



**Notice of a public meeting of  
Area Planning Sub-Committee**

**To:** Councillors McIlveen (Chair), Gillies (Vice-Chair),  
Douglas, Watson, Semlyen, Looker, Fitzpatrick, Galvin,  
Cuthbertson, Hyman and Warters

**Date:** Thursday, 6 February 2014

**Time:** 2.00 pm

**Venue:** The George Hudson Board Room - 1st Floor  
West Offices (F045)

**A G E N D A**

**Site visits for this meeting will take place on  
Wednesday 5 February 2014.**

**The mini-bus for Members of the Sub-Committee will depart from  
Memorial Gardens at 10.00am.**

**1. Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

**2. Minutes (Pages 5 - 12)**

To approve and sign the minutes of the last meeting of the Area Planning Sub-Committee held on Thursday 9 January 2014.

### 3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Sub-Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officers on the contact details listed at the foot of this agenda. The deadline for registering is **Wednesday 5 February at 5.00pm**.

**Please note that this meeting, including public speakers, will be sound recorded to allow members of the public to listen to the proceedings without having to attend the meeting. The sound recording will be uploaded on to the Council's website following the meeting.**

### 4. Plans List

To determine the following planning applications:

- a) **122 York Road, Haxby, York, YO32 3EG** (Pages 13 - 24)  
**(13/02280/FUL)**  
Erection of 2no. dwellings and garages to the rear of 122 York Road with access from Old Orchard (resubmission).  
*[Haxby and Wigginton Ward]* **[Site Visit]**
  
- b) **Fox And Hounds, 39 Top Lane, Copmanthorpe,** (Pages 25 - 40)  
**York, YO23 3UH (13/03099/FULM)**  
Erection of 3 storey building comprising 28no. later living retirement housing units, communal facilities, landscaping and car parking. *[Rural West York Ward]* **[Site Visit]**
  
- c) **Westholme, 200 York Road, Haxby, York** (Pages 41 - 56)  
**(13/03168/FUL)**  
Erection of 4no. detached two storey dwellings with associated garages, access and landscaping (resubmission).  
*[Haxby and Wigginton Ward]* **[Site Visit]**

- d) **Manor Park, Sheriff Hutton Road, Strensall, York, (Pages 57 - 64)**  
**YO32 5TL (13/03299/FUL)**

Retention of former domestic garages as 2no. holiday cottages  
*[Strensall Ward]* **[Site Visit]**

**This item has been Withdrawn by the Agent.**

- e) **Manor Park, Sheriff Hutton Road, Strensall, York, (Pages 65 - 72)**  
**YO32 5TL (13/03303/FUL)**

Conversion of existing offices to 2no. holiday cottages.  
*[Strensall Ward]* **[Site Visit]**

- f) **Royal Masonic Benevolent Institute, Connaught (Pages 73 - 96)**  
**Court, St Oswalds, York (13/03481/FULM)**

Erection of 14no. dwellings following demolition of existing  
bowling clubhouse and garage block. *[Fulford Ward]* **[Site Visit]**

- g) **The Blind Swine, Unit 3, 24 Swinegate, York, (Pages 97 - 104)**  
**YO1 8AZ (13/03503/FUL)**

Change of use from restaurant (use class A3) to mixed use  
restaurant and bar (use class A3/A4) with alterations to front to  
form terraced dining. *[Guildhall Ward]*

- h) **9 Maple Avenue, Bishopthorpe, York, YO23 (Pages 105 - 112)**  
**2RG (13/03602/FUL)**

Two storey side and single storey rear extensions (revised  
plans) *[Bishopthorpe Ward]*

- i) **34 Eastward Avenue, York, YO10 4LZ (Pages 113 - 122)**  
**(13/03642/FUL)**

Porch to front with glazed juliet balcony screen above.  
*[Fulford Ward]* **[Site Visit]**

- j) **Health Centre, 1 North Lane, Huntington, York** (Pages 123 - 128)  
**(13/03659/ADV )**

Display of 4no. externally illuminated fascia signs.  
*[Huntington/New Earswick] [Site Visit]*

- k) **4 Hilbra Avenue, Haxby, York, YO32 3HD** (Pages 129 - 136)  
**(13/03768/FUL)**

Single storey side extensions incorporating front dormer window, side roof extension and dormer window to rear (resubmission).  
*[Haxby and Wigginton] [Site Visit]*

- l) **10 Shilton Garth Close, Earswick, York, YO32** (Pages 137 - 142)  
**9SQ (13/03862/FUL)**

Single storey rear extension. *[Strensall Ward] [Site Visit]*

## 5. **Appeals Performance and Decision Summaries** (Pages 143 - 156)

This report (presented to both Planning Committee and the Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1 October to 31 December 2013, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

## 6. **Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972.

### Democracy Officers:

Name: Contact Details: Louise Cook and Catherine Clarke (job-share)

- Telephone – (01904) 551031
- E-mail – [louise.cook@york.gov.uk](mailto:louise.cook@york.gov.uk) and [catherine.clarke@york.gov.uk](mailto:catherine.clarke@york.gov.uk)

(If contacting by email, please send to both Democracy officers named above)

For more information about any of the following please contact the Democracy Officers responsible for servicing this meeting

- Registering to speak
- Written Representations
- Business of the meeting
- Any special arrangements
- Copies of reports

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- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

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### Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

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interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

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### **Holding the Cabinet to Account**

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business following a Cabinet meeting or publication of a Cabinet Member decision. A specially convened Corporate and Scrutiny Management Committee (CSMC) will then make its recommendations to the next scheduled Cabinet meeting, where a final decision on the 'called-in' business will be made.

### **Scrutiny Committees**

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
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- All public agenda/reports can also be accessed online at other public libraries using this link

<http://democracy.york.gov.uk/ieDocHome.aspx?bcr=1>



**PLANNING SUB COMMITTEE****SITE VISITS****Wednesday 5 February 2014****The mini-bus for Members of the sub-committee will depart  
Memorial Gardens at 10.00am**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
10.15	Fox and Hounds 39 Top Lane Copmanthorpe	4b
10.50	34 Eastward Avenue	4i
11.15	Royal Masonic Benevolent Institute Connaught Court St Oswalds Road	4f
12:20	Health Centre 1 North Lane Huntington	4j
13:20	10 Shilton Garth Close Earswick	4l
13:50	Manor Park Sheriff Hutton Road Strensall	4e
14:20	122 York Road Haxby	4a
14:50	Westholme 200 York Road Haxby	4c
15:20	4 Hilbra Avenue, Haxby	4k

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City of York Council

Committee Minutes

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Meeting	Area Planning Sub-Committee
Date	9 January 2014
Present	Councillors McIlveen (Chair), Gillies (Vice-Chair), Douglas, Watson, Semlyen, Looker, Galvin, Cuthbertson, Hyman and Warters
Apologies	Councillor Fitzpatrick

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Site Visit	Attended by	Reason for Visit
The Ruins, 32a Dale Street, York. YO23 1AE	Cuthbertson, Galvin, Gillies, Looker and McIlveen	As the recommendation was for approval and objections had been received.
Shepherd Group Social Club, 131 Holgate Road. YO24 4AZ	Cuthbertson, Galvin, Gillies, Looker and McIlveen	To inspect the site.

### 36. Declarations of Interest

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests not included on the Register of Interests that they might have had in the business on the agenda.

No interests were declared.

### 37. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the consideration of annexes to Agenda Item 6 (Enforcement Cases Update) on the grounds that they were classed as exempt under Paragraphs 1,2 and 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as

amended by the Local Government (Access to Information) (Variation) Order 2006).

**38. Minutes**

Resolved: That the minutes of the Area Planning Sub Committee held on Thursday 5 December 2013 be approved as a correct record.

**39. Public Participation**

Gwen Swinburn spoke under this item on issues of procedure in regards to Agenda Item 4b) (Rear of the Lindens). She made reference to the Officer update given at the meeting. (This was attached to the agenda and uploaded online following the meeting).

She questioned why the Officer's published report did not make reference to the Green Belt, whereas their circulated update was wholly about the impact that the application would have on the open character and designation of the Green Belt. She was concerned that the public had not had access to the most up to date agenda, and that the Members of the Committee had information that the public did not possess. She stated that she did not think this was democratic.

**40. Plans List**

Members considered a schedule of reports of the Assistant Director (City Development and Sustainability) relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and Officers.

**40a) The Ruins, 32a Dale Street, York YO23 1AE (13/03275/FUL)**

Members considered a full application by Ms Isobel Rhodes Bernays for the erection of a two storey building comprising of a new dwelling and an extension to 34 Dale Street, and change of use of 32a Dale Street to residential accommodation-

Variation/removal of conditions of permission 10/027972/FUL under Section 73 of the Town and Country Planning Act 1990.

In their update to Members, Officers informed the Committee of an error in the report. Condition 2 (The development shall begin no later than 14 March 2013) should be amended to *14 March 2014*.

It was questioned if the standard rooflights in 34 Dale Street were installed prior to Dale Street being included in the Central Historic Core Conservation Area in 2011, and if approving the application with the rooflights could set a precedent for other buildings to use standard rooflights in the Conservation Area.

Officers answered that the issue was what was appropriate in its context. Other properties in the terrace had non conservation style rooflights and in the circumstances Officers considered it to be reasonable that the new property had similar style rooflights.

Representations in support of the application were received from the applicant, Isobel Rhodes-Bernays. She explained to Members that she had used velux rooflights rather than conservation rooflights as they were not visible and were in keeping with the rest of the windows in the building.

In response to questions about why renewable energy sources could not be used on the site. Members were informed that renewable energy sources such as ground and air source heat pumps were not suitable on the site because of a lack of outside space. The roof space that was available was also too narrow for solar panels. The applicant also confirmed that cost considerations also halted the use of renewable energy sources on the site.

During discussion some Members felt that it was strange that the building was sited in the Conservation Area as some of the surrounding buildings had velux windows and dormers, which would not normally be a feature of such an area.

In response to a question from a Member about whether the windows of the proposed side elevation were originally as timber framed, it was reported that timber windows were referenced in original drawings but that it was not a requirement but that it was not a requirement of the planning authority.

Officers also highlighted that the proposed location for the UPVC windows was in the less visible side elevation which was opposite to Council owned flats which all had UPVC windows.

Some Members felt that by approving the application this would change the Conservation Area, and that it might set a precedent in similar cases located in this area. Others felt that the application fitted in with other buildings in the area.

Resolved: That the application be approved.

Reason: For the reasons listed in the Officer's report it is reasonable for Conditions 5 (Code for Sustainable Homes), 6 (Renewable Energy) and 8 (Drainage Details) to be removed and conditions 1 (approved plans), 7 (obscure glazing) and 10 (large scale details) to be varied.

**40b) Rear of The Lindens, Sandy Lane, Stockton on the Forest, York (13/03256/FULM)**

Members considered a full major application by Mr J Jackson for the erection of workshop and storage building for steel coils.

An Officer update had been circulated to Members of the Committee prior to the meeting which included additional paragraphs relating to the Green Belt, and additional condition relating to the height of the development and an amendment to the wording of the recommendation. This update was attached to the agenda following the meeting. The agenda was subsequently republished online to include this update.

Discussion between Members took place on the issues raised under Public Participation by Gwen Swinburn.

Some Members felt that a decision on the application should be deferred until proper consultation had taken place, following the updated information circulated by Officers. They felt that there was a definite change to the report, and asked why the additional paragraphs were not included in the original report.

Officers reported that the error had occurred because the site was proposed to be removed from the Green Belt in the Preferred Options Document for the new Local Plan.

They added that they would not normally have further public consultation as the application had not changed as a result of its location it was the report to Sub-Committee which had changed. They felt that the consultation would not make a difference to the recommendation given.

The Chair stated that although Officers had made an error in not including the updated paragraphs within their original report, that he felt that the recommendation should not change.

Members also requested that legal advice be sought from Democratic Services as to whether the Officer's update should have been published alongside the original report, and if procedures had been followed correctly.

The Assistant Director for Governance and ICT advised Members of the wording of Section 100B (Access to agenda and connected reports) of the Local Government Act 1972. He confirmed that agendas and connected reports should ordinarily be open to inspection five clear days in advance of the meeting. However, the legislation also makes it clear that it does not require copies of any agenda or report to be open to inspection by the public until copies are available to Members of the Council.

Some Members opposed deferring the application to be considered at a later date as they felt that the report talked in terms of the Draft Local Plan, others highlighted the industrial nature of the site.

Resolved: That the application be approved after referral to the Secretary of State and with the following additional condition;

5. Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 7.8 metres, as measured from existing ground level. Before any works commence on the site a means of identifying the existing ground level on the site shall be agreed in writing and any works required to make that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained on site for the duration of the construction works.

Reason: To safeguard the character of the site and to secure open character of the Green Belt.

**40c) Shepherd Group Social Club, 131 Holgate Road YO24 4AZ (13/02712/FULM)**

Members considered a full major application by Mr T Allison for the conversion of a social club and four storey side extension to create 12 no. one bedroom flats.

Officers circulated an update to their report to Members. This update was then attached to the agenda, which was subsequently republished online after the meeting. The following details were noted;

- That a financial contribution of £4080 for the provision of open space had been received in full (thereby removing the need for a unilateral undertaking to that effect). The applicant had also been made aware that the contribution would be returned if planning permission was not granted.
- That minor revisions to condition 2 were needed as a result of continuing negotiation.
- That the applicant had now agreed for replacement windows and external doors to be made of timber, and that a condition be added to approval to reflect this.
- That if approved, a proposed safety fence between the front garden and two bay parking area (which is at a lower level) can be made a condition of approval.

Resolved: That the application be approved subject to the following amended and additional conditions;

Condition 2: The development hereby permitted shall not be carried otherwise than in complete accordance with the approved plans numbered BS3132-09/B, BS3132-10/A, BS3132-11/A, BS3132-12/A, BS2132-13/C, BS3132-14/B, BS3132-15/B, BS3132-16/B and BS3132-18/B.

Condition 4: All new replacement windows and external doors shall be made of timber with a microporous paint finish. The development shall not commence until details of windows and external doors have been submitted to the Local Planning Authority and approved in



writing. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.

Additional Condition 14: The development shall not commence until details of the proposed safety fence between the front garden and two-bay parking area have been submitted to the Local Planning Authority and approved in writing. The works shall be carried out in accordance with the approved details unless agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the Conservation Area.

#### **41. Enforcement Cases Update**

Members received a report which provided them with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by the Sub-Committee.

Resolved: That the report be noted.

Reason: To update Members on the number of outstanding enforcement cases within the Sub Committee's areas.

Councillor N McIveen, Chair  
[The meeting started at 2.00 pm and finished at 3.55 pm].

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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Haxby and Wigginton  
**Team:** Major and      **Parish:** Haxby Town Council  
Commercial Team

**Reference:** 13/02280/FUL  
**Application at:** 122 York Road Haxby York YO32 3EG  
**For:** Erection of 2no. dwellings and garages to the rear of 122 York Road with access from Old Orchard (resubmission)  
**By:** Mrs T Devlin  
**Application Type:** Full Application  
**Target Date:** 6 September 2013  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 Erection of two, part two-storey, part single-storey, 3-bedroom detached houses. They would be reached by an existing dedicated vehicular access, which would be improved, from Old Orchard.

1.2 The application is a resubmission of 12/03818/FUL, which was withdrawn due to officers' concerns about impact on trees. The main change is that the mass of the house at plot 1 has been reduced by:

- reducing the number of bedrooms from four to three,
- replacing the gable roof with a hipped roof,
- making the garage and part of the living space single-storey with a flat roof,
- giving the 2-storey element a more compact, T-shaped footprint.

1.3 The house at plot 2 remains unchanged.

1.4 The application has been called in by Cllr Cuthbertson on the grounds of its level of development, massing, probable impact on St Margaret Clitherow church and other dwellings nearby, combined with the access and drainage issues.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

DC Area Teams GMS Constraints: East Area (2) 0005  
Schools GMS Constraints: Headlands Primary 0199

## 2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP10	Subdivision of gardens and infill devt
CYNE1	Trees, woodlands, hedgerows
CYL1C	Provision of New Open Space in Development
CGP15A	Development and Flood Risk

## 3.0 CONSULTATIONS

### INTERNAL

#### Design, Conservation and Sustainable Development (Landscape)

3.1 All the existing trees shown to be retained could be adequately protected during construction provided an agreed protection method statement is strictly adhered to. The proposals appear to involve removal of the Oak tree tight up against the garage at 109 Old Orchard. Whilst this is a reasonable tree, the local authority would not seek to protect it due to its very close proximity to private property.

#### Flood Risk Management Team

3.2 No objections. The development is in low risk Flood Zone 1 and should not suffer from river flooding. The submitted drainage proposals are satisfactory. Add a condition requiring compliance with proposals seeking further details.

#### Communities, Culture and Public Realm

3.3 As there is no on site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used to improve a local site within the town council area (b) play space - which would be used to improve a local site within the town council area and (c) sports pitches - which would be used to improve a facility within the North Zone of the Sport and Active Leisure Strategy. The contribution to off site provision is to be based on the latest York formula through a Section 106 Agreement.

#### Environmental Protection Unit

3.4 No objections. Add the standard contamination/construction informatives.

### EXTERNAL

#### Haxby Town Council

3.5 Objects on the grounds of scale, massing, impact on the street scene, pressure on local amenities and drainage. It supports all the numerous neighbours who have objected to the application.

### Foss Internal Drainage Board

3.6 Add a condition requiring drainage details, including attenuation, to be submitted for approval.

### Neighbour Notification and Publicity

3.7 Eight objections have been received raising the following planning issues:

- Loss of daylight to church windows
- Impact on church services
- Overdevelopment
- Out of keeping with surrounding area
- Loss of trees
- Loss of attractive open space
- Loss of view of attractive open space
- Garden grabbing
- Overbearing impact on residential neighbour
- Loss of sunlight/daylight to residential neighbours
- Loss of privacy to residential neighbours.

3.8 In addition a petition with 109 signatures has been received. The given reason for the petition is detrimental impact on the level of natural light entering the church through the north-facing stained glass windows, which would severely affect the congregation's worship. The petitioners also object to the loss of precious and attractive green open space.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Principle of development for housing
- Street scene
- Impact on trees
- Impact on the adjacent church
- Neighbour amenity
- Open space

### THE APPLICATION SITE

4.2 The site (0.14ha.) comprises the rear part of the long rear garden of a former psychiatric hospital community unit, known as Blair Atholl. The unit ceased operating in 2011 and has now been converted to two houses (the building's original use). The site has been fenced off and is now somewhat neglected. A field gate provides vehicular access from Old Orchard. To the south is St Margaret Clitherow Roman Catholic Church, which has a contemporary design with windows facing

(obliquely) the application site. To the north are the rear gardens and elevations of 2-storey houses fronting onto a short cul-de-sac (a spur of Old Orchard). The site contains a range of trees, none of which is protected. Close to the site boundary, but within the grounds of the church is a mature Oak, which is subject to a tree preservation order (TPO 1980/30-T3).

## POLICY CONTEXT

4.3 National planning policy is set out in the National Planning Policy Framework (NPPF). The essence of the framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

4.4 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

## PRINCIPLE OF DEVELOPMENT FOR HOUSING

4.5 The National Planning Policy Framework requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The application site is in a sustainable location within the settlement limit of Haxby and with good access to public transport and local services. Whilst the site was last used in connection with a psychiatric unit it has the character of a residential garden. The National Planning Policy Framework states that local authorities should consider policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Policy H4a of the local plan goes further and sets out the criteria on which development of such windfall sites should be judged. It states that permission will be granted for new housing development on land within the urban area providing: it is vacant/derelict/underused or involves infilling, redevelopment or conversion; has good access to jobs, shops and services by non-car modes; is of an appropriate scale and density to surrounding development; and would not have a detrimental impact on existing landscape features. The current proposal meets these criteria. Officers consider that the principle of developing the land for housing is acceptable.

## STREET SCENE

4.6 The NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56). Permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64). Policy GP1 of the local plan sets out the design requirements for development and GP10 states that planning permission will only be granted for the sub-division of garden areas or infilling to where this would not be detrimental to the character and amenity of the local environment.

4.7 The heights of the houses at plots 1 and 2 would be 7.9m and 8.4m respectively. The houses would each have a traditional design with most parts having pitched roofs, brick, render and pantiles. The scale and designs would be in keeping with the character of the area. This includes the single-storey, flat-roofed elements, which would not be easily visible from any public viewpoint. Materials should be made a condition of approval.

## IMPACT ON TREES

4.8 The National Planning Policy Framework states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including the loss of aged or veteran trees, unless the benefits of the development clearly outweigh the loss (paragraph 118). Whilst none of the trees on the site is protected, their presence - and the absence of development - provide an attractive open space that contributes to the character of the area. The most significant trees are towards the western end of the site where they are clearly visible from the public highway. The proposed houses have been located to avoid these trees as far as possible - most of them would be retained. The only significant losses would be a Poplar along the southern boundary of the site and a mature Oak near the north-west corner. The Poplar is of little amenity value. The Oak is attractive but is in an unsuitable location close to a neighbour's garage; the tree is not worthy of TPO protection. The most important tree in the vicinity of the site is the Oak (the subject of a TPO) in the grounds of the church. If planning permission is granted this tree should be protected during construction. The connection to the foul drain is shown running tight along the northern boundary to avoid the roots of another tree (an Acer). The proposed underground water storage tank and surface water connection have also been sited to avoid tree roots. The proposed house on plot 1 is set back from the street thereby maintaining the attractive tree cover along the highway frontage. Overall, the impact on the trees would be acceptable and would not justify refusal of the application.

## IMPACT ON THE ADJACENT CHURCH

4.9 The church has a contemporary design with large stained glass windows facing the site. Worshippers object to the impact the house at plot 2 would have on their worship and light levels entering the windows. The windows are broadly north facing so the church does not have the benefit direct sunlight. The house would be visible but the nearest point (a corner) would be over 12m away. The intervening distance, oblique angle and the bright colouring of the glass would all mitigate views from inside the church. Officers acknowledge the importance of the setting to worshippers but do not consider that the presence of either house would have a material impact on church services.

## NEIGHBOUR AMENITY

4.10 The north side of the site abuts the rear gardens of houses, in particular nos. 101, 103 and 109 The Orchard. These houses all have large windows that are broadly south facing. The outlook for the occupiers is a main consideration of the proposal. The applicant has sought to address residents' concerns by locating only small windows on the north elevations to prevent overlooking. The structure nearest the boundary is single-storey (the garage to plot 2) and much of the house at plot 1 is also single-storey, with a flat roof. These measures are designed to avoid significant overbearing. The most affected houses are nos. 101 and 103, both of which broadly face the application site. The nearest structures to these houses would be the single-storey double garage and single-storey element of plot 1. These structures would be 11-12m from the rear elevations of nos. 101 and 103. Bearing in mind the low height of these structures the intervening distance is considered acceptable. A condition should be attached requiring details of the proposed fencing along the shared boundary.

4.11 Whilst the site has an attractive open character (despite recent neglect), the site is not a protected landscape. Neighbouring occupiers have benefitted from this pleasant outlook for many years but there is no right to views over another person's land.

## OPEN SPACE

4.12 The application requires a contribution of £4008 towards open space in accordance with policy L1c of the local plan. Such contributions are calculated on the basis of each new dwelling approved. The applicant has agreed to make the contribution and is in the process of submitting a unilateral undertaking to that effect. Members will be updated at the meeting.

## OTHER MATTERS

4.13 Drainage, access, parking and cycle storage are all acceptable, subject to standard conditions being applied as appropriate.



## 5.0 CONCLUSION

5.1 The proposal accords with national and local planning policy and is considered to be acceptable. The applicant has agreed to enter into a unilateral undertaking to pay a contribution towards off-site open space (£4008).

## 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 only in accordance with drawings numbered 12:39:01/B, 12:39:02 and 12:39:03/E.

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

3 VISQ8 Samples of exterior materials to be app -

4 Notwithstanding the approved plans the development shall not commence until details of boundary treatment have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the protecting the amenities of neighbouring occupiers and the character and appearance of the area.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no door, window or other opening, other than those hereby approved, shall at any time be inserted in the northern elevation of the houses hereby approved without the prior written approval of the local planning authority.

Reason: In the interests of the amenities of occupiers of adjacent residential properties.

6 Before the commencement of development, including the importing of materials, excavations, utility works, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing, phasing of works, site access during development operations, type of construction machinery/vehicles to be used including delivery and collection lorries and arrangements for loading/off-loading, parking arrangements for site vehicles, and locations for stored materials. It

shall also include construction details and methodology for the driveway where it is located within the canopy spread and potential rooting zones of the trees.

Reason: To protect existing trees which are considered to make a significant contribution to the amenity of this area and the development.

7 Drainage for development shall be carried out in accordance with the details shown on approved plan 12:39:03/E, unless otherwise agreed in writing by the local planning authority. The development shall not commence until site specific details of the existing/proposed manhole, including invert and cover level to ordnance datum, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

8 Prior to the development coming into use, the initial 5m of the vehicular access, measured from the back of the public highway, shall be surfaced, sealed and positively drained within the site. Elsewhere within the site all areas used by vehicles shall be surfaced and drained, in accordance with the approved plans.

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

9 No barrier or gate to any vehicular access shall be erected within 5m of the rear of the verge abutting the site, without the prior written approval of the Local Planning Authority, and shall at no time open towards the public highway.

Reason: To prevent obstruction to other highway users.

10 HWAY19 Car and cycle parking laid out -

11 LAND1 New Landscape details

12 PD1A Removal of specific Perm Dev rights (Classes A (enlargements or extensions), B (additions or alterations to the roof), E(a) (garden buildings or structures) and F (provision of hard surfaces))

## **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 has secured improvements to the scale and layout and attached appropriate conditions to the approval, thus enabling a positive outcome to be achieved.

## 2. VEHICLE CROSSING

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named: Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361.

