

**PROPOSED SINGLE DWELLING
HIGH CRAGWELL, AISLABY
WHITBY YO21 1SZ**

**PLANNING APPLICATION REF: NYM22/0563/FL
RESPONSE TO CONSULTATION REPORT FROM
NORTH YORKSHIRE COUNTY COUNCIL HIGHWAYS
DATED 2nd SEPTEMBER 2022**

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1.0 INTRODUCTION

- 1.01 This report has been prepared on behalf of Mr and Mrs Pearson with the purpose of responding to concerns expressed by North Yorkshire County Council (NYCC), the Local Highway Authority, regarding a proposal to erect a single dwelling on land on the north western side of High Cragwell, Aislaby, Whitby.
- 1.02 The planning application, reference NYM22/0563/FL, involves the construction of one dwelling with associated access, parking, amenity space and landscaping works served from High Cragwell, a private cul-de-sac access road.
- 1.03 A plan showing the location of the proposed development is attached at Appendix A.
- 1.04 A plan showing the proposed dwelling is attached at Appendix B.
- 1.05 Attached at Appendix C is a copy of a consultation response received from the Local Highway Authority, North Yorkshire County Council [NYCC]. The response is described briefly, as follows:-
- Permission will need to be obtained from the landowner of the track for the new proposed residents to have a right of access.
 - The NYCC highways design guide recommends that private drives should not serve as the vehicular access to more than 5 dwellings. Any more than this the access should be constructed up to adoptable standards. The access is a single vehicle width track and cannot be reasonably conditioned to be improved to an adoptable standard, principally because of the width available.
- 1.06 The Consultation Report concludes by recommending that planning application is refused for the following reason:-
- “The Planning Authority considers that the road leading to the site are, by reason of its insufficient widths, poor condition and lack of footways/lighting/turning area, considered unsuitable for the traffic which would be likely to be generated by this proposal.”*
- 1.07 In this response it will be shown that the owner of the road leading to the site, High Cragwell, agrees to the new residents having a right of access between the new property and Moor Road.
- 1.08 The latest (2021) version of National Planning Policy Framework (NPPF) published by the Ministry of Housing, Communities and Local Government states at Paragraph 111:-
- “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative*

impacts on the road network would be severe.”

- 1.09 The Consultation Report makes no mention of road safety, only suggesting that the road is *“considered unsuitable for the traffic, which would be likely to be generated by this proposal.”* The construction of a single dwelling would clearly not have an unacceptable impact on highway safety or have a severe cumulative impact on the road network therefore, this response will conclude that there are no grounds for refusal of the planning application.

2.0 DETAILED RESPONSE

Concern 1

- 2.01 *“High Cragwell is a private access road which appears to be the only vehicular access for 5 existing dwellings plus another dwelling, Moorside, has vehicular access on this access and on Moor Road. The access road is not shown as being within the applicants control and neither is it shown on the definitive map as a public right of way. Whilst it is assumed that the applicants, as residents of the property called High Cragwell, have a right of access along the access road, permission will need to be obtained from the landowner of the track for the new proposed new residents to have a right of access.”*

Response 1:

- 2.02 Letter from John Taylor, Landowner of High Cragwell, attached at Appendix D, supports the development and agrees to the new residents having a right of access between the new property and Moor Road. Therefore, there are no reasons for refusing the planning application on the grounds of the new residents not having rights of access over High Cragwell to their home.

Concern 2

- 2.03 *“The NYCC highways design guide recommends that private drives should not serve as the vehicular access to more than 5 dwellings. Any more than this the access should be constructed up to adoptable standards. The access is a single vehicle width track and cannot be reasonably conditioned to be improved to an adoptable standard, principally because of the width available.”*

Response 2:

- 2.04 From personal experience most highway authorities, including NYCC, take a flexible common-sense view of private access roads aided by the advice provided on page 134 of MfS, attached at Appendix E, which refers to the origins of *“five served from a private drive”* practice based on the notional capacity of private utilities supplies.

