and approved in writing by the Local Planning Authority (lighting will only be considered acceptable if it is of a style and luminance which minimises glare and light pollution with all bulbs shielded to prevent upward and minimise horizontal light spill ).The lighting shall be installed in accordance with the details so approved and shall be maintained in that condition in perpetuity.

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5. No work shall commence on the construction of the walls hereby approved until scaled plans showing the finished floor level, eaves and ridge height of the dwelling hereby permitted in relation to adjacent properties have been submitted to and approved in writing by the Local Planning Authority. The plan shall also include details of a fixed off-site datum point in the immediate locality. The work shall not be carried out otherwise than in accordance with the details so approved.
6. No work shall commence on the construction of the walls and roof of the development hereby permitted until details of the external materials, including samples if so required by the Local Planning Authority, to be used for the external surfaces of the development (including dressings) have been submitted to and approved in writing by the Local Planning Authority. The materials used shall accord with the approved details and shall be maintained in that condition in perpetuity unless otherwise agreed with the Local Planning Authority.
7. All pointing in the development hereby permitted shall accord with the following specification - a lime mortar mix of 1:2½ (lime; sand (sand mix of 50% sieved sharp sand and 50% builder's sand) with a slightly recessed bagged finish.
8. The external face of the frame to all new windows shall be set in a reveal of a minimum of 50mm from the front face of the adjacent walling and shall be maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
9. Trickle vents shall not be incorporated into any new windows hereby approved and shall not be installed thereafter unless otherwise agreed in writing with the Local Planning Authority
10. The guttering to the development hereby permitted shall be directly fixed to the stonework by means of gutter spikes with no fascia boarding being utilised in the development and shall thereafter be so maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
11. The rainwater goods utilised in the development hereby permitted shall be coloured black and shall thereafter be so maintained in that condition in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
12. No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the drawings to be approved through a reserved matters application. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

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13. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.
14. Prior to any works being undertaken to the access to the site, the frontage hedgerow shall be carefully translocated into the new alignment, retaining as much of the existing root mass, topsoil and subsoil as possible. The hedge must thereafter be maintained for a period of 10 years during which any trees/shrubs that fail should be replaced like for like (replacing with the same species as that which has been lost).
15. No work shall commence on any boundary treatments until full details of the proposed boundary treatment to the site, including the size and species of any hedging, the materials to be utilised to any walls or fences and the timetable to implement the proposed works, shall be submitted to and approved in writing by the Local Planning Authority. The site boundary works shall then be implemented in accordance with the approved details. The boundary treatment shall be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
16. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until visibility splays are provided in accordance with the approved plans. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
17. No work shall commence to clear the site in preparation for the development hereby permitted until full details of the access surfacing have been submitted to and approved in writing by the Local Planning Authority. The access surfacing shall then be implemented in accordance with the approved details and shall be maintained in that condition in perpetuity.
18. Prior to the construction of the walls of the dwellings hereby approved details shall be submitted to and approved in writing by the Local Planning Authority of the design and location of integral bat and bird boxes. The bird and bat boxes shall be incorporated in accordance with the approved details and thereafter be maintained in perpetuity.
19. No work shall commence to clear the site in preparation for the development hereby permitted until full details of the hardsurfacing to be utilised on the site have been submitted to and approved in writing by the Local Planning Authority, including a timetable to implement the proposed works. The hard landscaping works shall then be implemented in accordance with the approved details. The hard landscaping shall

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be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

20. 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.
21. 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.
22. Any historic or archaeological features not previously identified which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the Local Planning Authority in writing within 10 working days of their being revealed. Works shall be immediately halted in the area/part of the building affected until provision shall have been made for the retention and/or recording in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.
23. Prior to the first occupation of the development hereby approved details of how the biodiversity of the National Park is enhanced by the development, in accordance with DEFRA 's 'small sites' version of the Biodiversity Net Gain metric [The Small Sites Metric - JP040 \(naturalengland.org.uk\)](https://naturalengland.org.uk). shall be submitted to an approved in writing by the Local Planning Authority. The approved details shall be carried out no later than the first planting season following the occupation of the buildings, or completion of the development, whichever is the sooner, or in accordance with a programme agreed by the Local Planning Authority. The approved landscaping scheme shall be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