## 3. RECHARGING OF ELECTRIC VEHICLES

In order to facilitate the uptake and recharging of electric vehicles/bikes/scooters, it is recommended that the applicant should install a standard domestic 13A electrical socket on an internal or external wall. This should be capable of charging at a minimum of 3KWh for up to 8 hours without overheating the cabling or socket. Ideally, a 13/32Amp socket should be supplied which can offer up to 7KWh continuous charging with a control and protection function on a specific circuit (to avoid overload through use of other appliances on the circuit). Where mounted on an external wall, a suitable weatherproof enclosure for the socket will be required.

## 4. CONTROL OF POLLUTION

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.

#### 5. CONTAMINATION

If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a scheme remediation to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

#### 6. UNILATERAL UNDERTAKING

This planning permission includes a unilateral undertaking to make a financial contribution of £4008 towards off-site public open space.

#### **Contact details:**

**Author:** Kevin O'Connell Development Management Officer

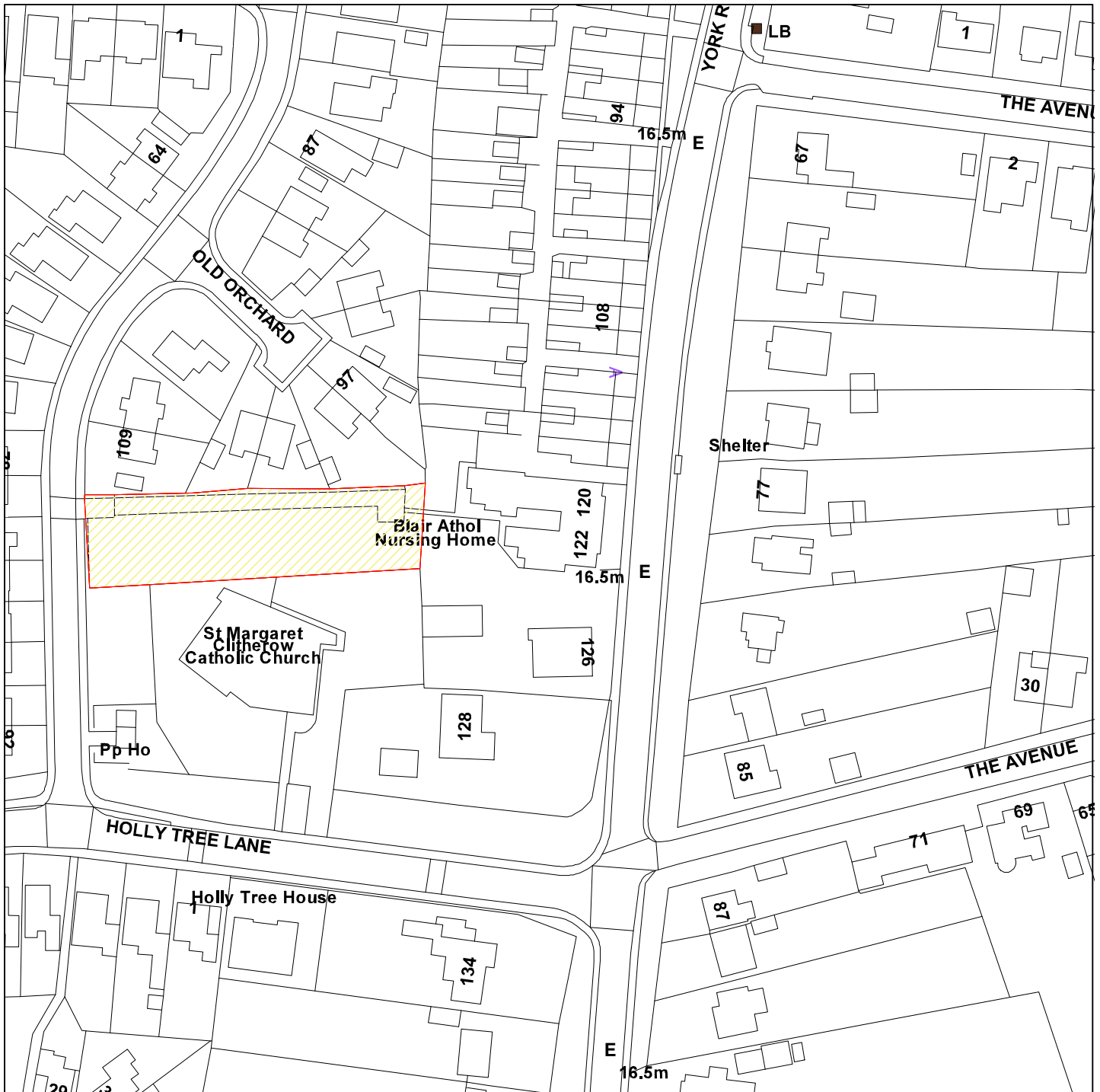
**Tel No:** 01904 552830

13/02280/FUL

122 York Road Haxby



GIS by ESRI (UK)



Scale : 1:1250

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	27 January 2014
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Rural West York  
**Team:** Major and      **Parish:** Copmanthorpe Parish  
Commercial Team      Council

**Reference:** 13/03099/FULM  
**Application at:** Fox And Hounds 39 Top Lane Copmanthorpe York YO23  
3UH  
**For:** Erection of 3 storey building comprising 28no. later living  
retirement housing units, communal facilities, landscaping  
and car parking  
**By:** McCarthy And Stone Retirement Lifestyles Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 10 January 2014  
**Recommendation:** Delegated Authority to Approve Subject to Section 106  
Agreement

**1.0 PROPOSAL**

1.1 The Fox and Hounds comprises a two storey brick built public house dating from the 1970s occupying a prominent site at the north eastern approach to Copmanthorpe village. The site has been vacant for a considerable period of time and planning permission with an associated Section 106 agreement was given in 2012 for erection of 11 houses on the cleared site (11/02985/FULM).

1.2 The current application for planning permission seeks the erection of 28 apartments with associated facilities for the over 60 age group on the cleared site. The development would be centred around a series of linked three storey brick built blocks with 20 two bedroom apartments and 8 one bedroom apartments set within informal open space.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175  
City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: West Area 0004

2.2 Policies:

CYGP15A Development and Flood Risk  
CYGP1 Design  
CYGP4A Sustainability  
CYH4A Housing Windfalls

Application Reference Number: 13/03099/FULM

Item No: 4b

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CYH2A Affordable Housing  
CYL1C New Open Space in Developments  
CYGP13 Planning Obligations

### 3.0 CONSULTATIONS

#### INTERNAL

##### Environmental Protection Unit

3.1 No objection.

##### Design, Conservation and Sustainable Development

3.2 No objection to the proposal subject to any permission being conditioned to secure the submission and prior approval of a scheme of mitigation in terms of bat habitat.

##### Highway Network Management

3.3 No objection in principle subject to commuted sums being paid in relation to sustainable transport measures including the introduction of waiting restrictions to manage on street parking and the provision of 'real-time' bus display at the adjacent bus stop.

##### Strategic Flood Risk Management

3.4 Concerns raised with respect to the level of detail submitted with the application in relation to surface water drainage.

##### Housing Strategy and Development

3.5 Do not support the application as submitted. Ordinarily, an on-site provision of affordable homes would be sought for a development of this size. The current interim policy requires a 20% on site provision of affordable housing on brown field sites of more than 15 dwellings. However, given the type of housing product offered by the applicants, McCarthy and Stone, it was not considered practical to seek an on site provision in this case. Instead the Housing Strategy and Development team have sought a commuted sum to allow funds to be invested in off site affordable housing provision. To date a commuted sum has not been agreed.

#### EXTERNAL

##### Copmanthorpe Parish Council

3.6 Object to the proposal on the grounds that its scale and massing and three storey form are alien to the built form of the village.

##### North Yorkshire Police Architectural Liaison Officer

3.7 No objection.



The Ainsty(2008) Internal Drainage Board

3.8 No objection to the proposal subject to the submission and prior approval of a detailed surface water drainage scheme.

Neighbour Notification and Publicity

3.9 42 letters have been received in respect of the proposal, 34 in support and 7 in objection. The following is a summary of the letters of objection:-

- Concern at the impact of the proposal upon the visual amenity of the wider street scene;
- Concern at the impact of the proposal upon the residential amenity of neighbouring properties;
- Concern at the impact of the proposal on the level of on-street parking and road safety in the locality;
- Concern at the impact of the proposal upon water pressure in residential properties surrounding the site.

3.10 One letter received raising no objection to the proposal subject to the incorporation of a footpath within the site boundary adjacent to Top Lane.

## **4.0 APPRAISAL**

### **4.1 KEY CONSIDERATIONS INCLUDE:-**

- Impact upon the Visual Amenity of the Wider Street Scene;
- Impact upon the Residential Amenity of Neighbouring Properties;
- Impact upon the Amenities of occupiers of the proposed apartments;
- Impact upon the Safety and Convenience of Highway Users;
- Sustainability of the proposal;
- Impact upon the local surface water drainage network;
- The payment of Commuted Sums in Lieu of the Provision of Affordable Housing on Site.

## **THE STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (DCLP)**

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

## **IMPACT UPON THE VISUAL AMENITY OF THE WIDER STREET SCENE**

4.3 Policy H4a) of the York Development Control Local Plan sets out a firm policy presumption in favour of new residential development on previously unallocated sites where the site is within the urban area , it is vacant, derelict or underused and

it involves re-development or infilling and it is of an appropriate scale and density to surrounding development. Central Government Planning Policy as outlined in paragraph 49 of the National Planning Policy Framework indicates that Local Planning Authorities should determine planning applications for new residential development in line with the presumption in favour of sustainable development.

4.4 The application site comprises a vacant public house set within large open grounds on a sloping site at the north eastern edge of Copmanthorpe village adjacent to the principal approach from the City Centre. Planning permission ref:- 11/02985/FULM has previously been given for the erection of 11 dwellings on the cleared site of the pub and planning permission has previously been given for the erection of a scheme of 8 apartments on the site of the former pub car park. The current proposal envisages the erection of a scheme of 28 apartments along with associated communal facilities within a generally three storey pitch roofed brick built and render built block. The principal access to the development would be from Top Lane with parking to the south west of the site entrance with a subsidiary entrance from Tadcaster Road. The development takes advantage of the sharp change in levels north/south across the site to allow for a four storey block facing north on to Tadcaster Road. The surrounding pattern of built development varies significantly between Top Lane and Tadcaster Road with a two storey brick built detached houses dating from the Inter War and immediately Post War years lining Top Lane and rather larger 2 1/2 storey substantial detached properties lining Tadcaster Road. The residential properties to the south east on Top Lane lie at an elevation of approximately 1.2 metres above the level of the application site. The form of the development tapers to fit with the characteristics of the corner site and provides a visually appropriate treatment of the prominent approach into Copmanthorpe village.

4.5 The proposal is some 26 metres distant from properties to the south on Top Lane. Whilst of three storey form in that section of the site the local topography enables the proposed building to relate well to its surroundings with the ridge height of the proposed building not materially greater than that of the existing dwellings to the south. The topographical characteristics of the site and its surroundings with a sharp change of level to the north east enable a development that would otherwise be unacceptable on the grounds of being over-bearing, to be considered acceptable. The previously approved flat development on the north eastern section of the site also had a similar visual relationship with the properties on Top Lane. At the same time the proposed scale and massing finds reference in the characteristics of the substantial properties facing Tadcaster Road. The chosen palette of materials also finds reflection in that adopted in the older residential development to the south giving a degree of transition between the properties on Top Lane and Tadcaster Road.

4.6 Copmanthorpe Village Design Statement comprises Adopted Supplementary Planning Guidance giving detailed design criteria in respect of new development in Copmanthorpe. The Design Guidelines seek the development of a range of plots

and sizes designed in a manner which reflects the Copmanthorpe context normally confined to two storeys in height. The proposed development does reflect the context of its surroundings in terms of its overall pattern of scale, massing and the palette of materials. At the same time close attention has been paid to the provision of a mix of hard and soft landscaping to aid its integration into the site. Whilst the Village Design Statement contains a presumption against development of more than two storeys, the physically discrete location of the site relative to the remainder of the village along with the topographical characteristics of the local area provides a justification for the scale of the proposal.

#### IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES

4.7 Policy GP1 of the York Development Control Local Plan sets out a firm policy presumption in favour of new development which respects or enhances the local environment, is of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area and ensure that residents are not unduly affected by noise, disturbance, overlooking, overshadowing or being dominated by overbearing structures. Central Government planning policy as outlined in paragraph 17 "Key Planning Principles "of the National Planning Policy Framework urges Local Planning Authorities to safeguard a good standard of amenity for new and existing occupiers of land and buildings. The nearest residential property along Top Lane to the south is some 26 metres away from the proposed development at its closest point. Notwithstanding the presence of a balcony on the adjoining elevation of the proposed property it is felt that this is a sufficient distance to minimise any risk of loss of privacy or over-looking to an acceptable level. At the same time the topographical characteristics of the site with the sharp change in level running north east south west means that the relationship with neighbouring properties would not be an over-bearing one.

4.8 In terms of the relationship with properties to the west on Tadcaster Road and Top Lane, the existing landscaped boundary would be retained and the proposed building would be substantially set back from the Tadcaster Road frontage at its western end. Any impact would therefore be acceptable.

#### IMPACT UPON THE AMENITIES OF OCCUPIERS OF THE PROPOSED PROPERTIES

4.9 Concern has been expressed in relation to the impact of noise from the A64 to the north and north west upon the amenities of residents of the proposed development. A substantial acoustic fence lies directly to the north of Tadcaster Road along the boundary of the A64 and the applicant has confirmed that the apartments fronting on to the northern elevation of the proposed property will be designed with the appropriate level of noise attenuation involving insulation and double glazing. Any impact arising from noise upon the amenities of occupiers of the proposed development would therefore be acceptable.

## IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS

4.10 Concern has been expressed in respect of the impact of the proposal upon the level of on-street parking and traffic generation in the local vicinity. The proposal envisages the provision of 1 space per apartment which is consistent with the adopted maximum parking standard and bearing in mind the age restricted nature of the development it is unlikely that car ownership will be greater than the parking provision. In terms of traffic generation the previous land use was a pub which before its period of decline generated a significant volume of traffic over and above that of the current proposal. At the same time the principal vehicular access to the site from Top Lane would be offset from the entrance to Merchant Way to the south. Subsequent to the application being submitted the application details have been amended to include a path linking the site car park to the Tadcaster Road frontage. Overall any impact upon the safety and convenience of highway users would be acceptable.

## SUSTAINABILITY OF THE PROPOSAL

4.11 The Adopted Interim Planning Statement on Sustainable Design and Construction 2007 linked to the Policy GP4a) of the York Development Control Local Plan sets out a clear policy requirement for the provision of a minimum of 10% of the energy needs of the proposed development on site. At the same time Central Government Planning Policy as outlined in the National Planning Policy Framework adopts Sustainable Development as a central policy thread, notably the re-use of previously developed land as in the current context. The applicant has submitted a detailed statement outlining how the proposed development would secure the generation of 25% of its energy requirements by renewable means on site utilising a mix of air source heat pumps and mechanical heat recovery. A condition is recommended requiring the development to meet BREEAM 'Very Good'.

## IMPACT UPON THE LOCAL SURFACE WATER DRAINAGE NETWORK

4.12 Policy GP15a) of the York Development Control Local Plan sets out a clear policy requirement for developers to satisfy the Local Planning Authority that any flood risk can be successfully managed with the minimum environmental effect and ensure that the site can be developed, serviced and occupied safely. The application site lies within Flood Zone 1 which carries the lowest level of risk and is largely hard surfaced. The proposed development would result in a reduction in hard surfaced area overall and subsequent to submission of the proposal a revised drainage layout has been submitted. It is felt that providing any permission is conditioned to require compliance with the submitted layout then the development is acceptable.

## COMMUTED SUM PAYMENTS

4.13 The proposed development triggers a requirement for the payment of commuted sums in relation to the provision of sustainable transport measures (£12,000) together with the provision of off-site open space (£9,552) in line with Policy L1c) of the York Development Control Local Plan. At the same time the site falls to be considered against Policy H2a) of the York Development Control Local Plan with a requirement for the provision of affordable housing on site in line with the Authority's adopted Interim Target. In the current case 20% provision is sought for developments on previously developed land of over 15 units in the rural area. In view of the specialist nature of the development it is accepted that on-site provision of affordable housing would not be feasible so negotiations have taken place on the basis of the payment of a commuted sum secured by a Section 106 Agreement. A figure of £624,613 was sought on the basis of the Adopted Interim Policy Target in this case. The contributions sought are required to comply with the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations such that they are (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.

4.14 Following an independent appraisal by the District Valuer the applicant has offered a contribution of £233,701 to cover the payment of all commuted sums required including sustainable transport, open space and affordable housing. The applicant has justified this offer on the current likely purchase price for the site and what is felt to be the most reasonable level of developer profit in respect of the proposal and its highly specialised nature.

4.15 The contribution remains below the level sought in the CYC Document "Commuted Sum Payments for Open Space in New Developments – A Guide for Developers" and the approved Interim Targets for the provision of affordable housing. Negotiations are on-going to identify a mutually acceptable level of affordable housing contribution and it is recommended that Delegated Authority be sought to approve (or refuse) on the basis of the outcome of those negotiations.

## 5.0 CONCLUSION

5.1 The site comprises a vacant pub occupying a prominent sloping site on the north eastern approach to Copmanthorpe village from the City Centre. Planning permission has previously been given for the re-development of the site with housing both totally and partially. Planning permission is presently sought for the erection of a development of 28 apartments to be occupied by those aged 60 and over on the cleared site of the pub. It is felt that the proposed design is acceptable in the context of the site and that no significant adverse impact would be caused to the residential amenity of neighbouring properties. At the same time it is felt that any impact upon the local highway network would be acceptable subject to the payment

of the appropriate commuted sum in respect of sustainable transport. The site can be effectively drained and it is felt overall that the development is acceptable providing the requisite commuted payments are given in respect of the provision of affordable housing, open space and sustainable transport.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Delegated Authority to Approve subject to the prior completion of a section 106 agreement securing contributions towards off-site open space provision, off-site affordable housing and sustainable transport.

1 TIME2 Development start within three years -

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

Drawing Refs:- 1919-1-01; 1919-1-03; 1919-1-04; 1919-1-05; 1919-1-06; 1919-1-07. MSR 100; S538-1; S538-2; 8102/01; 13/153/TR/001; 13/153/002 and 13/153/003. Date Stamped 19th September 2013. 1919-1-02A and 1919-1-08A Date Stamped 20th January 2014 and 2511-SK1.

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

3 VISQ8 Samples of exterior materials to be app -

4 No development shall take place until full details of the proposed measures for bat mitigation have been submitted to and approved in writing by the Local Planning Authority.

Such measures shall include:-

- i) A plan of how demolition work is to be carried out to accommodate the possibility of bats being present;
- ii) Details of what provision is to be made within the new building to replace features lost through the demolition of the original structure;
- iii) Further survey work at the appropriate time of year and no later than one month before the commencement of works in the event that demolition takes place between April and September.

The works shall be implemented in accordance with the approved details and timing unless otherwise approved in writing by the Local Planning Authority.

Reason:- To secure the habitat of a protected species and to secure compliance with Policy NE6 of the York Development Control Local Plan.

5 HWAY18 Cycle parking details to be agreed -

6 HWAY19 Car and cycle parking laid out -

7 HWAY40 Dilapidation survey -

8 The development shall not be occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the verge to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

9 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 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 and is subject to the approval in writing of 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.

11 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local

Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of 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, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12 Trees shown as being retained on the approved plans shall be protected in accordance with BS: 5837 Trees in relation to construction.

Before the commencement of development, including demolition, building operations or the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing; phasing of works; site access for demolition/construction and methodology; type of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading); parking arrangements for site vehicles; locations for storage of materials; locations of utilities. Details of existing and proposed levels and surfaces shall also be included.

The protective fencing line shall be adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, mechanical cultivation or deep-digging, parking or manoeuvring of vehicles; there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, or pipe runs for services or drains. The fencing shall remain secured in position throughout the construction process including the implementation of landscape works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To ensure protection of existing trees before, during and after development which are covered by a Tree Preservation Order and/or make a significant contribution to the amenity of the area.

13 The development hereby authorised shall be undertaken in strict accordance with the details outlined in Drawing Refs:- S538/1 and S538/2. 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.

14 Unless otherwise agreed in writing with the Local Planning Authority, prior to commencement of development the developer shall submit in writing and be approved by the local planning authority a formal pre-design BREEAM assessment for the design and procurement stages of the development. The developer shall submit a further BREEAM assessment after construction, at a time to be agreed in writing by the local planning authority. The developer shall submit a completion assessment when issued by the BRE. All assessments shall confirm the minimum 'Very Good' rating anticipated in the preliminary BREEAM assessment submitted with the application

Reason - To ensure the development complies with the principles of sustainable development

15 The development hereby authorised shall be undertaken in strict accordance with the drainage details outlined in drawing ref:- 2511-SK1.

Reason:- To secure compliance with Policy GP15a) of the York Development Control Local Plan and to ensure that the site can be safely and efficiently drained.

16 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. Such a statement shall include at least the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- details of how the car parking area will be managed during the construction period to ensure adequate car parking remains
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

17 Prior to the commencement of the development hereby authorised full details of the proposed noise mitigation works to the northern section of the site including fencing, glazing and internal insulation shall be submitted to and approved in writing by the Local Planning Authority. Such details shall achieve internal noise levels of 30dBLA eq 1hour and 45dBLA Max (23:00-07:00) in bedrooms and 35dBLAeq 1hour (07:00-23:00) in all other habitable rooms. The noise levels are with windows shut and other means of acoustic ventilation provided. The development shall thenceforth be undertaken in strict accordance with the details thereby approved prior to the units constructed being first occupied.

Reason:- To safeguard the amenities of the occupants of the development hereby approved and to secure compliance with Policy GP1 of the York Development Control Local Plan.

18 The premises shall be used for Later Living Retirement Housing (Category 2) for those aged 60 years and over and for no other purpose, including any other purpose in Class C3 in the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: The nature of the development as Later Living Retirement Housing means that the mix of unit sizes, the lack of provision for on-site affordable housing and the level of contributions towards off-site open space and affordable housing provision does not comply with policies H2a, H3c, L1c and GP13 of the Development Control Local Plan and paragraphs 50 and 203 of the National Planning Policy Framework, as such the occupation of the development for general market housing would be inappropriate.

19 The development hereby authorised shall be carried out in accordance with the details outlined in the submitted Energy Statement Ref:- 11-13-36832 ES1. Date Stamped 20<sup>th</sup> January 2014.

Reason:- To ensure that a minimum of 10% of the energy requirements of the development hereby authorised are provided by renewable means in accordance with the Adopted Interim Policy Statement on Sustainable Design and Construction (2007) and Policy GP4a) of the York Development Control Local Plan.

20 The footpath within the development hereby authorised directly abutting Top Lane illustrated on drawings ref:- 1919-1-02 A and 1919-1-08 A shall be provided, laid out and made available for use prior to the development being first occupied.

Reason:- To ensure the safety and convenience of occupiers of the site and other highway users.

## 7.0 INFORMATIVES:

### Notes to Applicant

#### 1. HIGHWAY WORKS:-

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

Works will also be required under Section 62/72 of the Highways Act.

#### 2. CONTACT UTILITIES:-

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

#### 3. 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) Clarification of the proposed means of renewable energy generation;
- ii) Clarification in respect of the proposed means of surface water drainage;
- iii) An amended site layout with revised internal circulation arrangements; and
- iv) Sought a mutually acceptable solution in respect of the payment of commuted sums covering provision of affordable housing, off-site open space and sustainable transport works.