- 2.05 In the case of High Cragwell the highway authority has indicated that, although it would not wish to adopt the road, it would like to see the road reconstructed to adoptable standards but doubts that this would be possible due to the restricted width available for widening.
- 2.06 Attached at Appendix F is a plan showing High Cragwell widened to 3.5m - 4.5m by the removal of the hedge along the site frontage as far as the junction with Moor Lane, a distance of only 30m. High Cragwell is already hard surfaced but will be resurfaced over 33m in association with the widening proposals. Two cars can pass within the junction bell mouth and also in the vicinity of the site access where the proposed parking spaces will be situated. Some 15m further south there is an existing 9.0m x 4.0m level concrete turning facility which is used by delivery vehicles. Waste recycling vehicles currently reverse down High Cragwell under supervision and would continue to do so.
- 2.07 High Cragwell currently serves 6 dwellings. It is considered that the construction of a single additional dwelling accessed some 30m from the entrance to Moor Road would have no significant impact on road safety and would therefore be compliant with the advice given in NPPF paragraph 111.

Recommended Reason for Refusal

- 2.08 *“The Planning Authority considers that the road leading to the site are by reason of its insufficient widths, poor condition and lack of footways/lighting/turning area is considered unsuitable for the traffic which would be likely to be generated by this proposal.”*

Response

- 2.09 The road leading to the site has sufficient width to accommodate the small additional amount of traffic generated by a single dwelling.
- 2.10 The road will be resurfaced in conjunction with road widening over the short distance between the site and its junction with Moor Road.
- 2.11 Footways and street lighting are not required on private access roads serving only 7 dwellings.
- 2.12 A turning area large enough to accommodate most delivery vehicles is already in existence on High Cragwell close to the proposed dwelling.
- 2.13 The absence of any reference to ‘highway safety’ is most significant.

3.0 CONCLUSION


3.01 In this response it has been shown that the owner of the road leading to the site, High Cragwell, agrees to the new residents having a right of access between the new property and Moor Road.

3.02 The latest (2021) version of National Planning Policy Framework (NPPF) published by the Ministry of Housing, Communities and Local Government states at Paragraph 111:-

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

3.03 The Consultation Report makes no mention of road safety, only suggesting that the road is *“considered unsuitable for the traffic, which would be likely to be generated by this proposal.”* The construction of a single dwelling would clearly not have an unacceptable impact on highway safety or have a severe cumulative impact on the road network therefore, this response concludes that there are no grounds for refusal of the planning application.

Signed:


.....
M W Jennings MSc C Eng MICE MCIHT Consultant

CoDa Transportation

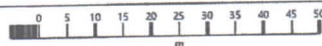
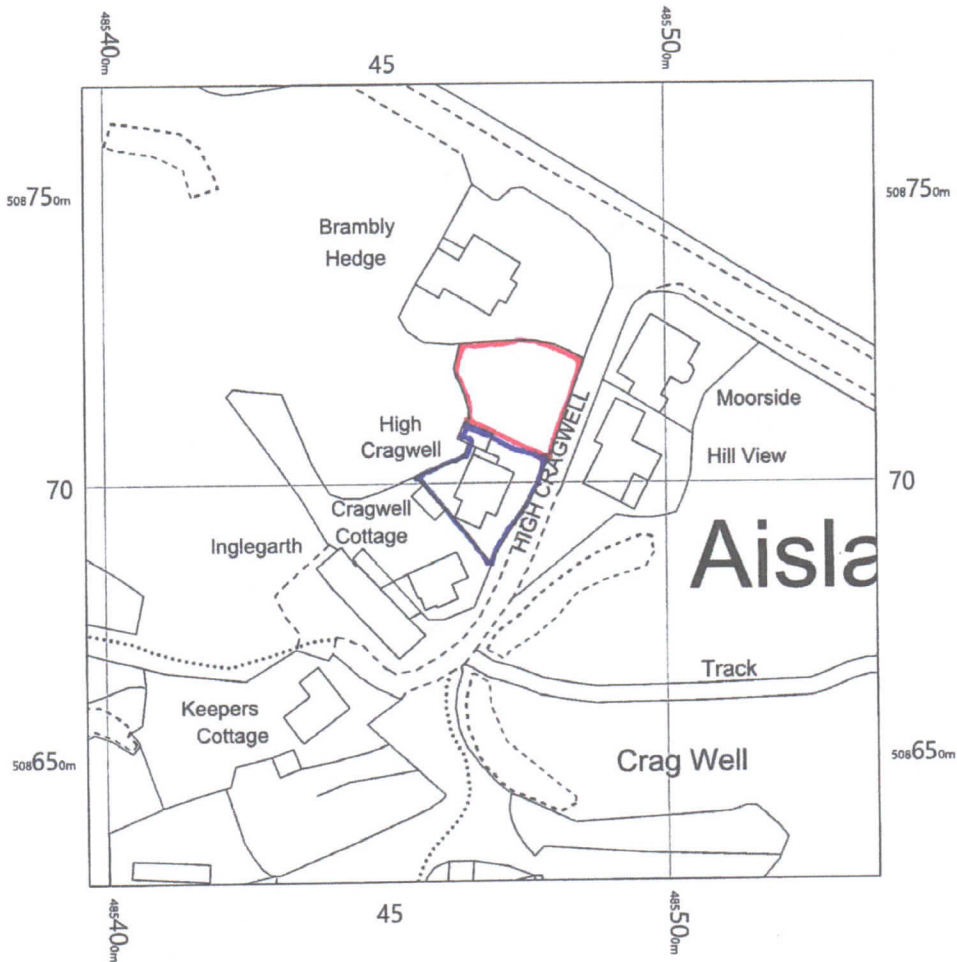
Consulting Transportation Engineers
14 Springfield Court
GUISELEY
Leeds LS20 8FD

**PROPOSED SINGLE DWELLING
HIGH CRAGWELL, AISLABY
WHITBY YO21 1SZ**

**APPENDIX A
LOCATION PLAN**

Client: Mr and Mrs Pearson
Project No:
Date: 10 November 2022

High Cragwell, High Cragwell, YO21 1SZ



High Cragwell
High Cragwell,
Aislaby,
Whitby,
North Yorkshire
YO21 1SZ

OS MasterMap 1250/2500/10000 scale
Friday, April 9, 2021, ID: MPMBW-00953083
www.blackwellmapping.co.uk

