

**Item Number:** 15  
**Application No:** 22/01171/73A  
**Parish:** Malton Town Council  
**Appn. Type:** Non Compliance with Conditions  
**Applicant:** Mr Brian Abbott  
**Proposal:** Variation of Conditions 02, 03 and 06 and removal of Conditions 04, 05 and 08 of planning refusal 18/01035/FUL dated 25.06.2019 as allowed on appeal ref APP/Y2736/W/19/3241398 dated 21.04.2020  
**Location:** Land At Derwent Mount York Road Malton North Yorkshire  
**Registration Date:** 18 October 2022  
**8/13 Wk Expiry Date:** 13 December 2022  
**Overall Expiry Date:** 30 January 2023  
**Case Officer:** Gary Housden **Ext:** Ext 43307

**CONSULTATIONS:**

**Yorkshire Water Land Use Planning**  
**Tree & Landscape Officer**  
**Building Conservation Officer**  
**Malton Town Council**  
**Highways North Yorkshire** No Objection  
**Malton Town Council**  
**Malton Town Council**

**Representations:** Ward Hadaway LLP, Mr S And Mrs D England, Paul And Cate Tate-Smith, Martin & Maureen Brampton,

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**SITE:**

The application site forms part of the rear garden of No. 6 York Road, also known as Derwent Mount. The area in question measures 44 metres at its maximum by 36 metres, with an access track measuring 55 metres in length from York Road. The site is within both the Development Limit and the designated Conservation Area of Malton. There are several trees on the site, including a line of mature trees to the eastern side of the access track between No. 4 and No. 6 York Road. The area is characterised by substantial detached and semi-detached properties set within generous plots together with substantial landscaping in and around the properties. The adjacent site to the northern and eastern side of the application site contains trees protected under an area Tree Preservation Order (228/1997).

**PROPOSAL:**

Planning permission is sought for the erection of a 2 bedroom dwelling. It is single storey and designed in an 'L' shape, one side will have a length of 19.2 metres and the other 19.2 metres. The width of the buildings is 5.2 metres with an eaves height of 2.1 metres and a ridge height of 4.5 metres.

With the exception of two bedroom windows and two high level bathroom windows no windows or other openings are proposed on the outer sides of the building. 6 no. roof lights are proposed on the inner (southern and western sides). As amended the position and number of the roof lights now accords with the previously approved scheme. There is a ground level change across the site, with the land falling from north to south. Detailed plans submitted with the current application show levels details and also details of the window openings.

Access to the site is proposed via an existing access track that serves No. 6 York Road, Derwent Mount and its associated business use. No. 6 is proposed to retain a smaller area of domestic curtilage to the front of the property and an area immediately to its rear side.

Both foul and surface water are to be drained via the mains.

## **HISTORY:**

Planning permission was granted following an appeal to the Planning Inspectorate on 21st April 2020 – District Reference 18/01035/FUL for the erection of a two bedroom single storey dwelling.

A copy of the Inspector's appeal decision is appended to this report for Members' information. The layout of the site and the proportions of the building follow those approved in the earlier appeal decision. The detailed external appearance of the dwelling does however differ from that granted on appeal and is the reason why a further application has been submitted to the Local Planning Authority for consideration.

## **POLICY:**

Ryedale Plan Local Plan Strategy

Policy SP1 - General Location of Development and Settlement Hierarchy

Policy SP2 - Delivery and Distribution of Housing

Policy SP3 - Affordable housing

Policy SP4 - Type and mix of new housing

Policy SP12 - Heritage

Policy SP14 - Biodiversity

Policy SP16 - Design

Policy SP19 - Presumption in Favour of Sustainable Development

Policy SP20 - Generic Development Management Issues

Policy SP22 - Planning Obligations, Developer Contributions and Community

## **APPRAISAL:**

### Principle of development

Planning permission was granted on appeal for a two bedroom single storey dwelling. The permission remains extant and establishes the principle that the site is suitable for the erection of a single storey dwelling of appropriate size and design.

### Site Specific Issues

Members will be aware that the Inspector had previously considered in some detail the main issues relating to the appeal scheme, these being the effect of the development on the character and appearance of the area having regard to its local with the Malton Conservation Area and also the loss of one Norwegian Acer tree. The Inspector did conclude that the development was acceptable subject to a number of conditions that required the submission of further information.

The current application is accompanied by more detailed plans relating to the proposed materials to be used; landscaping (including the species and location of a replacement tree on the site); hedgerow protection; levels details ; location of the site compound and parking arrangements and window and door details. The submission of this additional level of information means that some of the conditions previously imposed by the Inspector would no longer be necessary (Conditions 04,05 and 08) and other

conditions would simply need to be varied (Conditions 02,03 and 06). Conditions 07, 09 and 10 would remain subject to reference to the most up to date plans.

The main considerations on this revised application are the extent to which there are any design changes that require further consideration. It is of note that the plans submitted with the current application have been amended on two separate occasions prior to the application being presented to Members for determination.

Objections have been received from 2No.neighbours and an agent acting on their behalf. The Town Council has also objected in relation to the original plans and also to the first set of amended plans. On both occasions the Town Council has commented stating 'Recommend Refusal'.

Objections received from third parties noted that the Inspector when allowing the appeal had imposed ten conditions and that in their opinion these conditions should still remain. The agent acting on behalf of the local residents had noted detailed design changes with particular regard to the presence of 7 No. outward facing roof lights in the new scheme together with other design changes includes the presence of raised solar panels on the west facing roof slope.