#### Contact details:

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

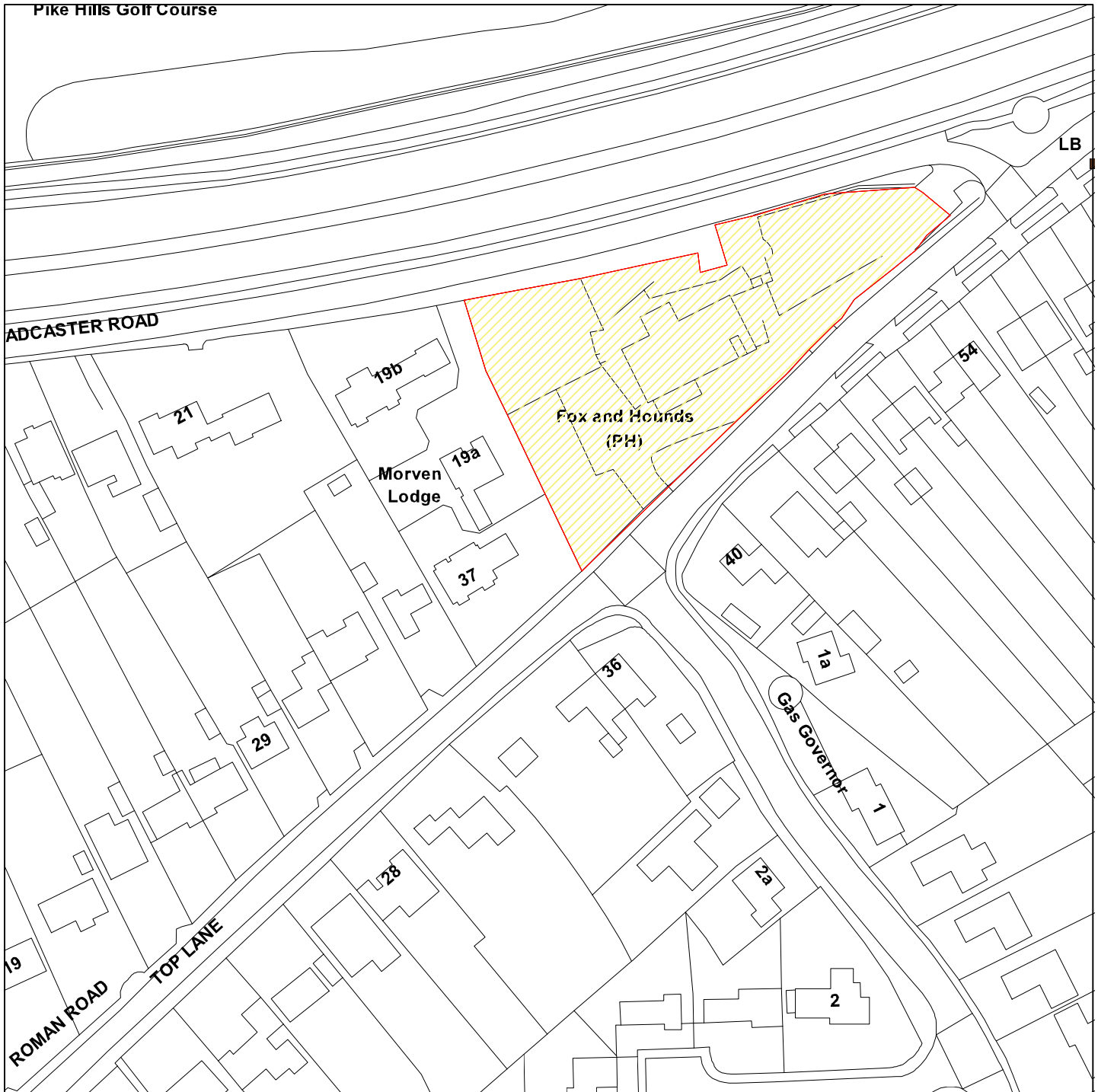
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# 13/03099/FULM

## Fox and Hounds, 39 Top Lane, Copmanthorpe



GIS by ESRI (UK)



Scale : 1:1250

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	27 January 2014
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Haxby And Wigginton  
**Team:** Major and      **Parish:** Haxby Town Council  
Commercial Team

**Reference:** 13/03168/FUL  
**Application at:** Westholme 200 York Road Haxby York YO32 3EX  
**For:** Erection of 4no. detached two storey dwellings with associated garages, access and landscaping (resubmission)  
**By:** Mr Daniel Gath  
**Application Type:** Full Application  
**Target Date:** 21 November 2013  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 Erection of four detached houses (1 x 3-bedroom, 2 x 4-bedroom and 1 x 5-bedroom) within the garden area of Westholme, 200 York Road. Each house would have a double garage and private amenity space. Access would be via a shared drive from a lay-by on York Road. An additional garage would be provided to serve the retained house. The existing garage of the house would be demolished to provide access to the development.

1.2 The application is a resubmission of 13/00660/FUL, which was refused in June 2013. The refused scheme comprised 3 x 3/4 bedroom houses and 2 x 4/5 bedroom houses. The reason for refusal was that the high density of the proposal would result in a cramped development that would not successfully integrate into the surrounding area. The main changes between the refused scheme and the current proposal are:

- A reduction in the number of houses from five to four;
- A different composition of house types
- A modest increase in green space/landscaping.

1.3 The application has been called in by Cllr. Cuthbertson due to the concerns raised by local residents.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: East Area (2) 0005

## 2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP10	Subdivision of gardens and infill devt
CGP15A	Development and Flood Risk
CYNE1	Trees, woodlands, hedgerows
CYL1C	Provision of New Open Space in Development
CYED4	Developer contributions towards Educational facilities
CYH4A	Housing Windfalls

## 3.0 CONSULTATIONS

### INTERNAL

#### Highway Network Management

3.1 No objections. Add standard highway conditions regarding provision parking, cycle storage and a construction method of works statement.

#### Children's Services, Education and Skills

3.2 The development would require a financial contribution of £11,984 towards education for an additional place at the local primary (Headlands Primary) which is currently oversubscribed.

#### Environmental Protection Unit

3.3 No objections. Add conditions relating to potentially contaminated land and facilities for recharging electric vehicles.

#### Communities, Culture and Public Realm

3.4 As there is no on site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used to improve a local site within the town council area (b) play space - which would be used to improve a local site within the town council area and (c) sports pitches - which would be used to improve a facility within the North Zone of the Sport and Active Leisure Strategy. The contribution to off site provision is to be based on the latest York formula through a Section 106 Agreement.

#### Flood Risk Management Team

3.5 No objections to the principle of development. Include a condition requiring drainage details including attenuation and evidence of the suitability of the proposed outfall.



## EXTERNAL

### Haxby Town Council

3.6 Objects on the grounds of overdevelopment, limited access, detrimental impact on the site and mature trees, drainage and flood risk concerns.

### Foss Internal Drainage Board

3.7 Add a condition requiring drainage details, including attenuation, to be submitted for approval.

### Neighbour Notification and Publicity

3.8 Twelve objections have been received raising the following planning issues:

- Loss of open green landscape, trees and hedges
- Out of keeping with character of the area
- Overdevelopment
- The scheme is not significantly different from the previous proposal
- Backland development
- Would exacerbate drainage problems
- Inadequate parking and access
- Risk of contamination
- Overbearing impact on residential neighbour
- Loss of sunlight/daylight to residential neighbours
- Loss of privacy to residential neighbours.

3.9 Two letters of support/no objections have been received.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Principle of development for housing
- Scale of development
- Neighbour amenity
- Drainage and flood risk
- Contamination
- Financial contributions.

## THE APPLICATION SITE

4.2 The site is the large rear garden (0.3ha) of a 2-storey detached house at 200 York Road. The site is bounded on all sides by 2-storey detached and semi-detached houses in Eastfield Avenue, Sunnysdale and Pinelands. Access is via the private drive of the existing house on the site. Immediately to the south of the

access is an electricity substation. The access is approached via a lay-by alongside York Road. The site is not within a conservation area and no buildings in the immediate vicinity are listed. The whole of the application site is within Flood Zone 1 which is the lowest flood risk category. The garden had a sizeable pond that was in-filled in 2012.

## POLICY CONTEXT

4.3 National planning policy is set out in the National Planning Policy Framework (NPPF). The essence of the framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

4.4 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework. Relevant local plan policies are listed in section 2.2 of the report.

## PRINCIPLE OF DEVELOPMENT FOR HOUSING

4.5 The National Planning Policy Framework requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The application site is in a sustainable location within the settlement limit of Haxby and with good access to public transport and local services. Whilst the site is used as a domestic garden, its size in relation to the host house is very large. The National Planning Policy Framework states that local authorities should consider policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Policy H4a of the local plan goes further and sets out the criteria on which development of such windfall sites should be judged. It states that permission will be granted for new housing development on land within the urban area providing: it is vacant/derelict/underused or involves infilling, redevelopment or conversion; has good access to jobs, shops and services by non-car modes; is of an appropriate scale and density to surrounding development; and would not have a detrimental impact on existing landscape features. The current proposal meets these criteria. Given the need for new housing, the size and

sustainability of the site and the NPPF's presumption in favour of sustainable development, it is considered that the principle of developing the land for housing is acceptable.

## STREET SCENE

4.6 The NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56). Permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64). Policy GP1 of the local plan sets out the design requirements for development and GP10 states that planning permission will only be granted for the sub-division of garden areas or infilling to where this would not be detrimental to the character and amenity of the local environment.

4.7 The application site is within a residential area, with a range of housing types and sizes. However, within this area are a number of different forms of development. The main concern of the previous application was that the substantial gardens of some of the houses in the area (particularly the application site) provide a sense of openness and relief from more-recent higher density residential development in the area. The application site was therefore seen as making a significant contribution to the character of the area. That remains the position but the considerations are finely balanced. The previous scheme was, on balance, unacceptable and was refused. The current application has reduced the number of units at the western end of the site from three to two and moved the most-easterly house a further 2m into the site, i.e. further from any public viewpoint. Although the footprint of the two westernmost houses is not materially different from the three houses previously proposed their overall mass is less (due to a greater proportion of the houses being single-storey). Furthermore the revised layout enables slightly more green space to be retained where it is most significant, i.e. along the line of sight from the public highway at York Road. On balance officers consider that the scheme is sufficiently improved to justify approval.

## IMPACT ON NEIGHBOURING RESIDENTIAL AMENITY

4.8 The proposed access would pass to the side of the host house. Two secondary windows of the host house would face the new drive at a separation distance of approximately 3m. Between the access and host house would be a new brick wall and an area of landscaping. Officers consider that the access arrangement is acceptable and would not result in a significant loss of amenity for residents of the host house through noise or disturbance.

4.9 The proposed development includes houses close to site boundaries. A number of garden areas back onto the application site and therefore any development would have some impact on amenity. Plots 3 and 4 would face towards the rear gardens and elevations of houses along Eastfield Avenue. The rear elevations of the houses at plots 3 and 4 would face the garden of 198 York Road. Whilst these dwellings would be visible from the gardens of these neighbouring houses and windows would be visible the level of separation is sufficient to not cause a loss of privacy or appear so overbearing as to justify refusal of the planning application under policy GP1.

4.10 The relationship between the western end of the site and houses along Eastfield Avenue, Sunnydale, and Pinelands is much more constrained. The gardens of these existing houses are small so the location of new dwellings at this end of the site needs careful consideration. The previous application comprised three houses at this end of the site (plots 1-3). In the current application the houses have been replaced by two (plots 1 and 2). The most affected occupiers are at No.27 Pinelands. The house nearest No.27 (plot 2) is proposed to be within 2m of the boundary. When the application was first submitted the element nearest the boundary was a narrow single-storey projection. Since submission, plots 1 and 2 have been swapped and handed so that the element nearest the boundary is now a single-storey double garage. The new house type, together with the oblique angle, has improved the juxtaposition of the two houses and the impact on the occupiers of No.27.

4.11 Plots 1 and 2 face the rear gardens of houses at nos 2 and 3 Sunnydale. The new houses would be at least 11m from the boundary and at least 21m from the main elevations of the existing houses. These houses face the application site obliquely. The combination of the separation distances and the oblique outlook are sufficient to prevent significant overbearing or overlooking. The house at plot 1 would be less than 2m from the boundary with nos 10-14 Eastfield Avenue. The main elevations of these houses would be at least 30m from the house at plot 1. This distance is sufficient to prevent any significant overbearing or overlooking.

4.12 Subject to an appropriate condition not allowing new openings on the side elevations of plots 1 and 2 it is not considered that there would be a loss of privacy or outlook sufficient to justify refusal of the application.

## LANDSCAPE

4.13 The site is exceptionally large relative to neighbouring gardens and most of the vegetation is along the garden perimeter. The northern boundary is marked by a mixed hedge including Elder and Holly and the western boundary is marked by a privet hedge. The trees around the perimeter are not in themselves worthy of protection by way of a tree preservation order (TPO) but some of the young trees are suitable for incorporation into a final landscape scheme. Whilst the submitted plans show trees along the perimeter as being retained it is likely that some would

be removed by future owners. Nevertheless the potential loss of these trees, which would otherwise provide an element of screening is not, on its own, sufficient reason for refusal. Some of the trees are likely to be retained and some replacement landscaping is to be provided along the southern boundary. This is the side that is visible from the public highway at York Road. Landscaping in this location would help to retain some element of the site's current green character.

## DRAINAGE

4.14 The application site is within flood zone 1 and should therefore not suffer from river flooding. The applicants are proposing the use of underground storage tanks which would collect surface water and would release it at a controlled rate into the existing drainage system. At present the site is green and undeveloped and therefore any development has the potential to increase the amount and speed of surface water runoff unless it is adequately controlled. This principle is considered acceptable by the flood risk engineers. A substantial amount of drainage information has been submitted with this application (and the application before it) and has been considered by the council's flood risk engineer. He is content that the site could be properly drained.

4.15 Some neighbouring residents remain concerned that the infilling of the pond is the cause of drainage problems in the vicinity of the site. No evidence has been provided to support it. In particular there is no evidence that the site was raised when the pond was filled in 2012 nor that the land drain (at the south-west corner of the site) is not functioning. Irrespective of any pre-existing drainage problems, the applicant proposes to drain the whole site and attenuate the surface water run-off to the level required by the council and the internal drainage board. A condition should be attached requiring drainage details to be submitted for approval and implemented.

## HIGHWAY MATTERS

4.16 The four dwellings would be served from a private drive which accommodates 2-way traffic by means of a passing place within the site and provides turning facilities. Each dwelling has a garage capable of accommodating cars and cycles. The level of traffic generated by the proposals would not have a material impact on the adjacent highway network. Adequate visibility is achievable at the access onto the highway.

## CONTAMINATION

4.17 Some objectors have raised concerns that the type of material used to fill the pond in 2012 is not known and may be contaminated. The subsoil was sourced from a greenfield site at Crayke Road, Easingwold and the topsoil was sourced from the same supply as was used for a development at Brecks Lane. That topsoil had

previously been tested and found to be free from contamination. The council's contamination officer is content that contamination is very unlikely to be present at the application site.

4.18 However, the council's records show that another pond was on the application site had been infilled in the 1950s. The council has no information about that material so the applicant should be required to carryout a contaminated land investigation and to remediate the site as necessary. Risk of contamination is not sufficient reason to justify refusal of the application.

## FINANCIAL CONTRIBUTIONS

4.19 The application requires a contribution of £11,344 towards off-site open space and £11,984 towards education (policies L1c and ED4 respectively of the local plan). The applicant has agreed to make the contributions and is in the process of submitting a unilateral undertaking to that effect. Members will be updated at the meeting.

## 5.0 CONCLUSION

5.1 The proposal accords with national and local planning policy and is considered to be acceptable. The applicant has agreed to pay the required contribution towards open space and education totalling (£23,328).

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement

- 1 TIME2 Development start within three years -
- 2 PLANS1 Approved Drawings

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

- 3 VISQ8 Samples of exterior materials to be app -

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no door, window or other opening, other than those hereby approved, shall at any time be inserted in the southern elevation of the house at Plot 1 or the northern elevation of the house at Plot 2 without the prior written approval of the local planning authority.

Reason: In the interests of the amenities of occupiers of the adjacent residential

properties.

5 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with these approved details. They shall include:

- a. Calculations and invert levels to ordnance datum of the existing foul and surface water system together with calculations and invert levels of the proposals for the new development.
- b. Surface water drainage proposals. Peak run-off from the development shall be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable areas). Storage volume calculations, using computer modelling, shall accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model shall also include an additional 20% allowance for climate change. The modelling shall use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.
- c. Evidence of the suitability of the proposed outfall from the site.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

6 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - ground waters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 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 and is subject to the approval in writing of 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.

9 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of 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, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. Such a statement shall include at least the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

11 HWAY18 Cycle parking details to be agreed -

12 HWAY19 Car and cycle parking laid out -

13 HWAY40 Dilapidation survey -

14 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A (enlargements or extensions), B (additions or alterations to the roof), E(a) (garden buildings or structures) and F (provision of hard surfaces) of Schedule 2 Part 1 of that Order shall not be erected or constructed.

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

15. No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a **detailed landscape scheme** which shall include the species, stock size, planting details and position of trees, shrubs and other plants as compensatory planting for the loss of trees. 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 the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme.

Reason: In the interests of the privacy of adjacent occupiers and the character of the area.

16. Before the commencement of development including importing of materials and any excavations, a method statement regarding protection measures for the existing trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details of protective fencing, site access during clearance earthworks and construction, type of construction machinery/vehicles to be used, (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles and storage of materials; construction details in specific areas to minimise impact on trees.

Reason: To protect existing trees which as a whole contribute to screening development on the site from adjacent occupiers and make a significant contribution to the amenity of the area.

## **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 has secured improvements to the layout, sought further drainage information from the applicant and attached appropriate conditions to the approval, thus enabling a positive outcome to be achieved.

## 2. RECHARGING OF ELECTRIC VEHICLES

In order to facilitate the uptake and recharging of electric vehicles/bikes/scooters, it is recommended that the applicant should install a standard domestic 13A electrical socket on an internal or external wall. This should be capable of charging at a minimum of 3KWh for up to 8 hours without overheating the cabling or socket. Ideally, a 13/32Amp socket should be supplied which can offer up to 7KWh continuous charging with a control and protection function on a specific circuit (to avoid overload through use of other appliances on the circuit). Where mounted on an external wall, a suitable weatherproof enclosure for the socket will be required.

## 3. CONTROL OF POLLUTION

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.

## 5. CONTAMINATION

If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the Council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a scheme remediation to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

## 6. UNILATERAL UNDERTAKING

This planning permission includes a unilateral undertaking to make financial contributions of £11,344 towards off-site open space and £11,984 towards education.

### **Contact details:**

**Author:** Kevin O'Connell Development Management Officer

**Tel No:** 01904 552830



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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Strensall  
**Team:** Major and      **Parish:** Strensall With Towthorpe  
Commercial Team      Parish Council

**Reference:** 13/03299/FUL  
**Application at:** Manor Park Sheriff Hutton Road Strensall York YO32 5TL  
**For:** Retention of former domestic garages as 2no. holiday cottages  
**By:** Nelson Park Lodges  
**Application Type:** Full Application  
**Target Date:** 15 January 2014  
**Recommendation:** Refuse

**This item has been Withdrawn by the Agent.**

**1.0 PROPOSAL**

1.1 Manor Park comprises a substantial mixed touring and static (timber lodge) caravan site lying in open countryside to the north of Strensall village outside of the Green Belt.

1.2 Planning permission is sought for the retention of two single storey brick built holiday cottages which were originally constructed as two domestic garages under previous planning permission ref: 09/01128/FUL. The site lies adjacent to the site boundary with Hoxne Farm House and to the southern entrance to the caravan park.

1.3 The application was called in by Councillor S Wiseman by Committee because of continuing concern in respect of the nature and scope of development taking place at the site.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYH4A      Housing Windfall Sites  
CGP15A      Development and Flood Risk

Application Reference Number: 13/03299/FUL

Item No: 4d

CYGB3	Reuse of buildings
CYV1	Criteria for visitor related devt
CYGP1	Design

### **3.0 CONSULTATIONS**

#### INTERNAL

3.1 Highway Network Management raise no objection to the proposal.

3.2 Environmental Protection Unit raise no objection to the proposal.

3.3 Strategic Flood Risk Management raise concerns in respect of the level of information submitted with the application relating to drainage, specifically surface water drainage.

#### EXTERNAL

3.4 Strensall with Towthorpe Parish Council object to the proposal on the grounds that the property is in the process of being marketed as a permanent residence; a lack of sufficient detail in respect of foul and surface water drainage submitted with the application; concern in respect of possible contamination from the infilling of the former fishing pond and that further permissions should not be granted until the planning authority are satisfied that previously imposed conditions requiring holiday-only lettings at the park are being adhered to.

### **4.0 APPRAISAL**

#### KEY CONSIDERATIONS

##### 4.1 KEY CONSIDERATIONS INCLUDE

- \* Principle of the Development;
- \* Proposed means of Surface and Foul Water Drainage;

#### STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN

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

#### PRINCIPLE OF THE DEVELOPMENT



4.3. Policy GB3 of the York Development Control Local Plan sets out a firm policy presumption in favour of re-use of existing buildings within the open countryside providing the building is capable of conversion without substantial additional conversion, the proposed reuse would take place within the fabric of the building and there is a clearly defined curtilage. Central Government Planning Policy in respect of planning for the rural economy as outlined in paragraph 28 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to supporting the sustainable growth and expansion of all types of enterprise in rural areas through well designed new buildings and conversion of existing buildings.

4.4 The application site comprises a former garage block of recent construction that is now surplus to requirements. The conversion scheme is compatible in land use terms with the other activities taking place on the site and has not resulted in an undue amount of additional construction work outside of the original built foot print. It is therefore consistent with the terms of Policy GB3 of the DCLP and paragraph 28 of the National Planning Policy Framework. Its design and location render it unsuitable to be used as permanent residential accommodation in accordance with Policy H4a) of the DCLP.

#### SURFACE AND FOUL WATER DRAINAGE OF THE SITE

4.5 Policy GP15a) of the York Development Control Local Plan sets out a firm policy requirement that developers must satisfy the Local Planning Authority that any flood risk will be successfully with the minimum environmental effect whilst ensuring that the site can be developed, serviced and occupied safely. Central Government planning policy as outlined in paragraph 103 of the National Planning Policy Framework indicates that Local Planning Authorities should give significant weight to in dealing with new development to ensuring that flood risk is not increased elsewhere. The application site lies in Flood Zone 1 which carries a low level of risk however; the applicant in dealing with proposals in the near vicinity has previously indicated a problem of high ground water levels which has at the same time been accepted by the Environment Agency.

4.6 The application details specify a "sustainable system" to deal with surface water disposal but no other detail is given other than a link to a soak-away a short distance to the north east. Notwithstanding the generally low level of flood risk there are two residential properties outside of the applicant's ownership directly adjacent to the property to the south. They would both be significantly affected by any failure to the surface water drainage provision in respect of the application site. The drainage scheme required under the original permission has never been submitted and approved and insufficient information has been made available with the application to be able to adequately assess any adverse impact upon adjacent properties which the previously identified problem of high local ground water levels has indicated that there could be. The proposal therefore does not comply with Policy GP15a) of the

York Development Control Local Plan or the requirements of paragraph 103 of the National Planning Policy Framework.

4.7 In terms of foul drainage an assessment based upon Department of the Environment Transport and the Regions Circular 03/99 'Development Served by Non-Mains Drainage' has been submitted with the application. This indicates that a package treatment plant discharging to a raised soak-away would be the favoured option. However, further negotiation based upon the previous difficulties identified at the site with high levels of ground water has led to further details being submitted which favour a connection to the existing network of connected cess pools which include adequate spare capacity to enable this to be accomplished. On balance this is felt to be acceptable.

## OTHER ISSUES

4.8 Concern has been expressed in relation to the property being marketed via a specialist letting agent for general residential accommodation. Whilst this is a clear issue of concern the pattern of usage of the property is capable of control by means of a condition appended to any planning permission and is not therefore material to the determination of the current application. Concern has also been expressed in respect of the potential for contamination arising from the infilling of the lake which originally sat at the western end of the site. The development has however already been undertaken and the application site is some distance from the site of the former lake. The issue is not therefore felt to be material to the determination of the current application.

## 5.0 CONCLUSION

5.1 Whilst the conversion is considered to be acceptable in land use terms the proposal raises serious concerns in respect of the surface water drainage of the site. The requirement for the prior written approval of a surface water drainage scheme in respect of the original permission has not been complied with and the submitted information with the current proposal is extremely vague. Reference is made to a sustainable system in place with no clear information being given as to what that is, at the same time the submitted application plan makes reference to a soak-away connection. Whilst the site is within Flood Zone 1 and generally assessed as at a low risk of flooding, the presence of a high water table has been a factor in considering other earlier developments at the site and the proximity of the adjacent residential property, Hoxne Farm House does pose a risk of harm in the absence of a clearly defined solution. In view of the significant concerns the development as it stands is not acceptable and it is therefore recommended that planning permission be refused.

## COMMITTEE TO VISIT

Application Reference Number: 13/03299/FUL  
Page 4 of 5

Item No: 4d

**6.0 RECOMMENDATION:** Refuse

1 Insufficient information has been submitted with the development proposal to enable a realistic assessment to be undertaken of any impacts in terms of surface water drainage upon neighbouring properties, along with any harm that may be caused and potential means of mitigation contrary to Policy GP15a) of the York Development Control Local Plan and paragraph 130 of the National Planning Policy Framework.

**7.0 INFORMATIVES:**  
**Notes to Applicant**

**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:

The submission of an operable surface water drainage scheme for the site.

However, the applicant/agent was unwilling to amend the application in line with these suggestions, resulting in planning permission being refused for the reasons stated.

