



## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Air safeguarding Air Field safeguarding 0175

### 2.2 Policies:

#### Emerging Local Plan Publication Draft 2018

Policy D1 – Placemaking  
Policy D2 – Landscape and setting  
Policy H3 – Balancing the housing market  
Policy GI2 – Biodiversity and access to nature  
Policy ENV3 – Land contamination  
Policy T1 – Sustainable access

#### Development Control Local Plan (DCLP) 2005

Policy GP1 – Design  
Policy GP9 – Landscaping  
Policy H4A – Housing Windfalls  
Policy NE5a – Local Nature Conservation Sites  
Policy NE5b – Avoidance of Mitigation and Compensation for Harm to Designated Nature Conservation Sites

## **3.0 CONSULTATIONS**

### INTERNAL

#### Public Protection

3.1 The remediation strategy has been agreed and should be implemented and a verification report submitted. These details can be conditioned.

3.2 Conditions are also suggested to protect neighbouring amenity during construction and for installation of electric vehicle charging points.

#### Planning and Environmental Management (Ecology)

3.3 The ecology survey includes a bat survey. This found that the bat roost potential of the garages was negligible. The survey is considered sound and no concern was raised about its findings. Some work will take place within Hob Moor to connect to drainage. Conditions are suggested to ensure that these works and any other

impacts on the Local Nature Reserve during demolition and construction are adequately assessed and controlled.

### Highways Network Management

3.4 Comments to be reported verbally.

EXTERNAL

### Ainsty Internal Drainage Board

3.5 No objection in principle subject to a condition regarding surface water drainage.

### Yorkshire Water

3.6 A condition regarding foul and surface water drainage is recommended.

### Neighbour notification and publicity

3.7 Foxwood Residents Association have made comments about parking provision in the area and that off-street parking which has been promised by the Council to alleviate problems has not been forthcoming.

3.8 Four letters of objection have been received from local residents. This includes 3 letters from one resident, 2 of which are identical. These representations raise issues related to:

- Parking problems in the area
- Refuse trucks and buses are obstructed by on-street parking
- Alternative off-street parking should be provided to mitigate for the loss of the garages prior to demolition
- Overdevelopment of the site and consequent impact on neighbouring Hob Moor Nature Reserve
- Additional pressures on transport, health, policing and other public services in the neighbourhood
- Site investigation, ecological appraisal and bat survey are out of date
- Flooding events since the site investigation was written will have caused contaminants to leach in to soil within the site
- Contamination on site and complications with demolition will prove so complex that the site should not be developed
- Local roads are narrow and have been damaged by construction traffic for neighbouring sites
- Development of a neighbouring site and consequent removal of trees has resulted in flooding issues locally and there is no meaningful FRA with the application

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

- The principle of development
- Design and visual appearance
- Residential amenity of surrounding and future occupants
- Highways
- Flood risk and drainage
- Contaminated land

### POLICY CONTEXT

4.2 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development. In terms of decision taking, the NPPF advises that this means in those cases where there are no up-to-date Local Plan Policies (such as in York), granting permission unless, either:-

- (a) The any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Policies in the Framework as a whole, or
- (b) There are specific Policies within the Framework which would indicate that development should be restricted. In terms of this second element, the footnote to Paragraph 14 details the types of considerations which would it considers would fall within this category. There are no elements of this application which fall within the examples given in this Footnote.

4.3 Paragraph 17 sets out the Core Planning Principles. The following are relevant to this application:

- proactively drive and support sustainable economic development to deliver the homes .... that the country needs;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- support the transition to a low carbon future in a changing climate .... and encourage the reuse of existing resources, including conversion of existing buildings;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can

perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made;
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

## Emerging Local Plan Publication Draft 2018

4.4 The Regulation 19 consultation on the Pre-Publication Draft 2017 is now complete. The emerging Local Plan policies can only be afforded limited weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

4.5 The following policies from the emerging Local Plan are relevant:-

- Policy D1 'Placemaking' development proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused.
- Policy D2 'Landscape and setting' sets out the requirements for developments in relation to landscaping and the character of the city's special qualities in terms of setting.
- Policy H3 'Balancing the housing market' requires that proposals for residential development include a mix of types of housing which should be informed by the SHMA.
- Policy GI2 'Biodiversity and access to nature' states that development should take account for the potential need for buffer zones around biodiversity sites.
- Policy ENV3 'Land contamination' requires applications to be accompanied by an appropriate contamination assessment where the site may be affected by contamination or the proposed use would be particularly vulnerable.
- Policy T1 'Sustainable access' refers to the need for development to minimise the need to travel, provide suitable access for all and to promote more sustainable modes of transport.