1:1250 scale print at A4, Centre: 485467 E, 508700 N

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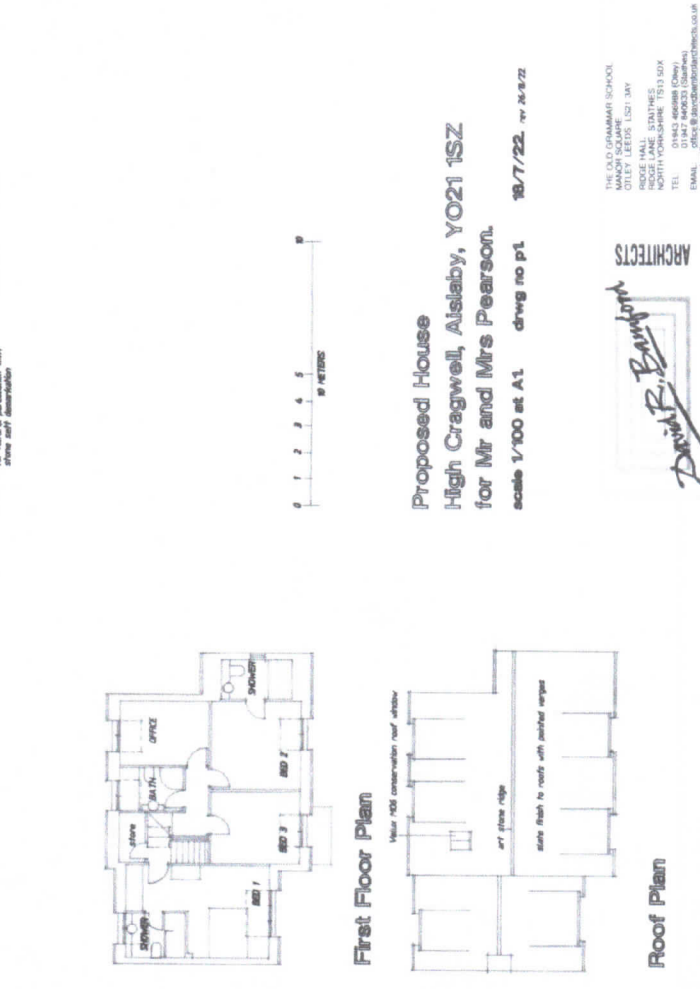
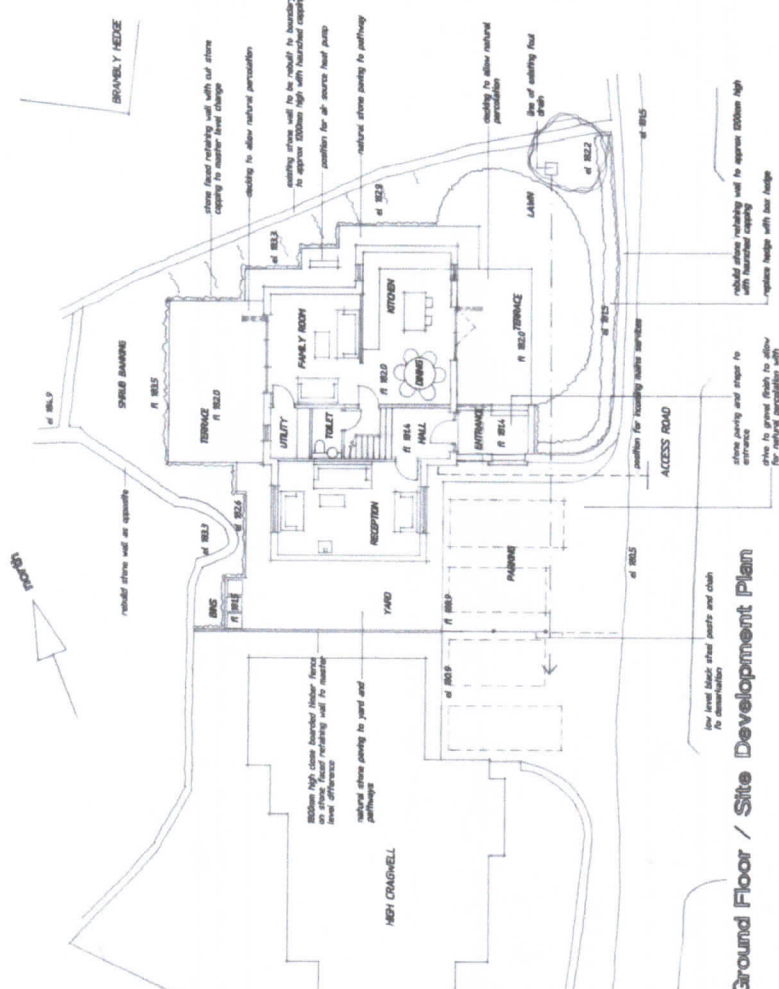
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**PROPOSED SINGLE DWELLING
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WHITBY YO21 1SZ**