**Contact details:**

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

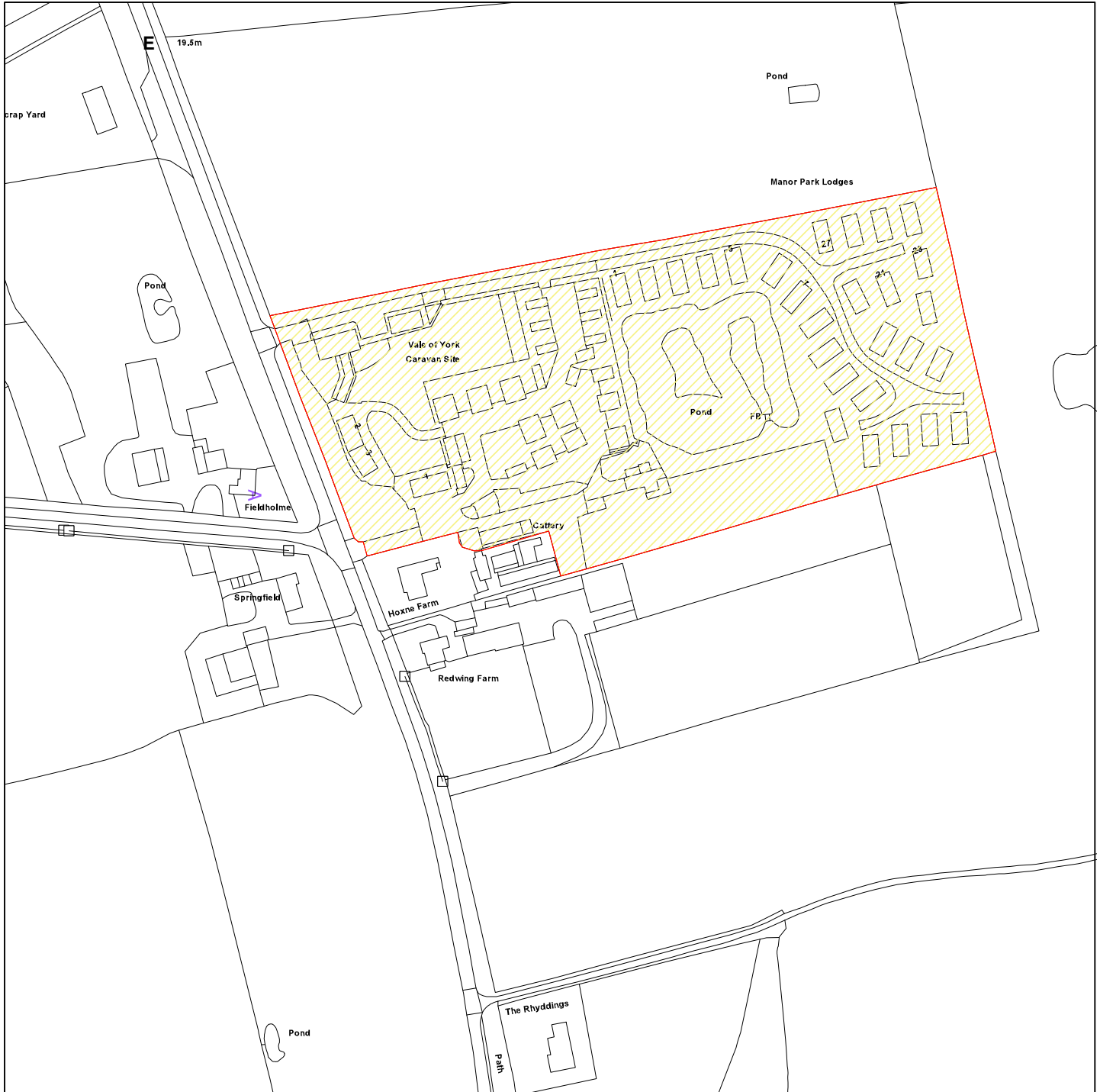
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13/03299/FUL

Manor Park, Sheriff Hutton Road



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<b>Comments</b>	Not Set
<b>Date</b>	27 January 2014
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Strensall  
**Team:** Major and      **Parish:** Strensall With Towthorpe  
Commercial Team      Parish Council

**Reference:** 13/03303/FUL  
**Application at:** Manor Park Sheriff Hutton Road Strensall York YO32 5TL  
**For:** Conversion of existing offices to 2no. holiday cottages  
**By:** Nelson Park Lodges  
**Application Type:** Full Application  
**Target Date:** 15 January 2014  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 Manor Park comprises a substantial mixed touring and static (timber lodge) caravan site to the north east of Strensall village lying outside of the Green Belt. The site is operated in tandem with a further 40 pitch touring caravan site known as the Country Park on land to the west accessed from Pottery Lane. That site has undergone a programme of development including the partial conversion of the existing amenity block to provide a secure administrative office through which both sites can be managed and operated. As a consequence the office block provided within Manor Park through permission ref:- 09/00758/FUL has become surplus to requirements and planning permission is now sought for its conversion to provide two holiday cottages.

1.2 The application has been called in by Councillor S Wiseman for consideration by Sub-Committee because of concerns in respect of the nature and volume of development taking place at the site.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYGB3      Reuse of buildings  
CGP15A      Development and Flood Risk  
CYGP1      Design  
CYV1      Criteria for visitor related devt

CYH4A Housing Windfalls

### **3.0 CONSULTATIONS**

#### INTERNAL

3.1 Environmental Protection Unit raise no objection to the proposal.

3.2 Public Realm (Strategy and Contracts) raise no objection to the proposal.

3.3 Highway Network Management raise no objection to the proposal.

3.4 Strategic Flood Risk Management express concern in relation to the volume of information in relation to surface water drainage submitted with the proposal.

#### EXTERNAL

3.5 Strensall with Towthorpe Parish Council object to the proposal on the grounds that the means of foul sewage disposal from the development is unclear, the proximity of the site to an in-filled fishing pond raises an issue of potential contamination and on-going concerns in respect of the alleged usage of holiday lets on the site as permanent residences.

### **4.0 APPRAISAL**

#### KEY CONSIDERATIONS

##### 4.1 KEY CONSIDERATIONS INCLUDE

- \* Principle of the Development;
- \* Drainage of the Site.

#### STATUS OF THE DRAFT LOCAL PLAN

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

#### PRINCIPLE OF THE DEVELOPMENT

4.3 The application site, which comprises a single storey brick built structure was constructed as an office to service the adjacent static caravan park and other site in the applicant's ownership. Subsequently, the former amenity block at the nearby Pottery Lane Caravan Park has been partially converted to provide an office and the application building has become surplus to requirements. Policy GB3 of the York



Development Control Local Plan sets out a firm policy presumption in favour of re-use of existing buildings within the open countryside providing the building is capable of conversion without substantial additional conversion, the proposed reuse would take place within the fabric of the building and there is a clearly defined curtilage. Central Government Planning Policy in respect of planning for the rural economy as outlined in paragraph 28 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to supporting the sustainable growth and expansion of all types of enterprise in rural areas through well designed new buildings and conversion of existing buildings.

4.4 The application site comprises a discrete structure adjacent to the entrance to the static caravan park to the east with the touring caravan area directly to the south with other ancillary service buildings associated with the caravan park use to the west and south west. A significant mature landscaped boundary lies directly to the north sheltering the site in views from open countryside. The site has a clearly defined curtilage with car parking adequate for two units directly to the west. It is felt that impact upon the open countryside arising from the proposal would be minimal and that it is entirely consistent with the pattern of land uses presently taking place within the site. The office is no longer required as such because the proximity of the Pottery Lane site means that the operation can be more efficiently managed jointly from there. The proposal is therefore felt to be consistent with the terms of Policy GB3 of the Draft Local Plan and paragraph 28 of the Draft Local Plan.

#### DRAINAGE OF THE SITE

4.5 The application site lies in Flood Zone 1 and is therefore deemed to be at the lowest risk of flooding. The existing building benefits from a sustainable surface water drainage system linked to the fresh water lake within the site a short distance to the south east which has not given any evidence of harm as a result of flooding either within the site or to the surrounding area. In terms of foul drainage the building has an existing connection to part of the previously approved network of sealed cess pools used to drain the static caravan site. The building as developed already incorporated a bathroom and the proposed conversion work would not result in a material increase in load upon the exiting system. The arrangements for the foul and surface water drainage from the site are therefore felt in broad terms to be acceptable.

#### OTHER ISSUES

4.6 Concern has been expressed in respect of the possibility of land contamination arising from the infilling of the lake which formerly sat to the south of the office building before being in-filled approximately 7 years ago. The proposed development involves the conversion and change of use of an existing building which was constructed outside of the limit of the former lake and the proposed works would involve a minimal disturbance to the in-filled area. Potential

contamination is not therefore felt to be a material consideration in the determination of this application.

4.7 Concern has also been expressed in relation to problems with the enforcement of "holiday use" conditions with the static caravans located on the site. Whilst an issue in its own right this is not felt to be material in respect of the current application.

## **5.0 CONCLUSION**

5.1 Manor Park comprises a substantial mixed static and touring caravan site for holiday use set in open countryside outside of the Green Belt to the north of Strensall village. Planning permission is now sought for the conversion of the office building serving the site to two holiday cottages, the office having become surplus to requirements following centralisation of administration on the nearby Country Park Touring Caravan site on Pottery Lane Strensall to the west. The proposed conversion would involve minimal external works and would be consistent in land use terms with the other activities taking place on the site. Subject to occupation of the cottages being controlled by condition on any permission to require their retention in holiday use then the proposal would comply with the terms of Policy GB3 of the York Development Control Local Plan along with the requirements of paragraph 28 of the National Planning Policy Framework. Approval is therefore recommended.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years -

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

Drawing Refs:- PB 13/41 Date Stamped 4th October 2013 and PB/13/42 B Date Stamped 19th November 2013.

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

3 The buildings shall not be used for residential purposes other than holiday letting. For the purpose of this condition "holiday letting" means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 days in any one calendar year.

Reason: In order to avoid a permanent residential use in this location, which does not have good accessibility to jobs, shops and services by non-car modes, contrary to the aims and objectives of the City of York Local Plan in Policy H4a. In addition the sites close proximity to the existing caravan and cabin site, joint access arrangements and external amenity areas means that the use for separate residential use would detract from the occupation of the unit by a separate permanent residential user.

4 The owners/operators shall maintain an up-to-date register of the names of all occupiers of the holiday cottages on the site, and of their main home addresses, and shall make this information available at all reasonable time to the local planning authority.

Reason: To ensure that the holiday accommodation is not used for unauthorised permanent residential occupation . The site's close proximity to the existing caravan and cabin site, joint access arrangements and joint external amenity areas means that the use for separate residential use would detract from the occupation of the unit as a separate permanent residential user.

5 PD1A - Rem of specific Perm Dev rights - Extensions

## **7.0 INFORMATIVES: Notes to Applicant**

### **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:

Use of planning conditions

#### **Contact details:**

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

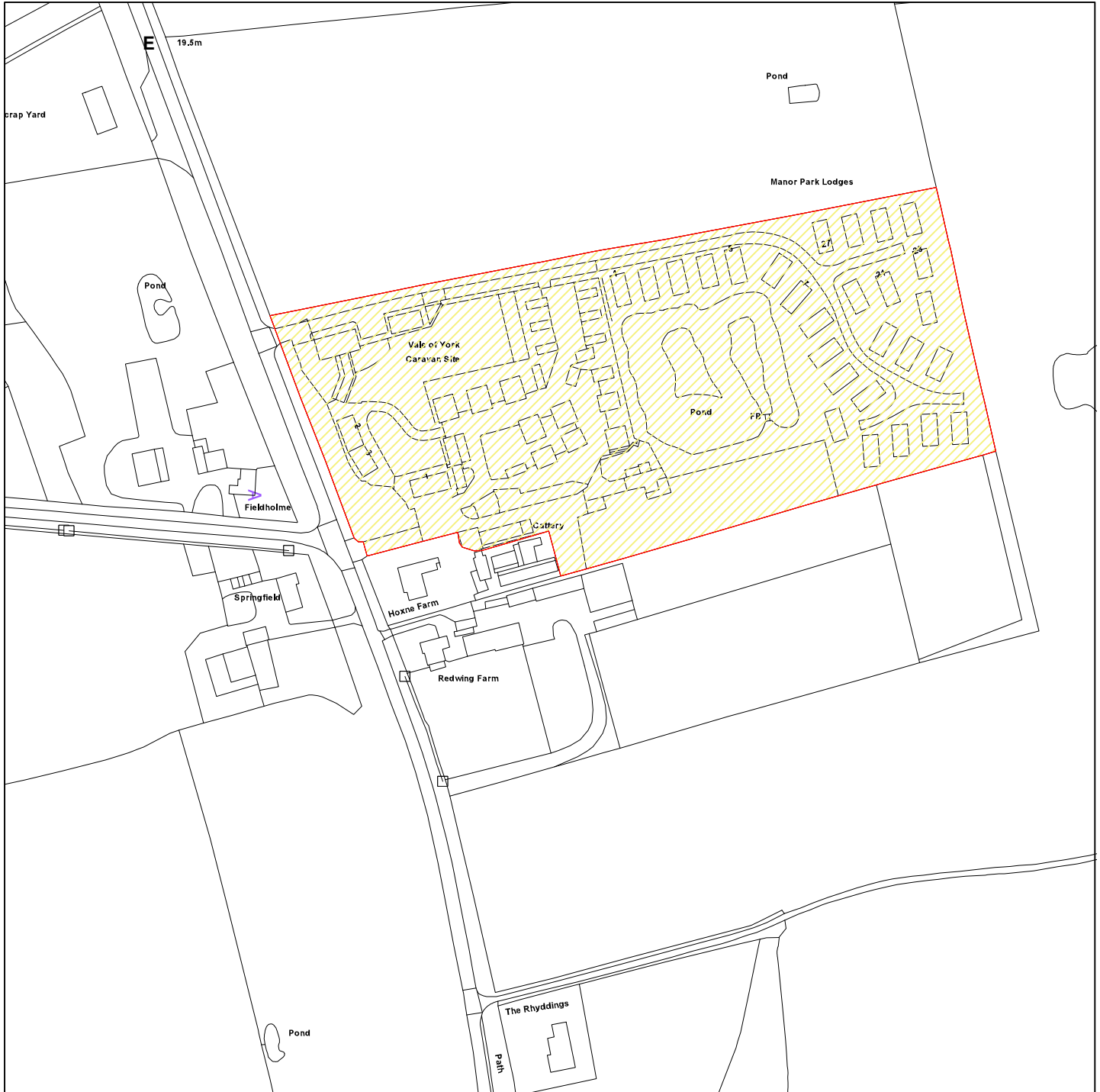
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13/03303/FUL

Manor Park, Sheriff Hutton Road



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<b>Comments</b>	Not Set
<b>Date</b>	27 January 2014
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Fulford  
**Team:** Major and      **Parish:** Fulford Parish Council  
Commercial Team

**Reference:** 13/03481/FULM  
**Application at:** Royal Masonic Benevolent Institute Connaught Court St  
Oswalds Road York YO10 4QA  
**For:** Erection of 14no. dwellings following demolition of existing  
bowling clubhouse and garage block  
**By:** RMBI And Shepherd Homes Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 31 January 2014  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 Erection of 14 detached houses on two parcels of land (Area A and Area B) within the grounds of Connaught Court care home. All the houses would be two storey, but 10 would have accommodation in the roof with either rooflight windows or dormer windows. The houses would have 4, 5 or 6 bedrooms. All units would have integral or detached garages. An existing internal access road from St Oswalds Road would be widened and the junction improved. The existing bowling green on the site would be removed and a bowling pavilion and greenhouse would be demolished.

1.2 The application is the result of pre-application discussions with officers.

1.3 Main changes to the proposals since submission include:

- The existing railings to the St Oswald's Road frontage will now be refurbished, and will remain in their current position, north of the trees.
- The proposed 600mm hard margin to St Oswalds Road has been deleted.
- Plot 4 has been moved 2.5m south, further from the boundary trees.

**RELEVANT PLANNING HISTORY**

1.4 In 2007 the council refused outline planning permission for (principally) the erection of housing, extra care accommodation, an extension to the mentally frail unit, relocation of the bowling green on the site, a new access off Main Street and car parking (05/00022/OUTM). The subsequent appeal was dismissed due to impact on the character and appearance of the area, including the conservation area. In the current proposal there is no longer an access from Main Street, there is no replacement bowling green, the housing along the southern boundary of the site

has been deleted and there are no proposals for extra care flats to the east of the existing care home. The current proposal is confined to the areas south and east of Atcherley Close.

1.5 The application is brought to Sub-Committee because it is defined as a 'major' planning application.

## 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Fulford

Floodzone 2 GMS Constraints: Floodzone 2

Floodzone 3 GMS Constraints: Floodzone 3

2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP9	Landscaping
CGP15A	Development and Flood Risk
CYNE1	Trees, woodlands, hedgerows
CYNE6	Species protected by law
CYHE2	Development in historic locations
CYHE3	Conservation Areas
CYHE10	Archaeology
CYT4	Cycle parking standards
CYED4	Developer contributions towards Educational facilities
CYL1C	Provision of New Open Space in Development

## 3.0 CONSULTATIONS

INTERNAL

### Highway Network Management

3.1 No objections subject to standard conditions and submission of a construction method of works statement.

### Environmental Protection Unit

3.2 Add conditions re: unsuspected contamination, gas emissions from landfill sites, electrical recharging and hours of construction.

### Design, Conservation and Sustainable Development (Landscape)

3.3 The building line of properties within Area A is just outside of the recommended root protection area (RPA) of the protected trees located along St.



Oswalds Road, however construction operations such as scaffolding and excavations for footings would be within the RPA. Therefore an updated tree protection method statement to support this proposal should be submitted in order to illustrate that the development can be constructed without causing harm to tree roots. Such tree protection should also include details for any proposed kerbs that are located within the RPA of protected trees. Pear trees of the stature of T294, which would be lost, are no longer commonplace so it would be preferable to retain this tree. New tree planting is suggested in the front gardens along the entrance into the site. The necessity of a temporary access route from St Oswalds Road between the trees is questionable. This would apparently also require crown lifting of the adjacent trees to 6m above ground level, which is deemed excessive; and would also look odd adjacent to the other trees. The planting proposals are fine and include a number of additional trees along the boundary with Area B.

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

3.4 The vehicular areas at plots 3 and 4 (Area A) are extensive and prevent the houses being moved further from the trees along St Oswalds Road. Nevertheless the impact on the conservation area is acceptable. The 2 ½ storey gable wall of the house at plot 9 (Area B) would have a rather overbearing impact on the occupiers of No. 26 Atcherley Close. The council's pre-application advice/guidance to the applicant has been consistent in requesting lower massing in this location. Details of the verge to St Oswalds Road and the proposed gates in the existing railings should be made conditions of approval.

#### Design, Conservation and Sustainable Development (Countryside)

3.5 Largely agree with the findings of the submitted bat survey report and have no objection in principle to the development. Despite its proximity to Fulford Ings SSSI do not consider that there will be any significant effect from the development on the wildlife interest of the designated site or to bats. Suggest a condition to cover the potential for bat roosts due to the presence of suitable roost features. Protected species licence is not required.

#### Communities, Culture and the Public Realm

3.6 As there is no on-site open space commuted sums should be paid to the Council towards off-site provision of amenity open space, play space and sports pitches. Play and amenity open space payments will go toward facilities in Fulford Parish, sports pitch payments will be used within the south zone of the Sport and Active Leisure Strategy. The contribution is to be based on the latest York formula through a Section 106 Agreement. A contribution should also be paid towards the improvement of bowling facilities at Scarcroft Green, due to the permanent loss of the bowling green at Connaught Court. The investments reflect needs identified by existing and relocated bowlers.

EXTERNAL

York Natural Environment Panel

3.7 The Panel are glad to see the retention of an open corridor along the southern aspect of the site leading from Main Street down to the Ings. The proposals are contrary to policy GP10, converting what is essentially garden space into building land. The proposals represent a loss of green land when the priority should be for the development of brownfield sites, of which York has a significant provision. There is concern that the build line extends closer to the flood plain, an extent which is likely to expand over time given climate change and the associated increase in flooding incidence.

Police Architectural Liaison

3.8 No concerns or issues.

Natural England

3.9 Does not wish to comment on the details of the application as it does not pose any likely or significant risk to those features of the natural environment for which we would otherwise respond.

Ouse & Derwent Internal Drainage Board

3.10 No objections subject to drainage details, including attenuation, being submitted for approval.

Environment Agency

3.11 No objections subject to conditions requiring adherence to the submitted flood risk assessment, submission of drainage details (including attenuation) and no erection of structures within flood zone 3.

English Heritage

3.12 No comments.

Fulford Parish Council:

3.13 Objections on the following grounds:

- The proposed housing would have a detrimental effect on Fulford Village Conservation Area and Fulford Road Conservation Area.
- The replacement and repositioning of railings along the highway verge would be harmful to the conservation area [Officers' response: The railings will now be refurbished instead].
- The appearance of the verge would be further changed by two footpaths crossing it.
- The position of houses 1, 3 and 4 forward of the building line formed by Sir John Hunt Homes would harm both conservation areas.

- Houses 1, 3 and 4 are too close to prominent trees that contribute positively to the character of the conservation area.
- All houses along St Oswald's Road should face onto it. The house at plot 1 does not.
- Plot 3 and 4 are connected by garages creating a terraced effect that is inappropriate for this location.
- The setting of The Cottage, which is a listed building, would be harmed because the house at plot 4 would have an overbearing effect on, due to its location and size.
- Several protected trees would be lost
- Several houses within area B are partly in floodzone 2. Sequential testing should be applied to this [Officers' response: Sequential testing is not required for housing in zone 2].
- Raising the level of private gardens would obstruct the floodplain, contrary to guidance.
- The houses at plots 10-14 (Area B) would be very conspicuous from the Ings, which is in the green belt
- No affordable homes are provided, contrary to local planning guidance.
- The submitted bat survey is deficient.
- The proposed site is immediately adjacent to Fulford Ings, an SSSI. The local authority should ensure that it fully understands the impact of the proposal on the local wildlife site, before it determines the application.
- EIA regulations apply to the development site and an EIA should be carried out.

#### Fulford Friends:

##### 3.14 Objections on the following grounds:

- Object to the removal of the iron railings and to the loss of any part of the verge, which contribute greatly to the rural character of the conservation area.
- The application should not include the line of trees or any part of the public verge within the curtilage of the new dwellings [Officers' response - The trees and railings will now remain outside the curtilage of the houses].
- Impact on the setting of the listed cottage.
- The number and height of dwellings at Area B should be reduced to minimise the impact on the local and wider environment.
- Three of the dwellings are located within flood zone 2, with some garden areas within zone 3. The sequential test has not been adequately applied to these areas.
- Loss of important trees/hedges, especially T294, T298 and T299, which have high amenity/wildlife value and contribute to the conservation area.
- Long-term risk to the trees along the St Oswalds Road frontage.
- Impact on bats should be fully assessed before any planning decision is taken.

- The need for the development does not outweigh the loss of the bowling green, which is a local community asset.
- The scale of development is just below that which would require the provision of affordable housing

#### Trustees for Sir John Hunt Memorial Homes

3.15 No objection providing the boundary trees are not adversely affected and that the distance of the nearest house to our mutual boundary is not reduced, nor the house developed with rooms in the roof space. This support is subject to the Highways Department confirming that there would be no noticeable increase in traffic flows that cannot be accommodated within the existing highway network.

#### Neighbour Notification and Publicity

3.16 14 objections have been received raising the following issues:

- Impact on the conservation areas
- Out of keeping with character of the area
- Increase in traffic along Main Street and St Oswalds Road
- Inadequate access
- Traffic calming required
- Verge should be kept to prevent kerbside parking in St Oswalds Road
- Would exacerbate parking problems in St Oswalds Road
- Loss of attractive open parkland
- Loss of trees
- Loss of open views from the river
- Removal of railings
- Bowling green should be retained as a community facility
- There is no oversupply of bowling greens
- Impact on the adjacent SSSI
- Increase in flood risk
- Impact of house 4 on the listed cottage
- The temporary construction road is unnecessary and would damage protected trees
- Insufficient mix of housing types
- Houses along Atcherley Close are too big and would result in overdevelopment, overshadowing and overbearing
- EIA needed.

## **4.0 APPRAISAL**

### **4.1 MAIN ISSUES**

- Principle of Development for Housing
- Trees and the Parkland Setting

- Heritage
- Recreation and Open Space
- Highways Issues
- Flood Risk and Drainage
- Neighbour Amenity
- Education Provision
- Bio-Diversity
- Archaeology
- Affordable Housing
- Environmental Impact Assessment

## CONNAUGHT COURT AND THE APPLICATION SITE

4.2 Connaught Court is a 90-bed care home (4.86ha) in a parkland setting, which includes trees protected by TPO. The site lies between Main Street, St.Oswalds Road, Atcherley Close, Fulford Park and Fulford Ings. The main vehicular access is from St. Oswalds Road. The site is dominated by a large 2 and 3 storey care home, with associated smaller buildings and dwellings grouped around it. The buildings are mainly grouped towards St. Oswalds Road and Atcherley Close. Most of the remainder of the site is private open space and includes a bowling green. The site contains large number of protected trees, in particular near Main Street.

4.3 The whole of the site lies within the settlement limits. The land is mainly flat except at the south-western corner where it falls steeply down towards Fulford Ings and the River Ouse beyond. This part of the site lies in the flood plain (flood zones 3a and 3b). The whole of the site is in Fulford Conservation Area and abuts, to the north, Fulford Road Conservation Area. The land at Fulford Ings, to the south-west is in an SSSI and the Green Belt.

4.4 The two parcels of land mainly comprise the current application total 1.28ha of private open space and lie to the east (Area A) and south (Area B) of Atcherley Close. The site area is significantly less than half of the site area of the previous application, which included land to the south and east of the care home buildings.

## POLICY CONTEXT

4.5 National planning policy is set out in the National Planning Policy Framework (NPPF). The essence of the framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate

development should be restricted (paragraph 14). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

4.6 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework. Relevant local plan policies are listed in section 2.2 of the report and are made reference to in the appraisal below.

## PRINCIPLE OF DEVELOPMENT FOR HOUSING

4.7 The National Planning Policy Framework requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The application site is in a sustainable location within the settlement limit of York and with good access to public transport and local services. Whilst the care home site contains significant amounts of open space it is classed as previously developed land as defined in the National Planning Policy Framework. The principle of using the land for housing is therefore acceptable, although the NPPF makes clear that it should not be assumed that the whole of the curtilage of previously developed should be developed.

4.8 All of the houses comprising the application have 5-6 bedrooms, which are larger than is typical for a housing development. In this case the development of a relatively-small number of large houses is preferable to a greater number of more varied houses because it would have less impact on the conservation areas, particularly the site's parkland setting. The site abuts housing in St Oswalds Road and Atcherley Close. Taken together the housing contains a range of house types and sizes. Overall, development accords with national planning policy as set out in section 6 of the National Planning Policy Framework.

## TREES AND THE PARKLAND SETTING

4.9 The National Planning Policy Framework states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland unless the need for, and benefits of the development in that location clearly outweigh the loss (paragraph 118).

4.10 One of the key attributes of the care home's setting is the open swathe of parkland between Main Street and Fulford Ings. It helps to preserve the distinction between Fulford Village and the city suburbs. Unlike the 2005 planning application for Connaught Court, this part of the care home site would be left undeveloped. It does not form part of the current application.

4.11 The second key attribute of the parkland setting is the proliferation of mature trees of high amenity value. Most of these trees are at the eastern end of the Connaught Court site, near Main Street. This area is outside the application site; None of the trees in this part of the parkland setting would be affected by the application.

