

**Item Number:** 9  
**Application No:** 21/01317/73  
**Parish:** Malton Town Council  
**Appn. Type:** Material Amendment  
**Applicant:** Mr and Mrs Simon Thackray  
**Proposal:** Removal of condition 03 of planning approval 06/00823/OUT dated 21.12.2006 to allow a second storey to be built on the existing house  
**Location:** Sedums 20 York Road Malton YO17 6AX

**Registration Date:** 22 September 2021  
**8/13 Wk Expiry Date:** 17 November 2021  
**Overall Expiry Date:** 1 November 2021  
**Case Officer:** Alan Goforth **Ext:** 43332

#### **CONSULTATIONS:**

<b>Malton Town Council</b>	Recommend approval
<b>Highways North Yorkshire</b>	No objection
<b>Tree &amp; Landscape Officer</b>	Comments and no objections

**Representations (5):** Andrea & Paul Smith, Paul Kent, Mrs Carol Sollitt & Mrs Karen Andrews, Doreen Megginson, Rachel M & John Ainsworth (all objections)

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#### **BACKGROUND:**

The application is to be determined by Planning Committee due to the applicant being an elected Member of the Council. In addition representations received in response to the consultation exercise have raised objections based on material planning considerations.

#### **SITE:**

The application site is located on the southern side of York Road and within the development limits of the Malton.

The site has a frontage width of 21 metres and maximum depth of approximately 42 metres. The northern part of the site is occupied by the existing dwelling which stands on flat ground. The site narrows to the rear (south east) and there is a significant change in level as the land falls away towards the southern extremity of the site. Within the site there are a number of trees protected under a TPO although these are located on the sloping part of the application site outside of the proposed development area.

Sedums, 20 York Road is a detached, single storey, three bed dwelling with a footprint of approximately 184m<sup>2</sup>. A single garage is attached to the dwelling on the south-west side. The dwelling has a monopitch flat roof and stands to a height of 2.7 metres and is inset from the north-east boundary by approximately 2 metres and the southwest boundary by 1.2 metres. Externally the dwelling has rendered walls with part oak boarding on the north-east elevation. There is an external raised terrace to the rear.

To the north east of the site is 19 York Road (flats) and to the south west stands 21 York Road, properties on Hamilton Green stand on higher ground opposite the site beyond York Road. The existing dwelling is partially screened by the 1.9 metre high brick boundary wall along the York Road frontage. Access is gained directly of York Road. The north east boundary comprises a vertical board timber

fence and established planting and the south west boundary comprises a vertical board timber fence.

Public right of way number 25.70/4/1 takes a south-west course out of Norton along the southern side of the River Derwent. At its closest point the public footpath is approximately 160 metres from the dwelling.

#### **HISTORY:**

07/00639/REM- Erection of a three bedroom dwelling with attached single garage and formation of vehicular access. APPROVED 28.08.2007.

06/00823/OUT- Erection of a dwelling (site area 0.065ha). APPROVED 21.12.2006.

#### **PROPOSAL:**

Planning permission is sought for the removal of condition 03 of planning approval 06/00823/OUT dated 21.12.2006 to allow a second storey to be built on the existing house.

The condition the subject of the application states:

*“The reserved matters shall provide for the construction of a single-storey dwelling only.*

*Reason:- In order to ensure that the development takes place in the manner contemplated by the Local Planning Authority and to satisfy criteria (ii) of Policy H7A of the Ryedale Local Plan”.*

The proposed first floor extension would be built above the principal part of the house and would not result in any change to the existing footprint of the dwelling. The additional storey would have a predominately flat roof and would extend approximately 3.2 metres above the existing building taking the total height of the dwelling to 5.7 metres.

Externally the first floor extension would comprise part rendered walls to match existing with a section of slate grey zinc cladding to the walls, pitched roof and dormer window on the front and sides. All windows would be polyester powder coated aluminium to match existing.

There would be 2no. projecting oriel windows on the north east (side) elevation; two recessed windows on the north west (front) elevation; and large, recessed full height windows and also a horizontal slot window in the south east (rear) elevation. The only window in the south west (side) elevation of the first floor would be a side window. There would be no windows in the main wall at first floor level on the south west elevation.

The extended dwelling would have a sedum flat roof which would also be installed on the roof of the existing garage. There would be three rooflights in the main roof and two rows of solar panels set behind the parapet. Aluminium privacy louvres would be fixed at first floor level above the existing flanking walls on both sides of the building.

The applicant has confirmed that no trees will require removal or pruning to allow for the additional storey.

