

## COMMITTEE REPORT

**Date:** 15 October 2015      **Ward:** Guildhall  
**Team:** Major and      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 15/01157/FUL  
**Application at:** Land to the North of 37 And 38 St Marys York YO30 7DD  
**For:** Erection of two storey detached dwelling  
**By:** Mr and Mrs D Coidan  
**Application Type:** Full Application  
**Target Date:** 16 October 2015  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application site comprises a detached former garden area associated with 38 St Mary's, most recently occupied by a bank of 8 concrete panel garages and used for parking for Bootham School . No. 38 St Marys comprises a substantial four storey brick built Grade II Listed Mid 19th Century brick built villa occupying a prominent location within the Historic Core Conservation Area at the corner of Bootham and St Mary's. The property has associations with Joseph Rowntree and has recently been converted back to residential use having formerly been used as a boy's boarding house for Bootham School. Planning permission is now sought for erection of a single dwelling house on the former parking area to the rear to a contemporary design with access taken from the back lane. The proposal has been amended since submission to alter its skyline by removing a chimney and to clarify the visual relationship with the adjacent properties to the south.

#### Planning History

1.2 Outline planning permission has previously been given for two cottage style mews houses within the current application site in 2010 (10/00016/OUT). Reserved Matters Consent has subsequently been given for the development in 2013 (13/00055/REM). The permissions establish the principle of residential development of the site and the recent demolition of the previous block of 8 concrete panel garages keeps the earlier permissions alive in the event that the current proposal is not implemented.

#### Call-in

1.3 The proposal has been called in to Committee for Member's determination by Councillor Denise Craghill because of concerns in terms of the impact of the proposal upon the character and appearance of the Conservation Area, creation of a

potential precedent for other similar developments in the locality and potential adverse impact upon the residential amenity of adjacent properties.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006  
Conservation Area GMS Constraints: Central Historic Core CONF  
Listed Buildings Multiple (Spatial)

### 2.2 Policies:

CYGP1 Design  
CGP15A Development and Flood Risk  
CYH4A Housing Windfalls  
CYHE2 Development in Historic Locations  
CYHE10 Archaeology

## **3.0 CONSULTATIONS**

### INTERNAL

#### Highway Network Management

3.1 No objection to the proposal.

#### Environmental Protection Unit

3.2 No objection to the proposal subject to the provision of a recharge point for an electric vehicle within the curtilage of the new property.

#### Design, Conservation and Sustainable Development (City Archaeologist)

3.3 No objection in principle to the proposal subject to any permission being conditioned to require a full archaeological investigation of the site through its proximity to a known extra-mural Roman cemetery.

#### Strategic Flood Risk Management

3.4 Any response will be reported verbally.

### EXTERNAL

#### Guildhall Planning Panel

3.5 Object to the proposal on the grounds of adverse impact upon the character and appearance of the Historic Core Conservation Area.

## Yorkshire Water Services Ltd

3.6 Raise no objection to the proposal.

## Foss Internal Drainage Board

3.7 Raise no objection to the proposal.

## York Civic Trust

3.8 Raise no objection in principle to the proposal but indicate that the proposal should be subservient to the much higher buildings surrounding it, a high quality and respectful palette of materials should be adopted and a full pre-development archaeological evaluation should be undertaken of the site.

## Neighbour Notification/Publicity

3.9 Nine letters of representation have been submitted in respect of the proposal, 6 letters of objection and three of support.

3.10 The following is a summary of the letters of support:-

- Support for the scale of the development relative to the surrounding buildings and wider street scene;
- Support for the "sensitive" use of a Modern idiom and palette of materials;
- Support for the layout of the proposal which is felt to safeguard the amenity of neighbouring properties.

3.11 The following is a summary of the letters of objection:-

- Concern in respect of the impact of the proposal upon the visual amenity of the wider street scene, notably Bootham Terrace to the north and the junction of St Mary's with Bootham to the south west;
- Concern in respect of the inappropriate use of a Modern pattern of scale and massing and palette of materials;
- Concern in respect of the impact of the proposal upon the residential amenity of properties directly to the south by virtue of overlooking, over-dominance and loss of privacy;
- Concern in respect of the impact of the proposal upon the character and appearance of the Central Historic Core Conservation Area and a failure to comply with the requirements of Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act in respect of the preservation or enhancement of the Conservation Area;
- \*Concern in respect of the impact of the proposed building upon the setting of a number of Listed Buildings in the near vicinity notably Penn House itself and failure to comply with Section 66 of the 1990 Planning (Listed Buildings and Conservation Areas) Act in respect of safeguarding the setting of Listed Buildings.