## Development Control Local Plan (DCLP) 2005

4.6 City of York Council does not have a formally adopted Local Plan. Nevertheless The City of York Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) was approved for Development Management purposes.

4.7 The 2005 Draft Local Plan does not form part of the statutory development plan for the purposes of S38 of the 1990 Act. Its policies are however considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.8 Development Control Local Plan (DCLP) policies relevant to the development are:-

- Policy GP1 'Design' includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.
- Policy GP9 requires where appropriate developments to incorporate a suitable landscaping scheme.
- Policy H4A supports applications for residential development where the site is in the urban area and involves infilling or redevelopment, the site has good accessibility to jobs and services by non-car modes and is of an appropriate scale and density to surrounding development and would not have a detrimental impact on existing landscape features.
- Policy NE5a states that development likely to have a detrimental impact on a Local Nature Reserve will only be allowed where the benefits of development outweigh the nature conservation value of the site.
- Policy NE5b requires that where development is allowed under NE5a then appropriate planning conditions are used to protect the nature conservation interest.

## THE PRINCIPLE OF DEVELOPMENT

4.9 National policy requires Local Planning Authorities to significantly boost housing supply and to meet the need for affordable housing. The application has been made by Housing Services and the bungalows would provide new social housing and it is recognised that they would contribute to meeting the identified need for affordable homes across the City.

4.10 The site is located in a sustainable location suitable for the development of residential properties as it is situated within an existing residential area with links to shops, amenities and public transport. As a garage site, it is also classed as previously developed land, and would therefore be suitable for redevelopment as per the core principles detailed within the NPPF. The principle of residential development on the site has been previously accepted by application 14/01517/GRG3. As a result, the current application is considered acceptable in principle subject to other material planning considerations.

## DESIGN AND VISUAL APPEARANCE

4.11 The proposal is for a terrace of five bungalows. The bungalows will be constructed from brick to match neighbouring buildings with a pitched tile roof and front rendered gable features. The design is considered appropriate and in keeping with the character of the area.

4.12 The proposal also includes amendments to the area of communal external space between the site and existing apartment buildings. This retains a drying area and creates paved seating areas, raised planting beds and grassed areas for informal recreation. New trees are proposed to replace those removed to facilitate development. The area will become more open on the boundary than is currently the case but will also have a more planned layout allowing for a wider variety of uses.

## RESIDENTIAL AMENITY OF SURROUNDING AND FUTURE OCCUPANTS

4.13 Residential amenity for future occupants of the flats is considered good. The flats are small with one bedroom but have small rear gardens. They have bin storage and cycle storage is provided in sheds within the rear gardens. Sheds will also be provided with power so that they can be used to charge buggies. Access will be provided to the rear gardens of the central properties via gates within the boundary fences.

4.14 The current proposal is significantly smaller, in terms of number of units, height and massing, than the scheme approved in 2014. As such the impacts on neighbouring residents are reduced in terms of overshadowing, overlooking and over-dominance. The current scheme does however have a larger footprint which results in development being closer to the boundary of No.8 Newbury Avenue than

was previously the case however it remains 14m from the rear of the existing property. The single storey form and position of the new building will ensure that it does not appear overbearing when viewed from No.8. Distances between the existing apartment buildings and the proposal remain similar. The proposal is slightly closer to the 3 storey apartment building to the East but again the single storey form helps to mitigate for this and distances are a minimum of 14m between properties.

## HIGHWAYS

4.15 Access to the site would be taken via the existing access on Newbury Avenue which has served 28 no. garages in the past. The access is considered capable of accommodating the modest traffic generated by the scheme and also of accommodating refuse vehicles required for servicing. Works may be required under a TRO to protect areas of adopted highway in close proximity to the site to ensure adequate access and servicing for the new development for highway safety reasons. The level of parking would accord with CYC Annex E maximum standards.

4.16 The previous permission approved the redevelopment of the garages. It is not considered that anything has changed that would now require their retention. In response to the pre-submission public consultation four off-road parking spaces are to be provided on Newbury Avenue for residents of existing properties.

4.17 Further amendments regarding the extent of the adopted highway and detailing of the parking area are being negotiated and will be reported at Committee.

## FLOOD RISK AND DRAINAGE

4.18 In terms of flood risk the site lies within Flood Zone 1 and as such should not suffer from river flooding. It is noted that a 225mm diameter sewer crosses this site, however, Part H4 of the Building Regulations 2000 allows for building over the sewer. The Flood Risk Management Team is considering information supplied in respect of foul and surface water drainage and an update will be reported to Committee.

