

COMMITTEE REPORT

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

Reference: 15/00462/FUL
Application at: Former Garage Site 172 Fulford Road York YO10 4DA
For: Erection of petrol service station with retail unit
By: Valli Forecourts
Application Type: Full Application
Target Date: 12 October 2015
Recommendation: Refuse

1.0 PROPOSAL

1.1 Planning permission is sought for the erection of a petrol filling station and retail unit at 172 Fulford Road York.

1.2 The site is located on the west side of Fulford Road and was formerly a petrol filling station (PFS). The PFS was closed in 2003 and the buildings subsequently demolished and below ground tanks removed. The site has been fenced off since about 2006. To the north of the site is a veterinary clinic, to the south is a former office building now converted to flats (this is a grade II listed building) to the west is the rear areas of properties fronting Alma Grove and to the east is Fulford Road. There is further residential development opposite the site across Fulford Road. The site is located within Fulford Road Conservation Area.

1.3 The development, which has been amended since first submission comprises the erection of a new forecourt with three petrol pumps and petrol canopy over to the front of the site; a new retail unit providing approximately 420 sqm of gross floor space in a building measuring 31 metres by 14 metres with a height of 4.6 metres. Associated car and cycle parking, landscaping and ATM machine are also proposed. It was originally proposed for the station to be open 24/7 however as amended the scheme proposes to operate between 06:00 and 23:00 hours

1.4 The application has been called into committee by Cllr D'Agorne. Cllr D'Agorne has concerns about the impact of the development on the conservation area and considers the proposal contrary to the draft allocation for housing in the emerging plan.

PLANNING HISTORY

1.5 The history considered to be most relevant to this development is as follows:-

- Planning permission was refused for the erection of a petrol filling station following the demolition of existing petrol filling station buildings at the site in 2003 (planning reference 02/00828/FUL). The reasons for refusal were impact of the proposed canopy and buildings on the character of Fulford Road Conservation Area; harm to the setting of adjacent buildings; impact on the living conditions of adjacent properties caused by increased activity at the site.
- In December 2003 conservation area consent was granted for the removal of the petrol filling station canopy (planning reference 03/03910/CAC).
- Permission was granted for the remaining buildings to be removed and a fence constructed around the site in July 2006(planning references 06/01680/FUL and 06/01681/CAC).

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area Fulford Road CONF

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

2.2 Policies:

GP1 'Design'

HE2 'Development in Historic Locations'

HE3 'Conservation Areas'

HE4 'Listed buildings' GP4a 'Sustainability'

E4 'Employment Development on Unallocated Sites'

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections to the proposed petrol station including retail unit. Conditions are requested to ensure that cycle parking is appropriately provided and entrance crossing points appropriately designed.

Planning & Environmental Management (Conservation Officer)

3.2 Objects to the application. Proposals would be harmful to the character and appearance of the conservation and to settings and views of the attractive Victorian houses to each side of the site.

Planning & Environmental Management (Landscape Architect)

3.3 The strip of planting to the rear should be increased to provide greater separation between the rear of properties on Alma Grove and the proposed building, and to provide more suitable planting conditions and a more comfortable physical and visual arrangement. The site entrance is also a little bleak given its location within the conservation area, amongst a more residential setting. It would be helpful if large beds could be created at the entrance that would support some large species trees that would contribute to the amenity of Fulford Road. Commenting on the amended scheme - frontage planting is still unlikely to support thriving tree growth and the rear planting will be overpowering to adjacent properties.

Planning & Environmental Management (Archaeologist)

3.4 This site lies outside the Area of Archaeological Importance. However, archaeological work north of this site from Grange Garth through to the City Walls has indicated extensive Roman, Anglian and medieval deposits. These deposits represent a probable Roman road and associated cemeteries, Anglian settlement features (pits, postholes, etc), a previously unknown medieval cemetery and a series of medieval pottery or tile kilns. It is possible that this range of archaeological deposits extends along Fishergate into Fulford Road. Therefore it will be necessary to excavate archaeologically all extensive or deep ground disturbances (storage tanks, petrol interceptor, foundations for new buildings, etc) and maintain an archaeological watching brief on all deep excavation work. Conditions are requested.

Planning & Environmental Management - Policy

3.5 No objections to the retail shop there will be no significant adverse impact on existing centres. Conservation Issues should be considered in light of policies in the emerging plan.