APPENDIX B

PLAN SHOWING PROPOSED DWELLING

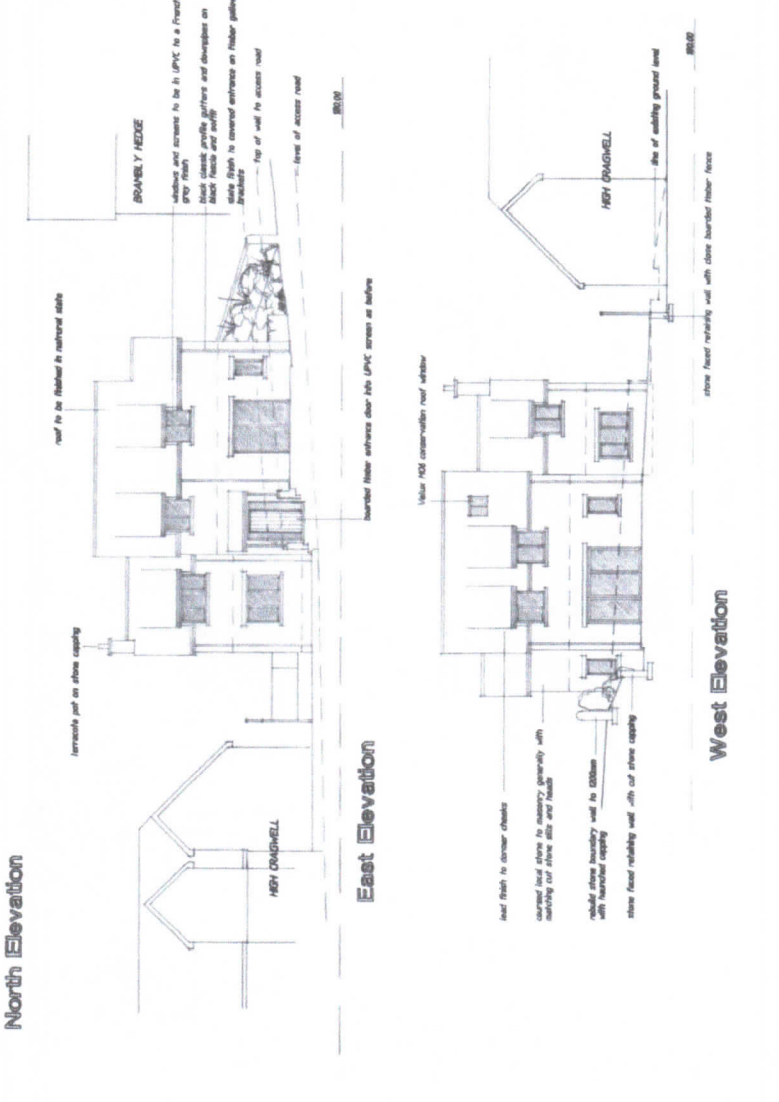
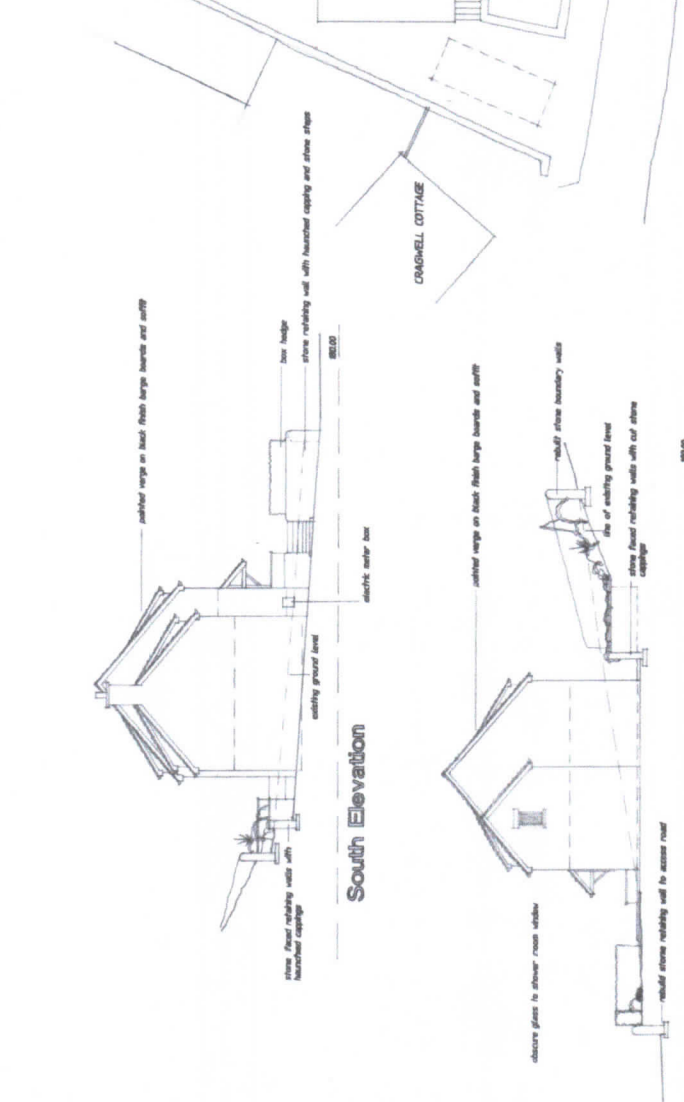
Client: Mr and Mrs Pearson
Project No:
Date: 10 November 2022



