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| CYGP1 | Design |
| CYH2A | Affordable Housing |
| CYED4 | Developer contributions towards Educational facilities |
| CYHE2 | Development in historic locations |
| CYHE3 | Conservation Areas |
| CYHE4 | Listed Buildings |

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 No objection to the proposal but seek that any planning permission be the subject of a condition requiring the submission and approval of a CEMP(Construction Environmental Management Plan) and recharge points should be provided for electrical vehicles adjacent to the site as part of the development.

Children's Services, Education and Skills

3.2 Seek the payment of a commuted sum of £36,000 to secure improvements to the kitchen and dining capacity at Scarcroft Primary School.

Highway Network Management

3.3 No objection in principle to the proposal but seek the payment of a commuted sum to provide additional car club car sharing spaces and to provide cycling materials/or a bus pass for a period of one year to the occupants of the apartments to encourage the development of sustainable means of transport.

Planning and Environmental Management (Conservation Architect)

3.4 The building is on the “Heritage at Risk” register. Unfortunately no commercial or leisure occupier has been found to “save” the building in spite of a long and extensive marketing exercise. The height and configuration of the accommodation, its location within the body of the site, and the cost of essential repair-work have been cited by potential occupiers as reasons for lack of viability for a commercial or mixed use scheme. The over-riding consideration is finding a new use that would sustain the heritage significance of the building. We support the proposals for residential use, including the simplified extension, as being the optimum viable use for the building consistent with the principal heritage values. Whilst the conversion would cause harm to the interior of the building through its subdivision and some harm through alteration of the elevations, the buildings primary significances - its architectural character and role as the former engine-house and clock-tower of the site - would be preserved. The scheme would “rescue” this “building at risk” which is a much valued and prominent York landmark.

EXTERNAL:-

Micklegate Planning Panel

3.5 No comments received.

Police Architectural Liaison Officer

3.6 No objection to the proposal.

Yorkshire Water Services Limited

3.7 No comments received

Historic England

3.8 No objection to the proposal as amended with the removal of the previously proposed roof terraces and urges that the applications be determined in accordance with the Authority's own Conservation advice.

York Conservation Area Advisory Panel

3.9 Raises concern in respect of the lack of incorporation of alternative business or community uses on the site as envisaged in the original hybrid planning permission. Concern is also expressed in terms of the proposed alterations to the pattern of fenestration.

York Civic Trust

3.10 Objects to the proposal on the grounds that it would harm the character and significance of an iconic Listed Building and insufficient consideration has been given to the range of non-residential alternatives including public access envisaged in the original permissions.

Publicity and Neighbour Notification

3.11 Seven letters of objection have been received raising the following planning issues:-

- Concern in respect of the proposed alterations to the pattern of fenestration;
- Concern in respect of the proposed access arrangements to the clock and clock chamber;
- Concern in respect of the level of information in terms of impact upon the historic fabric submitted with the application;
- Concern that the proposal would erode the historic character and significance of the building and its neighbours;

- Concern that insufficient consideration has been forthcoming to alternative non-residential uses of the site;
- Concern that the site should be maintained as a visitor attraction.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the character and integrity of the Listed Building;
- Impact upon the character and appearance of Terrys/Racecourse Conservation Area;
- Impact upon the residential amenity of neighbouring properties;
- Principle of Development;
- Affordable Housing;
- Planning obligations.

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 respect of Development Management decisions although any weight is limited except where in accordance with the National Planning Policy Framework.

IMPACT UPON THE HISTORIC CHARACTER AND INTEGRITY OF THE LISTED BUILDING

4.3 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Council to "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." As this is a statutory duty it must be given considerable importance and weight in determining the planning application. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission.

4.4 Central Government Planning Policy as outlined in paragraph 131 of the National Planning Policy Framework states that In determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 133 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Paragraph 134 states 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 benefits of the proposal, including securing its optimum viable use.