Environmental Protection

3.6 Noise associated with the plant, customer vehicle movements and parking and delivery noise are all considered to be at acceptable levels based on the submitted noise report. No objections are raised on noise grounds subject to conditions. Conditions related to land contamination are requested. The impacts of the proposed development are unlikely to have any detrimental impact on air quality, even though the site is adjacent to the Fulford Road AQMA. A rapid charge electric point is requested to be placed within the site to accord with the requirements of paragraph 35 of the NPPF and the Council's low emissions strategy.

Flood Risk Management

3.7 No objections subject to conditions

EXTERNAL

Fishergate Planning Panel

3.8 There have been fundamental changes in the area in the ten years since this property was last used as a garage which make this development no longer appropriate for the area.

- The area is now significantly more residential than previously.
- There has been a significant increase in traffic density on Fulford Road, including a substantial amount of (blue light) emergency vehicles.
- The relatively newly installed cycle track would have to be cut twice to allow for the entrance and exit. This would add to the dangers to cyclists from crossing traffic and further discourage cyclists.
- There have been significant increases in the number of school children waling to school past the site. This development would create two new dangerous and busy entrances for the children to negotiate.
- There is no need or commercial justification for a petrol filling station on this site.
- In comparison to ten years ago there are many more local shops, which have long opening hours, offering the sorts of goods suggested for this site.
- This brown field site would be ideal for residential development and use, which would be in line with the needs and plans of the city.

3.9 Further comments have been received from Fishergate Planning Panel following the submission of amendments. The Panel consider the amended plans fail to deal with the following:

- A petrol station, with canopy, signage and all the related lighting will be a blot on the landscape and permanently ruin the look of the conservation area.
- This is an inappropriate commercial use of a site that is in the middle of a residential area.
- There is a serious risk to the safety of school children
- The proposed southern road entrance to the development is directly over the safety zone for the traffic light controlled pedestrian crossing.

Fulford Parish Council

3.10 The Council has no objections to this application, although there are concerns regarding the following: Adverse impact upon the CA due to unsympathetic design and inappropriate materials; the safety of pedestrians and cyclists due to the nearby crossing point and because of general difficulties for vehicles exiting the site across a busy carriageway; adverse impact on neighbouring amenity due to noise and nuisance caused by the night-time opening hours; the need for such a large retail unit has not been demonstrated; possible impact upon air quality within an AQMA.

Yorkshire Water

3.11 Conditions are requested to ensure the appropriate drainage of the site.

Environment Agency

3.12 No objections in principle subject to conditions relating to groundwater and land contamination.

Police Architectural Liaison Officer

3.13 Crime prevention has been considered as part of the application and is considered acceptable. The area around the ATM must be well lit and specifically covered by CCTV.

York Civic Trust

3.14 A petrol Filling Station is not the optimum use for the site. The site would represent a greater potential benefit as a residential development, which would be more appropriate for the setting of the conservation area and would contribute sustainably to the City's housing targets. Particularly in the absence of an agreed local plan and five year land supply. Brownfield sites should be used for sustainable housing development. The public benefit from a petrol station at this site can be judged to outweigh the negative effect on the conservation area, as there are other petrol stations nearby.

Neighbour Notification/Publicity

3.15 68 letters of objection have been received covering the following points:-

- Increase risk of crime - the site will be open 24 hours all year and will have ATM machines
- Risk of explosion and contamination in a residential area
- Serious danger to pedestrians and cyclists
- Access to local shops will be less easy and businesses will be affected - The develop threatens the vibrant local economy
- Will not be sustainable development
- Will be damaging to the environment
- It will increase light, noise and air pollution
- Site is within the Conservation Area and the effect on the setting of the adjacent listed building has not been considered.
- Trees with nesting birds will be removed - development should aim to sustain bees and birds
- Development will be intrusive to neighbours
- Use is unnecessary in the area; there are alternative petrol filling stations nearby
- The flow of traffic along Fulford Road will be disrupted
- Site should be developed for housing

