

## COMMITTEE REPORT

**Date:** 28 November 2024      **Ward:** Huntington/New Earswick

**Team:** East Area      **Parish:** New Earswick Parish Council

**Reference:** 22/00440/FULM

**Application at:** Land To The West Of 1 To 8 Garthway New Earswick York

**For:** Erection of 14no. dwellings with associated infrastructure following the demolition of 2 no. garage courts

**By:** Joseph Rowntree Housing Trust

**Application Type:** Major Full Application

**Target Date:** 2 December 2024

**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1 Planning permission is sought for 14 no. dwellings, comprising of 7 pairs of semi-detached two storey dwellings; 8 x 2 bed dwellings and 6 x 3 bed dwellings, with 26 car parking spaces.

1.2 The boundary of the New Earswick Conservation area runs along the north eastern boundary of the application site. The site is bounded by a large and wide hedge to the western boundary. To the west of the site is Bootham Stray and the area directly adjacent to the application site is laid out as sports pitches. The site currently comprises 47 garages, garden space and an electricity substation. To the north and south are dwellings. To the east are 2 no. block of flats (total of 8 flats). The proposal would result in a reduction in the garden/amenity space to these flats (1-8 Garthway). The site is within Flood Zone 1.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

1.3 It is the view of Officers that the proposed site is not within or adjacent to an environmentally sensitive area (as specified in the regulations) and taking into account the characteristics of the proposed development, the location of the development, and characteristics of the potential impact, the proposed development would not result in significant environmental effects and therefore an Environmental Impact Assessment is not required.

Decision of the Planning Committee B Meeting 15 August 2024

1.4 Resolved: That the application be deferred.

1.5 Reason: Due to the potential loss of biodiversity value, the committee require the submission of the management plan for the maintenance of the hedge proposed under condition 11 to be submitted for their consideration.

### Submission of Further Information by the applicant

1.6 The applicant has submitted an addendum to the Arboricultural Impact Assessment (AIA).

1.7 The report states that the hedge (identified in the AIA as H8) along the western boundary of the site is outside of the development site boundary on land owned by CYC and leased to a third party.

1.8 The applicant's proposal is that the area of the application site will be cleared and a protection fence erected along the boundary during construction. Any gaps in the Council's hedge will be infilled and a stock fence erected along the boundary when works have been completed. The eastern face of the hedge will then be maintained by occupiers of the houses, but it will otherwise continue to be subject to maintenance under the Council's direction, which includes maintaining the overall height. There is no proposal to reduce the height of the hedge or undertake any other works to it, and they consider that given its maturity it offers a suitable boundary treatment for the houses, as such no further boundary treatment is necessary to offer privacy screening.

1.9 An additional condition ( no.25) is recommended and condition 11 has been amended to remove the requirement for a management plan.

## **2.0 POLICY CONTEXT**

### **NATIONAL PLANNING POLICY FRAMEWORK (NPPF)**

5.4 The planning policies of the National Planning Policy Framework (December 2023) are a material consideration in the determination of planning applications. The presumption in favour of sustainable development is set out at paragraph 11 of the NPPF.

### **PUBLICATION DRAFT YORK LOCAL PLAN (2018)**

5.2 The Draft Local Plan 2018 ('2018 Draft Plan') has been subject to examination and a response from the Inspectors is expected. The draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF which requires regard to be given to the stage of preparation of the plan, the extent to which there are

unresolved objections and the degree of consistency with NPPF policy. Relevant policies are:

H2 Density of Residential Development  
H3 Balancing the Housing Market  
H10 Affordable Housing  
D1 Placemaking  
D2 Landscape and Setting  
D4 Conservation Areas  
GI4 Trees and Hedgerows  
GI6 New Open Space Provision  
CC2 Sustainable Design and Construction of New Development  
ENV2 Managing Environmental Quality  
ENV3 Land Contamination  
ENV5 Sustainable Drainage  
T1 Sustainable Access  
DM1 Infrastructure and Developer Contributions