## LAND CONTAMINATION

4.19 The NPPF, at para. 120, states that, the adverse effects of pollution on health should be taken into account in decision making. Para 121 states that planning policies and decisions should ensure that a site is suitable for its new use taking into account....previous uses and any proposals for mitigation including land remediation. And that after remediation as a minimum land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990 and adequate investigation information, prepared by a competent person is presented.

4.20 The submitted report shows that the site is contaminated and that it lies near to a closed landfill site. Remedial work is therefore required in order to ensure that the site is safe and suitable for its proposed use. The Environmental Protection Unit (EPU) recommends conditions to mitigate for contamination to ensure the health and safety of future occupants and these conditions should be imposed. Subject to the imposition of these conditions, the proposal would comply with the requirements of the NPPF and Local Plan Policies GP1 and GP6.

## OTHER ISSUES

4.21 A similar approach to the existing landscaping on site has been proposed as to that which was previously approved. The hedge within Hob Moor will remain untouched whilst other shrubbery within the site and to the North of the garages will be removed. A tree at the entrance to the site from Newbury Avenue will also be removed. Replacement planting has been proposed and will be secured by condition. A condition is also recommended for a construction management plan in relation to works adjacent to Hob Moor to ensure that there is no detrimental impact on the nature reserve.

4.22 The submitted bat survey is relevant and the garages are likely to have a negligible bat roosting potential.

4.23 Officers note residents' concerns about additional pressures on local infrastructure as a result of the scheme but consider that the scheme is very low density providing five one bedroomed bungalow as such additional pressures on local services are likely to be minimal.

## 5.0 CONCLUSION

5.1 The site is a brownfield site in a sustainable location near to local shops, amenities and public transport links and it would, in principle, be suitable for redevelopment for housing purposes. The proposal would deliver social housing of a type needed within the City. In design terms, the scheme would be in keeping with neighbouring properties and would provide enhanced external amenity space for all residents. There would be no adverse effect on highway safety and no significant adverse effects upon the amenity of surrounding residents, subject to the imposition of the suggested conditions. An update on drainage and highway issues will be reported to Committee to include relevant conditions.

## COMMITTEE TO VISIT

## **6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 PLANS1 Approved drawings

3 VISQ8 Samples of exterior materials to be app

4 Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

5 LC4 Land contamination - unexpected contam

6 Prior to first occupation a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs shall be submitted and approved in writing by the Local Planning Authority. 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 Prior to the commencement of any service or utilities works that would impact on Hob Moor Local Nature Reserve a derogation from the Higher Level Stewardship agreement must be obtained from Natural England, and a method statement for construction works and reinstatement approved in writing with the Local Planning Authority. Works shall then be undertaken in accordance with the approved details.

Reason: To protect and maintain Hob Moor Local Nature Reserve, a statutorily designated nature conservation site.

8 Prior to occupation, one off street parking space shall incorporate a suitably rated electrical socket to allow 'Mode 2' charging of an electric vehicle using a standard 13A 3 pin socket and a 3m length cable.

Reason: To provide facilities for charging electric vehicles in line with the NPPF and CYC's Low Emission Strategy.

### Notes

Optionally, a suitable 'IEC 62196' electrical socket (minimum rated output of 3.7kw /16A) can be provided in addition to the standard 13A 3 pin socket to allow 'Mode 3' charging of an electric vehicle. Mode 3 charging, using a suitable cable and charging point, allows faster charging of electric vehicles. Further advice can be provided by City of York Council's Public Protection team on request.

All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015)."

9 All construction and demolition works and ancillary operations, including deliveries to and dispatch 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, Bank and Public Holidays.

Reason: To protect the amenity of local residents.

10 A detailed method of works statement identifying the programming and management of site clearance/excavation/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. The statement shall include at least the following information:

- a) Protection of the hedgerow within Hob Moor on the Southern boundary of the site.
- b) A scheme for maintaining a stock proof fence on the Southern boundary at all times.
- c) Means of preventing the encroachment of works, materials, etc on to Hob Moor during demolition and construction.

Reason: To ensure that the development can be carried out in a manner that will not harm Hob Moor. Details are required prior to the commencement of development to ensure demolition/ construction does not impact on the neighbouring Local Nature Reserve.

11 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C, D and E of

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Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents 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 2015.

## **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:

Additional information and revisions requested in relation to highways issues, design detailing and protection of neighbouring nature reserve.

#### **2. INFORMATIVE:**

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) 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".

(b) 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.

(c) 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.

(d) 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.

(e) There shall be no bonfires on the site.

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