- Conservation area appraisal says the site needs sensitive infill - the proposals will have a direct impact on heritage significance
- Historical use of the site as a garage is irrelevant
- Design and materials out of place adjacent to a listed building
- 24 hour operation inappropriate for a residential area
- The retail unit will be unhelpful competition to other shops
- No local benefit
- Properties on Alma Grove will be directly impacted by the development
- Noise, litter and light pollution will be caused by convenience store.
- The previous petrol station on this site failed commercially and there is no evidence that another would be sustainable.
- Air quality will suffer - worsening air pollution that already exceeds safe limits set by the EU.
- Antisocial behaviour caused by late night opening
- Putting back a petrol station after putting time and money into have the land decontaminated seems a complete waste of effort.
- Attracting traffic into the city is completely at odds with York aims in the third air quality action plan to reduce No2 and remove area from Air Quality Management Area.
- Proximity to the army barracks and police station presents a risk to security.
- Development will spoil the local environment for residents and visitors.
- Contravenes guidelines set out in Conservation Area document; inadequate screening from main road.
- There will be the smell of petrol in the air and the required signage will visually pollute the area
- More eco-friendly methods of travel should be being promoted.
- Maida Grove the 'private' cul-de-sac is constantly being used by delivery vans, L-plate learner companies, taxis and cars to 'turn round', causing much damage to the 'private' road this is dangerous and will be exacerbated by the development.
- The presence of a petrol filling station would encourage more Lorries to use the road.
- The chair of Governors and the head teacher at Fishergate primary school are concerned that the petrol filling station will reduce the safety of the western side of Fulford Road so that school pupils will be endangered and older children will not be able to walk independently. If the route is perceived as unsafe by parents more children may be taken to school in the car.
- The shop should have a safe route for pedestrians across the forecourt.

3.16 Following re-consultation on the amendments to the proposal 45 additional concerns have been raised as follows:-

- All previous objections are restated

- The amendments do not include any improvements for pedestrian and cycle users of the highway.
- Minor improvements in design do not tip the scales in favour of the development.
- It has not been shown that there is a need for the petrol or retail use.
- The land and water course, including the River Ouse, will be contaminated (Environment Agency 2015) causing health risks to residents, nature and local wildlife.
- There are trees currently on the site which have not been included/acknowledged in the drawings/plans and should not be removed/destroyed.
- The row of shops is becoming lovely local facilities and should not be affected by a petrol station.
- The council has a duty of care to the local residents.
- Air pollution has not been addressed in the amendments
- The noise and light will be detrimental to houses around the petrol station (as it was when there was a station there formerly).
- The plans for the proposed buildings are extremely unattractive and not in keeping with the look and feel of the conservation area.
- The site will not have a very long economic life and the site may be left derelict.
- Proposal vastly out of proportion and not in character at all with the area.
- Traffic flow will increase in density and complexity.
- Remains a proposal to site a 21st century petrol filling station in a Conservation Area that retains some characteristic 19th century residential development and objectors remain opposed to this retrogressive and incongruous development.
- If we are to protect the green belt then we need sites such as this one for much needed housing.
- It has suited the purposes of the authors of this application to sometimes weigh its merits against the refused application of 2002, and at other times, against the present condition of the site. Perhaps it should more appropriately be weighed against what might be done to best meet the city's need for 'sensitive infill'.
- Petrol Stations are pseudo-industrial constructions and such a building is not appropriate in a pleasant residential area.

3.17 Four letters of support have been received covering the following points:-

- The garage existed previously and did not cause problems to the existing infrastructure - the road layout remains largely the same.
- The loss of the petrol filling station with the loss of other facilities at that time put pressure on other garages in the area. The scheme would help to rebalance the area.

- The additional and competing shop facilities will be useful.
- The site is derelict and largely contains non-native species the loss of which will not pose a significant risk to wildlife.
- I would encourage investment in the area, especially on a main road where the impact is probably minimal (even in a conservation area).
- Many objectors refer to the increasing number of residents as reason to object, the supporter sees it as a reason to support; more residents require more facilities.
- The new station may reduce the traffic chaos that often occurs outside Sainsbury's and the Police Station.
- There will be ample opportunity to use the station outside peak traffic flows
- The design is acceptable in the Conservation Area.
- Whilst 24 hour opening is a concern reduced hours could be conditioned.
- Landscaping could be incorporated into the design to reduce its visual impact.
- The economics and functional benefits of the scheme for residents living around the wider area should also be factored into the equation.
- Not everything built in York can be housing without the need also for services and facilities to support the existing population.

4.0 APPRAISAL

4.1 Key Issues

- Policy
- Principle of the development
- Design and layout and heritage assets
- Retail
- Highways access and parking arrangements
- Residential amenity
- Drainage

The Planning (Listed building and Conservation Areas) Act 1990

4.2 Section 72(1) of the Act, with respect to any buildings or other land in a conservation area, places a duty on Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Section 66 of the Act says, in relation to the protection of listed buildings and their setting, that the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

PLANNING POLICY

National Planning Policy Framework (NPPF)

4.3 Paragraph 14 says that at the heart of the NPPF is a presumption in favour of sustainable development for decision taking this means that where the development plan is absent, silent or relevant policies are out-of-date granting planning permission unless specific policies in the framework indicate development should be restricted. (Foot note 9 indicates restrictions include designated heritage assets).