## 4.0 APPRAISAL

### KEY CONSIDERATIONS:-

#### 4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the character and appearance of the Central Historic Core Conservation Area;
- Impact upon the setting of Penn House and other nearby Listed Buildings;
- Impact upon the residential amenity of neighbouring properties.

### STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN

4.2 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in arriving at Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

### IMPACT UPON THE CHARACTER AND APPEARANCE OF THE CENTRAL HISTORIC CORE CONSERVATION AREA:-

4.3 Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas Act sets out a clear statutory duty to Local Planning Authorities to have special regard to the desirability of preserving and enhancing the Conservation Area. Policy HE2 of the York Development Control Local Plan sets out a firm policy presumption that within or adjacent to Conservation Areas and within the setting of Listed Buildings development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale , proportion, details and materials. Central Government planning policy as outlined in paragraph 132 of the National Planning Policy Framework urges Local Planning Authorities to give particular weight to the desirability of new development making a positive contribution to local character and distinctiveness.

4.4 The Central Historic Core Conservation Area Character Appraisal(2013) identifies the area as being one of a mix of Georgian and Victorian Terraced housing designed for occupation by professional people with the surrounding dwellings either separately Listed or individually of merit within the Conservation Area. Areas identified as being suitable for redevelopment are few with the application site being one. In securing the character of the Conservation Area the need to secure the characteristic local skyline is seen as being of particular importance as is the need to secure new architecture of a suitable quality for the principal approaches to the Historic City. The application site comprises a former walled garden separated from the main house by a back lane providing rear access to the properties on the western side of Bootham. It lies approximately 2.5 metres above the level of the gardens of Constantine House and its neighbour directly to the west and was

previously occupied by a grouping of precast concrete panel garages dating to the 1970s. A series of brick garages and a workshop of substantial construction separate the site from the properties facing Bootham in the characteristic location of stables and coach houses in earlier times. Outline planning permission was previously given for erection of two cottage style dwellings on the application site in 2010.

4.5 The application envisages the erection of a single dwelling house to a contemporary design but reflecting the palette of materials present in the direct locality including mid red brick, render and a zinc cladding. In terms of roof form it incorporates a series of flat roofed with parapet and mono-pitch elements with an angular massing facing St Mary's. A glazed wall would be constructed to light the principal living rooms aligned along the rear of St Mary's with the building partially recessed into the site in order to minimise impact upon the residential amenity of the adjoining properties. An external terrace would be provided at ground floor level to the west to provide external amenity space which would be sheltered from the adjacent property by the existing wall. Parking would be via garage within an integral flat roofed block accessed from the adjacent back lane with a flat green roof laid above. The building would have a maximum ridge height of 5.8 metres comparable with the garage/workshop building directly to the east.

4.6 Concern has been raised by objectors in respect of the visual relationship of the proposal to the principal views through the Conservation Area south from Bootham Terrace and north west from the junction of St Mary's with Bootham. The principle of residential development of the site is however, firmly established by the previous Outline Planning Permission. The proposal is also physically separated from St Mary's by the substantial walled garden of Penn House and longer distance views from the south and south east are physically disrupted by landscaping within the gardens of Penn House. Views from Bootham Terrace are largely mitigated by mature landscaping along the alignment of the York/Scarborough railway. Concern has also been expressed in terms of the visual relationship between the building and the adjacent housing of significant townscape merit. The sky line of the building has however been designed so as not to be in competition with its higher more formal neighbours surrounding. It would also not be seen within the same view plane as the adjacent buildings as it would be set back and to one side of Constantine House and its neighbour and is physically separated from the properties facing Bootham by the large workshop building directly to the east. The building would also be recessed into the site with a strip of landscaping including a semi mature tree fronting the back lane directly to the south. In terms of the palette of materials a smaller extension using an identical roof form and mix of render and cladding was constructed to the rear of a property along the Bootham frontage directly to the north some ten years ago and has weathered into the surrounding townscape. It is therefore considered that the proposal would not harm the character and appearance of the Conservation Area rather in view of the design of its skyline and relationship to its surroundings its impact would be broadly neutral. It is therefore felt

in terms of the requirements of Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act that it would preserve or enhance the character and appearance of the Conservation Area.