### **3.0 CONSULTATIONS**

#### INTERNAL CONSULTATIONS

##### Highway Network Management

3.1 The development will require the whole frontal footway to be re-laid and this will be undertaken with a Section 278 agreement. Cycle parking must comply with LTN 1/20 – one cycle space per bedroom and must be covered and secure. The bin collection point shall be no more than 10 metres away from the highway and it should not be positioned on the highway. If the road(s) inside the development are to be adopted, the vehicular access to the properties will have to be constructed in accordance with the CYC Vehicle Crossing Policy – only the accesses can be lowered and not the whole frontage. Request that the applicant enter into a Section 106 agreement – this will be to upgrade the Folk Hall bus stop on Hawthorn Terrace.

##### Design and Conservation (Landscape Architect)

3.2 The proposed development would result in the removal of two young/semi-mature Sweetgum trees (Liquidambar) - ref: T15 and T16 in the tree survey. These are nicely established, healthy trees in a good location, either side of the access road to the site. These would be lost due to the widening of the entrance road. This is unfortunate, however they are only 6m high with a stem diameter of 13cm so could quite readily be replaced with similarly sized advanced nursery stock set further back from the proposed kerb edge, to mark the entrance in a similar fashion as existing.

3.3 New native, hedge planting should be applied across the side and front of the existing apartment blocks.

3.4 The proposed development would change the quality and character of the views and the setting of the village from the open landscape and Bootham stray land and railway line to the west due to the reduction of the existing hedgerow and the positioning of two-storey development much closer to the boundary than in the surrounding existing development. This loss would also reduce the significance of the hedge and its contribution to the landscape character of the adjacent open landscape and green infrastructure corridor.

#### Design and Conservation (Ecology Officer)

3.5 From a review of the information provided it is recommended the applicant works to retain and enhance the existing valuable habitats on site, such as the western hedgerow, and also work to incorporate ecological enhancements into the new 'green' areas, such as the communal gardens.

3.6 The increased structural integrity of modern developments reduces the potential for birds and bats to utilise modern buildings for nesting and roosting therefore any new developments should integrate appropriate bird and bat boxes. Ecological enhancements have been recommended within the Preliminary Ecological Appraisal with the aim of providing biodiversity net gain post construction, request these are sought via condition.

3.7 Due to the proximity of several areas of ecological value, including; the western boundary hedgerow, Bootham Stray, New Earswick Meadow Site of Importance for Nature Conservation (SINC) and Green Infrastructure Corridors of both local and district importance, the provision of a CEMP is considered appropriate – request this is sought via condition.

3.8 With the aim of maintaining and improving foraging and commuting habitats for bat a sensitive lighting scheme should be produced and submitted to the local planning authority for approval prior to any new lighting being installed on site – request this is sought via condition.

3.9 As the application site provides suitable habitat for nesting birds, precaution methods will be required during the demolition works and for all required vegetation clearance within the nesting bird season – request this is sought via condition.

#### Design and Conservation (Archaeology)

3.10 Do not wish to impose any archaeological conditions.

#### Design and Conservation (Conservation)

3.11 Principle of redevelopment accepted (demolition of garages and large area of hardstanding welcomed), retention of front blocks supported. Site outside conservation area, though adjacent to / within the setting of it. Use, height, brick and pantile materials palette supported. Inclusion of front gardens and traditional hedgerows are welcomed, but do result in some very small rear gardens.

3.12 The layout (arced 'crescent' and higher density) does not follow the predominant character of New Earswick, but one advantage is that the view into the development is not a large car park. The development would better reflect local character if there were larger gaps between buildings to retain a more open and verdant character with greater opportunities for landscaping, acknowledge this is likely to result in a loss of unit numbers.

3.13 While the proposals do seek to retain a degree of arts and craft / New Earswick style, they could be improved to better relate to the character of the conservation area. Local context could be better referenced through relatively minor changes to elevational treatment / architectural details, primarily windows (more horizontal emphasis rather than vertical, the proposed dark grey frames are very much at odds with the rest of New Earswick) and the inclusion of roof overhangs which are a very strong characteristic of New Earswick (the elevations suggest a very clipped detail).