Proposed House
High Cragwell, Aislaby, YO21 1SZ
for Mr and Mrs Pearson.
 scale 1/100 at A1 **dwg no p1** 18/7/22. **rv M.S.B/22**



MR & MRS PEARSON SCHOOL
 OTLEY LEEDES LS21 3AY
 RIDGE HALL STATION
 NORTH VOYLESHIRE TS13 5DX
 TEL: 01453 66666 (Day)
 EMAIL: office@bayltonarchitects.co.uk
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Leeds LS20 8FD

**PROPOSED SINGLE DWELLING
HIGH CRAGWELL, AISLABY
WHITBY YO21 1SZ**

APPENDIX C

CONSULTATION REPORT FROM HIGHWAY AUTHORITY

Client: Mr and Mrs Pearson
Project No:
Date: 10 November 2022

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



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**

Application No:	NYM22/0563/FL		
Proposed Development:	construction of one local connection dwelling with associated access, parking, amenity space and landscaping works		
Location:	High Cragwell, Aislaby		
Applicant:	Mr & Mrs Pearson		
CH Ref:		Case Officer:	Ged Lyth
Area Ref:	4/36/153A	Tel:	
County Road No:		E-mail:	
To:	North York Moors National Park Authority The Old Vicarage Bondgate Helmsley YO62 5BP	Date:	2 September 2022
FAO:	Megan O'Mara	Copies to:	

Note to the Planning Officer:

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

High Cragwell is a private access road which appears to be the only vehicular access for 5 existing dwellings plus another dwelling, Moorside, has vehicular access on this access and on Moor Lane . The access road is not shown as being within the applicants control and neither is it shown on the definitive map as a public right of way. Whilst it is assumed that the applicants, as residents of the property called High Cragwell, have a right of access along the access road, permission will need to be obtained from the land owner of the track for the new proposed new residents to have a right of access.

The NYCC highways design guide recommends that private drives should not serve as the vehicular access to more than 5 dwellings. Any more than this the access should be constructed up to adoptable standards. The access is a single vehicle width track and cannot be reasonably conditioned to be improved to an adoptable standard, principally because of the width available.

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

R1 ROADS LEADING TO THE SITE

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

NYM22/0563/FL

Application No:

The Planning Authority considers that the road leading to the site are by reason of its insufficient widths, poor condition and lack of footways/lighting/turning area is considered unsuitable for the traffic which would be likely to be generated by this proposal.

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 _____

CoDa Transportation

Consulting Transportation Engineers

14 Springfield Court

GUISELEY

Leeds LS20 8FD

**PROPOSED SINGLE DWELLING
HIGH CRAGWELL, AISLABY
WHITBY YO21 1SZ**

APPENDIX D

LETTER FROM LAND OWNER

Client: Mr and Mrs Pearson

Project No:

Date: 10 November 2022

Ref hc220222

Moor End
Moor Road
Aislaby, Whitby
North Yorkshire
YO21 1SZ

ADRIAN PEARSON
High Cragwell

22/09/22

Ref New Entrance for a new property

Dear Sir

The Road HIGH GRAGWELL which I own ends in a disused quarry(I own) so there is no through traffic. It serves 6 houses distributed along its length.