4.12 The application site does contain some attractive, mature trees, notably along the highway frontage facing St Oswalds Road. Whilst all of these frontage trees would abut plots 1, 3 and 4 of Area A they would all be retained. The application as first submitted had the three houses encroaching into the root protection area of these trees. Construction is likely to have caused them unacceptable damage. Furthermore, such close proximity of trees to houses frequently results in pressure on the local planning authority, from the occupiers of the houses, to agree to the trees' removal. Revised plans have been submitted showing the houses 2.5m further from the trees. This is the minimum distance that would be acceptable without resulting in damage to the trees. Nevertheless the trees will have to be properly protected during construction. A condition should be attached requiring a construction method statement, including details of tree protection, to be submitted for approval.

4.13 The applicant proposes to construct a temporary access road between two of the trees for use whilst the existing access road into the site is being widened and improved. The works would require the tree roots to be protected from compaction from vehicles and for the tree crowns to be raised by up to 6m. Details of the works and suitable tree protection measures should be included within the construction method statement. Officers have asked the applicant to justify this temporary access road. Members will be updated at the meeting.

4.14 Nine other trees and four sections of hedgerow would need to be removed, mainly along the perimeter of the bowling green. None of the trees are classed as aged or veteran, as described in the National Planning Policy Framework. Most of the nine trees are category C, of 'minor value'. The remaining three trees are category B, of 'moderate value'. The best of these is a Pear, close to house plot 6. The applicant argues that its loss cannot be avoided without significantly altering the layout of the development. Whilst the loss of the tree is unfortunate it is not sufficient to justify refusal of the application. The loss of trees would be compensated for by landscaping, including 60 replacement trees.

## HERITAGE ISSUES

4.15 The whole of the site and its immediate surroundings lie within one or other of the Fulford conservation areas. The northern part of the site abuts the curtilage of The Cottage, a grade II listed building. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on local planning authorities to

preserve or enhance the character or appearance of conservation areas. The current application should be assessed against this duty. The National Planning Policy Framework states that local planning authorities should recognize that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance (paragraph 126). 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 (paragraph 132). The Town and Country Planning Act regulations advise that in determining planning applications the local planning authority should have special regard to the desirability of preserving any listed building and its setting and any features of special architectural or historic interest. It must also pay special attention to the desirability of preserving or enhancing the character and appearance of any conservation area.

4.16 The Fulford Village Conservation Area Appraisal states that '20th Century development within the park has still left significant large areas of open space, including some fine mature trees and a margin of parkland between Main Street and Fulford Ings which helps to preserve the distinction between Fulford Village and the city suburbs and the open space which encircles the settlement'. Any proposals for the eastern end of Connaught Court are likely to have a significant impact on the character and appearance of the conservation area. However, the current application does not include this part of the conservation area, which lies to the east of the main care home buildings. Nor would the proposed houses be visible from Main Street. Furthermore, the application would maintain the functional and visual gap between Fulford village and the city suburbs. The impact of the scheme on the Fulford Village Conservation Area would not be sufficient to justify refusal of the application.

4.17 The proposals would have a greater impact on the Fulford Road Conservation Area (which starts along the centre line of St Oswalds Road) and on the listed cottage. The Fulford Road Conservation Area Appraisal describes St Oswald's Road as a spacious and quiet residential cul-de-sac with a very strong sense of identity, quite different in character to anything else in the area. It goes on to say that the street has considerable townscape and architectural interest and that most of the houses bordering the site are of positive value to the area.

4.18 The elements of the application that most affect the conservation area are the houses that would face St Oswalds Road. These would be 2-storeys high, with brick walls, pitched roofs, traditional detailing and front gardens. The houses would be set back from the public highway and from the listed cottage. The most prominent houses (at plots 3 and 4) would face the street, in keeping with most of the existing houses in St Oswalds Road. The remaining house along the highway boundary (plot 1) would face the access road into the site, a typical orientation for such a location. The nearest new houses would be set back 10m behind the front building line of the cottage and 6.5m to the side of it. These separation distances,



together with the intervening 2m-high boundary wall, would be sufficient to prevent harm to the setting of the listed building.

## RECREATION AND OPEN SPACE

4.19 The application requires a contribution of £48,856 towards open space in accordance with policy L1c of the local plan. Such contributions are calculated on the basis of each new dwelling approved. The applicant has agreed to make the contribution and is in the process of submitting a unilateral undertaking to that effect.

4.20 The application proposal would require an existing, but unused, bowling green at Connaught Court to be built over. Paragraph 74 of the National Planning Policy Framework allows existing open space to be built on where the land is surplus to requirements or would be replaced by equivalent or better provision or the development is for alternative sports and recreational provision that clearly outweighs the loss. The Connaught Court bowling green was constructed in the 1970s and was in regular use by care home members. More recently it was used by Connaught Court Bowling Club, which had a wider membership. The green has never been open to the public. For the past few years membership has been in decline so the green was opened to other clubs. Usage continued to decline so the green was closed at the end of 2012. By that time the green was in very poor condition. The council's Leisure officers acknowledge that demand for bowling is in general decline and that there is now an oversupply of bowling greens in the York area. Nevertheless the permanent closure of the Connaught Court green would be contrary to paragraph 74 of the National Planning Policy Framework unless it were to be replaced by equivalent or better provision. The council's Leisure officers consider that the best way of catering for the City's remaining bowling clubs is to provide suitable facilities at strategic locations throughout the city. Furthermore, that adequate provision could be made for the loss of the Connaught Court green by means of a financial contribution from the developer towards alternative facilities elsewhere. To this end the applicant has agreed to pay the council £19,381 (in addition to the contribution required under policy L1c), which would be used to improve the existing bowling green at Scarcroft Green. Both open space payments would be enshrined in the same section 106 unilateral undertaking. Members will be updated at the meeting.

## HIGHWAYS ISSUES

4.21 Access to the site would be via the existing access from St Oswalds Road. The care home's internal access road would be improved and widened as part of the proposals. Based upon experience of other sites around the city the level of development proposed can be expected to generate in the region of nine vehicle movements during the AM/PM peak network periods. This level of traffic will not have a material impact on the operation of the highway network and can be accommodated by adjacent junctions without detriment to the free flow of traffic or

highway safety. The internal layout proposed is capable of being adopted as publicly maintainable highway and would provide turning facilities for servicing traffic. Car parking would be provided within the curtilage of each dwelling and it is not anticipated that the development would lead to a displacement of parking onto the adjacent highway. Sufficient areas exist within the internal layout to accommodate visitors/casual callers.

4.22 The accessible location of the site would encourage the use of sustainable modes of transport. Fulford Road is serviced by regular bus services to the city centre, and the area is well served by cycle routes along Fulford Road and both sides of the river.

## FLOOD RISK AND DRAINAGE

4.23 In terms of flood risk, housing is classed as a 'more vulnerable' use in technical guidance to the National Planning Policy Framework. Housing development is acceptable in zones 1 and 2; acceptable in zone 3a, subject to the exception test; and unacceptable in zone 3b, which is functional flood plain. All of the plots in Area A would lie in flood zone 1 so are acceptable. All of the houses in Area B would lie in zones 1 and 2 but part of the sloping rear gardens of plots 8-13 would be in zones 3a and 3b. A retaining wall would be built along the general alignment of zone 3a and would separate the occupiers' main amenity from their garden land in zone 3. The applicant proposes that a planning condition be attached to the planning consent preventing the construction of any structures beyond this line (i.e. in zones 3a or 3b).

4.24 The alignment of the proposed retaining wall, which would be straight for most of its length, does not follow exactly the zone 3 alignment. Nevertheless the variations (between the wall alignment and the zone 3 boundary) would balance and have been agreed with the Environment Agency and the council's flood risk officers. Finished floor levels of all the houses in Area B should also be made a condition of approval.

4.25 In summary, the whole of Area A and the houses at Area B are not at significant risk of flooding. There remains a risk of flooding to the undeveloped, low-lying garden areas of Area B but this residual risk would be managed by the mitigation measures outlined above.

## NEIGHBOUR AMENITY

4.26 The development of Area A is unlikely to have any significant impact on neighbouring occupiers. The houses in Area B would lie behind houses in Atcherley Close, i.e. nos 11 and 26. Whilst the proposed houses would have two main storeys, additional floorspace would be provided in the roof space, lit by rooflights. Separation distances meet and exceed all normal requirements in relation to

distances between habitable room windows, and distances between rear and gable elevations. In response to concern about overbearing raised by residents the house at plot 9 has been moved 6m from the site boundary. The separation distance between the gable wall of the proposed house at plot 9 and the main elevation of the nearest existing house (No.26 Atcheley Close) is now 20.7m. There would be no build up of existing ground levels and no significant overshadowing of rear gardens or dwellings.

## EDUCATION PROVISION

4.27 The development would generate the need for four additional places at St Oswald's Junior School and two additional places at Fulford Secondary School. These schools are currently at capacity. Financial contributions totalling £84,053 would therefore be required under policy ED4 of the 2005 local plan. The applicant has agreed to make these contributions and is preparing the required s.106 agreement/undertaking. Members will be updated at the meeting.

## 3.6 BIO-DIVERSITY

4.28 The National Planning Policy Framework states that when determining planning applications local planning authorities should aim to conserve and enhance biodiversity. Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss.

4.29 The framework encourages opportunities to incorporate bio-diversity in and around developments. A bat survey was carried out in the Summer of 2012. In 2013 this was supplemented by: a phase 1 habitat assessment of the site; an external visual assessment for roosting bats of the two buildings to be demolished (bowling pavilion and garages); and a single nocturnal survey of the bowling pavilion. No evidence of bat roosting activity was found. The council's countryside officer agrees with the findings of the submitted bat survey report and has no objection in principle to the development. Despite its proximity to Fulford Ings SSSI he does not consider that there would be any significant effect from the development on the wildlife interest of the designated site or to bats. Nor does he consider that a protected species licence is required.

## ARCHAEOLOGY

4.30 An archaeological evaluation of the site was carried out in 2004. It recorded a number of ditches, pits and postholes in Area A dating back to the 1st and 2nd centuries AD. Features of a later Roman date were also found but in less quantity. No archaeological features were found in Area B. In mitigation the applicant proposes to excavate a series of trenches (to coincide with the footprints of the new buildings) and record their findings. The remains would largely be preserved in-situ.

A condition should be attached requiring a written scheme of investigation for Area A to be submitted for approval. An archaeological watching brief should be applied to Area B.

## AFFORDABLE HOUSING

4.31 The National Planning Policy Framework states that local planning authorities should set policies for meeting identified need for affordable housing on site. To that end the council seeks to ensure that new housing development of 15 dwellings or more in the urban area will include affordable housing. The current application is for 14 dwellings, thereby not triggering the need for affordable housing. Whilst the site is large enough to accommodate a greater number of dwellings a balance has to be struck between the provision of housing and protection of the conservation area, particularly its landscape setting. Officers consider that the application achieves this balance.

## ENVIRONMENTAL IMPACT ASSESSMENT

4.32 The local planning authority has taken into account the EIA regulations, the advice in Circular 2/99, the documentation submitted with the application, consultation responses, the scale and characteristics of the development and knowledge of the site. The authority concludes that the development is unlikely to have significant environmental effects. Accordingly an EIA is not required.

## COMMUNITY INVOLVEMENT

4.33 The application includes a statement of community involvement. It sets out how, following the appeal inspector's decision in 2008, the applicant set out its revised intentions for the site. Pre-application discussions were held with council officers followed by a range of public consultation exercises. The public response was lower than the applicant expected and some changes were made.

## 5.0 CONCLUSION

5.1 The application would provide 14 dwellings in a highly sustainable and accessible location. The proposals respect the character of the two affected conservation areas, in particular the parkland setting of the Connaught Court site and its mature protected trees. All other issues are satisfactorily addressed notably flood risk, neighbour amenity and the character of the area generally. The development would contribute £84,052 towards education, £48,856 towards open space and £19,381 towards improvements to bowling green facilities at Scarcroft Green. The application accords with national planning policy set out in the National Planning Policy Framework and local planning policy in the 2005 City of York Draft Local Plan.

## 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 only in accordance with the following plans: Y81.822.02B, Y81.822.03K, Y81.822.05D, Y81.822.10B, Y81.822.11B, Y81.822.12B, Y81.822.13B, Y81.822.14B, Y81.822.15B, Y81.822.16A, Y81.822.17A, Y81.822.18B, Y81.822.19B, Y81.822.20A, Y81.822.21A, Y81.822.22A, Y81.822.23A, Y81.822.24B, Y81.822.25B, Y81.822.26, Y81.822.27A and R/1496/1B.

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

3 The development hereby approved shall not commence until details of the following matters have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- Public verge along St Oswalds Road
- Alterations to the railings and gates along St Oswalds Road frontage
- Footpaths between the houses at plots 1, 3 and 4 and the public highway at St Oswalds Road.

Reason: In the interests of the character and appearance of the conservation area and protected trees.

4 HWAY1 Details roads, footpaths, open spaces req. -

5 HWAY7 Const of Roads & Footways prior to occup -

6 HWAY18 Cycle parking details to be agreed -

7 HWAY19 Car and cycle parking laid out -

8 HWAY40 Dilapidation survey -

9 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. Such a statement shall include at least the following information:

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of the amenity of local residents, free flow of traffic or safety of highway users.

10 The tree planting scheme shown on submitted plan numbered H100/13/02/A received by the council on 23 January 2013 shall be implemented within a period of six months from the completion of the development. Any plants which within a period of five years from the substantial completion of the planting and 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 the Local Planning Authority agrees alternatives in writing.

Reason: In the interests of the character and appearance of the ca and to enhance the biodiversity of the area.

11 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details, which shall include:

- A. Peak surface water run-off from the proposed development to a maximum 5.0 lit/sec.
- B. Consent should be sought from Yorkshire Water to connect additional foul water into their sewers and their easement requirements.
- C. Details of the future management and maintenance of the proposed drainage scheme.

Notwithstanding the drainage details submitted and approved under this condition the drainage works shall be carried out in accordance with the following plans:

- a. Flood Risk Assessment - PR/34511 005A
- b. Drainage Layout - 34511 003B
- c. Plot Drainage Layout - 34511 012B
- d. Catchment Area Plan - 34511 013A
- e. Flow Control Detail-Manhole S5 Sheet 1 of 2 - 34511 015A
- f. Flow Control Detail-Manhole S5 Sheet 2 of 2 - 34511 016A
- g. External Works Plan - Area B Sheet 2 of 2 - 3411 19B
- h. External Works Plan - Area A Sheet 1 of 2 - 3411 14B

The development shall not be raised above the level of the adjacent land.

Reason: So that the Local Planning Authority may be satisfied with the details for the proper drainage of the site.

12 The finished floor levels on the ground floor of the dwellings hereby approved shall not exceed those shown on plan 34511/019/B received 24 January 2014.

Reason: In the interests of the amenities of neighbouring occupiers and the character and appearance of the conservation areas.

13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that Order with or without modification, no structure shall be erected within Flood Zone 3 as delineated on drawing no. 34511/004 Rev C.

Reason: To ensure that there is no loss of flow and storage of floodwater.

14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no door, window or other opening shall at any time be inserted in the eastern elevation of the house at plot 4, the northern elevation of the house at plot 5 and the northern elevation of the house at plot 9 unless planning permission has been granted by the local planning authority.

Reason: In the interests of the amenities of occupiers of adjacent residential properties.

15 Prior to the commencement of the development, the developer shall submit for the written approval of the Local Planning Authority an initial Code for Sustainable Homes (CSH) Design Stage assessment for the development. Unless otherwise agreed in writing with the Local Planning Authority, this shall indicate that at least the minimum code level 3-star rating will be achieved. This shall be followed by the submission of a CSH Post Construction Stage assessment, and a CSH Final Certificate (issued at post construction stage). These documents shall be submitted to the Local Planning Authority after completion and before first occupation of the building. Both documents submitted shall confirm that the code rating agreed in the initial CSH Design Stage assessment has been achieved.

Reason: In the interests of sustainable development.

16 The development hereby approved shall provide a minimum of 10% of expected energy demand from on-site renewable sources. Details of the proposed renewable energy systems to be installed in order to achieve this target shall be

submitted to and approved in writing prior to the commencement of the development. The approved renewable energy systems shall be installed in their entirety and shall be fully operational prior to the first occupation of the development.

Reason: In order to achieve a sustainable form of development.

17 No development shall take place until full details of measures for bat mitigation and conservation have been submitted to and approved in writing by the local planning authority. The measures shall include:

- i. An emergent survey at the appropriate time of year, if the work is to be carried out between April and September, and submitted to the beforehand. This survey to be carried out no more than one month prior to work commencing.
- ii. Details of how the work, particularly demolition work, is to be implemented to take account of the possible presence of bats.
- iii. Details of provision to be made within the development to enhance or mitigate for loss of the features suitable for bat roosting. Features suitable for incorporation include the use of special tiles, bricks, soffit boards, bat boxes and bat lofts.

The works shall be implemented in accordance with the approved details and timing unless otherwise approved in writing by the local planning authority.

Reason: To take account of and enhance habitat for a protected species.

NOTE: The replacement/mitigation proposed should provide a net gain in wildlife value. If bats are discovered during the course of the work it should cease and Natural England consulted before continuing.

18 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which will be subject to the approval in writing of 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, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.



19 Prior to commencement of development: (a) gas monitoring and/or a risk assessment shall be carried out by a competent person to assess landfill gas generation and migration. The findings shall be submitted to and approved in writing by the local planning authority; (b) based on the results of the gas monitoring and/or risk assessment, the detailed design of a gas protection system shall be submitted to and approved by the local planning authority. Prior to occupation of the development, a verification report that demonstrates the effectiveness of the gas protection system shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from landfill gas to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

20 For each dwelling the applicant shall install a three pin 13 amp electrical socket in the garage which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable.

Note: Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations, be suitable for charging electric vehicles and should have a weatherproof cover if place outside. Where charging point is located outside an internal switch should be provided in the property to enable the socket to be turned off.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles / bikes / scooters

21 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.	

Reason: In the interests of the occupiers of neighbouring occupiers.

22 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction.

NOTE: For Area B a watching brief will suffice.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. HIGHWAY WORKS**

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980. For further information please contact the officer named:

Works to an adopted highway - Section 38 - Michael Kitchen (01904) 551336

#### **2. STATUTORY UNDERTAKERS EQUIPMENT**

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

#### **3. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the local planning authority implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) by seeking solutions to problems identified during the processing of the application. In order to achieve an acceptable outcome the local planning authority sought amendments to reduce the impact on the conservation area and applied appropriate conditions to the planning approval.

#### **4. CONTROL OF POLLUTION**

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.

## 5. SECTION 106 OBLIGATION

The planning permission is accompanied by a undertaking/agreement by the applicant to contribute £84,052 towards education, £48,856 towards open space and £19,381 towards improvements to bowling green facilities in York.

### **Contact details:**

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**Tel No:** 01904 552830

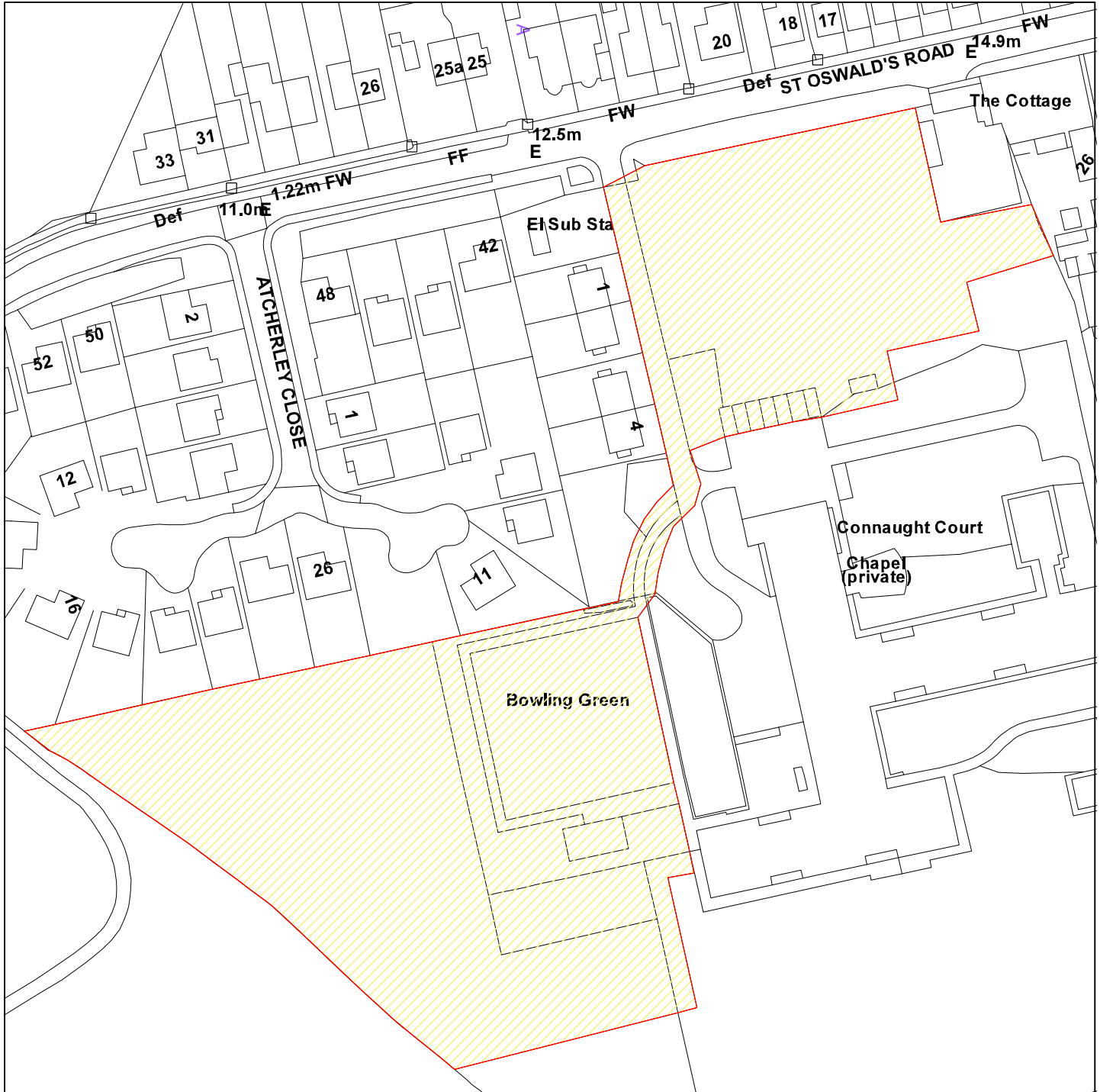
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# 13/03481/FULM

## Royal Masonic Benevolent Institute, Connaught Court



GIS by ESRI (UK)



Scale : 1:1250

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	27 January 2014
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Guildhall  
**Team:** Major and      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 13/03503/FUL  
**Application at:** The Blind Swine, Unit 3 24 Swinegate York YO1 8AZ  
**For:** Change of use from restaurant (use class A3) to mixed use restaurant and bar (use class A3/A4) with alterations to front to form terraced dining  
**By:** Mr Joseph Moore  
**Application Type:** Full Application  
**Target Date:** 6 January 2014  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application relates to one of the three ground floor commercial units within 24 Swinegate. The host building dates from the late C20; it is 2.5-storey and the commercial units at ground floor level have timber shop fronts, which are coherent and of traditional design.

1.2 Planning permission is sought for a bar/restaurant with opening hours of 11.00 to 03.00 the following day. The premises already have a license to this extent.

1.3 The previous planning permission for the property was 00/00136/FUL, which granted permission for a restaurant with a condition specifying the closing time as 23.30.

1.4 The application has been called to committee by Councillor B Watson. The call-in was to assess crime and disorder, and given that the site is within part of the city where it is proposed to extend the Cumulative Impact Zone, for licensing purposes.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006  
Conservation Area GMS Constraints: Central Historic Core CONF  
City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: Central Area 0002

## 2.2 Policies:

CYS6	Control of food and drink (A3) uses
CYHE6	Shopfronts in historic locations
CYHE7	Security shutters in historic locations

## 3.0 CONSULTATIONS

### Police Architectural Liaison Officer

3.1 Officers do not object to the proposals and advise they are content that crime and disorder can be controlled through the premises licence.

3.2 It is noted that North Yorkshire Police have recently submitted an application, supported by robust crime figures, to include the Swinegate Quarter in the City of York Council Cumulative Impact Zone (CIZ). This application has not as yet been determined. The Swinegate Quarter has been identified as an area under 'stress', because the cumulative effect of the concentration of late night and entertainment premises has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses.

### Guildhall Planning Panel

3.3 No objection.

### Publicity

3.4 The initial expiry for comments was 13.12.2013. Additional neighbour notification, to residents in Lund's Court and Petergate, was sent out asking for comment by 5 February. No representations have been made to date.

## 4.0 APPRAISAL

### 4.1 Key Issues

- Whether the proposed use would have an acceptable impact on the vitality of the street
- Amenity of surrounding occupants
- Visual Impact

### Whether the proposed use would have an acceptable impact on the vitality of the street

4.2 Both the National Planning Policy Framework and Local Plan policy seek to preserve or enhance the vitality of the city centre. Swinegate is not a primary shopping street and is therefore one where a bar/restaurant would be appropriate. The premises previously operated as a restaurant and there would be no material



impact on vitality as a consequence of this proposal, which acknowledges a mixed use rather than a restaurant only.

Amenity of surrounding occupants

4.3 The National Planning Policy Framework and Local Plan policies GP1: Design (which relates to all development proposals) and S6: Control of food and drink uses all require a reasonable level of amenity. In this case the considerations are noise, cooking smells and litter.

4.4 There are a number of bars and night clubs already along Swinegate and the surrounding area. In particular The Biltmore / Oscars and Vudu Lounge opposite are able to trade until 04.00 on weekends. The premises the subject of the application already have a license which allows them to open and sell alcohol until 03.00. The nearest residential properties are at Lund's Court; the alley between Swinegate and Petergate, to the NW side of the application site.