3.14 Comments on revised proposals - The scheme is still more dense than typical buildings in the immediate vicinity and so is somewhat out of character with this, which is not ideal. However, to counter this the visual impacts from main public routes are low. The proposals also have quite small outdoor space for some units, however they are small homes- with more typical private outdoor space than would be provided if living in a similar sized apartment. The overall site layout strategy is also a good one and the architectural design of buildings are quite attractive. the proposal has support on design grounds. understand the applicant over-provides on CYC policies for affordable housing, which if correct could be weighed against potential negatives.

### Strategic Planning Policy

3.15 No objection. Given the advanced stage of the emerging Plan's preparation, the lack of significant objection to the emerging policies relevant to this application and the stated consistency with the Framework, in the context of NPPF para 48 we would advise that the policy requirements of the following emerging Plan policies can be afforded moderate weight in determining this planning application: H2, H3.

### Lead Local Flood Authority

3.16 The submitted and attached Proposed Drainage Layout – Re: P21-01451- Met-M2-C-002 Version V5 dated 30<sup>th</sup> March 2023 by Met Engineers showing foul water

being connected to the public foul sewer and surface water to the public surface water sewer at a restricted rate of 10.5 (ten point five) litres per second with appropriate attenuation up to and including the 1 in 100 year event with 30% climate change event and the Proposed Site Plan – Re: 403/02 (02) 003 Revision I dated 21 April 2023 by Shaw & Jagger are generally acceptable. Request following conditions: drainage scheme to be in accordance with submitted details.

### Public Protection

3.17 As there are residential properties close to the proposed site it is recommended that controls are put in place to minimise noise, vibration and dust during construction. Request following conditions: Construction and Environmental Management Plan and restricted hours of demolition and construction works and ancillary operations.

### Waste Services

3.18 If waste from plots 1 to 4 is presented where the access road meets the public highway that would be acceptable providing a hardstanding area is provided for the bins, with a flat and even surface between this area and the refuse vehicle collection point. If the access road to the other plots is adopted, not just built to adoptable standards, and the road width is a minimum of 5 metres and satisfies the criteria within the Waste Information for Developers guide the plan is acceptable.

### Housing Strategy and Performance Team

3.19 The proposal is greatly in excess of the 10% affordable housing policy requirement. All the houses meet the Nationally Described Space Standards guidance and will reduce heat demand and minimise fuel poverty and carbon emissions. There is a very substantial need for affordable housing within the City and this application will make an important contribution towards meeting local need. By providing 2- and 3-bed houses for social rent and shared ownership the proposed development would also make an important contribution to meeting the highest priority need types identified in the Local Housing Market Assessment. Nominations would be secured for the council for 75% of the Social Rent properties. The application is strongly supported by the Housing Strategy and Performance team.

### Educational Planning Officer

3.20 Based on projections, Education request contributions for each sector, totalling £201,679. Expansion at catchment New Earswick and Joseph Rowntree Schools is preferred. However, the nearby schools identified may also or instead be expanded to provide additional capacity in the planning area.

## Community Sports Development Manager

3.21 The 2017 green infrastructure update shows that the Huntington and New Earswick ward has an oversupply of outdoor sports provision. That being said, the city's Playing Pitch Strategy is being refreshed at the moment and while this is not yet published the action plan highlights a number of improvements requiring investment at New Earswick Sports Club to bring the pitches up to a playable standard and therefore be used by the local population. These include: Football - Improve ancillary facilities based on demand; Rugby League - Improve pitch quality for community use e.g. drainage; Cricket - Improve site's maintenance to Good to alleviate overplay on square; and Tennis - Improve court quality for community use e.g. drainage and therefore I would be looking for a contribution.

3.22 Request off-site contributions and particularly for sport totalling £7,242 with the suggested beneficiaries for the outdoor sports elements to be New Earswick Sports Club and or another sports project within a 15-20 minute walking distance or within 20 minutes on public transport of the development. Request contributions of £5,134 and £10,520 for amenity and play space respectively.