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**APPENDIX B**

D/311/HAS/P



Department of the Environment and  
Department of Transport

Common Services

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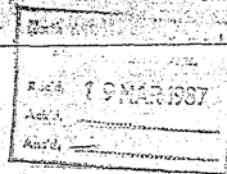
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Your reference

BGS/31H

Our reference

T/APP/P2731/A/86/57334/P4

Date

16 MAR 87

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY MRS H F HARWOOD  
APPLICATION NO: 4/29/243B/PA

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the North Yorkshire County Council on behalf of the North York Moors National Park Committee to refuse outline planning permission for erection of 2 dwellings in part OS No 797 Sledgates, Fylingthorpe, Whitby. I have considered the written representations made by you and by the council and also those made by interested persons. I inspected the site on 19 February 1987.
2. The appeal site is part of a field on the outskirts of the village. It is bounded by a low stone wall about 1 m high which is topped by a trimmed thorn hedge varying in height from 0.7 m to 1 m approximately. Similar walls and hedges bound other properties to the west along Sledgates. There is a 30 mph speed restriction on Sledgates which has a 5.7 m carriageway and a footway of about 1.8 m alongside the site.
3. Fylingthorpe is defined in Policy HP3 of the North York Moors Interim Local Plan as a service village where new development will be concentrated. The site is within the National Park where there is a strong commitment to conserve the landscape, and a presumption against development which detracts from the landscape.
4. From my inspection of the site and its surroundings, and from the representations received, I am of the opinion that the principal issue is whether or not adequate vehicle access can be obtained having regard to highway safety, and the need to protect the appearance of the locality.
5. The site is on the edge of the village, with small semi-detached houses 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, and as such would be acceptable under Policies HP3 and HP4. However, any development would have to be of a high standard of design and materials with adequate landscaping, and minimum disturbance of existing natural features in order to ensure that the policies designed to protect the environment of the National Park were not contravened.
6. Your client's application is in outline, with design and external appearance of the buildings reserved for a subsequent detailed application. Siting, means of access and landscaping are included for consideration with this application as shown on Plan 31/H/3. The access would be in the north-west corner of the site where

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there is a field gate. The present agricultural use is probably very intermittent, whereas the 2 dwellings would generate a much greater volume of traffic with several vehicle movements each day. Visibility westwards is reasonably clear for at least 60 m, but is very much more restricted eastwards because of the hedge and the wall. Drivers would have to move out into the carriageway to see further than about 20 m eastwards, and this would cause considerable danger to road users. The use of the existing field access as it is at present would therefore not be acceptable because of increased traffic hazard. It is therefore clear to me that it would be necessary to remove or lower the hedge, and possibly the wall to enable visibility to be increased to at least 60 m.

7. Your plan 31/H/3 shows a visibility splay but does not explain how this could be achieved. You say that the proposals do not involve the removal of existing hedges, and you go on to say that reasonable visibility can be obtained by reducing the height of the hedge. The hedge is already low, and I consider that any further significant reduction could destroy it. It would certainly alter the appearance of the area, where the wall and hedge is an attractive feature for some distance along Sledgates. Even if the hedge did survive, it might be difficult in future to ensure that it is maintained at a low height. In the absence of detailed levels, I am not convinced that parts of the wall would not also have to be lowered. Sledgates is lightly trafficked except in the holiday season, and there is some justification for reducing standards in order to protect the environment. I do not consider that it is of any major significance whether the "Y" distance is 60 m or 70 m, but it is important that it should be much better than at present. For the reasons stated above, I think that this cannot be obtained without major alterations to the hedge and the wall which would in my view have an adverse effect upon the character and appearance of the locality.