4.5 Policy D5 of the (Emerging) Publication Draft Local Plan is of particular relevance in this context. This indicates support for proposals affecting Listed Buildings where accompanied by a clear evidence based justification and where the significance and heritage value of the building is maintained. Policy HE4 of the 2005 draft local plan states that consent will only be granted development within the immediate vicinity of listed buildings, external alterations or change of use where there is no adverse effect on the character, appearance or setting of the building.

4.6 The Clock Tower comprises a substantial Grade II Listed brick structure with art stone detailing dating to the early 20th Century. It is one of five structures along with the Multi-Storey Factory, the Liquor Store, the Time Office and the Headquarters Building which have been retained from the original period of chocolate and confectionary manufacture on the site. The building is constructed in a basic Neo-Baroque style with art-stone window surrounds including key block detail, prominent moulded string courses on both boiler house and clock tower and prominent brick pilaster buttresses flanking the corners of the clock tower with moulded swagged art stone heads. The interior adopts a similarly Neo-Classical metaphor with a clearly defined dentilated cornice at ceiling levels. The building was used as a boiler house and chimney to provide power for the initial chocolate manufacturing process and the choice of architectural metaphor represents a clear statement of the confidence of the company.

4.7 It is proposed to convert the building for residential use incorporating 19 one, two and three bedroom apartments within the existing building and a further three within the northern roof top extension (to the boiler house) which would be executed in structural glazing. A museum and viewing area would be provided within the clock chamber and a series of roof level terraces would provide a degree of amenity space. Structural reports and a viability report have been submitted to support the application.

4.8 A number of detailed concerns were expressed in relation to the scheme as submitted. The previous westerly extension in the vicinity of the clock tower entrance has now been removed from the scheme. The proposed roof top extension has been lowered in scale and the joints between the cladding sections highlighted in order to differentiate it.

It has also been agreed to treat all new and altered external window and door openings with a metal finish and art-stone surround that would match the existing. Sections of the existing internal treatment would be retained for view and the roof level amenity area would be provided within the existing roof slope rather than as previously envisaged at roof level within the new extension. Concern has also been expressed in relation to the design of the new and altered window openings, it is felt that the most appropriate treatment would be to ensure that they are all of a rectangular form with a finish to match the existing. The upper clock chamber has been made over by the applicant to provide a museum and viewing space to provide interpretive material in respect of the development of chocolate manufacture at the site. Access would be strictly controlled and managed by a duly constituted body. The clock would also be reinstated to the appropriate specification.

4.9 It is considered that the identified areas of concern have been satisfactorily addressed by the applicant. The amended scheme represents less than substantial harm to the listed building and as such consideration of the Act requires that there will be a strong presumption against the grant of permission. However in balancing the harm to the heritage asset a substantial public benefit in terms of the retention of an iconic building within a viable economic use can be secured, this is considered to outweigh the identified harm. The proposal accords with s.66 and Government planning policy in paragraphs 131-134 of the NPPF as well as local plan draft policy.

IMPACT UPON THE TERRY'S/RACECOURSE CONSERVATION AREA

4.10 The complex of preserved early 20th Century Industrial buildings together with the adjacent racecourse complex along with its landscape setting is designated as a Conservation Area in view of its significant contribution to the wider townscape and visual character of the City. The seriously deteriorating structural state of the various buildings has seriously harmed the character of the Conservation Area. The proposal seeks to bring one of the principal buildings of the complex back into a beneficial use which would have the effect of arresting any further decline. The Clock Tower has an iconic status within the wider City skyline and provides a level of definition to the character and significance of the Terry's/Racecourse Conservation Area. The proposed roof level extension would be solely visible in oblique views from the racecourse to the north west and any harm arising to the character and appearance of the Conservation Area would be less than significant and that the public benefit in the return of the building into a viable economic use would outweigh the identified harm. It is felt that the proposed works taken together would secure the preservation and enhancement of the Conservation Area and secure the discharge of the statutory duty within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act.

IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES

4.11 The Clock Tower lies adjacent to the boundary of the development site in the ownership of Henry Boot Developments, beyond the remainder of the former Terry's

site is being re-developed for housing through a series of detailed planning permissions for David Wilson Homes. Phase 2 of the development comes close to the rear of the Tower with the closest property approximately 5 metres from the gable of the Tower. Policy GP1 of the York Development Control Local Plan sets a firm policy presumption in favour of new development which respects or enhances the local environment, is of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials, whilst ensuring that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or are dominated by overbearing structures. At the same time Central Government planning policy as outlined in paragraph 17 of the National Planning Policy Framework "Key Planning Principles" indicates that Local Planning Authorities should give significant weight to the maintenance and provision of a good standard of amenity for all new and existing occupants of land and buildings. It is not proposed to introduce windows to the elevation facing the adjacent residential properties and at the same time the proposed roof terrace amenity area has been amended to ensure that there would not be a significant issue of overlooking of surrounding properties. It is not considered that the scale of the development justifies the submission of a site specific CEMP. A condition is recommended to limit the times of construction. The proposal is therefore felt to be acceptable in terms of its impact upon the residential amenity of neighbouring properties.

PRINCIPLE OF DEVELOPMENT

4.12 Outline Planning Permission ref:- 09/01606/OUTM granted a hybrid Outline/Full Planning permission for a range of commercial uses involving public access to the retained historic factory buildings. Concern has been expressed in relation to the current scheme in respect of its residential nature and the proposed arrangements for public access to the clock chamber. In response to the concerns the applicant has submitted detailed information in respect of marketing the site that has demonstrated that over a period of four years there has been no viable interest in developing the site for commercial purposes due to the very substantial costs involved in rectifying the structural defects of the building. The submitted information further indicates that in order to generate the required revenue stream to secure the long term future of the building a scheme involving residential use in whole or in part will need to be considered.

4.13 As part of the development the applicant has indicated that managed public access will be provided to the clock chamber which would include a range of interpretive materials in respect of the development of the complex and chocolate manufacture within the wider City. Access would be secured via a timed ticket system and managed by a duly constituted body. The arrangements would then be the subject of a Section 106 Agreement.

AFFORDABLE HOUSING

4.14 Policy H2a) of the York Development Control Local Plan sets out a requirement as part of new residential development projects to provide, on site in first instance, units that meet standard affordability criteria according to the formally adopted thresholds within supplementary planning guidance. Ordinarily the threshold within the urban area would be 15 and so at least four affordable units would be provided on site to comply with the need to provide at a ratio of 20% of the scheme total. However, the Vacant Building Credit as introduced (and subsequently amended) by the 2014 NPPG indicates that in assessing contributions for affordable housing an allowance should be made equivalent to the floor space of an existing building to be converted with contributions being assessed against any new floor space created. The proposal envisages the creation of three new units within the new extension with a total gross floor space of 354 sq metres. This would fall below the established threshold. The design of the units has been established in order to minimise the size of the additional extension and minimise the degree of harm to the internal space in order to safeguard the historic character of the site. It can thus not be argued that the number and design of the units has been kept low in order to avoid an affordable housing contribution and a contribution is not therefore being sought.

PLANNING OBLIGATIONS

4.15 The proposal falls to be considered against the requirements of Policy ED4 of the York Development Control Local Plan which seeks that new residential development above the threshold established in supplementary planning guidance should make a contribution by means of commuted sum to the costs of educational provision in the locality where a clear requirement can be proven and the requirements of Regulation 123 of the 2014 CIL Regulations can be complied with in all other respects. In the current case a requirement for additional sums in respect of improvements to dining facilities at Scarcroft School of £36,000 has been established which can be secured by planning obligation. At the same time in order to promote sustainable transport an annual bus pass or cycling contribution is sought on first occupation of each apartment in parallel with the earlier arrangements arrived at in respect of the residential development of the former Multi-Storey Factory.