4.5 Recent appeal decisions at bars/restaurants nearby, at Vudu, Lucia's and Bora Bora (the latter two on Back Swinegate) have been consistent in the view that in this particular city centre location, only noise from the premises itself should be the focus of planning control. It would be ineffective to attempt to manage noise disturbance in the area in general, by controlling the opening hours of only a few premises within the Swinegate area, when there are already premises not the subject of such control. The decisions advise that the opening hours should be controlled through the premises license, which applies to all premises and can impose adequate conditions in the interests of securing a reasonable level of residential amenity. It is also consistently mentioned in the appeal decisions that, in applying planning conditions, to duplicate controls imposed through other legislation is normally unnecessary, and this is established in Planning guidance in Circular 11/95 which advises on the types of planning conditions that are reasonable.

4.6 In this case the proposed hours are in line with the premises license and are not materially different to the opening hours of other premises nearby. There are conditions on the premises license which require that noise from within the premises is not audible at noise sensitive locations and that windows and doors are kept shut after 23.00.

4.7 Noise from the premises can be reasonably controlled by the imposition of a condition which requires that noise due to amplified music and plant / equipment is below background noise levels. A condition can also be used to keep the opening hours in line with the premises license. As such to allow the application site to trade in accordance with its license, and in a similar way to other bars/restaurants within the immediate area, would have no material impact on existing levels of amenity.

4.8 There is no new cooking equipment proposed and to our knowledge the existing set-up adequately deals with cooking smells.

### Visual Impact

4.9 The site is within the Central Historic Core Conservation Area. National Planning Policy Framework and policies on conservation areas within the Local Plan require that proposals preserve or enhance, if there is harm, this may only be allowed where there are public benefits which justification the harm.

4.10 The proposals include alterations to the windows within the shop front, replacement of the front door, the installation of a roller shutter and the insertion of a window on the side elevation, facing into Lund's Court.

4.11 It is proposed to remove the redundant setback entrance door which is fixed shut and have a continuous row of display windows. The existing single glazed windows would be replaced with glazing which will provide improved acoustic and environmental performance. The windows will be timber framed and bi-folding. A timber framed sash window will be added on the side elevation where it appears a previous opening has been bricked up. The side window would match the style of the windows on the upper floor, and it would improve surveillance along Lund's Court. These changes will maintain the architectural integrity of the building.

4.12 It is proposed to replace the existing door with a predominantly glass door with timber frame. The existing door has solid timber panels which are aligned with the stall-riser on the shop. The change would detract from the appearance of the building, but the amount of harm would be low as the door is setback and the remainder of the shop front would retain its appearance, and this does not form grounds to resist the application.

4.13 A roller shutter is proposed in front of the door. Roller shutters are discouraged in the conservation area, as set out in Local Plan policy HE7. In this case the housing will all be hidden within the soffit. As such the shutter would only be noticeable between 03.00 and 11.00 the following day. It will be an open type, as there are at The Biltmore opposite. On this basis there would be very little visual harm. Conditions can control the final design and the time the shutter is on view.

## **5.0 CONCLUSION**

5.1 The proposed variation in use of the premises would have no undue impact on the vitality of the street and the amenity of surrounding occupants can reasonably be controlled through the imposition of conditions. The external changes proposed, as shown on the revised plans, will not have an undue adverse impact on the host building and there will be no undue impact on the character and appearance of the conservation area.

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years -

2 PLANS1 Approved plans - Proposed plans, revised drawing 7362-0C

3 The premises shall not be open to customers between the hours of 03.00 and 07.00.

Reason: In the interests of the amenity of surrounding occupants.

4 The setting out and fixing of the roller shutter housing shall be approved by the Local Planning Authority prior to installation and carried out in accordance with the approved details. The housing shall be fixed so it avoids timber panelling within the soffit area and the shutter shall be open type (as at The Biltmore opposite).

Reason: In the interests of visual amenity and the appearance of the conservation area.

5 The roller shutter shall only be drawn down between closing time on a night and 10.30 the following day.

Reason: In the interests of the character and appearance of the conservation area and following the principles of Local Plan policy HE7: Security Shutters in Historic Locations.

6 The window on the side elevation hereby approved shall be to match, in all respects, the first floor windows on the front elevation of the host building.

Reason: In the interests of visual amenity and the appearance of the conservation area.

7 The combined rating level of any amplified or recorded music and building service noise associated with plant or equipment at the site shall not exceed 5dB(A) below the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 1997.

Reason: In the interests of the amenity of surrounding occupants.

## **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: negotiation to agree the external alterations of the host building and the use of planning conditions.

#### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

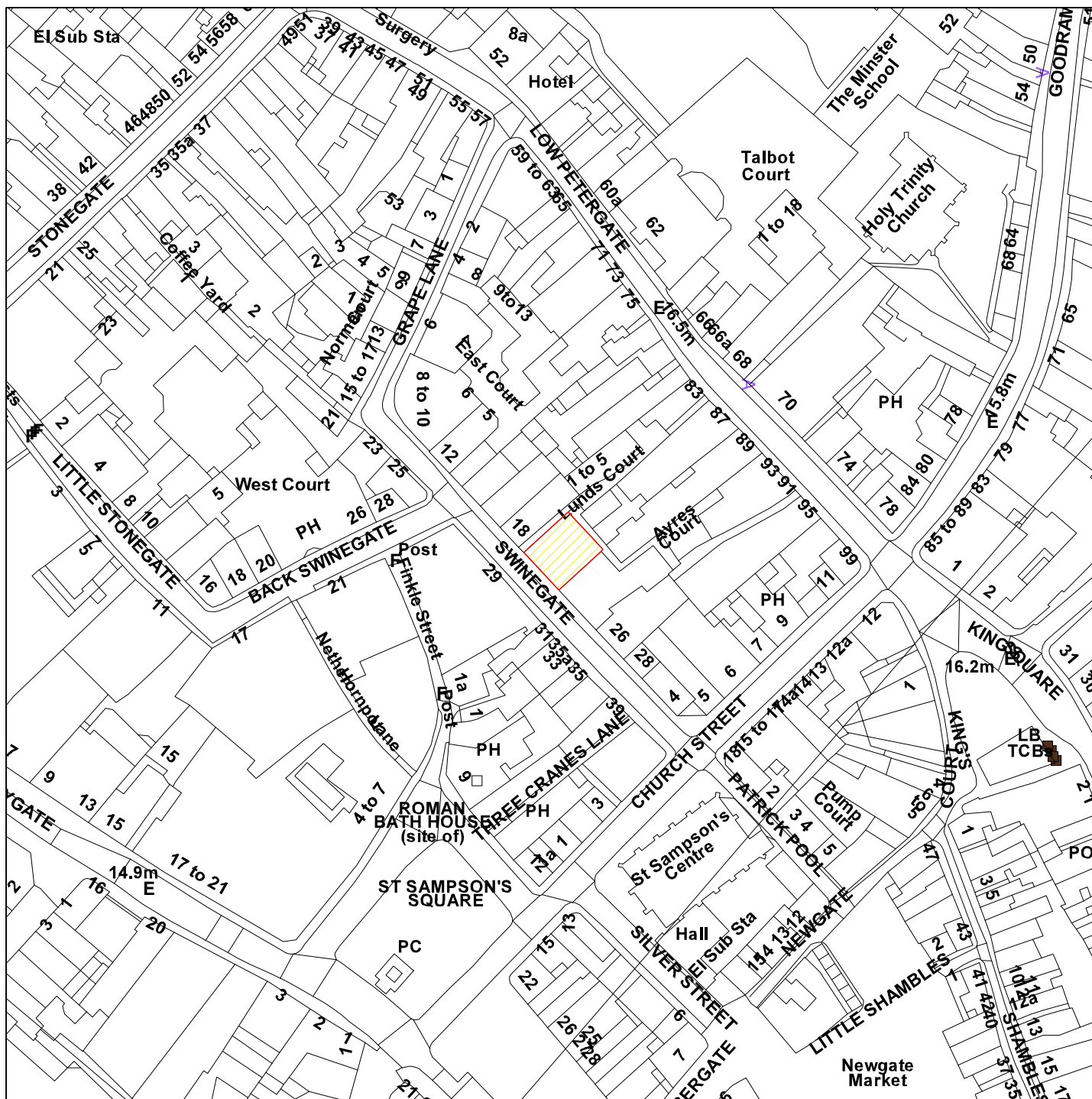
**Tel No:** 01904 551323

# 13/03503/FUL

## The Blind Swine



GIS by ESRI (UK)



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	27 January 2014
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Bishopthorpe  
**Team:** Householder and      **Parish:** Bishopthorpe Parish  
          Small Scale Team                                      Council

**Reference:** 13/03602/FUL  
**Application at:** 9 Maple Avenue Bishopthorpe York YO23 2RG  
**For:** Two storey side and single storey rear extensions (revised plans)  
**By:** Mr Craig Delorenzo  
**Application Type:** Full Application  
**Target Date:** 14 January 2014  
**Recommendation:** Householder Approval

**1.0 PROPOSAL**

1.1 This application seeks permission for the erection of a two-storey side extension and single storey rear extension, which incorporates the change of the use to living accommodation of the existing detached garage. A matching brick and tile construction is proposed.

1.2 This traditional style semi-detached dwelling lies within a residential area. Similar style dwellings surround the host site.

1.3 This application is brought to committee due to the applicant being employed by City of York Council with an involvement in the planning application process.

**RELEVANT PLANNING HISTORY**

No. 1 Maple Avenue - Application No. 12/02500/FUL - Two storey side and single storey front extension. Approved 03.09.2012

No. 17 Maple Avenue - Application No. 10/02048/FUL - Two storey side extension, single storey rear extensions and porch to front. Approved 09.12.2010

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

GMS Constraints: Floodzone 2

GMS Constraints: Floodzone 3

Schools GMS Constraints: Archbishop of York's CE Junior 0183

## 2.2 Policies:

CYH7 Residential extensions  
CYGP1 Design

## 3.0 CONSULTATIONS

### BISHOPTHORPE PARISH COUNCIL

3.1 No reply received up to date of writing.

RESPONSE TO NEIGHBOUR NOTIFICATION LETTERS WHICH EXPIRED ON  
13/01/2014

3.2 No responses received up to date of writing.

## 4.0 APPRAISAL

4.1 Key Issues:

- Visual impact on the dwelling and surrounding area;
- Impact on neighbouring amenity

### POLICY CONTEXT

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. A principle set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.4 Local Plan Policy H7 states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours.

4.5 Local Plan Policy GP1 states inter alia that development proposals will be expected to respect or enhance the local environment, be 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; ensure that residents



living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures

4.6 The Council has a Supplementary Planning Document (SPD) for House Extensions and Alterations and was approved on 4 December 2012. The SPD offers overarching general advice relating to such issues as privacy and general amenity as well as advice which is specific to the design and size of particular types of extensions or alterations.

## ASSESSMENT

### TWO-STOREY SIDE ELEMENT

4.7 Amended plans were sought and received in order to set back the two-storey side element from the original front elevation; and to set down the proposed ridge height, in order that the extension would appear subservient to the original dwelling; this was considered important here to avoid a terracing effect when viewed in conjunction with the adjacent dwelling at No. 7 Maple Avenue and also to ensure that the original pattern of the street could still be read. A matching brick and tile construction is proposed. The setting back of the side element will also allow for sufficient space within the driveway for one car parking space. The proposed garage area, whilst not large enough for a car parking space, will provide sufficient cycle parking/bin storage areas. Ample amenity space will remain within the good-sized rear garden. This element is considered to be acceptable and will not harm the character or appearance of the dwelling nor the surrounding area and is in accordance with national guidance and local policy.

This element will sit adjacent to the existing two-storey side extension at No. 7 Maple Avenue, thus no loss of amenity will occur to these neighbouring residents.

### SINGLE STOREY REAR ELEMENT.

4.8 The single storey element will infill the area between the rear of the proposed two-storey side element and will incorporate the existing garage and will not project beyond the existing rear elevation of this garage. A pitched roof will also be added to the garage, along with three rooflights. This element will not be highly visible to public view and will be sited within a good sized-rear garden. It will be sited along the common boundary with No. 7 Maple Avenue, which already has a single storey rear extension in place, along this common boundary, thus no additional loss of amenity will occur.

4.9 The major neighbouring impact would be upon those residents at No. 11 Maple Avenue. Though some windows at the host already overlook this neighbouring garden area, the ground floor windows serve a kitchen area and the first floor windows serve bedroom/bathroom, but the addition of large full-length windows, to

serve a principal habitable room, facing directly onto this garden area did raise Officer concern. However a 1.8 metre high fence is now proposed, to the length of the proposed single storey rear element, so as to avoid loss of privacy to this neighbouring garden area. Taking all of the above into account this element is now considered acceptable.

## FRONT PORCH

4.10 The proposed porch is of modest scale and appropriate design, incorporating pitched roof and matching external materials, and will not appear overly prominent within the street scene. No harm to neighbouring amenity will occur.

## FLOOD RISK

4.11 The agent has confirmed that flood risk has been considered and that floor levels will be set no lower than existing and that socket heights will be at least 400mm above floor level and 1200mm above floor level in the kitchen area.

## 5.0 CONCLUSION

5.1 It is considered that the proposal will not harm the living conditions of nearby neighbours or the appearance of the dwelling within the surrounding area. It is in compliance with the NPPF, policy H7 of the local plan and the SPD on house extensions and alterations. Approval is recommended.

## 6.0 RECOMMENDATION: Householder Approval

1 TIME2 Development start within three years -

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

Revised plans CD01/02 Rev A recd on 18/12/2013; CD01/03A recd on 17/12/2013 and CD01\_01B received on 21/01/2014

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

3 VISQ1 Matching materials -

4 The proposed boundary fence along the common boundary with No. 11 Maple Avenue, shown on the approved plans, shall be constructed before the development is occupied and boundary treatment of this height at 1.8m shall thereafter be retained.

Reason: In the interests of protecting privacy to neighbouring residents at 11 Maple Avenue.

## **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:

Amended plans were sought and received to set back the extension, to achieve an acceptable appearance within the surrounding area and to achieve acceptable car parking facility; and to avoid undue loss of privacy to neighbouring residents

### 2. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available at:

<https://www.gov.uk/party-wall-etc-act-1996-guidance>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

#### **Contact details:**

**Author:** Carolyn Howarth Development Management Assistant (Tue-Fri)

**Tel No:** 01904 552405

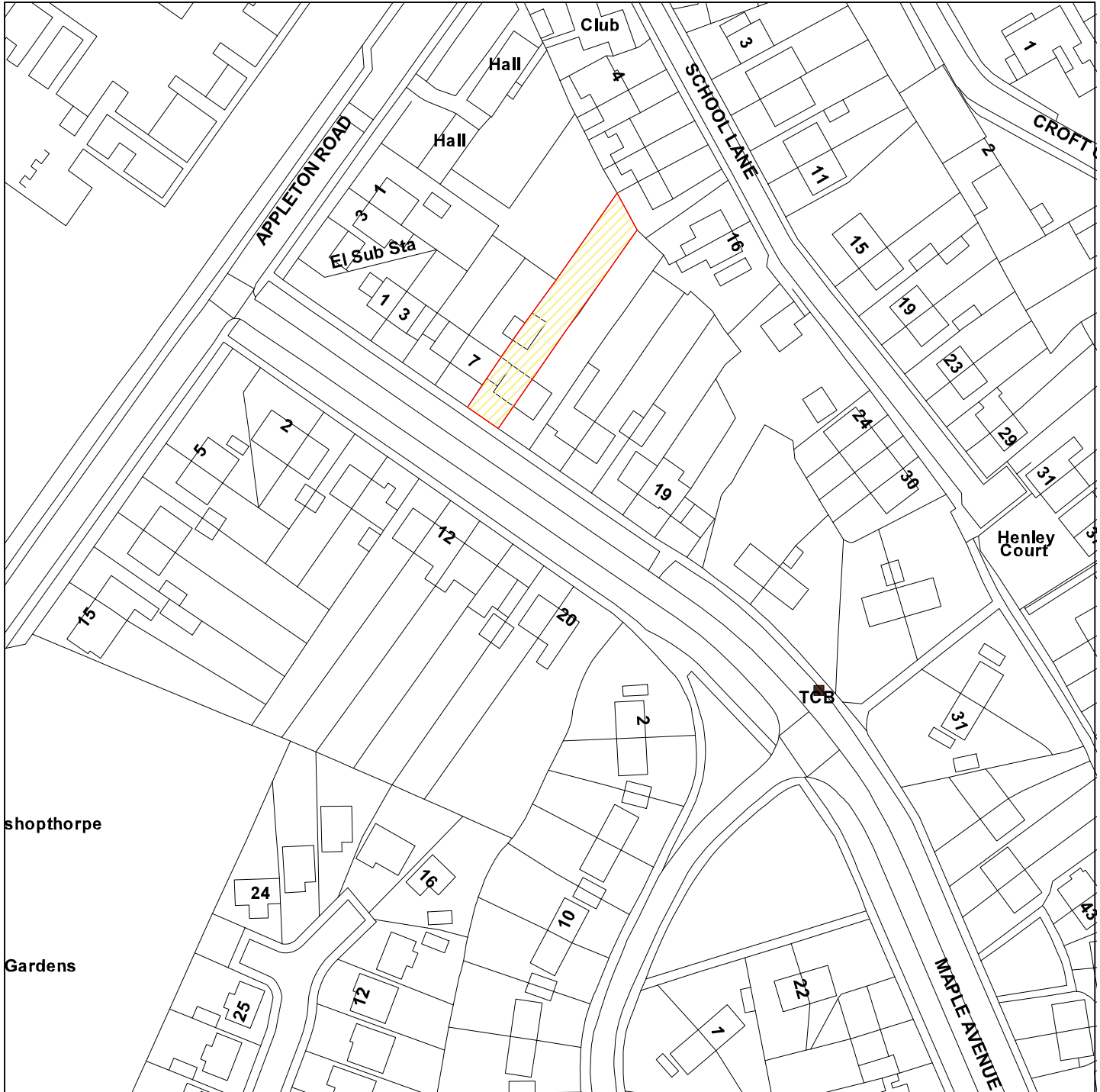
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13/03602/FUL

9 Maple Avenue



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	27 January 2014
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Fulford  
**Team:** Householder and      **Parish:** Fulford Parish Council  
Small Scale Team

**Reference:** 13/03642/FUL  
**Application at:** 34 Eastward Avenue York YO10 4LZ  
**For:** Porch to front with glazed juliet balcony screen above  
**By:** Mr Ahmed Karbani  
**Application Type:** Full Application  
**Target Date:** 15 January 2014  
**Recommendation:** Householder Approval

**1.0 PROPOSAL**

1.1 The application property is a semi-detached dwelling located in a suburban residential street.

1.2 In February 2011 planning permission was granted at appeal for a number of alterations and extensions to the property, including a two storey rear extension, a two storey extension to the front including a porch, alterations to the roof, with gates, brick piers, wall and railings to the front boundary (Ref:10/00258/FUL).

1.3 The current application is to increase the length of the part-built approved front extension so that the porch would project 30cm further forward from the two storey front extension than shown on the approved scheme. In addition it is proposed that the porch has a flat fibreglass roof rather than the pitched roof which was shown on the approved scheme.

1.4 Above the flat roofed porch a glazed door has been inserted rather than a window. It is intended that the door provides access to the porch roof in case of an emergency. The porch roof is not intended to have an enclosure around it. A screen is proposed in front of the lower part of the door to restrict day to day access to the roof. The door would effectively function as a Juliette balcony.

**RELEVANT PLANNING HISTORY**

1.5 In September 2011 (11/02045) planning permission was refused, on streetscene grounds, for an increase in the projection of the porch attached to the front extension by 0.5m from 1.5m to 2.0m beyond the original front building line (Ref: 11/02045/FUL).

1.6 In August 2013 (13/02010) a planning application was submitted for the following changes:

Application Reference Number: 13/03642/FUL

Item No: 4i

- a. Porch/front extension increased in projection by 0.4m so that it would project 1.9m beyond the original building line.
- b. Door introduced in first floor front elevation and creation of balcony with screens above porch.
- c. Increase in ridge height of the two-storey rear extension.

1.7 The application was refused for the following reasons:

1 It is considered that the additional forward extension of the front porch and its part-glazed design would appear as an unduly prominent, incongruous and uncharacteristic addition which would be harmful to the appearance of the property and wider streetscene. As such the proposal conflicts with Government advice in relation to design contained within the National Planning Policy Framework (paragraphs 17 and 56), policy GP1 (criterion a and b), and H7 (criterion a) of the 2005 Development Control Local Plan and guidance contained in paragraph 11.3 and paragraph 7.4 (c) and 7.5 of the House Extensions and Alterations Supplementary Planning Document , approved in December 2012.

2 The proposed balcony would appear as an unduly prominent, incongruous and uncharacteristic development which coupled with its active use would be harmful to the appearance of the property and wider streetscene. In addition, it use would detract unreasonably from the level of privacy that neighbours could reasonable expect to enjoy and also lead to the perception that they were, or could be, unduly overlooked. As such the proposal conflicts with Government advice contained within the National Planning Policy Framework, in particular paragraph 17 (bullet point 4) which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, policy GP1 (criterion a, b and i), and H7 (criterion a and d) of the 2005 Development Control Local Plan, and guidance contained in paragraph 3.4, 3.5, 7.4 (c) and 7.5 of the House Extensions and Alterations Supplementary Planning Document, approved in December 2012.

1.8 The application is being brought to Committee at the request of Cllr Aspden. The reason for the call-in relates to the high level of local interest in the proposal with concerns relating to the impact that the works will have on the streetscene and privacy.



## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

Schools GMS Constraints: Fulford 0246

### 2.2 Policies:

CYH7 Residential extensions

CYGP1 Design

## 3.0 CONSULTATIONS

3.1 It should be noted that the application was advertised as a porch with balcony above. This has been corrected and the proposal now described as a 'Juliette balcony'. The drawings have also been corrected to actually show that the porch and first floor door are attached to the extended property.

### Foss Internal Drainage Board

3.2 No objections.

### Parish Council

3.3 Object as the proposed development would be incongruous. The proposal should be refused for the same reasons as the previous application.

### Neighbour Notification

3.4 Objections received from 6 properties. The concerns raised are:

- The proposal is out of character with the home and street and would harm the symmetry of the semi-detached homes.
- A flat roofed porch is unsympathetic.
- The balcony would harm privacy.
- The current screen around the front garden is an eyesore. (Case officer response - this is not material to the assessment of this application)
- Because of steps leading into properties the porch would be impractical to use for storing a mobility scooter. (Case officer response - it would be relatively simple to affix a temporary ramp as necessary).
- Alterations have taken place to the main roof of the property that were not shown on the approved drawings. (Case officer response - this is not material to the assessment of this application)

## 4.0 APPRAISAL

4.1 The key issues in assessing the proposal are:

- The impact on the streetscene
- The impact on residential amenity

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of 12 principles set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. In considering proposals for new or improved residential accommodation, the benefits from meeting peoples housing needs and promoting the economy will be balanced against any negative impacts on the environment and neighbours' living conditions.

4.4 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.5 Policy H7 'Residential Extensions' sets out a list of design criteria against which proposals for house extensions are considered. The list includes the need to ensure that the design and scale are appropriate in relation to the main building; that proposals respect the character of the area and spaces between dwellings; and that there should be no adverse effect on the amenity that neighbouring residents could reasonably expect to enjoy.

4.6 Policy GP1 'Design' states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and vegetation. The design of any extensions should ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.7 The Council has a Supplementary Planning Document (SPD) for House Extensions and Alterations.

The SPD was subject to consultation from January 2012 to March 2012 and was approved at Cabinet on 4 December 2012. It is described as a draft as the City of York Council does not have an adopted Local Plan. The SPD offers overarching general advice relating to such issues as privacy and overshadowing as well as advice which is specific to particular types of extensions or alterations. The underlying objectives of the document are consistent with local and national planning policies and the advice in the SPD is a material consideration when making planning decisions.

4.8 In respect to porches, paragraph 11.3 of the SPD states that "Porches should not normally project excessively beyond the front of the house or be overly wide. The glazing style, door location, materials and roof pitch should respect the original building." In respect to balconies paragraph 3.4 states that they will only be acceptable where they overlook public or communal areas, or areas of neighbourhood gardens that are not typically used for sitting out or already have low levels of privacy. It also states that issues relating to noise can also be significant. Advice in paragraph 7.5 states that extensions should respect the appearance of the house and street unless a justification can be given showing how the development will enhance the streetscene.

#### THE IMPACT ON THE STREETSCENE

4.9 The works approved by the 2010 consent have been partly completed. The first floor door that was not shown on the approved plans and is now proposed has already been installed, however, no balcony has been created. The first floor door does look unusual in the front of a suburban semi-detached house, however, it is the case that the creation of a door or window in the front elevation of a dwelling does not normally need planning consent. In this context it is not considered that the works could be reasonably resisted.

4.10 A glazed panel is proposed in front of the door to restrict access to the porch roof. It is considered that the panel is a sensitive way of making the internal space safe to use. Previously, the applicant did not thoroughly explain the reasons for the works. From discussions it is understood there is (and was) no intention to use the porch as a roof garden (rather it is intended as a refuge for a person with disabilities in the event of fire).

4.11 The porch has a slightly smaller level of projection than the design which was previously refused. There are examples of the addition of porches at houses in the street, although these are of a more limited projection from the original house. The design is more restrained than the previous scheme that was refused and it is not now considered that the design and materials would be such to draw attention to the

structure. It is noted that the previous scheme would have been much taller and more incongruous through the provision of a balcony screen around its edge.