In addition to the sedum roof and solar panels the plans include air source heat pumps and an electric vehicle charging point. The applicant’s supporting statements explain the intention to extend, improve and reconfigure the existing dwelling to create a sustainable, low carbon, two storey home.

#### **POLICIES:**

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 planning authorities are required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the determination of this particular application comprises the following:

- The Ryedale Plan- Local Plan Strategy (2013)

#### The Ryedale Plan - Local Plan Strategy (2013)

Local Plan Strategy -Policy SP1 General Location of Development and Settlement Hierarchy

Local Plan Strategy -Policy SP4 Type and mix of new housing

Local Plan Strategy - Policy SP16 Design

Local Plan Strategy - Policy SP17 Managing Air Quality, Land and Water Resources

Local Plan Strategy - Policy SP18 Renewable and Low Carbon Energy

Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development

Local Plan Strategy - Policy SP20 Generic Development Management Issues

#### Material Considerations

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (PPG)

#### **REPRESENTATIONS:**

The LPA has received a total of five representations in response to consultation on the application. The responses are from the occupants of 6 & 8 Hamilton Green; and 19A, 19B & 19C York Road. All the representations raise objections and the reasons are summarised below:-

- Loss of natural light to the flats within number 19 York Road
- Loss of natural light to gardens of number 19 York Road
- Loss of privacy to number 19 York Road
- Loss of outlook to number 19 York Road
- Loss of privacy/overlooking to numbers 6 & 8 Hamilton Green
- Parking and access is an issue due to increased traffic on York Road

It should be noted that the above responses also referred to the following matters which are not material planning considerations:

- Demand for bungalows and potential interest from third parties in the purchase of the existing dwelling.
- Impact on the value of neighbouring property

#### **APPRAISAL:**

##### Principle of development

The site is within the town's development limits and the use of the site for residential purposes is well established and is not a matter under consideration as part of the current application. The operative permission relevant to the site was granted in December 2006 and includes a condition which restricts the development to a single storey dwelling (Condition 03).

This application is made under Section 73 of the Town and Country Planning Act 1990 and seeks the removal of condition 03 to allow a second storey to be built on the existing house.

Condition 03 was imposed *"to ensure that the development takes place in the manner contemplated by the Local Planning Authority and to satisfy criteria (ii) of Policy H7A of the Ryedale Local Plan"*.

The indicative dwelling included in the outline application at the time was single storey but with a pitched roof extending above the frontage boundary wall. At reserved matters stage the applicant opted for a flat roof design which was approved and subsequently constructed. Policy H7A of the Ryedale Local Plan was superseded when the Ryedale Plan-Local Plan Strategy was adopted in 2013.

Policy SP4 of the Local Plan Strategy (2013) notes that high quality housing can be provided through improvement and adaptations to existing homes.

It is considered that the principle of a first floor extension to the existing bungalow to form a two storey detached dwelling is acceptable subject to consideration against the development management policies contained within the Local Plan Strategy (2013).

#### Design, character and form

Policy SP16 (Design) requires that the location, siting, form, layout, scale and detailed design respects the context provided by its surroundings and be well related to adjacent buildings. The policy highlights that attention should be paid to the orientation of buildings, boundaries, spaces between buildings and the density, size and scale of buildings.

The application site is immediately adjacent to one of the principal routes into and out of Malton. York Road is generally characterised by large, detached properties predominately two or three stories in height. On the southern side of York Road the streetscene is without a uniform appearance comprising dwellings of varying styles, ages and construction materials with irregular spaces in between.

The application site is located on the southern side of York Road between a substantial building in use as flats (Number 19) and a large detached dwelling (Number 21). Number 19, to the north east of the application site, is a substantial building with painted (light grey) brickwork walls and sandstone quoins under a Welsh slate roof. The building has been previously extended with 2no. two storey flat roof extensions on the north-west elevation visible from the road. Number 21, to the south west of the application site, is also a substantial building but of more modern construction and has walls comprising artificial/reconstituted coursed stone under a concrete slate pitched roof.

The illustrative material which accompanied the 2006 outline application indicated that only the pitched roof form (with rooflights) of the proposed dwelling would be readily visible from the York Road frontage behind the existing boundary wall. The Officer report for the outline application also noted that there is scope for a contemporary treatment of the elevations.

The existing dwelling is largely hidden by the tall boundary wall along the York Road frontage but the built form which is visible above the wall appears squat within the existing streetscene, arguably at odds with the scale and form of neighbouring properties.