4.4 The core planning principles at Paragraph 17 include the expectation that planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;

4.5 In terms of employment paragraph 19 of the NPPF says that planning should encourage and not impede sustainable growth therefore significant weight should be placed on the need to support economic growth through the planning system.

4.6 Paragraph 23 indicates that needs for retail, leisure, office and other main town centre uses should be met in full and should not be compromised by limited site availability.

4.7 Local planning authorities at paragraph 24 are directed to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Paragraph 26 states that when assessing applications for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

4.8 Section 7 of the NPPF requires good design. Paragraph 56 says good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Although visual appearance and the architecture of individual buildings are very important factors,

securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment (Para 61).

4.9 Section 12 of the NPPF is relevant to the site's Conservation Area Status. Paragraph 129 says Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 134 says that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit of the proposal, including its optimum viable use.

4.10 The NPPF says at Annex 1 that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the Framework policies, the greater the weight that may be given). Weight may also be given to relevant policies in emerging plans according to the stage of preparation (the more advanced, the greater the weight that may be given), the extent to which there are unresolved objections (the less significant, the greater the weight) and the degree of consistency of the relevant emerging plan policies to the Framework policies (the closer they are, the greater the weight).

Local Plan Policy

4.11 Policies in the DCLP are considered to be relevant to this development where they are consistent with the advice within the NPPF. In this respect the most relevant policies to the proposal are GP1 'Design', HE2 'Development in Historic Locations' and HE3 'Conservation Areas', He4 'Listed buildings' GP4a 'Sustainability' and E4 'Employment Development on Unallocated Sites'

Emerging Plan Policy

4.12 The emerging Local Plan policies can only be afforded weight in accordance with annex 1; paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of the planning application.

4.13 The most relevant evidence base is the Retail Study Update (2014). It considers that the retail hierarchy in the emerging plan represent sound tiers for planning for future community needs.

4.14 The site was identified through the call for sites process as a site suitable for housing however a proposed allocation was not pursued as the owner of the site was unwilling develop the site for residential purposes.

4.15 The site is shown as being within the built up area of York with no specific allocation in the existing and emerging local plans.

FULFORD ROAD CONSERVATION AREA APPRAISAL (HCAA)

4.16 The site falls within the northern half of the Fulford Road conservation area which was designated in 1975 and extended to include Alma Grove to the rear of the site in 2010. The Conservation Area Appraisal identifies the veterinary building and the properties on Alma Grove as buildings of positive value to the area and identifies the site itself as a feature of detriment to the area.

PRINCIPLE

4.17 The site is located within Fulford Road conservation area and affects the setting of heritage assets. In accordance with footnote 9 to paragraph 14 of the NPPF the presumption in favour of development does not apply to this site.

4.18 The site is located within York's main urban area and is a previously developed site. The principle of redeveloping the site for an employment use is considered to accord with the aims and objectives of the NPPF and with the aim of policies in the existing and emerging local plans.

4.19 The last use of the site was a petrol filling station (PFS). The PFS was closed in 2003 and the buildings, following a grant of consent, were removed from the site in 2006. Without a further grant of planning permission for erection of buildings it would not be possible to reintroduce the former use as a PFS. The current application should be considered on its own merits; the former use could be considered to have been abandoned.

DESIGN, LAYOUT AND HERITAGE ASSETS

4.20 The site falls within the northern half of the Fulford Road Conservation Area which was designated in 1975. It is a deep site adjacent to the main road which forms the spine of a linear conservation area and also its eastern boundary in this location. In 2010 the conservation area was reappraised and the western boundary was extended adjacent to the site to include Alma Grove, a formal complex of early small scale council housing dating from 1913. The site is sandwiched between

substantial Victorian villas set behind plinth walls and railings of which the paired mid C19th houses to the south are listed at grade II.

