

COMMITTEE REPORT

Date: 8 February 2023 **Ward:** Clifton
Team: West Area **Parish:** Clifton Planning Panel
Reference: 22/02198/FUL
Application at: The Sleeping Bear 4 Government House Road York YO30 6LU
For: Change of use of adopted highway to private driveway and erection of 2m high gates
By: Mrs Rachel Gilbert-Cornish
Application Type: Full Application
Target Date: 16 December 2022
Recommendation: Refuse

1.0 PROPOSAL

1.1 This application seeks permission for the change of use of the adopted highway (referred to as the lane in this report) to private driveway and erection of 2m high gates. Amendments have been submitted relocating the gate further along the lane closer to the host dwelling in order to attempt to address objections from Yorkshire Water.

1.2 A separate highway stopping up application has also been submitted to the Department for Transport.

1.3 Government House Road is a small cul-de-sac estate containing nine detached properties lying roughly a mile northwest of the centre of York. The estate including all the infrastructure (i.e. roads, sewers, etc) was built by the MoD but the properties are now privately owned. Each house was built with their own attached garage and individual drive. Although maintained by the Highway Authority since the 1960's, the highway was formally adopted in 2021 following an application from residents.

Committee Call-In request

1.4 Cllr Myers has requested that the application is determined at committee so that the privacy issues experienced by the applicant can be better understood.

2.0 POLICY CONTEXT

The National Planning Policy Framework (2021)

2.1 The National Planning Policy Framework (2021) sets out the Government's overarching planning policies and at its heart is a presumption in favour of sustainable development. Paragraph 38 advises that local planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

2.2 Paragraph states that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users.

2.3 Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments will achieve a number of aims including:
- create places that are safe, inclusive and accessible and promote health and well-being with a high standard of amenity for existing and future users.

Publication Draft Local Plan 2018

2.4 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. Phase 2 of the hearings concluded in May 2022. Phase 3 of the hearings took place in July 2022 and Phase 4 took place in September 2022. The draft Plan has no policies that are relevant to the application

3.0 CONSULTATIONS

INTERNAL

CYC Highway Network Management

3.1 The Highway Authority is not in a position to support the proposals under this application as this would result in the existing adopted highway being gated and stopped up (if the stopping up application were to be successful). The spur of road between number 4 and number 5 serves a highway purpose as it provides access to number 4 as well as to a storage building for number 5. We are also aware of existing Yorkshire Water apparatus installed under the road. It is recommended that Yorkshire Water are consulted specifically on this application.

EXTERNAL

Clifton Planning Panel

3.2 Whilst the Panel understood the applicants need to have privacy it considered that this could be achieved by other means than by claiming ownership of the land

on which the adopted spur road is built. By applying to make the road part of their property they would in effect deny their neighbours access to the rear of their property and to the shed/garage at the end of the spur road as well as utility companies to the mains services and adjacent pumping station. There is also concern that the design for the gates at over 2 m high and built of wooden panels would be contrary to the nature of the design for the rest of this small estate.

Yorkshire Water

3.3 Yorkshire Water opposes the change of use of the adopted highway as this road is required for the unrestricted access to the pumping station and to other utility bodies.

4.0 REPRESENTATIONS

Neighbour Notification and Publicity

4.1 The application was advertised by site notice and neighbour notification letter. Three letters of objections have been received. The following issues have been raised:

- The proposals would prevent access for no. 5 Government House Road.
- The spur road provides access for Yorkshire Water and occasionally the Environment Agency to the pumping station adjacent to the road and mains services beneath it.
- the road is adopted highway and should remain so.

5.0 APPRAISAL

KEY ISSUES

Visual impact on the building and the area

Impact on neighbouring property

Highway Issues

5.1 It is proposed to change the use of the adopted highway between nos.4 and 5 Government House Road, to a private driveway for no. 4 Government House Road and construct a 2m high close-boarded timber gate, 3.3m wide, across the entrance. The applicant states that since the formal adoption of the lane in 2021 as part of the adoption of Government House Road, they have noticed an increase in pedestrians and vehicles using the lane not realising that it culminates at the host driveway. The increased comings and goings have resulted in a loss of privacy which they wish to prevent by gating the access at the top of the lane.

5.2 The section of road to which the application relates is 26m in length and 3.35m wide and comes off the central turning loop at the head of the road adjacent no. 4 and 5 Government House Road. There is no useable pavement and streetlights do not continue along this section of highway.

5.3 Government House Road is a cul-de-sac characterised by relatively open front gardens with mostly natural screening to boundaries. The application dwelling is at the head of the cul-de-sac. The proposed gates would be approximately 6m from the turning loop. The erection of a gate in this location is not considered to appear visually harmful or out of character when viewed in conjunction with the existing pedestrian gate and mature laurel hedging either side of the lane.

5.4 With regard to the change of use of the highway, evidence has been submitted by the owner/occupiers of 5 Government House Road that establishes they have a right of access over the land to their outbuilding/store at the end of the lane. Yorkshire Water have also expressed objection as the proposals would prevent unrestricted 24/7 access to the pumping station and other apparatus under the road. Whilst the applicant claims that the lane provides sole vehicle access for them to access their drive, access is also required for no. 5 and Yorkshire Water. If the lane became private and gates were erected, this legal right of access would cease.

5.5 Objections have been raised by adjacent neighbours, the Council's Highway team and Yorkshire Water who do not support the stopping up of the lane due to access restrictions. The applicant has stated that access would be granted to Yorkshire Water upon request, however in the event that emergency access is required no details have been provided as to how this would be achieved and it is not considered that this is an appropriate alternative for the statutory undertaker to access public infrastructure.

5.6 Following consultation with Yorkshire Water with regard to the stopping up order, the applicants have proposed to relocate the gates, 3.1m away from Yorkshire Water mains drain, however this amendment does not fully address the objections raised by Yorkshire Water as part of this application, as it would still prevent access to the pumping station.

5.7 Based on the information submitted, and taking all points raised by the applicant into account, it is considered that the lane serves a highway purpose providing access to no. 5 as well as Yorkshire Water as statutory undertaker.

6.0 CONCLUSION

6.1 The proposed timber gates would not give rise to unacceptable visual harm in this location, however their construction and the change of use of the lane from adopted highway to private drive would prevent access for no. 5 Government House Lane, as well as restricting essential access for statutory undertakers. It is

considered that the adopted highway provides a highway and planning purpose and that planning permission should be refused.

7.0 RECOMMENDATION: Refuse

1 The change of use of the lane from adopted highway to private drive would prevent access for no. 5 Government House Road as well as access for utility bodies to public infrastructure under the highway. The road therefore continues to serve a highway purpose. The proposal to gate the road would not provide for unrestricted access to users and as such would not comply with paragraphs 110b) and 130f) of the National Planning Policy Framework (2021).

8.0 INFORMATIVES: Notes to Applicant

1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

Considered the applicant's and interested party's submissions.

However, the local planning authority was unable to suggest solutions to the identified harm from the proposed development, resulting in planning permission being refused for the reasons stated.

Contact details:

Case Officer: Elizabeth Potter

Tel No: 01904 551477