## IMPACT UPON THE SETTING OF PENN HOUSE AND ADJACENT LISTED BUILDINGS

4.7 Section 66 of the 1990 Planning (Listed Buildings and Conservation Areas) Act sets out a statutory duty to Local Planning Authorities to have special regard exercising their planning functions to safeguarding the setting of Listed Buildings. The application site lies within the setting of Penn House, 38 St Mary's and Constantine House 37 St Mary's both Listed Grade II as good examples of substantial brick built Mid Victorian villas characteristic of the surrounding area. Indeed it was originally laid out as a detached walled garden to serve Penn House. The proposed building as amended has been designed to sit low within the adjacent skyline and not to attempt to compete with either Penn House or its immediate neighbours within the Bootham street frontage which are narrow in relation to their height. In terms of the relationship to Constantine House it has again been designed to sit low within its surroundings and not to act in visual competition. It is also offset in views of Constantine House and would not readily impinge upon its context in views from the surrounding area outside. In terms of the relationship to Penn House it is detached by the back lane serving the properties along the western side of Bootham and the visual relationship is further disrupted by the recent landscaping works undertaken in the rear garden of Penn House. Further landscaping works are envisaged along the southern boundary of the site including the planting of a semi-mature tree, which would result in the proposed building being recessed into the site. The proposal is also wholly contained within the former detached walled garden thereby retaining the historic pattern of property boundaries and safeguarding the context of neighbouring properties. In view of the design of the skyline of the proposed property and its visual relationship to the adjacent Listed Buildings it is felt that their setting would not be harmed and that the requirements of Section 66 of the Act can therefore be achieved.

## IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES

4.8 Policy GP1 of the York Development Control Local Plan sets out a firm policy presumption in favour of new development which respects or enhances the local environment, is of a scale, density, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area and ensures that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. Central Government planning policy as outlined in paragraph 17 of the National Planning Policy Framework "Core Planning Principles" indicates that Local Planning Authorities should give significant weight to the need to secure a good standard of amenity for all new and existing occupiers of land and buildings.

4.9 Objections have been received from neighbours in respect of the impact of the proposal upon the residential amenity of the adjacent property Constantine House 37 St Marys. This is primarily in two respects, the possibility of overlooking and loss of privacy arising from the relationship of the flat green roof above the garage and its potential for use as a roof terrace and the potential for overlooking and loss of privacy arising from usage of the proposed sunken garden area adjacent to the boundary with Constantine House. The possibility of overlooking through the glazed west wall of the building of the garden area of Constantine House is also of serious concern. The applicant has submitted amended drawings to clarify the visual relationship between the garden and principal living rooms of the proposed building and the garden area of Constantine House. This illustrates the principal views between the site and the neighbouring property Constantine House taking account of the proposed landscaping at the site boundary and the degree to which the proposed external amenity space would be recessed into the site. This indicates that views from the external amenity area to the west of the site into the adjacent garden would be negligible given the retention of the brick boundary wall to a height of 2 metres from the ground level within the central section of the amenity area. The exterior of Constantine House would be some 11.5 metres to the south west from the amenity area at its closest point and any views would be oblique. In terms of overlooking from within the proposed building the principal living areas would be recessed behind a substantial glazed wall facing south west with any potential being minimised by the topography of the site as completed and the retention of the brick boundary wall. Any views of Constantine House itself would again be oblique and heavily disrupted by the topography and boundary treatment of the finished site.

4.10 Objections have separately been expressed in terms of the relationship of the proposed green roof to the garage and the adjacent first floor bedroom and any resulting loss of privacy and overbearing impact on account of the location of the building relative to the site boundary. The additional height of the garage would however be 2.5 metres above the level of the existing maximum height of the wall at a recess of 0.5 metres which is not felt in the context of a densely developed area to be overbearing. In terms of views from the bedroom any views of the adjacent garden and Constantine House itself would be disrupted by the local topography and the proposed parapet for the green roof to allow for maintenance. Detailed concern has also been expressed in respect of the potential for use of the green roof in view of the location of the adjacent bedroom windows and a parapet as a roof terrace or amenity. Such use would be clearly unacceptable in terms of its impact upon the residential amenity of the adjacent property Constantine House and a detailed submission has been made by a neighbour to demonstrate this. However, the applicant has confirmed that to use the green roof as a terrace would lead to its plant cover dying and potential problems of ingress of water below. The proposed parapet would also be only 0.8 metres high which would render amenity usage extremely hazardous. The applicant has furthermore confirmed that a condition restricting access to the roof for maintenance purposes only would be acceptable.