4.21 The conservation area focuses on a major road leading into the city centre as it passes through the city's suburbs. Its distinctive character and appearance derives from the establishment of important army barracks along the route in the C18th and C19th. The remaining military buildings visible from the street are defensive in character and these sites are still protected by high boundary walls. The military presence spawned other building types in the area and contributed to the exceptional diversity of housing on this strategic route. This includes C19th former rural villas, substantial Victorian houses, late C19th large scale military housing, Victorian terraces, early C20th detached and semi-detached houses and early C20th council housing. It is the range and quality of the C19th and C20th housing which adds to the special interest of the area. In addition the importance of the road is signified by strong boundaries, grass verges and lines of street trees. Trees within front gardens and screened commercial sites also enhance the area.

4.22 The site has been vacant for several years and the rough timber fence enclosing it hides informal vegetation that has grown up in the meanwhile. The conservation area appraisal identifies the site as being detrimental to the character and appearance of the conservation area. It presents a wide gap in a sequence of fine Victorian villas set back behind garden forecourts with boundary walls, railings and gate-piers. A line of mature trees continues the enclosure to the south and screens the 1970s block of flats adjacent to nos 180 & 182 Fulford Road, enhancing views along the road. Smaller Victorian terraces to the north have recently been included within the conservation area boundary as they form an attractive visual stop to the area and their curved layout strengthens the distinctive enclosure and appearance of the road.

4.23 The proposed scheme has been amended since first submission but the principle layout of the site is the same and typical of a PFS layout. It is proposed to construct a single storey flat roofed building measuring 31 metres by 14 metres (approximately) on the western side of the site set between 4 and 5 metres from the rear boundary. The building stands 4.6 metres high from ground level. The site has a slope and the building is to be built from a level 0.5 metre above the rear boundary and 0.5 metre below the level of the proposed forecourt. To the front of the building will be forecourt area where a canopy measuring 8.5 metres by 23.5 metres is proposed. The canopy is orientated with its narrow elevation to the road frontage to minimise its form, the box profile of the canopy is also to be minimised and the front edge raised to allow view through to the listed building to the south of the site. Within the forecourt there are 14 parking spaces, a row of three petrol pumps, air and water facilities and cycle parking as well as dedicated pedestrian access route to the shop. The boundaries are to be landscaped and a strip of landscaping is proposed along the frontage of the site.

4.24 The applicant's heritage statement says that the site has a negative impact on the setting of the listed building to the south. The statement says that redevelopment will provide an opportunity to secure enhancement. However the statement acknowledges that there will be harm associated with the siting of the proposed canopy and signage but that this will not be substantial harm. Harm, it is considered, can be mitigated with boundary planting and walling. Such harm it is argued is balanced by bringing the site back into use.

4.25 In terms of the conservation area the applicant argues that the harmful impacts of the signage and canopy is outweighed by the public benefits associated with the redevelopment of the site. 170 Fulford Road, the vet practice to the north of the site, is identified as a building that contributes positively to the conservation area. The heritage statement acknowledges the harmful impact of the development but says that such impacts are outweighed by the positive benefits of securing the redevelopment of the site.

4.26 Officers conclude that the proposals would be harmful to the character and appearance of the conservation and to settings and views of the attractive Victorian houses to each side of the site. The uncharacteristic gap in the sequence of houses would become a more permanent feature of the conservation area, enclosure of the street would be untypically weak, and further harm would be added by the introduction of the large scale canopy and signage in an otherwise residential area of attractive buildings with landscape forecourts behind boundary walls and railings.

4.27 In general terms paragraph 131 of the NPPF says that in determining applications in historic environments Local Planning Authorities should take account of ' the desirability of new development making a positive contribution to local character and distinctiveness' at paragraph 9 the NPPF says that sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment and paragraph 64 says that 'permission should be refused for development that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.

4.28 Paragraph 133 says that if development will lead to substantial harm to a designated heritage asset the LPA should refuse consent unless the loss is necessary to achieve substantial benefit. Paragraph 134 says that where development leads to less than substantial harm this harm should be weighed against the public benefit of the proposal including securing its optimum viable use.

4.29 National Planning Policy Guidance (NPPG) says that substantial harm will be a judgement for the decision taker, having regard to the circumstances of the case and the policies in the NPPF. Guidance says that in general terms substantial harm is a high test so it will not arise in many cases.

4.30 The applicant and the Conservation Officer both identify that harm will be caused to the character and appearance of the conservation area and the setting of the adjacent listed buildings/ non-designated heritage assets. Officers consider that the harm is less than substantial and therefore harm should be weighed against the public benefit. The applicant argues that the identified harm is outweighed by securing a use for the site. The site is in a sustainable location where options for the site use as a residential or low key employment use could, in principle, be supported. In Officer opinion, as advised in the NPPG, if there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset. The development is agreed by both the applicant and the conservation officer as causing harm therefore the proposed use is not that most compatible with the long-term conservation of the asset as such little weight can be attached to the public benefit of bringing the site back into use as a PFS.