8. You say that planning consent was given in 1958 but this has lapsed. In the last 30 years circumstances have changed with the increase in traffic and the emergence of development control policies, both nationally and locally designed to protect National Parks from inappropriate development. I also note that your client needs capital to enable her to move house. I sympathise with her and appreciate the difficulty of elderly people in obtaining suitable accommodation at a price that they can afford. I do not however consider that these circumstances are of sufficient weight to override the objections to this proposal.

9. I have also taken into account all the other matters raised in the representations, but consider that none of these are of sufficient weight to alter my decision.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Sir  
Your obedient Servant

J S DEAKIN FRICS  
Inspector

Planning Inspectorate Reference:

APP/W9500/W/22/3301450

Local Planning Authority Reference:

NYM/2021/0351/OU



## Appeal Decision

Site visit made on 14 January 2008

by **Wenda Fabian** BA Dip Arch RIBA IHBC

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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Decision date:  
24 January 2008

**Appeal Ref: APP/W9500/A/07/2056979**  
**Sledgates, Fylingthorpe, North Yorkshire YO22 4TZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr S Wordsworth against the decision of North York Moors National Park.
- The application Ref NYM/2007/0146/FL, dated 15 February 2007, was refused by notice dated 5 April 2007.
- The development proposed is the erection of 2 No detached houses with garages and formation of a new access.

### Decision

1. I dismiss the appeal.

### Main issue

2. The main issue is the effect of the proposal on highway safety.

### Reasons

3. The appeal site is part of a field alongside the Sledgates road through Fylingthorpe, a settlement where saved policy H1 of the *North York Moors Local Plan* (LP) allows infill development of one or two houses to meet local need. The proposal is for two large detached houses with garages and turning spaces to the rear. As the site lies between and opposite existing houses and within the settlement limit, the Park Authority has raised no objection to either the principle of residential development on the site, subject to a local occupancy condition, or to the design and layout of the proposed houses and I see none.
4. There is local concern over the visual effect on the existing hedge and the stone-faced earth and grass bank, which enclose the front of the site and are characteristic of the area. The bank would remain in place, cut through only for the new access, but the hedge above it would be removed along the whole frontage and a new hedge planted around 2.5m back from the current position, to provide better visibility for vehicles leaving the site. The existing field hedge would be lost. However, at my visit this had already been reduced in height to within around 0.6m from the bank and did not appear of significant maturity. No statutory protection for the hedge has been drawn to my attention and with a good standard of replacement planting as proposed (which could be ensured by a condition) its loss would not be an over-riding objection to the appeal.
5. The existing field access at the northwest corner of the site would be closed and a new shared access to serve both the two proposed dwellings and the

field behind would be formed close to it. The main issue in dispute is what visibility standard should apply for vehicles exiting the appeal site from the proposed access. Saved LP policy GP3 requires development proposals to provide means of access to the highway network in line with standards adopted by the National Park Authority. The North Yorkshire County Council Highway Authority considers that there should be a splay of 2 x 70m in both directions. It derives this standard from those in its own *Residential Design Guide*, which are the same as those set out in the *Design Manual for Roads and Bridges*<sup>1</sup> (DMRB). However, these standards primarily apply to the trunk road network.

6. The *Manual for Streets*<sup>2</sup> (MfS), 2007, supersedes *Design Bulletin 32* and its companion guide *Places, Streets and Movement*, which have now been withdrawn. MfS focuses on lightly-trafficked residential streets, but many of its key principles can be applied to other types of street, for example high streets and lightly-trafficked lanes in rural areas. It does not apply to the trunk road network, the design requirements for which are set out in the DMRB. It aims to promote the better design of streets, as places lined by buildings and public spaces, where the movement of vehicles is only one key function of several and where 'place' is the most important function; essentially, this is what distinguishes a street from a road. It clarifies that the classification of streets needs to be considered across built-up areas including rural towns and villages.
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.
8. Visibility splays at the kerblines of 2.4 x 56.4m (2 x 56.6m) 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 85<sup>th</sup> percentile speeds downhill at this

<sup>1</sup> Issued by the Department for Transport

<sup>2</sup> Issued by the Departments for Transport and Communities and Local Government

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- 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.

*Wenda Fabian*

Inspector