4.12 The plans indicate that the porch can accommodate a mobility scooter. Because of the relatively short length of front gardens and the desire to retain a boundary feature (walls or vegetation) car owners in the street generally park cars to the side of homes. This restricts access to the rear or side of the home for users of mobility scooters. It is understood that the applicant intends to 'future proof' the home. Although it is not a reason to approve an unacceptable scheme, where the arguments for and against a proposal are well balanced it is considered some weight should be given to the social benefit from the works. The National Planning Policy Framework states (paragraph 187) that Local Planning Authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. The document was issued in March 2012 and replaces previous national guidance. Paragraph 7 states that sustainable development has a social role in supporting strong, vibrant and healthy communities. It is considered that making existing homes more accessible for people with limited mobility (now or in the future) accords with this purpose providing any harm to other competing interests (such as the appearance of the streetscene) is not unduly significant. In the context the approach taken to adapt the home is not considered unreasonable.

## IMPACT ON NEIGHBOURS LIVING CONDITIONS

4.13 The previous scheme that was refused indicated that the door intended to be an access to the porch roof that would be enclosed by a glass screen. The proposed enclosure has now been removed and it is not intended to use the porch roof for recreation. It is not considered that the level of overlooking from the new door would be significantly different from that possible through a window. It is also noted that in isolation such works are typically permitted development. Subject to the porch roof not being adapted in the future so that it can be used as a balcony it is not considered any significant harm to privacy would result from the proposal. Typically permission would be required to erect an enclosure around the porch, however, to avoid any confusion a condition has been included removing permitted development rights to adapt the roof of the porch for use as a balcony.

## 5.0 CONCLUSION

5.1 The proposal has been significantly modified in respect to design from that which was refused previously. The previously proposed incongruous adaptations to allow the use of the porch as a balcony have been removed and the design of the porch simplified to better reflect the materials and fenestration of the host dwelling.

5.2 In assessing the current proposal some regard should be given to permitted development rights that exist at this home and most others around the city. For example doors and windows can be inserted in front elevations without needing planning permission and porches with a footprint not exceeding 3 sqm can normally be erected outside external doors.

The proposals put forward by the applicant may not be repeated at many other properties in the city, however, people do generally have significant rights to alter their homes to fit their needs, or aspirations.

5.3 The applicant has stated that the intension is to alter the property so it meets the requirements of a person using a mobility scooter. It is not considered that the occupier or close relations need to make use of a scooter at the present time to justify the works, given that the changes are no longer considered excessive. The benefits from making the property easier to adapt for people with disabilities are recognised and it is considered that this accords with the social element of sustainability promoted in the NPPF. Paragraphs 187 of the NPPF state that Local Planning Authorities should look for solutions rather than problems when assessing applications.

5.4 It is considered that the proposal is now acceptable in its context and as such is recommended for approval.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Householder Approval**

1 TIME2 Development start within three years -

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

Revised plans 809.001 Rev 'B' received 20 January 2014.

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

3 The bricks and mortar to be used externally shall match those of the existing building in colour, size, shape and texture.

Reason: To achieve a visually acceptable form of development.

4 The glazed Juliet balcony screen in front of the first floor front door shall be erected prior to the completion of the roof of the porch and retained in accordance with the approved plans and the porch roof shall not be used as a balcony or roof terrace.

Reason: To ensure that the porch roof is not used as an external platform or recreation area associated with the adjacent door.

5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), the roof area of the approved front porch shall not be extended, altered or enclosed.

Reason: To ensure that the porch roof is not used as an external platform or recreation area associated with the adjacent door.

## **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 an acceptable outcome:

Revised drawings submitted to accurately show the proposed scheme  
Use of planning conditions

#### **Contact details:**

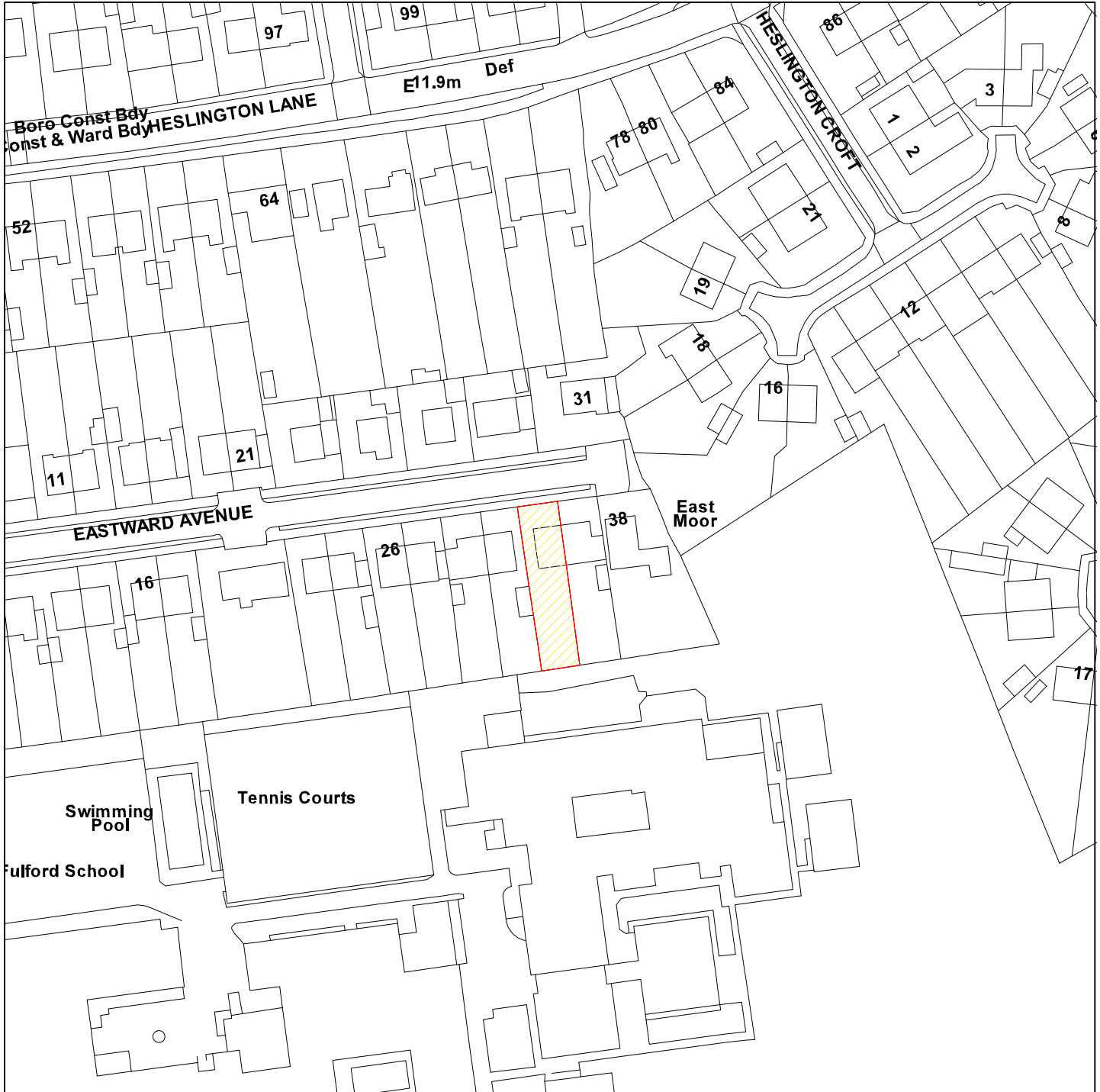
**Author:** Neil Massey Development Management Officer (Mon/Wed/Fri)  
**Tel No:** 01904 551352

# 13/03642/FUL

34 Eastward Avenue



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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Huntington/New Earswick  
**Team:** Major and Commercial Team      **Parish:** Huntington Parish Council

**Reference:** 13/03659/ADV  
**Application at:** Health Centre 1 North Lane Huntington York  
**For:** Display of 4no. externally illuminated fascia signs  
**By:** Mr J McEvoy  
**Application Type:** Advert Application  
**Target Date:** 20 January 2014  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 This proposal seeks advertisement consent to display a total of four externally illuminated fascia signs advertising the pharmacy and surgery. The signs are located on front west elevation adjacent to North Lane and the south side elevation adjacent to North Moor Road. The agent has explained that the rationale behind the need for the separate signs is because they are two different businesses operating from one building.

1.2 The application is subject to revised plans which has reduced the length of the light fitting bracket situated above the signs in order for LED lamp to sit closer to the face of the building.

**SITE HISTORY**

1.3 Display of two non-illuminated wall mounted signs (ref: 03/01730/ADV) approved without conditions 07.08.2003.

1.4 Alterations and extensions of existing GP surgery to provide additional consulting, treatment and administration rooms and a dispensing pharmacy following demolition of existing dwelling (3 North Lane) and erection of cycle storage, new car park and improved vehicular access. (ref: 12/03081/FUL) approved 17.05.13.

**OTHER MATTERS:**

1.5 The application has been called in to the Planning Sub Committee by Councillor Keith Orrell in view of the strong objection of the Parish Council relating to the light levels and public safety.

## **2.0 POLICY CONTEXT**

2.1 Development Plan Allocation: DC Area Teams: East Area

2.2 Policies: CYGP21Advertisements

## **3.0 CONSULTATIONS**

### Environmental Protection Unit

3.1 No objections. The proposed illuminated signage is under the recommended maximum luminance levels, in candelas per metre squared as recommended by the Institute of Lighting Professionals in their Technical report No 5 'Brightness of Illuminated Advertisements', (ILE TR5).

### Huntington Parish Council

3.2 Objects to the illumination of the proposed signage; as there are no other illuminated signs in this area of Huntington, it considers that illumination of said signage would be out of character with the surrounding residential area and incongruous.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES:

- Visual Amenity
- Public safety

4.2 THE NATIONAL PLANNING POLICY FRAMEWORK states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

4.3 DRAFT LOCAL PLAN POLICY GP21 "Advertisements" states that permission will only be granted if the size, design, materials colouring of signs, hoardings and large panels and any form of illumination does not detract from the visual amenity of the area in which they are displayed. Additionally any proposal should not have an adverse effect on public safety. In residential areas and on sites clearly visible from

the road the advertisement should be in keeping with the scale of the surrounding buildings and public areas.

## VISUAL AMENITY

4.4 The location of the Health Centre is set back from the public highway and separated by a car park adjacent North Moor Road to the side of the building and a grass verge adjacent to North Lane to the front of the building. The signage is positioned at angle to the public highway, however is visually prominent within the main locality of the area, which consists of a mix of local shops and a garage on the opposite side of the road to the health centre and in close proximity to a public house. The revised plan has reduced the length of the bracket hosting the LED lamp so that its total projection is approximately 200mm from the face of the building. This revision is considered to improve the visual appearance of the light fitting. The level of illumination would not exceed 740.00 candelas per square metre which is acceptable in this location and would not impact adversely on any adjacent building or nearby dwellings

On balance, the signage is considered to be within the context of the commercial character of the host building would not appear unduly out of keeping.

## PUBLIC SAFETY:

4.5 In terms of public safety, as previously mentioned the host building is well set back from the connecting highway and pavements, as such the height of the signage would not hinder pedestrian movements nor unnecessarily distract passing motorists. It is considered that the proposed signage would not have an adverse impact on public safety to users of the surrounding road network.

## 5.0 CONCLUSION

5.1 It is considered that the proposed advertisements would not have an adverse impact on visual amenity or public safety. As such the proposals comply with local and national planning policy.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 PLANS1 Approved plans - Revised plans (drwg no sign\_01A JOB NO 216)

### Contact details:

**Author:** Sharon Jackson Development Management Assistant

**Tel No:** 01904 551359

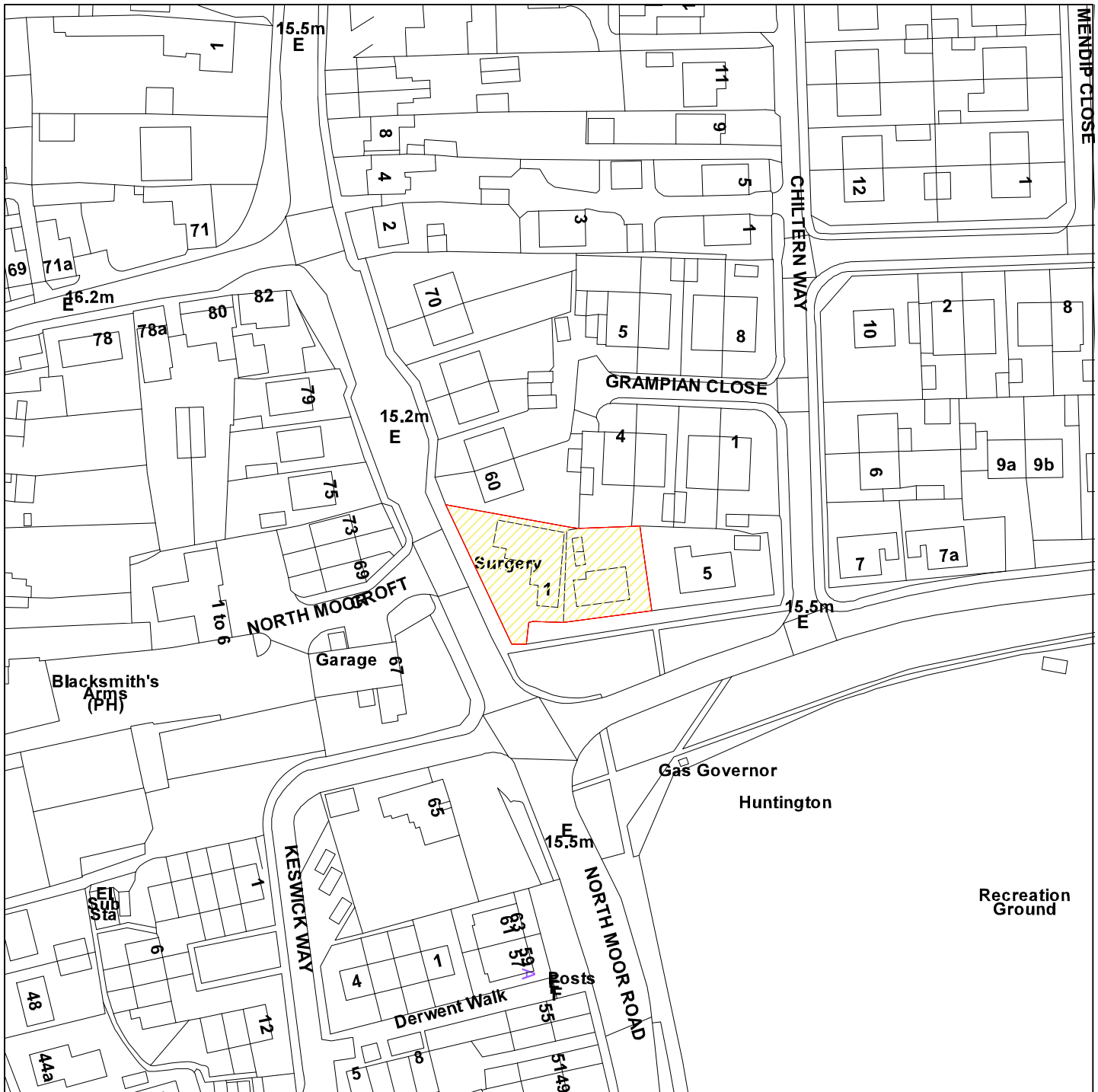
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13/03659/ADV

Health Centre, 1 North Lane, Huntington



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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Haxby And Wigginton  
**Team:** Householder and      **Parish:** Haxby Town Council  
Small Scale Team

**Reference:** 13/03768/FUL  
**Application at:** 4 Hilbra Avenue Haxby York YO32 3HD  
**For:** Single storey side extensions incorporating front dormer window, side roof extension and dormer window to rear (resubmission)  
**By:** Mr and Mrs Greenaway  
**Application Type:** Full Application  
**Target Date:** 5 February 2014  
**Recommendation:** Householder Approval

**1.0 PROPOSAL**

1.1 The application relates to developing the existing roof space by extending the existing pitched roof to create a gable roof. The rear roof slope would incorporate two pitched roof rear dormer windows. In addition the proposal seeks permission for the erection of two side extensions situated in tandem to one another set back from the principal elevation comprising of a total height of approx 5.0 metres. This section of development would provide cycle storage with home office and utility area at the rear. The application site is a semi-detached property. The rear of the property hosts a larger than average rear garden with an existing rear extension and detached garage on the shared boundary (to be removed if the development proceeds).

1.2 The application is subject to a slight revision to the width of the side extensions after concerns were raised by 2 Hilbra Avenue on issues regarding the submitted site and location plan not showing the boundary line between the two houses in the correct position.

1.3 This is a resubmission of a previous application (reference 13/03420/FUL) which sought permission for an identical scheme that included a long rear extension. The application was withdrawn on 22nd November 2013 because of the length of the rear extension adjacent to 6 Hilbra Avenue.

1.4 The application has been called to the Planning Sub - Committee by Councillor Ian Cuthbertson because of the strong concerns expressed by residents and by Haxby Town Council.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

### 2.2 Policies:

CYGP1 Design

CYH7 Residential extensions

## **3.0 CONSULTATIONS**

### 3.1 Haxby Town Council

Objections on the following grounds:

- Over development of the site due to the scale and massing of the proposed extension.
- The extension would cause a detrimental effect on the street scene.
- The close proximity to the adjacent property would result in a terracing effect.

### 3.2 Neighbour Notification and Publicity

One objection received on the following grounds:

- Inaccurate Drawings
- Extension creating a terracing effect
- Loss of Light/ over shadowing
- Loss of Privacy

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES:

- Impact on amenity of neighbours.
- Impact on street scene.

## THE RELEVANT POLICES AND GUIDANCE

4.2 Planning Policy Frame Work (2012) sets out the Government's overarching planning policies. As one of 12 core planning principles, it states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17). It states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56). It states that permission should be refused for development



of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64).

4.3 Draft Local Plan Policy CYH7 - states that residential extensions will be permitted where (a) the design and materials are sympathetic to the main dwelling and the locality (b) the design and scale are appropriate to the main building (d) there is no adverse effect upon the amenities of neighbours and (e) proposals respect the spaces between dwellings.

4.4 Draft Local Plan Policy CYGP1 - sets out a series of criteria that the design of development proposals are expected to meet. These include requirements to (a) respect or enhance the local environment, (b) be 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; (c) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (e) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape features which make a significant contribution to the character of the area, and take opportunities to reveal such features to public view; and (i) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.5 SUPPLEMENTARY PLANNING GUIDIANCE 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 states that the basic shape and size of the extension should be sympathetic to the design of the original dwelling and should also appear subservient. The appearance of the side extension will be improved if it is set back from the main building. The scale of the new extension should not dominate the original building and should have pitched roofs and the materials should match those of the main property. Regarding dormers the general rule is that they should not extend across more than one third of the roof span and should not dominate the existing roof. Nor should dormer extensions be higher than the ridge of the roof of the original dwelling. An inappropriately designed extension can spoil the appearance of the area.

## ROOF EXTENSION

4.6 The proposed roof extension would extend the pitched roof to create a gable roof for the purpose of providing a stair case up to the loft area for the accommodation of an additional bedroom with en-suite facilities. In order to provide additional light in to the converted roof space there would be two velux windows on the front elevation. In terms of visual appearance, there are several developments of a similar nature on Hilbra Avenue, which comprise of the roof extensions and two storey side extensions. On this basis, whilst the size and scale of the proposed gable would change the appearance of the host dwelling. It is not considered that

the extension would dominate the street scene or significantly alter the character of the surrounding area.

4.7 The proposed pitched roof rear dormer windows would be centred on the roof slope and would not encroach on the shared neighbouring roof space. The position on the rear roof slope would not be visually prominent from the street and would have little or no impact on the character or appearance of the area. It is also the case that in isolation to the side extensions the roof extensions with the installation of a non-opening and obscurely glazed side window would constitute permitted development and therefore would not require planning permission.

## SIDE EXTENSIONS

4.8 The development on the side elevation would create two side extensions for the purpose of a cycle / store area with first floor to create a home office to the front of the property and a utility room to the rear. The extension to the front of the property would introduce a set back from the principal elevation, that when measured from the bay windows would be approximately 2.0 metres from the front boundary approximately 5.0 metres in height and spanning approx 2.5 metres on the side on the property. In design terms the extension would incorporate a small pitched roof dormer style window at first floor which is symmetrical to the small hipped roof projection above the bay windows on the first floor of the dwelling. Therefore the extension would incorporate an appropriate degree of subservience and by virtue of the reduced height and location would not create a terracing effect that would detract from the appearance of the dwelling or street scene. The extension on the rear elevation would be approx 4.5 metres in height and would be screened from view by the height of the front extension.

## NEIGHBOUR AMENITY/ THIRD PARTY OBJECTIONS

4.9 LOSS OF LIGHT: The side roof extension would be to the west of the hipped roof at no.2 and appear close to the shared boundary. However, it would not extend beyond the neighbours roof slope and any additional shadowing of to the neighbouring patio or closest windows would not be harmful to their living conditions. In terms of the side extensions the development would be largely screened by this neighbours rear extension and additional boundary treatment. Thus it is not considered the proposed length would have a detrimental impact on this property. In addition the proposed height would not overshadow the neighbouring property nor appear overbearing, due to the long rear garden and acceptable separation distances when viewed from the rear elevation.

4.10 LOSS OF PRIVACY: The two dormer windows on the rear elevation would contain the same pattern of windows as at first floor height in the rear elevation. As such, it is not considered that the proposal would introduce any new overlooking or would significantly increase the amount of overlooking that already exists.

Furthermore, the side roof extension would serve a stairwell (i.e. not a habitable room).

## INCORRECT PLANS

4.11 The neighbour at (no2) has raised concerns relating that the submitted site and location plans which do not accurately identify the boundary of the application site. In order to rectify this situation the agent has supplied revised plans after investigating the boundary between number 2 and 4 Hilbra Avenue, this has resulted in a slight reduction in width of the cycle store and home office. This neighbour has been informed of the revised plans by email and any further comments can be updated at the Committee meeting.

## 5.0 CONCLUSION

5.1 It is considered that the proposed would not unduly harm the living conditions of nearby neighbours with particular reference to 2 Hilbra Avenue or appear incongruous and over developed when viewed within the street scene. As such would comply with council's Draft Local Plan Policy relating to design (CYGP1) and residential extensions (CYH7).

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Householder Approval

- 1 TIME2 Development start within three years -
- 2 PLANS1 Approved plans - Revised plans (reference numbers 0297A\_CDO5B \_0297A\_CDO6A)
- 3 VISQ1 Matching materials -

## 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 had discussions with the applicant regarding issues relating to the accuracy of the submitted plans which resulted in the submission of revised plans for the side extensions being reduced slightly in width from the shared boundary.

2. INF9 - Party Wall Act 1996

**Contact details:**

**Author:** Sharon Jackson Development Management Assistant

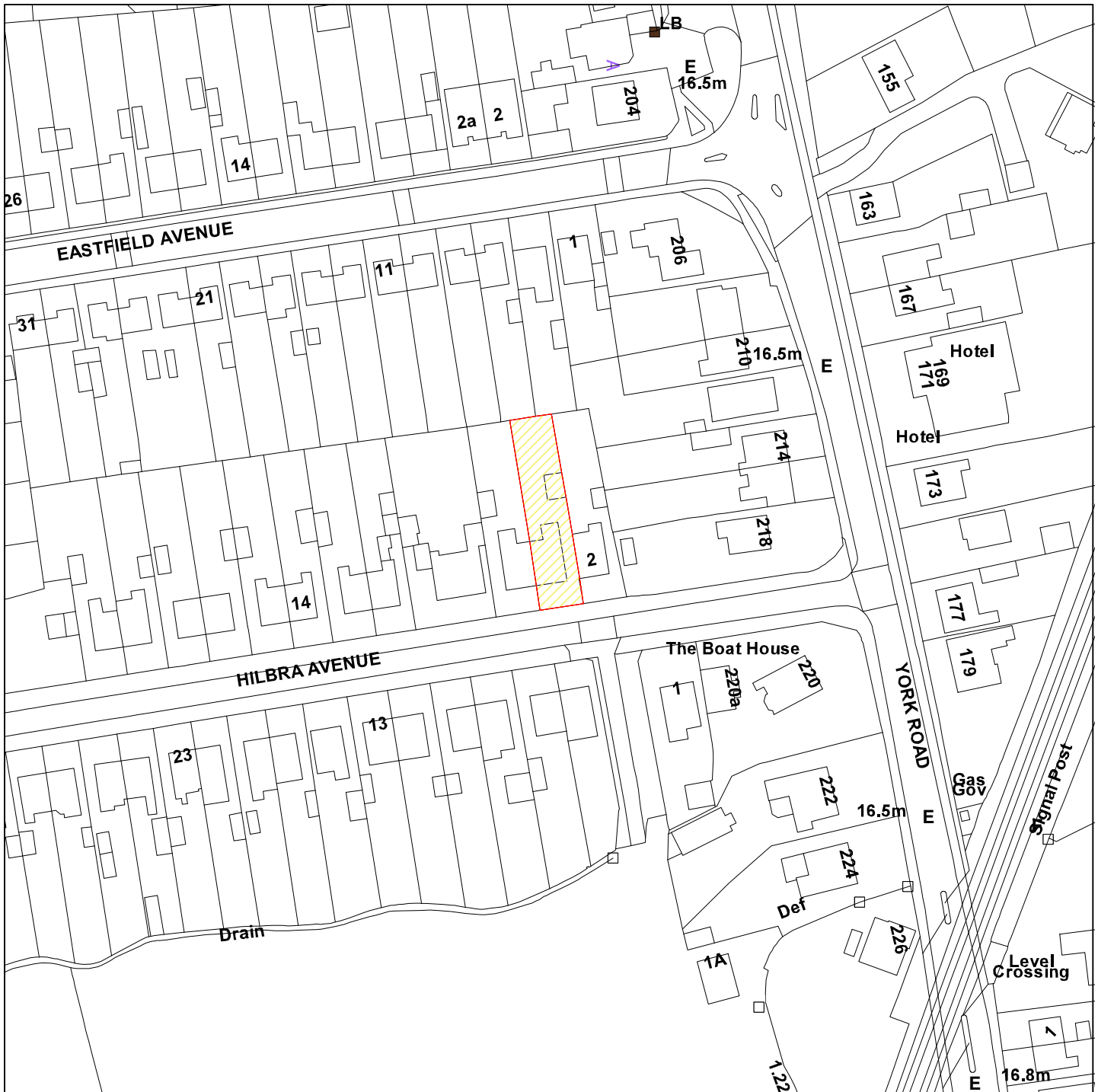
**Tel No:** 01904 551359

# 13/03768/FUL

## 4 Hilbra Avenue



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**COMMITTEE REPORT**

**Date:** 6 February 2014      **Ward:** Strensall  
**Team:** Householder and      **Parish:** Earswick Parish Council  
Small Scale Team

**Reference:** 13/03862/FUL  
**Application at:** 10 Shilton Garth Close Earswick York YO32 9SQ  
**For:** Single storey rear extension  
**By:** Mr and Mrs Wiseman  
**Application Type:** Full Application  
**Target Date:** 21 February 2014  
**Recommendation:** Delegated Authority to Approve

**1.0 PROPOSAL**

1.1 No. 10 Shilton Garth is a large detached property, located within a cul-de-sac of similar size dwellings, though of differing designs. The property has a large rear garden. The proposal seeks planning permission for additional accommodation in the form of a garden room and snug room at ground floor. This will replace an existing flat-roof garden room.