4.31 Furthermore the Planning (Listed building and Conservation Areas) Act 1990 places a duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and pay special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. In this case harm is identified to both the setting of a listed building and the character and appearance of the conservation area and in paying special attention/paying special regard to this harm there is no overriding interests that would outweigh the harm identified in this case.

RETAIL

4.32 The scheme includes a shop with a retail floor area of 330 sqm and a gross floor space of 420 sqm.

4.33 The Retail Study Update 2014, which forms part of the evidence base to the emerging local plan, identifies that there are two neighbourhood parades located near to the application site. These are Fishergate and Carey Street, Fishergate. The retail and service units present at each of these locations serves a highly localised catchment area. The neighbourhood parades provide an important role in catering for the day to day needs of the local community; however the range of goods and services available at these locations is limited and primarily focused on convenience goods provision and services such as hairdressers and takeaways.

4.34 The retail study recommends that neighbourhood parades should be included as a fourth tier within the retail hierarchy. The creation of a network of centres within the City of York will ensure that the retail and community needs of residents and visitors are met. It is also recommended that the Council should seek to protect the vitality and viability of the defined neighbourhood parades. However, unlike city, district and local centres, it is recommended that neighbourhood parades should not be considered 'in centre' locations for the purposes of the sequential and impact

tests. This approach accords with Annex 2 of the NPPF, which sets out that references to town centres or centres applies to city centres, town centres, district centres and local centres but excludes small parades of shops of purely neighbourhood significance.

4.35 The applicant has submitted an assessment of the proposals impact on nearby neighbourhood parades. The assessment says that it is expected that the vast majority of trade in the shop will be associated with those customers using the petrol filling station although there may be some limited additional trade associated with the local catchment areas. Given the nature of the offer at the Fishergate centre it is considered that very little, if any measurable amount of trade would be diverted from the centre to the proposed development and there would be no significant adverse impact on the centre. The application site is located slightly closer to the Carey Street centre. It is likely that the application site will draw some trade from the Carey Street catchment although the applicant considers it would draw a very limited amount of trade from the existing Sainsbury's local store. Sainsbury's is a strong national brand offering good quality convenience shopping at neighbourhood level. The offer of the PFS shop would be more limited and will include the sale of other goods such as car care accessories. It is anticipated that the use of the PFS shop will primarily relate to those purchasing fuel. Overall it is considered that the PFS associated convenience shop would not lead to significant adverse impact on existing centres (the NPPF test).

4.36 Officers agree with the conclusions of the retail assessment. There is no policy objection to the principle of the proposed retail element of the PFS in this location.

HIGHWAYS ACCESS AND PARKING ARRANGEMENTS

4.37 A significant number of the objections raise concerns about highway safety particularly, although not exclusively, because of the number of vehicular movements that will interrupt the passage of pedestrians and cyclists along the footpath and cycle lane outside the site. The site is a well used pedestrian route for the local school. The cycle lane and the pedestrian crossing have both been introduced since the site was last in use.

4.38 Highway Network Management does not object to the application. The location is on the main arterial road into York providing local facilities to the surrounding area and services to travelling public. The retail unit is in a sustainable location attracting customers on foot and cycle from the surrounding residential area. The site is accessed using two existing vehicular access onto Fulford Road (previously serving a filling station). The accesses are to be slightly modified to provide better pedestrian visibility. Visibility is in accordance with national guidance. Details of the entrance, including crossing points, may be conditioned. The level of traffic which could be reasonably anticipated to be generated by both the existing and proposed uses is based upon the nationally recognised TRICS database, which is based upon

survey data of similar sites around the country. The majority of vehicles accessing the site will already be on the network and simply diverting into the site before returning to their original destination. As a result the site will not generate a noticeable increase in traffic flows on the local highway network, particularly as existing flows are high. 14 Parking spaces have been provided. This is below the maximum parking standards. Due to the sustainable location, close to residential areas, officers feel that the level of parking provided on site is reasonable, appropriate and not likely to lead to the displacement of parking onto the adjacent highway. A Customer cycle parking area has been provided though details have not been submitted. Staff cycle parking has not been detailed. These details may be conditioned.