## EXTERNAL CONSULTATIONS

### New Earswick Parish Council

3.23 Object, there is no detail on the adoption of air source heat pumps for heating and water and provision of electric vehicle charging infrastructure. Therefore, no clarity on the carbon impact of the development.

3.24 A significant number of garages will be demolished as part of the proposal. Current garage users will be given alternative provision, only if available. A further application 22/00456/FUL also involves the demolition of garages in New Earswick by the same applicant. Concerns are that this will cause additional parking problems.

### Yorkshire Water

3.25 The submitted 'Flood Risk Assessment' is acceptable. In summary, the report states that a.) Foul water will discharge to public foul b.) Sub-soil conditions do not support the use of soakaways c.) A watercourse is remote from the site d.) Surface water will discharge to public sewer via storage with restricted discharge of 24.2 litres/second.)

### Foss Internal Drainage Board

3.26 The Board notes that soakaways have proven to not be a viable option. The applicant is proposing to discharge into the Mains Surface Water Sewer which in

turn discharges into the Board maintained watercourse known as Westfield Beck. Accordingly, approval will be required from the Board in terms of the discharge rate. The Board notes a discharge rate of 10.5 litres per second has been proposed on the basis of a 30% reduction of the existing rate. This is agreed with the Board. Provided this flow control device restricts the discharge rate to 10.5 litres per second, and the applicant will be putting a maintenance schedule in place, the Board has no objection to the proposal. The Board notes that the applicant is proposing two cellular storage attenuation tanks. These appear to accommodate a 1:100 year storm event plus 30% for climate change. Provided the LLFA as the “approving authority” are satisfied with the proposal as a long term sustainable solution, the Board have no objection to the proposal.

3.27 The Board notes that the applicant is proposing to use the mains sewer for the disposal of foul sewage. If Yorkshire Water is content with the proposed arrangement and is satisfied that the asset has the capacity to accommodate the flow, then the Board would have no objection to the new proposed arrangement.

#### National Grid

3.28 No comments received.

#### York Civic Trust

3.29 The design successfully considers the architectural features important to New Earswick, However there are two aspects that might benefit from additional thought:

- the existing buildings on site each feature chimneys, which are/were a common architectural feature in New Earswick. The addition of chimneys to these new buildings would again help to maintain the New Earswick vernacular. They would help maintain the cohesive design of the area, and add a rhythm to the longer, terraced house schemes.
- the proposed use of dark grey coloured window frames with long vertical panes does not appear sympathetic to the immediate area. As the new buildings will have a close visual association with the existing buildings on the site, a window design which is more sympathetic in style and colour would help to maintain the New Earswick vernacular style while ensuring it had a modern twist to reflect the new development.

## **4.0 REPRESENTATIONS**

### Neighbour Notification and Publicity

4.1 One general comment:

- no reference to solar panels, no reference to zero carbon standard, and reference to Air Source Heat Pumps (which would require a high level of



insulation) only in property type AG. no sense to develop homes that fall short of zero carbon standards and to develop buildings without solar installations that can generate enough power to support the household's needs.

#### 4.2 Six letters of objection:

- The statements regarding the use of the garage are incorrect, a lot are in use.
- Will be nowhere to park vehicles once the garages are removed, exacerbated by the traffic and parking resulting from the proposed development.
- Exacerbate existing drainage issues.
- Proposal will affect communal gardens to the rear of Garthway properties, reducing the size and moving of sheds.
- Does not provide parking provision for 1-8 Garth Way, currently use garages.
- Existing garages have not been maintained by the applicant.
- Proposed development will result in an increase in traffic.
- Proposed development will impact on ecology and the loss of the small wooded area behind the garages
- Advise that the residents of 1 – 8 Garthway have not been allocated alternative garages contrary to the claim made in the application.
- Impact on parking for disabled tenants.
- Loss of shared garden and washing lines.

## 5.0 APPRAISAL

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The site is not considered to be within the general extent of the greenbelt. There is no Neighbourhood Plan for the site.