Your proposed new entrance and right of way(to which I agree)for the new property near the junction will have little impact on the traffic and only marginally affect the councils services

Your suggestion to widen your side of the entrance to High Gragwell for better access and better visibility for those approaching the turn-off from down hill is a good one and I am prepared to meet the cost of it

Regard john taylor



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**PROPOSED SINGLE DWELLING
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WHITBY YO21 1SZ**

APPENDIX E

EXTRACT FROM MANUAL FOR STREETS

Client: Mr and Mrs Pearson
Project No:
Date: 10 November 2022

11.7.8 Such a planning obligation enables the developer to avoid making payments under the Advance Payments Code, as the highway authority can then be satisfied that the streets will not fall into such a condition that a Private Streets Work Scheme will be needed. The planning obligation thus provides exemption to the developer from making advance payments under section 219(4)(e) of the Highways Act 1980.

What is adoptable?

11.7.9 The highway authority has considerable discretion in exercising its powers to adopt through a Section 38 Agreement under the Highways Act 1980, but there are other mechanisms contained in the Act which help to define the legal tests for adoption.

11.7.10 Although seldom used, section 37 of the Act does provide an appeal mechanism in the event of a highway authority refusing to enter into a Section 38 Agreement. Under section 37(1), a developer can give notice to the authority that he/she intends to dedicate a street as a public highway.

11.7.11 If the authority considers that the highway '*will not be of sufficient utility to the public to justify its being maintained at the public expense*', then it will need to apply to a magistrates' court for an order to that effect.

11.7.12 A further possibility is that the authority accepts that the new highway is of sufficient utility but considers that it has not been properly constructed or maintained, or has not been used as a highway by the public during the 12-month maintenance period. On these grounds it can refuse to accept the new road. In this case the developer can appeal to a magistrates' court against the refusal, and the court may grant an order requiring the authority to adopt the road.

11.7.13 Section 37 effectively sets the statutory requirements for a new street to become a highway maintainable at the public expense. The key tests are:

- it must be of sufficient utility to the public; and
- it must be constructed (made up) in a satisfactory manner.

In addition:

- it must be kept in repair for a period of 12 months; and
- it must be used as a highway during that period.

11.7.14 There is little case law on the application of these tests, however.

11.7.15 Highway authorities have also tended to only adopt streets that serve more than a particular number of individual dwellings or more than one commercial premises. Five dwellings is often set as the lower limit, but some authorities have set figures above or below this.

11.7.16 There is no statutory basis for the lower limit on the number of dwellings justifying adoption. The use of five dwellings as a criterion may have come from the notional capacity of private service supplies (gas, water, etc.) but it is now more commonplace for utilities to lay mains in private streets.

11.7.17 It is not desirable for this number to be set too high, as this would deny residents of small infill developments the benefit of being served by an adopted street.

11.7.18 It is recommended that highway authorities set a clear local policy on this issue.

Adoption of streets on private land

11.7.19 Under some circumstances the developer may not be able to dedicate a certain area of land as highway because he does not own it. If so, the road (or footway, etc.) can be adopted using the procedures under section 228 of the Highways Act 1980.

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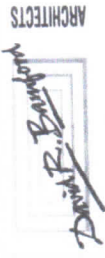
APPENDIX F

PLAN SHOWING ROAD WIDENING

Client: Mr and Mrs Pearson
Project No:
Date: 10 November 2022



Access Detail
Proposed House
High Cragwell, Aisleby, YO21 1SZ
for Mr and Mrs Pearson.
 scale 1/100. dwg no p2. 11/11/22. rev



THE OLD SHAMMAM SCHOOL
 MANOR SQUARE
 OTLEY LEEDS LS21 3AY
 TEL: 0113 276 1111
 NORTH YORKSHIRE TS13 5DX
 TEL: 01147 800333 (Surrey)
 EMAIL: office@pearsonarchitects.co.uk
 www.pearsonarchitects.co.uk

Google Maps High Cragwell

Aislaby, England
Google
Street View - Mar 2009



Image capture: Mar 2009 © 2022 Google



Google Maps High Cragwell

Aislabey, England
Google
Street View - Mar 2009



Image capture: Mar 2009 © 2022 Google



Google Maps High Cragwell

Aislabey, England

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Street View - Mar 2009



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