RESIDENTIAL AMENITY

4.39 The site is located within a mixed use area with a busy main road to the site frontage. Nevertheless since the site was last in use there have been a number of changes to the surrounding buildings which has increased the level of residential accommodation in close proximity to the site.

4.40 On the east side of Fulford Road former commercial uses have converted to residential use and 180 to 182 Fulford Road (now known as 1 to 12 Augure House), to the south of the site, formerly in office use has been converted to 12 residential flats. There are living areas and bedrooms on the ground, first and second floor of the former office building which has windows facing the site at a distance of about 4 metres. Properties on Alma Grove, to the west of the site are terraced two storey properties located about 4 metres from the rear site boundary.

4.41 The NPPF seeks, through the core planning principles, to secure a good standard of amenity for all existing and future occupants of land and buildings; to ensure new and existing development is protected from the adverse effects of noise (Paragraph 109); and to ensure that decisions avoid noise from giving rise to significant adverse impacts.

Noise

4.42 Of principal concern is noise associated with plant, noise from deliveries, and noise from customer vehicle movements and parking. Construction noise will be time limited and may be controlled through environmental protection legislation and where appropriate planning conditions.

Plant (ventilation and extraction systems)

4.43 Additional information submitted shows that the plant associated with the retail building will be located on the north side of the building adjacent to the veterinary practice car park. The plant and equipment is to be acoustically insulated and will be

shield from adjacent sites by existing boundary treatment. Subject to a condition ensuring the equipment is properly installed there is no demonstrable harm associated with the placing of the plant and equipment.

Delivery and customer movements

4.44 Initially the proposal was to operate the petrol filling station on a 24 hour basis. The amendments to the scheme have confirmed that it is now proposed to operate the site between 6am and 11 pm. The application is supported by a noise report which includes background noise monitoring.

4.45 Properties on Alma Grove are largely protected from the forecourt operation by the position of the retail building. The main residential properties affected by the operation of the forecourt and traffic and pedestrian movements to the ATM and shop are the flats to the south of the site. Environmental Protection are satisfied that the noise report shows that, with the existing background levels, the flats will not suffer a loss of amenity. This is because of the high background noise levels associated with the sites proximity to the Fulford Road.

4.46 Loss of amenity to properties on the south side is also a concern in relation to the lighting of the site and the operation of the ATM machine. Provided lighting levels are conditioned and the ATM is restricted to use during opening times only (6am to 11pm) Officers are satisfied that the development will not be detrimental to the residential amenity of the adjacent flats. During the hours of 6am to 11pm properties on the east side of the site, which are separated from the site by Fulford Road, would not be affected by the development because of the distance between the properties and the site and because of the noise generated by the road itself and the general levels of lighting in the area.

Residential Amenity - Siting of the Retail Building

4.47 The building is located to the rear of the site; it is set a minimum distance of 4 to 5 metres from the rear boundary and stands 4.6 metres high. Intervening trees are proposed between the building and the rear boundary of the site. Properties on Alma Grove backing on to the site do so at a distance of approximately 4 metres. Alma Grove houses are built approximately 1 metre below the land level of the application site so that the rear yards have high retaining walls on the joint boundary with fence enclosing the site above. The site is on the east side of the garden areas. The proposed building will further increase the sense of enclosure to the rear area of 19 to 22 Alma Grove, which adjoin the site, and reduce the level of morning light to windows and rear yard areas. The introduction of formal landscaping to the area between the building and the boundary will add to the sense of enclosure and loss of light and affect the outlook from the ground and first floor windows. Officers consider that the development will cause an unacceptable loss of amenity to 19 to 22 Alma Grove as a result of the siting and design of the building.

DRAINAGE

4.48 The site is located within Flood Zone 1, low risk and should not suffer from River flooding. The application is supported by a drainage report which indicates that surface water run off will be attenuated. The Flood Risk Management team are satisfied with the details submitted and raise no objections subject to the details in the submitted drainage report being conditioned.

5.0 CONCLUSION

5.1 The presumption in favour of sustainable development (paragraph 14 NPPF) does not apply to the application site because the site is located within Fulford Road Conservation Area and is within the setting of a Grade II listed building.