4.16 A museum space in respect of the clock chamber is provided as part of the proposal including the restoration of the clock itself and the applicant has agreed to a limited level of public access. The formalised arrangements for that would also require to be secured by means of a Section 106 Agreement.

4.17 These requirements are considered to be:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and

(c) Fairly and reasonably related in scale and kind to the development,

and therefore comply with regulation 122 of the Community Infrastructure Levy Regulations 2010. This contribution would also comply with regulation 123 as there have not been 5 or more separate obligations which provide funding or provision of that project or type of infrastructure since April 2010.

5.0 CONCLUSION

5.1 The Clock Tower comprises a substantial brick and art stone detailed Grade II Listed structure with an attached two storey boiler house occupying a prominent location within the Terry's/Racecourse Conservation Area. It formerly acted as a chimney and boiler house to support the manufacture of chocolate and confectionary at the Terry's site from construction in the 1920s until manufacture ceased in 2006. It is felt that the proposed re-development scheme addresses the significant concerns that had previously been raised whilst securing the long term future of the building which has an iconic status within the wider City sky line. It is felt that the relevant requirements of the National Planning Policy Framework as well as the statutory duties outlined in Section 66 and 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act have been fulfilled and approval is recommended. Commuted payments are sought in respect of the provision of educational places and the promotion of sustainable transport measures. These requirements would be secured by Section 106 Agreement and are considered to be justified in line with Section 122 and 123 of the 2014 CIL Regulations.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years

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

Drawing Refs:-087-CT-1020-E; 087-CT-1320-C; 087-02-2200; 087-02-2701; 087-00-1420-C; 087-CT-1001-C; 087-00-0020-A; 087-00-0420A.

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 conversion works. The development shall be carried out using the approved materials.

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.

Reason: So as to achieve a visually cohesive appearance.

4 Prior to the commencement of construction of the individual apartments full details of all externally mounted lighting and signage including sizes, design, location and mode of fixing shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: - To safeguard the historic character and integrity of the Listed Building.

5 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of conversion works and the works shall be carried out in accordance with the approved details.

- i. Full details including furnishing and interpretive materials with sections at 1:20 of the clock chamber;
- ii. Full details of the replacement clock mechanism including programme for its restoration to operation;
- iii. Details of windows (shown in context); samples to be provided (with steel for comparison purposes); distribution of opening lights and specification of finished colour to be provided, also window details showing incorporation of vents ;
- iv. Full external details of roof top extension (revised design);
- v. Full details of entrance area including fixtures and finishes (inside and outside);
- vi. New external doors and internal doors in common areas
- vii. Details of external works, including guarding and finishes adjacent to the building at lower ground level.

Reason: So that the Local Planning Authority may be satisfied with these details and to safeguard the character and significance of the Listed Building.

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| 6 | DRAIN1 | Drainage details to be agreed |
| 7 | HWAY18 | Cycle parking details to be agreed |
| 8 | HWAY19 | Car and cycle parking laid out |
| 9 | EPU1 | Electricity socket for vehicles |

10 All demolition and construction works and ancillary operations which are audible beyond site boundary or at the nearest noise sensitive dwelling, including deliveries to and despatch from the site shall be confined to the following hours:

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| Monday to Friday | 08.00 to 18.00 |
| Saturday | 09.00 to 13.00 |

Not at all on Sundays and Bank Holidays.

REASON: To protect the amenities of adjacent residents

- 11 LC1 Land contamination - Site investigation
- 12 LC2 Land contamination - remediation scheme
- 13 LC3 Land contamination - remedial works
- 14 LC4 Land contamination - unexpected contamination

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 amendments to the design of the scheme to address Conservation concerns;
- ii) Sought further justification for a residential scheme of conversion and clarification of its viability.

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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