### DEVELOPMENT OF THE SITE FOR HOUSING

5.2 The application site is previously developed land within the urban area. Paragraph 60 of the NPPF states that to support the Government's objective of significantly boosting the supply of housing, it is important that sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed. Policy H2 Density of Residential Development states that to ensure the efficient use of land and help maintain local services and public transport provision, housing developments within the suburban area will be expected to achieve a net density of 40 units/ha. The site density for the new build dwellings is 30 units/ha, however the application site also includes all of the garden area for the existing flats; including the 8 existing flats in the density calculation results in a site density of more than 40 units/ha.

5.3 The draft Local Plan affordable housing policy H10 is subject to modification and is considered to have limited weight. The NPPF states that affordable housing

should only be sought for major development (10+ dwellings). The Local Plan evidence base identifies that there is a need for affordable housing in the city and policy H10 as modified seeks contributions for off-site provision for 10% of housing proposed for sites of 14 houses. Policy H10 as modified encourages higher rates of provision where development viability is not compromised. The applicant states that as an established Registered Social Housing Provider, JRHT expect to retain ownership of the units and offer them for rent or shared ownership. Normally the LPA could only secure affordable housing identified as required and viable in the evidence base. However in this case, the provision of a 100% affordable housing scheme is being promoted by the applicant and an assessment has been submitted stating that the scheme cannot be delivered if it is required to provide the financial contributions set out in section 3.0 of this report. The applicant's viability assessment has been independently verified and it is agreed that the provision of financial contributions would make the scheme unviable. As such it is considered to be reasonable to secure the provision of 100% affordable housing through a Section 106 legal agreement. This obligation is considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations (CIL).

5.4 The provision of housing with all houses proposed to be affordable on previously developed land has very significant weight in the planning balance, and complies with the NPPF and policies H2, H3 and H10 of the Draft Local Plan.

## VISUAL AMENITY AND IMPACT ON THE SETTING OF THE CONSERVATION AREA

5.5 Chapter 12 of the NPPF contains policy on design, placing great importance to that design of the built environment, stating that planning decisions should ensure that development will add to the overall quality of the area, be visually attractive, sympathetic to local character and history and have a high standard of amenity for existing and future users. This policy is reflected in draft local plan policies D1 Placemaking and D2 Landscape Setting and reflecting the limited extent of unresolved objection, these policies can be given moderate weight in the planning balance.

5.6 The proposed dwellings are of a more modest scale and of a denser pattern of development than the wider surroundings, however the wider visual impacts are low. The proposed dwellings reflect the arts and crafts style of the dwellings to the north and are considered to be an attractive design.

5.7 The landscaping around and within this development is has considerable importance to the success of this development and how it sits within the surrounding landscape. A general landscaping plan has been submitted. The denser development and being closer to the boundary would give the development a degree of prominence from the Stray. The retention of the hedge to the western boundary is of importance and has been retained along a large stretch between the

housing development and the Stray. The reduction in size and the maintenance of the hedge would be in keeping with other similar development in the area. Views of the site from the stray would be viewed in context of the surrounding development. It is considered necessary to condition details for the initial proposed works to the hedgerow and a subsequent management plan to ensure that it is maintained retained to an appropriate scale.

5.8 In accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in exercising its planning duties. Where there is found to be harm to the character or appearance of the Conservation Area the statutory duty means that the avoidance of such harm should be afforded considerable importance and weight.

5.9 The legislative requirements of Sections 72 are in addition to government policy contained in Section 16 of the NPPF. The NPPF classes conservation areas as 'designated heritage assets'. Section 16 advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

5.10 The Draft Local Plan (2018) policies D4, and D5 reflect legislation and national planning guidance that development proposals should preserve or enhance the special character and appearance and contribution to the significance and setting of the heritage assets and respect important views.