4.11 Taking account of the alignment of the proposed property and the local topography as altered the proposal is felt to be acceptable in terms of its impact upon the residential amenity of neighbouring properties and highly characteristic of such locations in densely developed urban areas.

## OTHER ISSUES

4.12 Objections have been raised in respect of the relocation of the parking spaces associated with Penn House and currently located within the application and the potential for additional pressure on the restricted quantity of on-street parking. The applicant has laid out a hard surfaced parking area within the garden of Penn House utilising his permitted development rights which is adequate to accommodate the parking displaced.

## 5.0 CONCLUSION

5.1 The application site comprises a former detached walled garden associated with 38 St Mary's, most recently used as parking area with a block of 8 concrete panel garages. 38 St Marys comprises a substantial four storey brick built Grade II Listed Mid 19th Century brick built villa occupying a prominent location within the Historic Core Conservation Area at the corner of Bootham and St Mary's. The property has associations with Joseph Rowntree and has recently been converted back to residential use having formerly been used as a boy's boarding house for Bootham School. Outline Planning permission ref:-10/00016/OUT has previously been given for two cottage style dwellings on a former detached parking area associated with the property to its south west beyond the adjacent back lane.

5.2 Planning permission is now sought for erection of a single dwelling house on the former parking area in a contemporary architectural form with access taken from the back lane. The proposal as amended would sit low within the townscape and would be of a comparable scale and massing to surrounding buildings. It would also be detached in key long and short distance views within the Conservation Area and the setting of adjacent Listed Buildings. Whilst constructed in a modern idiom, materials that find reference in the locality are also used. It is felt that the requirements of Section 66 and Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act in respect of preserving and enhancing the character and appearance of the Conservation Area and the setting of adjacent Listed Buildings are achieved. The proposal is therefore felt to be acceptable on that basis.

5.3 Objections been received in terms of the potential impact of the proposal upon the residential amenity of the adjacent property Constantine House which is presently in the process of being refurbished for return to use as a single residential unit. The applicant has however demonstrated that providing the proposed flat green



roof above the garage area is not used as terrace then there would not be any material harm to the residential amenity of the adjacent property.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

Drawing Refs:- 1192\_AR50\_03\_A; 1192\_AR50\_01\_B; 1192\_AR50\_02\_B.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development above foundation level. The development shall be carried out using the approved materials.

A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of the development above foundation level. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details in view of their sensitive location.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

4 None of the boundary walls enclosing the site shall be lowered or breached without the prior written consent of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

5 Details of all means of enclosure to the site boundaries shall be submitted to

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and approved in writing by the Local Planning Authority before the development commences above foundation level and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

6 No development shall take place above foundation level until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, shrubs and hard landscaping. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

7 ARCH1 Archaeological programme required

8 ARCH2 Watching brief required

9 EPU1 Electricity socket for vehicles

10 Prior to the development commencing details above foundation level of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

11 HWAY19 Car and cycle parking laid out

12 Prior to the development coming into use, the initial 3 m of the vehicular access, measured from the back of the public highway, shall be surfaced, sealed and positively drained within the site. Elsewhere within the site all areas used by vehicles shall be surfaced and drained, in accordance with the approved plans.

Reason: To prevent the egress of water and loose material onto the public highway.

13 Notwithstanding the provisions of Article 3 of the Town and Country Planning

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(General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C, E and G of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents and safeguarding the character and appearance of the Central Historic Core Conservation Area the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

14 Prior to the commencement of the development hereby authorised above foundation level full details of the proposed means of surface water disposal for the site including hard surfaced areas, calculations and invert levels shall be submitted to and approved in writing by the Local Planning Authority. Such details shall allow for discharges to be attenuated to 70% of existing levels and shall make due allowance for 1 in 30 and 1 in 100 year severe rainfall events. The details shall be fully implemented prior to first occupation of the dwelling house.

Reason:- To ensure that the site is safely and efficiently drained.

15 The roof of the garage shall not be used as a roof terrace or an external amenity area.

Reason: - To safeguard the character and appearance of the Historic Core Conservation Area and the residential amenity of neighbouring properties.

## **7.0 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 (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- i) Sought clarification of the visual relationship with the adjacent property Constantine House.
- ii) Sought an amended design for the roofscape of the proposal.

### **2. CONTROL OF POLLUTION ACT 1974:-**

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

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