It is noted that within the locality a range of dwelling styles and roof forms are present and visible from York Road. It is considered that the proposed roof form of the upward extension, which is predominately flat but includes the zinc clad pitched roof and dormer to the front, would result in a visual improvement to the existing building providing the dwelling with an appropriate presence within the site and York Road streetscene.

The apex of the extended dwelling would be 1.1 metres lower than the ridge height of 21 York Road and 3.5 metres lower than that of 19 York Road. The height and bulk of the extended dwelling would not be incongruous or unduly dominant and the resulting taller dwelling would sit comfortably alongside the neighbour properties.

The proposed external materials and finishes are considered appropriate and in keeping with the existing building. The design is informed by the context of the site and neighbouring properties. The use of grey zinc cladding to the upper walls; pitched roof; and dormer would blend with the slate and dark coloured roof coverings of the buildings on either side of the site. The proposed windows within the extension are consistent with the size and style of openings in the host dwelling, and are therefore acceptable.

The proposed development would not reduce outdoor amenity space or parking provision within the site. There would be no change to the space between the dwelling and the boundary and the upward

extension would increase living space without overdeveloping the plot or resulting in a cramped appearance.

In terms of the impact of the development on the wider townscape there are views of the rear of the site available to the south/south-east from the public footpath which follows the course of the River Derwent to the north of the railway line. At its closest point the public footpath is approximately 160 metres from the existing dwelling which is visible (white rendered walls and large areas of glazing) along the route. The proposed development would increase the prominence of the dwelling but in terms of scale would continue to sit lower than the flanking buildings and the existing spacing would be unaltered. Overall, it is considered that a building of this scale and appearance can be accommodated without unacceptable harm to the character of the townscape.

The design also incorporates a sedum roof, air source heat pumps, solar panels and an electric vehicle charging point all of which align with the aims of Policy SP18.

The Tree and Landscape Officer initially queried whether there would be any excavation works involved or any pruning works necessary to allow for the upward extension. The applicant's agent has provided further detail to confirm that the neither is necessary and there would be no impact on trees arising from the development. The Tree and Landscape Officer has subsequently confirmed 'no objections'.

It is considered that the scale, form and detailed design of the upward extension is compatible with the host building, the site and the wider streetscene and the development would comply with Policies SP16 and SP20. It is recommended that any approval is subject to a condition for the prior approval of external materials and finishes used in the construction of the extension.

#### Residential amenity

As required by Policy SP20 (Generic Development Management Issues), the development should respect the character of the area without having a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings. The policy explains that impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence.

There have been concerns raised in relation to the proposed first floor windows and the potential for overlooking/loss of privacy to existing dwellings on Hamilton Green to the north west and also number 19 York Road to the north east.

There are two windows in the proposed front (north west facing) elevation of which one would serve a bedroom (a non-principal room) and the second would serve a studio. The window for the bedroom would be clear glass whereas the window for the studio would be recessed and would be white/opaque glass and non-opening.

The separation of the dwelling from existing properties in Hamilton Green (approximately 35 metres away at higher level) combined with existing planting, is such that there are no sustainable objections in terms of adverse impact on grounds of privacy and/or overlooking.

The windows proposed in the rear (south east) elevation at first floor level would be large but deeply recessed and the privacy louvres would be installed off the side walls to ensure no overlooking or loss of privacy to neighbouring outdoor areas.

There are no principal windows in the side elevations at first floor level. The proposed oriel windows on the north east (side) elevation would serve en-suite bathrooms at first floor level and would project at an angle to ensure no overlooking or loss of privacy to number 19 York Road.

The only window in the south west (side) elevation of the first floor would be a side window. Due to the position of the existing dwelling in relation to number 21 York Road the side window would face towards the roof of the neighbour's garage and not the main house. There would be no windows on the

main wall at first floor level on the south west elevation. As a result there would be no overlooking or loss of privacy to number 21 York Road.

In order to prevent any future harmful overlooking a condition is considered necessary to remove permitted development rights to prevent further windows openings at first floor level.

The additional storey is to be constructed above the principal part of the existing dwelling (not the garage) and as a result the first floor would be stepped in on its south west side and approximately 8 metres from the side elevation of number 21 York Road. Consequently the stand-off from number 21 York Road would be retained and no overbearing impacts are anticipated.

On the north east side the proposed additional storey would be 1-3 metres from the boundary with number 19 York Road and approximately 14-16 metres from its south west facing elevation. The dwelling as extended result would still be lower than the neighbouring properties and would not be unduly overbearing on 19 York Road given the separation distance.