5.2 172 Fulford Road is situated within the northern half of the Fulford Road conservation area. The character of the area is derived from the range and quality of the C19th and C20th houses, strong boundaries, grass verges and lines of street trees. Trees within front gardens and screened commercial sites also enhance the area. The layout and design of the PFS would be untypical of the grain of development within the conservation area and harmful to its character or appearance. The uncharacteristic gap in the sequence of houses would become a more permanent feature of the conservation area, enclosure of the street would be untypically weak; further harm would be added by the form, size, height, scale and materials of the canopy and signage in an area of attractive buildings with landscape forecourts behind boundary, walls and railings. Furthermore 172 Fulford Road is situated within the setting of a grade II listed building located to the south of the site (formerly 180 to 182 Fulford Road now 1 to 12 Aurega House) and within the setting of 170 Fulford Road an undesignated heritage; the size and scale of the canopy to be erected over the forecourt of the proposed petrol filling station would be an uncharacteristic feature within the immediate setting of the listed building and it would adversely affect views of the buildings. The development would harm the setting of the adjoining listed building and affect the significance of a non-designated heritage asset. The harm identified would be less than substantial harm (paragraph 134 of the National Planning Policy Framework), no public benefits have been identified that would outweigh this harm. The proposal fails the duty to preserve or enhance the character or appearance of the conservation area under s.72 of the Planning (listed building and Conservation area) Act 1990 and fails the duty to have regard to the desirability of preserving the listed building or its setting under s.66 of the Act, guidance contained within the National Planning Policy Framework (paragraphs 9, 64, 131, 132,134) and policies HE2, HE3 and HE4 of the Development Control Local Plan.

5.3 Officers consider that the development will cause an unacceptable loss of amenity to 19 to 22 Alma Grove as a result of the siting and design of the retail

building contrary to the core planning principles in the NPPF a good standard of amenity for all existing and future occupants of land and buildings and GP1 of the DCLP.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 No. 172 Fulford Road is situated within the northern half of the Fulford Road Conservation Area. The character of the area is derived from the range and quality of the C19th and C20th houses, strong boundaries, grass verges and lines of street trees. Trees within front gardens and screened commercial sites also enhance the area. The layout and design of the petrol filling station would be untypical of the grain of development within the conservation area and harmful to its character or appearance; further harm would be added by the form, size, height, scale and materials of the canopy and signage in an area of attractive buildings with landscape forecourts behind boundary, walls and railings. The harm identified would be less than substantial harm (paragraph 134 of the National Planning Policy Framework), no public benefits have been identified that would outweigh the harm. The proposal fails the duty to preserve or enhance the character or appearance of the conservation area under s.72 of the Planning (listed building and Conservation area) Act 1990, guidance contained within the National Planning Policy Framework (paragraphs 9, 64, 131, 132,134) and policies HE2 and HE3 of the City of York Development Control Local Plan adopted for development control purposes in April 2005.

2 No. 172 Fulford Road is situated within the setting of a grade II listed building located to the south of the site (formerly 180 to 182 Fulford Road now 1 to 12 Aurega House) and within the setting of 170 Fulford Road an undesignated heritage; the size and scale of the canopy to be erected over the forecourt of the proposed petrol filling station would be an uncharacteristic feature within the immediate setting of the listed building and it would adversely affect views of the buildings. The development would harm the setting of the adjoining listed building and affect the significance of a non-designated heritage asset. The harm identified would be less than substantial harm (paragraph 134 of the National Planning Policy Framework) There are no public benefits identified that would outweigh the harm. The proposal fails the duty to have regard to the desirability of preserving the listed building or its setting under s.66 of the Planning (listed building and Conservation area) Act 1990, guidance contained within the National Planning Policy Framework (paragraphs 9, 131, 132,134, 135) and policies HE2 and HE4 of the City of York Development Control Local Plan adopted for development control purposes in April 2005.

3 Nos. 19 to 22 Alma Grove are a row of terraced properties orientated east /west and 4 metres from the rear of the application site. The proposed siting of the retail building will introduce development close to the joint boundary on a land level above the adjacent houses and a structure that is 4.6 metres above site ground level. It is considered that the siting of the building and associated landscaping would be detrimental to the outlook to the rear of 19 to 22 Alma Grove and will reduce light into rear garden areas and would be detrimental to the occupiers residential amenity. The proposal is considered contrary to the core planning principles in the National Planning Policy Framework which seek to ensure a good standard of amenity for all existing and future occupants of land and buildings and GP1 of the City of York Development Control Local Plan adopted for development control purposes in April 2005.

7.0 INFORMATIVES:

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 an attempt to achieve a positive outcome:

- Provision of written advice about the concerns raised by the scheme
- Meeting to discuss development
- Consideration of amendments

However, the applicant/agent was unwilling to withdraw the application, resulting in planning permission being refused for the reasons stated.

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