The objectors' agent submitted a further letter in respect of the first set of amended plans raising concerns about the continued presence of the outward facing roof lights. The agent also queried the potential for the insertion of a first floor within the building that could have an adverse effect on neighbours' amenity. Given the proportions of the building it is considered that the insertion of a useable first floor would not be possible or practicable in this instance.

At the time of writing this report a further re-consultation process is taking place with third parties and the Town Council. The current set of amended plans is appended to this report for Members information. The plans and elevations show the deletion of all outward facing roof lights, the solar panels are also deleted and two small high level bathroom window are shown on the north facing elevation. These changes, together with the a condition (no.7) removing the permitted development rights for specific Classes of alterations to residential properties, are considered to adequately protect the amenities of the occupiers of the adjacent properties

#### Heritage Matters

The proposed dwelling is identical to that approved on appeal in terms of its location on the site and its dimensions on the site. Detailed design changes have been amended through negotiation by officers. The Council's Buildings Conservation Officer does not object to the amended scheme.

#### Impact upon the amenity of the adjoining occupiers

Policy SP20 requires that new development should not have a:

"material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design...and proximity to neighbouring land uses."

The Inspector had previously considered the appeal scheme to be acceptable in terms of neighbouring amenity subject to the detail of the design showing inward facing roof lights and also the imposition of a condition to control permitted development rights with particular regard to the control of any future roof alterations (Paras 11&12 of decision letter dated 21.042020). It is considered that the scheme as amended, which show the removal of all outward facing roof lights is acceptable. The imposition of a specific condition controlling permitted development right is however considered to be necessary to retain control over the possible impact upon neighbours' amenity into the future.

### Highway safety

The Local Highway Authority had previously recommended conditions relating to an approved parking area, and an on-site compound and storage facilities. The Local Highway Authority have confirmed no objections to the details shown on the current application proposals.

### The impact of the proposal upon existing trees and landscaping

The approved appeal scheme involved the loss of one Norwegian Acer. The Inspector considered that this tree was not significant and that it only made a modest contribution to the verdant character of the area. The Inspector concluded by deciding that its loss could be mitigated by the imposition of a landscaping scheme. The Inspector also imposed a condition to protect and retain the existing hedging on the eastern and southern boundaries. The submitted plans show a replacement standard tree to be planted within the site, in this case a Himalayan Birch. The location and species are considered to be acceptable in this location.

### Other issues

As mentioned earlier in this report Malton Town Council has recommended refusal of the application. No detailed comments have been made. The final comments of the Town Council in response to the second set of amended plans is awaited and will be reported to Members on the Late Pages or at the meeting.

### **CONCLUSION:**

In light of the above, the recommendation is one of approval subject to the conditions listed below.

### **RECOMMENDATION:**

#### **Approval**

1. The development hereby approved shall begin no later than 21<sup>st</sup> April 2023.

Reason: To ensure compliance with Section 73 of The Planning Act 1990 (as amended)

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

Drawing No.PD227.01.H Proposed Ground Floor Plan

Drawing No.PD227.02.I Proposed elevations(including materials and levels)

Drawing No.PD227.04.I Location Plans and Site Block Plan

Drawing No.PD227.05 Site management Plan

Drawing No.PD227.06 Window and Door Details

Drawing No.PD227.07.A Landscaping Plan

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

3. The approved site compound, materials storage area and parking area for staff and sub-contractors shall be kept available for their intended use at all times construction works are in operation. No vehicles associated with the on-site construction works shall be parked on the public highway or outside the application site.

Reason: In accordance with Policy SP20 of the adopted Ryedale Plan - Local Plan Strategy and to provide vehicle parking and storage facilities in the interests of highway safety and in the general amenities of the locality.

4. All planting, seeding or turfing comprised in the approved landscaping details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings of completion of development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To enhance the appearance of the development hereby approved and to satisfy Policy SP20 of the adopted Ryedale Plan – Local Plan Strategy.

5. The existing hedges along the southern and eastern boundaries of the site shall be retained. In the event of any of the existing hedges being removed without the prior consent of the Local Planning Authority or dying within 5 years of the completion of the development hereby approved, they shall be replaced to a specification that shall first have been approved in writing by the Local Planning Authority. Any new hedgerow plants shall be maintained for a period of 5 years from being planted and replaced if they die or become diseased by plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the visual amenities of the locality and to satisfy Policy SP20 of the adopted Ryedale Plan- Local Plan Strategy.

6. The dwelling hereby approved shall not be occupied until the parking areas and hard standings shown on Drawing No.PD227.04.I have been laid out on site. The parking and hard standing areas shall thereafter be maintained clear of any obstruction and kept available for their intended purpose at all times.

Reason: In the interests of highway safety, to provide adequate off street parking and to satisfy Policy SP20 of the adopted Ryedale Plan –Local Plan Strategy.

7. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development)(England)Order 2015(or any order revoking, re-enacting or modifying that Order), no development of the types described in the following classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission: Part 1, Classes A, AA, B, C, D, E and F.

Reason: To ensure that the appearance of the designated conservation area and the amenities of the occupiers of adjacent residential properties are adequately safeguarded into the future and to satisfy Policies SP12, Sp16 and SP20 adopted Ryedale Plan – Local Plan Strategy.