5.11 With its hipped tiled roofs and front gables, flat roofed dormers and vertical emphasis to the windows, the proposed design of the dwellings appears to be in keeping with the semi-detached houses and terraces neighbouring the site. The special character and interest of this Conservation Area is its historic, garden village quality. The removal of the garages and the erection of the proposed dwellings is considered to have a neutral impact to the setting of the conservation area.

5.12 The proposed site layout and the design of the buildings is considered to be appropriate in the streetscene and would result in no harm to the setting of the conservation area.

## HIGHWAY ISSUES AND THE LOSS OF GARAGES

5.13 The NPPF encourages development that is sustainably located and accessible; requires that all development achieves safe and suitable access for all users and that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Further, paragraph 116 requires development to, inter alia, give priority first to pedestrians and cycle movements and

create places that are safe, secure and attractive thereby minimising the scope for conflicts between pedestrians, cyclists and vehicles. Policy T1 of the draft Local Plan aligns with the approach of the NPPF in that it seeks the safe and appropriate access to the adjacent adopted highway, giving priority to pedestrians and cyclists.

5.14 The site is considered to be within a sustainable location close to local facilities and public transport. The site is 380 metres from a high frequency bus stop (Folk Hall). The site is close to the cycle network which gives off-road access to the orbital route and onward connection via off-road and on-road cycle paths to the hospital, city centre and railway station. A Covered and secure 2m x 2m cycle parking shed / garden store is provided for each dwelling, LTN1/20 suggests one cycle space per bedroom. The store can provide the guideline level of cycle parking but not tandems, trailers or accessible cycles. A condition is recommended to require further detail of the store.

5.15 Each 3xbed dwellings has 2no. vehicle parking spaces, and the 2xbed dwellings have 1no. vehicle parking space each. There would be 6 visitor parking spaces (total of 26 vehicle parking spaces). A bin collection point has been provided at one of the access points and refuse bins would also be likely be collected from the other access point from the grass verge as is the case with the neighbouring properties. The loss of the garages would likely result in an increase in on-street parking in the local area, however the impact is considered relatively limited. It is noted that there are no street parking restrictions. The proposals are considered to be acceptable in terms of their impact on the surrounding highway network.

5.16 The Highway Network Management team have requested a contribution towards the upgrading of the nearby Folk Hall bus stop (Hawthorne Lane). This obligation is not considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations (CIL). It is not considered to comply with para 57 of the NPPF which requires obligations to: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

5.17 S.149 of the Equality Act 2010 contains the public sector equality duty (PSED) which requires public authorities, when exercising their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics included disability, sex, age and pregnancy and maternity. The proposed loss of the garages has resulted in objections including objections that people with disabilities will have difficulty finding on street parking spaces. It is considered that similar issues could arise for those with protected characteristics and people using the garages for storing mobility scooters. This potentially engages s.149 of the Act. The

PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with due regard to its equality implications.

5.18 As at January 2023, the applicant set out that of the 47 garages; 15 were unused, 17 garages were let to residents within 150 metres of the site, 9 garages were let to residents who live within 300m of the site. One of the garages was let to residents living more than 300 metres from the site. Four of the garages were let to people living outside of the village. More recent correspondence with the applicant's agent states:

“In respect to the ongoing use of the garages, JRHT were conscious that a number of garage sites are proposed for redevelopment where the timing differs, which could leave tenants who are subject to later proposals at a disadvantage if those served notice first were offered an alternative garage before the last scheme comes forward. JRHT has therefore served notice on the occupants of all affected garages and taken back possession of all the units at the same time. This is with a view to implementing a policy that will see those with disabilities being offered a replacement garage as a matter of priority, especially where they are already tenants of JRHT.”

“It is understood that of those who rented garages at Garthway West, they are to be allocated garages elsewhere”.

5.19 In consideration of this issue it is noted that blue badge holders can seek disabled parking bays to be provided in the public highway, and that a shed for the parking of a mobility scooter is to be provided in the garden of the existing flats 1-8 Garthway. The applicant has sought to address the issue through their policy as set out in 5.17 above including giving those with disabilities priority for replacement garages. It is not considered that the applicant's garage policy could reasonably be included as a planning condition.