There have been concerns raised by occupants of flats at 19 York Road in relation to loss of natural light/overshadowing.

The existing dwelling closely abuts the shared boundary and it is accepted that the proposed upward extension would increase the overall scale of the dwelling with potential for overshadowing of the external areas to the side of the building at certain times of the year. However, the proposed roof structure would aid in limiting potential overshadowing.

Due to the separation distance between the buildings it is anticipated that any overshadowing or loss of natural light to existing openings within the south west elevation of number 19 York Road would be minimal and would not be harmful to the amenity of the occupants. The applicant's agent has produced a shadowing model for different times of the year to illustrate the minimal impact of the additional storey. The principle cause of shadowing of 19 York Road is number 21 York Road which is a taller building and also the group of mature trees immediately behind that dwelling to the south west.

A condition shall be imposed to require a Construction Management Plan for the construction phase to ensure works can proceed without disturbance to occupants of the neighbouring properties on either side of the site.

In light of the above it is considered that the proposed development would not give rise to an overbearing in presence, result in any loss privacy or cause unacceptable loss of natural light and therefore complies with the relevant part of Policy SP20.

#### Highway safety

There are no objections from the highway officer and the dwelling is served by a suitable access and parking arrangements on site which would be unchanged. A condition shall be imposed to require a Construction Management Plan for the construction phase to ensure all contractors vehicles and storage areas are clear of the highway. It is considered that the development would not result in conditions detrimental to highway safety and complies with Policy SP20.

#### Conclusion

In conclusion, the proposal is considered to be acceptable in terms of meeting the requirements of the relevant development management policies contained within the Local Plan Strategy (2013). The proposal is considered to be compatible with York Road streetscene and wider townscape and represents efficient use of land within the development limits of the town and incorporates sustainable and low carbon design features which improve the existing dwelling. There are considered to be no significant issues which raise detriment to the amenity of nearby residents subject to the imposition of appropriate planning conditions (listed below) or any objections to the proposal on highway safety grounds. The conditions include the removal of permitted development rights to ensure no future overdevelopment of the plot or alterations giving rise to adverse impacts on the levels amenity enjoyed by neighbours. It is

considered that the proposed development complies with Policies SP1, SP4, SP16, SP17, SP18, SP19 and SP20 of the adopted Ryedale Plan - Local Plan Strategy (2103) and the National Planning Policy Framework (2021).

In light of the above the recommendation to Members is one of conditional approval.

**RECOMMENDATION:                      Approval**

1            The development hereby permitted shall be begun on or before .

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

2            The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan ref. 0842 EX10  
Plans and Elevations ref. AR50 01 Rev E, dated 22.09.21

Reason: For the avoidance of doubt and in the interests of proper planning.

3            Prior to the commencement of any building works associated with the development hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. The parking of contractors' site operatives and visitor's vehicles;
2. Areas for storage of plant and materials used in constructing the development clear of the highway;
3. Details of site working hours;
4. Measures to control construction noise;
5. Details of the measures to be taken for the protection of trees; and
6. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity in compliance with Policy SP20.

4            Prior to the commencement of any building works associated with the development hereby permitted details and samples of the materials and colour finishes to be used on the exterior of the building the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan, the Local Plan Strategy.

5            Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, (or any Order revoking, re-enacting or amending that Order), no windows, other than those shown on the plans hereby approved, shall be formed in the walls

or roof of the first floor of the dwelling hereby permitted without the prior written consent of the Local Planning Authority following a specific application in that respect.

Reason: In the interests of amenity and to ensure that the appearance of the buildings are not prejudiced by the introduction of unacceptable materials and/or structure(s) in accordance with Policies SP16 and SP20.

- 6 Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or amending that Order) development of the following classes shall not be undertaken other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Class A: Enlargement, improvement or alteration of a dwellinghouse

Class B: Roof alteration to enlarge a dwellinghouse

Class C: Any other alteration to the roof of a dwellinghouse

Class D: Erection or construction of a domestic external porch

Class E: Provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwellinghouse or the maintenance, improvement or other alteration of such a building or enclosure

Reason: To ensure that the appearance of the areas is not prejudiced by the introduction of unacceptable materials and/or structure(s), and to satisfy the requirements of Policy SP20 of the Ryedale Plan - Local Plan Strategy.

## **INFORMATIVE**

The Council's Tree and Landscape Officer would not support any pruning that would impact on the health or visual amenity of the tree in future to enable to solar panels to work more effectively.