1.2 The application is reported to Sub-Committee as the applicant is a City Councillor.

1.3 Relevant property history :

- Ref. 3/35/45A - Planning Permission was granted for a dining room and conservatory - 20.05.1982
- Ref. 97/00828/FUL - Planning Permission was granted for single storey pitched-roof side and front extensions - 18.06.1997

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYGP1      Design  
CYH7      Residential extensions

### **3.0 CONSULTATIONS**

#### Earswick Parish Council

3.1 No response to date

#### Neighbour Notification

3.2 One letter of objection received

- The size of this extension will substantially alter the rear view of all the adjacent houses adversely.
- In combination with the crude garden hut, this perspective will look cluttered.
- This will have a detrimental impact on adjacent property value. (Officer note: impact on property values is not a material planning consideration)

### **4.0 APPRAISAL**

4.1 Key issue(s): Effect upon neighbouring property and the street scene

#### Policy Context

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. A principle set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.4 Local Plan Policy H7 states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours.

4.5 Local Plan Policy GP1 states inter alia that development proposals will be expected to respect or enhance the local environment, be 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; ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures



4.6 Supplementary Planning Document (SPD) 'House Extensions and Alterations.' December 2012 states, in relation to rear extensions impacting upon neighbours to pay regard to 'the impact on sunlight, the relationship to windows and the height of the structure.'

#### Impact on the Street Scene

4.7 The proposed garden room will not be visible from Shilton Garth. In any event, it is considered to be well designed, harmonious in scale with the existing rear elevation, and will incorporate materials which match those of the existing dwelling. It is not considered that it will adversely impact on the visual amenity of the immediate surrounding area.

#### Impact on Neighbouring Properties

4.8 The proposed extension will project approx 5.3m to the rear (though the snug will project approx 4.5m) and will be approx 10.0m wide. It will be approx 2.5m height to eaves and approx 4.9m height to ridge (the flat roof snug will be approx 3.3m high) In terms of the neighbouring property of No.12 Shilton Garth, the proposed extension will be set back approx 7.5m from the shared rear/side boundary. There are no windows indicated on the facing elevation of the garden room. The extension will also be significantly screened by an existing detached, brick garage on the application garden and additionally by an approx 2.0m high boundary wall. In terms of the adjacent property of No.8 Shilton Garth, the proposed extension will be set approx 500mm off the shared rear/side boundary. The facing blank elevation of the snug room will project approx 4.8m and will be approx 3.3m high. There will be a further approx 3.1m set back to the modest projecting side elevation of the garden room. It should be noted that the existing flat-roof garden room projects approx 4.1m and is approx 3.0m high. This neighbouring property's rear elevation is set back approx 4.0m from its rear/side boundary, so there will be no significant impact on its nearest principal rear window. In each case no serious issues arise in terms of overshadowing, over-dominance, or loss of privacy.

#### Other Planning Issues

4.9 The proposal has no implications in terms of off-road parking, cycle storage, or refuse storage. There will still be sufficient amenity space in the rear garden following development.

### **5.0 CONCLUSION**

5.1 The proposed extension has been well designed and is relatively modest in scale, in relation to the host property. It is not considered that it conflicts with the policies and design guidance detailed above. The proposal is considered to be

acceptable. Delegated Authority to approve is sought as the weekly list consultation period does not expire until 10 February.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Delegated Authority to Approve at the end of the consultation period

1 TIME2 Development start within three years -

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

Drawings 0290A -CD02A - Received 23rd December 2013.

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

3 VISQ1 Matching materials -

## **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) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

#### **Contact details:**

**Author:** Paul Edwards Development Management Assistant

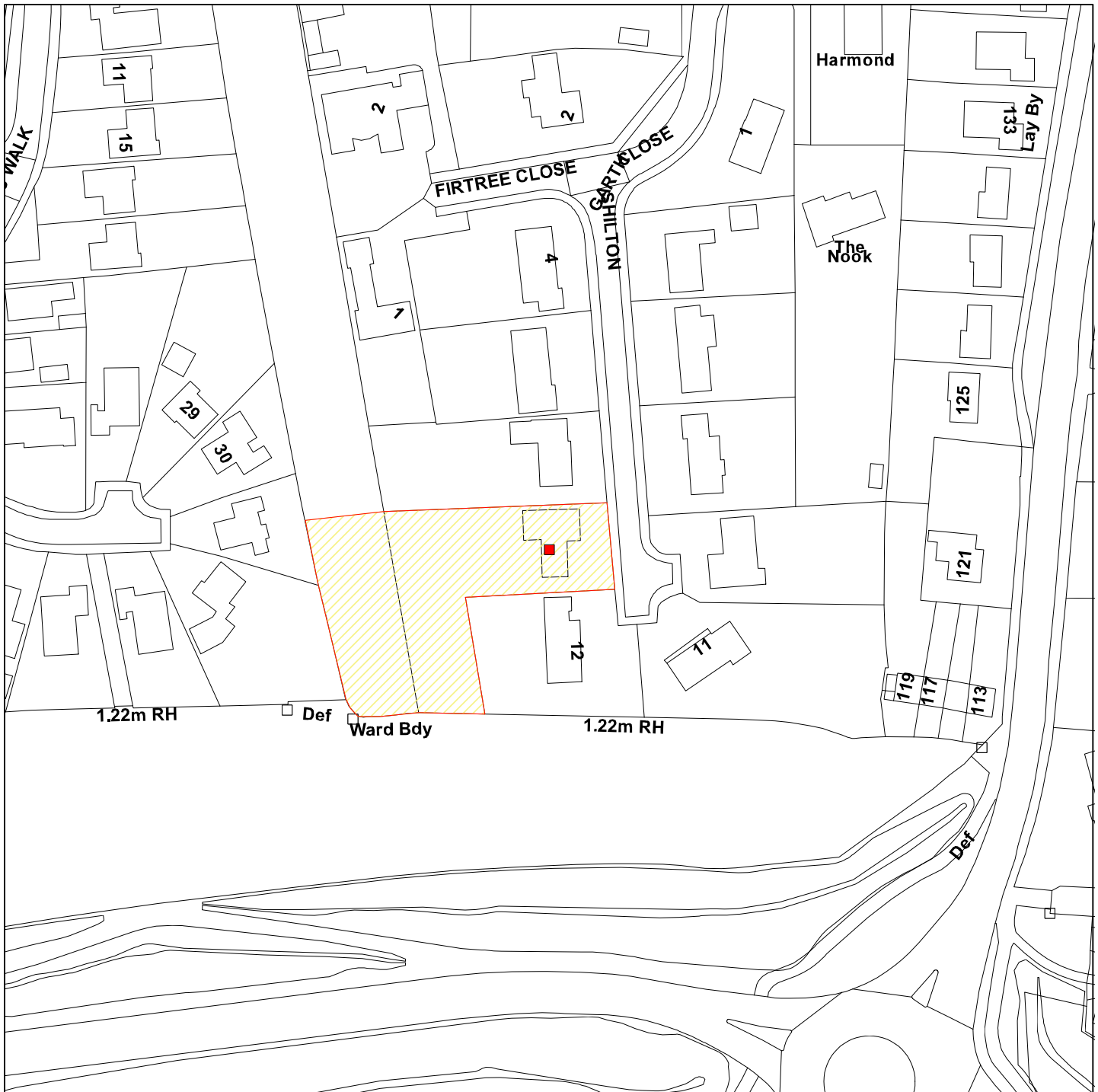
**Tel No:** 01904 551642

# 13/03862/FUL

## 10 Shilton Garth Close



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**Planning Sub Committee**

**6 February 2014**

**Planning Committee**

**20 February 2014**

## **Appeals Performance and Decision Summaries**

### **Summary**

- 1 This report (presented to both Planning Committee and the Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1 October to 31 December 2013, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

### **Background**

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, it has in the past been used to abate the amount of Housing and Planning Delivery Grant (HPDG) received by an Authority performing badly against the average appeals performance. For a number of recent years, until the publication of the National Planning Policy Framework in March 2012, appeals performance in York was close to (and usually better than) the national average. The Government announced last year that it will use appeals performance in identifying poor performing planning authorities, with a view to the introduction of special measures and direct intervention in planning matters within the worst performing authorities. This is now in place for Planning Authorities where more than 70% of appeals against refusal of permission for major applications are allowed.
- 3 The table below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Figure 1 shows performance on appeals decided by the Inspectorate, for the last quarter i.e 1 October to 31 December 2013, and for the full year to 31 December.

**Fig 1: CYC Planning Appeals Performance**

	<b>01/10/13 to 31/12/13 (Last Quarter)</b>	<b>01/01/13 to 31/12/13 ( Last 12 months)</b>
Allowed	2	12
Part Allowed	1	2
Dismissed	8	27
Total Decided	11	41
<b>% Allowed</b>	<b>18%</b>	<b>29%</b>
% Part Allowed	9%	5%
Withdrawn	0	2

### Analysis

- 4 The table shows that between 1 October and 31 December 2013, a total of 11 appeals relating to CYC decisions were determined by the Inspectorate. Of those, only 2 were allowed, at 18%, the rate of appeals allowed is significantly lower than the national annual average of around 33%. By comparison, for the same period last year, 4 out of 13 appeals were allowed, i.e.30.7%.
- 5 For the full year between 1 January and 31 December 2013, 29% of appeals decided were allowed, lower than the previously reported 12 month period of 38.5%.
- 6 The summaries of appeals determined between 1 October and 31 December are included at Annex A. Details as to whether the application was dealt with under delegated powers or Committee (and in those cases, the original officer recommendation) are included with each summary. In the period covered, none of the appeals determined related to applications refused by Committee.
- 7 The list of current appeals is attached at Annex B. There are 13 planning appeals (i.e. excluding tree preservation order appeals) lodged with the Planning Inspectorate, 12 are proposed to be dealt with by the Written Representation process (W), 0 by the householder procedure (H), and 1 by Public Inquiry (P).
- 8 The quarter performance at 18% allowed reflects the relatively small number of cases decided, with 3 appeals allowed. The current 12 month performance at 29% allowed is a significant improvement on the previously reported 12 month figure, and is a continuation of the trend back towards the national 'benchmark' figure of 33% allowed. The initial impact of the publication of the NPPF (March 2012) on appeal outcomes (which saw many cases allowed) appears to have receded, with CYC performance continuing to improve as the use and interpretation of policy

and guidance within the NPPF (by both the Council and the Planning Inspectorate) has become more consistent.

9 The main measures successfully employed to regain the previous performance levels have been as follows:-

i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with Paragraph 56 of the NPPF Draft Local Plan Policy.

ii) Where significant planning issues are identified early with applications, revisions are sought to ensure that they can be recommended for approval, even where some applications then take more than the 8 weeks target timescale to determine. This approach has improved customer satisfaction and speeded up the development process overall, and, CYC planning application performance still remains above the national performance indicators for Major, Minor and Other application categories.

iii). Additional scrutiny is being afforded to appeal evidence to ensure arguments are well documented, researched and argued.

### **Consultation**

10 This is essentially an information report for Members and therefore no consultation has taken place regarding its content.

### **Council Plan**

11 The report is most relevant to the “Building Stronger Communities” and “Protecting the Environment” strands of the Council Plan.

### **Implications**

12 Financial – There are no financial implications directly arising from the report.

13 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.

14 Legal – There are no known legal implications associated with this report or the recommendations within it.

15 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

## Risk Management

- 16 In compliance with the Council's risk management strategy, there are no known risks associated with the recommendations of this report.

## Recommendation

- 17 That Members note the content of this report.

Reason: To inform Members of the current position in relation to planning appeals against the Council's decisions as determined by the Planning Inspectorate.

## Contact Details

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### Chief Officer Responsible for the report:

Mike Slater  
Assistant Director Planning &  
Sustainability, Directorate of City and  
Environmental Services

Report  
Approved



Date 28 January  
2014

Specialist Implications Officer(s) None.

Wards Affected:

All  Y

For further information please contact the author of the report.

## Annexes

**Annex A – Summaries of Appeals Determined between 1 October 2013 and 31 December 2013**

**Annex B – Outstanding Appeals at 29 January 2014**



**Appeal Summaries for Cases Determined 01/10/2013 to 31/12/2013**

**Application No:** 12/03142/FUL  
**Appeal by:** Mr Christian Poole  
**Proposal:** Dormer bungalow to rear  
**Address:** 40 Fordlands Road York YO19 4QG

**Decision Level:** DEL  
**Outcome:** DISMIS

Planning permission was refused for the erection of a dwelling in a back land location at Fordlands Road Fulford. Fordlands Road is a settlement ( part of Fulford parish) washed over by green belt with a defined boundary wherein infill development can be acceptable. There has been a previous refusal and appeal dismissal on the site for the erection of a house. Fordlands Road is proposed to be taken out of the green belt in the New Local Plan. The Inspector considered the site still to be in green belt, considered the development to be backland development not infill, which he considered to be inappropriate development. No very special circumstances existed to outweigh inappropriateness. Taking in to account the comments of the previous Inspector he considered that the relationship of the proposed house to the existing semi detached property to be acceptable.

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**Application No:** 12/03197/FUL  
**Appeal by:** Mrs Patricia Marshall  
**Proposal:** Change of use from residential dwelling (use class C3) to House in Multiple Occupation (sui generis) (retrospective)  
**Address:** 12 School Lane Heslington York YO10 5EE

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal related to the refusal of a retrospective application to change the property from a dwelling to a large house in multiple occupation HMO. It is understood that the property has been occupied by 8 individuals for around 5 years. Consent has subsequently been granted for a change of use to small HMO 6 people. The retrospective application for a large HMO was refused for the following reasons: it is considered that the use of what was originally a three bedroom semi-detached dwelling house as a large House in Multiple Occupation for 8 tenants would create a level of noise and activity within and around the property that would be out of character with the surrounding quiet residential area. It is considered that the negative impact on the living conditions of neighbours from the intense nature of the use particular 13 School Lane, would go beyond what would reasonably be expected in a quiet edge of village location. The Inspector dismissed the appeal on the grounds that in the context of a quiet residential area two additional occupants would have the potential to harm neighbours living conditions. He made the interesting observation that, though a house could occasionally contain 8 family members, the noise from comings and goings of a family unit would typically be less than that from 8 unrelated peoples uncoordinated movements.

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**Application No:** 12/03604/FUL  
**Appeal by:** Mr Adam Manley  
**Proposal:** Two storey side and rear and single storey side extension in connection with change of use from house in multiple occupation (six bedrooms - Use Class C4) to large house in multiple occupation (eight bedrooms - sui generis) (resubmission)  
**Address:** 1 Burniston Grove York YO10 3RP

**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal related to the refusal of planning permission for the erection of a two-storey side extension and single storey mono - pitched rear extension to create an integral garage, extended kitchen and dining area with bedrooms at the first floor for to create additional bedrooms for an existing small HMO. The application was refused on the basis that the extension, including alterations to the garden areas by reason of the restricted size of the plot at the rear, would constitute an overdevelopment of the site resulting in an unacceptable reduction in private amenity space for future occupiers of the dwelling. In addition the application was also refused on the grounds that the size, scale and proximity to the boundary, would appear unduly oppressive and overbearing when viewed from the rear of 186 Tang Hall Lane, and would result in unacceptable overlooking and loss of privacy. The Inspector dismissed the appeal concluding that the extension would appear ungainly addition with a number of visually jarring roof forms. In addition the Inspector agreed that the extensions would materially harm the living conditions of the occupiers of 186 Tang Hall Lane in terms of outlook, in conflict with Policies GP1(i) and H7(d) of the DDCLP. The Inspector did not fully agree with the Councils decision relating the outside amenity space and concluded that the combined areas to the front and rear of the dwelling would be accessible, reasonably private and of an adequate size to serve the needs of the occupiers.

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**Application No:** 12/03809/FUL  
**Appeal by:** Mr Dritan Skenderaj  
**Proposal:** Change of use of part of the car park as a members only hand car wash and valeting business and siting of office/storage unit within a timber screen  
**Address:** Roko Health Club And Playfootball Stirling Road York YO30 4TU  
**Decision Level:** DEL  
**Outcome:** DISMIS

The application was to use part of a health club car park as a car wash and valeting business, including erection of a mobile office/storage building, timber screening and signage. Planning permission was refused due to impact on the green belt. The appeal was dismissed. The inspector considered that the main issues were (1) Whether the proposal would be inappropriate development in the green belt, (2) The effect of the proposal on the openness of the green belt, and on the character and appearance of the area, (3) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. He found that (1) The proposal would be inappropriate, on the basis that it does not fall within the types of development listed in paragraphs 89 and 90 of the NPPF. (2) The use as a car wash, the office/storage building, screening and signage would reduce the openness of the area, and be harmful to the character and appearance of the site and the green belt due to their visual prominence and their siting in isolation from other buildings. (3) The location of the site (on a commercial car park), the industrial/retail character of the area, the use of natural materials, the proposed screening and approval of a similar business on a (non-green belt) car park nearby did not justify the proposal. Consequently, the proposal would conflict with national Green Belt Policy, as contained within the National Planning Policy Framework. The applicant had argued that the proposal would not be inappropriate because it would comply with paragraph 89 of the NPPF which allows the partial redevelopment of a previously developed site where the proposal does not have a greater impact on the openness of the green belt than the existing development. The inspector was not persuaded.

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**Application No:** 13/00548/FUL  
**Appeal by:** Mr & Mrs Mark Shillito  
**Proposal:** Single storey side extension  
**Address:** Rockstone Dauby Lane Kexby York YO41 5LH

**Decision Level:** DEL

**Outcome:** DISMIS

The attached appeal related to an extension with rooms in the roof space to a detached dormer bungalow located in the Green Belt near Kexby, outside the settlement limit. The application was refused for the following reasons: The proposed extensions if approved will increase the footprint of the property by approximately 66% of its original floor area. In addition to the proposed extension to the property, a two-storey redevelopment of a car port and garage was approved in 2001. This has been constructed and is located approximately 1m from the proposed extension and is a significant development in its own right. It is considered that the application as submitted when taking account of the history of the site would harm the openness of the Green Belt and would result in a disproportionate increase to the size of the original building. As such the proposal conflicts with advice contained in Chapter 9 (Protecting Green Belt Land) of the NPPF and the content of Policy GB4 (and related supporting text) of the City of York Draft Local Plan (fourth set of changes) approved April 2005. The appellant argued that the real increase in footprint was nearer 46% and that because the extensions would not be prominent and permitted development rights were intact the proposal should have been approved. She argued that there should be little or no weight given to Yorks Local Plan and because there no definition of disproportionate in the new NPPF the proposal was acceptable. The Inspector dismissed the appeal. He said that even a 46% increase was inappropriate. He considered that the permitted development fall back position would not have such a significant impact on openness. He considered there were no special circumstances to justify approving the application.

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**Application No:** 13/00976/FUL  
**Appeal by:** Mr Andrew Dickinson  
**Proposal:** Two storey side and single storey rear extension  
**Address:** 4 Gormire Avenue York YO31 9JB

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal related to the refusal of planning permission for the erection of a two-storey side extension and single storey mono - pitched rear extension to create an integral garage, extended kitchen and dining area with bedrooms at the first floor. The application was refused on the basis that the extension would appear would appear unduly oppressive and overbearing when viewed from the rear of the neighbouring property at 2 Gormire Avenue and would thus detract from the standard of amenity that the occupiers of this property could reasonably expect to enjoy. The Inspector dismissed the appeal concluding that the massing and proximity of the proposed extension to the neighbouring property, it would create an overbearing feature that would have a negative impact on the living conditions of both current and future occupants of No. 2 Gormire Avenue. Consequently, would conflict with Policies GP1(i) and H7(d) of the DDCLP.

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**Application No:** 13/01308/FUL  
**Appeal by:** Mr Thompson  
**Proposal:** External cladding to front and rear  
**Address:** 26 The Old Village Huntington York YO32 9RB

**Decision Level:** DEL

**Outcome:** PAD

The appeal related to the refusal of planning permission to externally clad the upper sections of the front and rear elevations for the purpose of installing Kingspan Insulation to improve the heat retention of the property. The application site is located within the Huntington Conservation Area. The application was refused on the basis that the external cladding to the front elevation of this dwelling would create prominent and incongruous feature which would fail to preserve the character or appearance of the Conservation area. This decision outweighed the public benefits in terms of energy efficiency improvements to the existing building. The Inspector part allowed / dismissed the appeal concluding that the cladding to the front would result in it appearing highly visible and incongruous, accentuated by the fact that the dwelling has a shallow front garden containing no tall landscaping to filter views of the front elevation. The cladding was allowed at the rear on the basis that it is much less visible from public vantage points and in particular from the conservation area

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Decision Level:

DEL = Delegated Decision

COMM = Sub-Committee Decision

COMP = Main Committee Decision

Outcome:

ALLOW = Appeal Allowed

DISMIS = Appeal Dismissed

PAD = Appeal part dismissed/part allowed

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## Outstanding appeals

<b>Officer: Andy Blain</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
05/10/2011	11/00044/EN	APP/C2741/F/11/2160562	W	91 Micklegate York YO1 6LE	Appeal against Enforcement Notice	
<b>Officer: Diane Cragg</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
03/09/2013	13/00035/REF	APP/C2741/A/13/2204675	W	15 Moor Lane Haxby York YO32 2PQ	Erection of bungalow to side	
14/08/2013	13/00036/REF	APP/C2741/A/13/2203642	W	Chowdene Malton Road Huntington York YO32 9TD	Change of use of land to permit the creation of 20 pitches for touring caravans or tents and erection of toilet block (resubmission)	
<b>Officer: Erik Matthews</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
03/12/2013	13/00047/REF	APP/C2741/A/13/2209861	W	Country Park Pottery Lane Strensall York YO32 5TJ	Use of land for winter storage of up to 30 touring caravans	
11/12/2013	13/00048/REF	APP/C2741/E/13/2209500	W	Penn House 38 St Marys York YO30 7DD	Cleaning of external walls and railings	
<b>Officer: Esther Priestley</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
26/11/2013	13/00045/TPO	APP/TPO/C2741/3561	W	6 Beaufort Close York YO10 3LS	Fell Pine Trees x 4, Trees protected by Tree Preservation Order CYC 15	
29/10/2013	13/00038/TPO	APP/TPO/C2741/3528	W	2 Atcherley Close York YO10 4QF	Fell Oak (T1), Tree protected by Tree Preservation Order 15/1985	
<b>Officer: Jonathan Kenyon</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
02/12/2013	13/00043/REF	APP/C2741/A/13/2209508	W	Queens House Micklegate York	Variation of condition 1 of permitted application 13/01840/FUL to amend design of door	
12/12/2013	13/00046/REF	APP/C2741/A/13/2210255	W	STREET RECORD The Purey Cust York	Creation of 1 no. additional car parking space	

<b>Officer: Michael Jones</b>					<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
14/08/2013	13/00031/REF	APP/C2741/A/13/2203315	W	Harlestone 14 York Road Strensall York YO32 5UN	Erection of dormer bungalow to rear (resubmission)
<b>Officer: Matthew Parkinson</b>					<b>Total number of appeals: 3</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
17/06/2011	11/00026/EN	APP/C2741/C/11/2154734	P	North Selby Mine New Road To North Selby Mine	Appeal against Enforcement Notice
18/04/2013	13/00018/EN	APP/C2741/C/13/2196724	W	OS Field 8138 Narrow Lane Wigginton York	Appeal against Enforcement Notice dated 27 March 2013
20/03/2013	13/00020/EN	APP/C2741/C/13/2197855	W	Lucia Bar And Grill 9 - 13 Swinegate Court East	Appeal against Enforcement Notice dated 8 April 2013
<b>Officer: Paul Edwards</b>					<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
23/10/2013	13/00039/REF	APP/C2741/A/13/2207351	W	37 Fishergate York YO10 4AP	Change of use from dwelling house (Use Class C3) to house in multiple occupation (C4)
20/01/2014	14/00001/REF	APP/C2741/A/14/2211897	W	5 Lund Close Wigginton York YO32 2WU	Single storey side extension forming domestic utility room and hairdressing salon (retrospective)
<b>Officer: Sharon Jackson</b>					<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
21/01/2014	14/00002/REF	APP/C2741/A/14/2212129	W	7 Abbotsford Road York YO10 3EE	Change of use from residential (use class C3) to house in multiple occupation (use class C4) (retrospective)
<b>Officer: Victoria Bell</b>					<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
22/10/2013	13/00037/NON	APP/C2741/A/13/2206934	W	Holly Corner 52 North Lane Haxby York YO32 3JP	Erection of 3no. two-storey houses (resubmission)
<b>Total number of appeals: 17</b>					