5.20 Officers have given due regard to the aims of the Act. The provision of 14 affordable houses has very significant weight in the decision making process, regard is also given to the mitigation and alternatives to garage parking set out in 5.18.

## RESIDENTIAL AMENITY

5.21 The NPPF seeks a good standard of amenity for all existing and future occupants, and that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are sympathetic to local character and history, including the surrounding built environment and landscape setting. Policies D1 and ENV2 of the 2018 Draft Local Plan seek to ensure that development proposals do not unduly affect the amenity of nearby residents in terms of noise disturbance, overlooking, overshadowing or from overbearing structures.

5.22 The proposed development will result in the reduction of the communal garden areas to 1-8 Garthway, in addition the 2 no. outbuildings to these flats will also be demolished. Whilst the communal garden areas would be smaller they are still considered to provide a reasonable sized outside amenity area for the occupants of 1-8 Garthway. Officers understand that the occupants of 1-8 Garthway do not currently have allocated parking provision. The proposed development does not provide these existing flats with allocated parking, though it is noted that 6no. visitor parking spaces would be provided.

5.23 The closest distance between the windows of the Garthway flats (7 and 8) and the proposed dwellings is 12.5 metres. The distance between the proposed dwellings and the garden boundary of the Garthway flats at its closest point would be 6.2 metres. The plans show the shared boundary to be demarcated by a hedge. The floor plan and elevations of the proposed 2x bed dwellings has been altered to reduce the first floor front elevation window size and to obscurely glaze one of the windows to reduce the perception of overlooking to the flats and the communal garden area. On balance these measures are considered to lessen the impact to privacy. The proposed development is not considered to result in undue overshadowing to the neighbouring dwellings.

5.24 The proposed dwellings are considered to provide reasonable sized accommodation. There is a requirement for 2-3 bed roomed dwellings within the city. The garden spaces for the proposed dwellings are considered to be modest however there are considered to be sufficient to dry clothes, and to have a play set.

## BIODIVERSITY

5.25 Paragraph 180 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats; GI4 states that development will be permitted where it retains trees and hedgerows that make a positive contribution to the character or setting of a conservation area or listed building, the setting of proposed development, are a significant element of a designed landscape, or value to the general public amenity, in terms of visual benefits, shading and screening.

5.26 The NPPF advises that if significant harm to biodiversity from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

5.27 A Preliminary Ecological Appraisal (PEA) has been submitted. The habitats within the site comprise scrub, buildings, amenity grassland and bare ground interspersed with scattered trees. The existing dwellings on the site have bat roost potential but no works are proposed to these buildings. The site is suitable for

nesting birds and any trees, shrubs or buildings to be removed should be cleared outside of the bird nesting season unless safeguards are in place. No further ecological constraints were identified.

5.28 The PEA makes recommendation for biodiversity gains. These include at least 4 bat boxes sited on buildings; a lighting design plan; bird boxes on 25% of the new houses; hedgehog houses and hedgehog holes to allow access between gardens and in and out of the site. Recommend an Ecological Construction Environment Management Plan and an Ecological Enhancement Management Plan.

5.29 Ecology Officer is satisfied with the submitted ecology information. It is considered that the recommendations of the report be secured via condition.

## DRAINAGE

5.30 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan Policy GP15a (Development and Flood Risk) and Publication Draft York Local Plan (2018) Policy ENV5 (Sustainable Drainage) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced.

5.31 The Lead Local Flood Authority Engineer has advised that the principle of the revised drainage scheme is considered to be acceptable. It is considered necessary to condition the drainage scheme to ensure that the drainage scheme is implemented.

## SUSTAINABILITY

5.32 Policy CC2 of the Draft Local Plan (2018) as recently amended states all new residential building development of 1 or more dwellings should achieve:

- on-site carbon emissions reduction of a minimum of 31% over and above the requirements of Building Regulations Part L (2013), of which at least 19% should come from energy efficiency measures; and,
- a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

5.33 Pending anticipated changes to Building Regulations, developments should further aim to achieve up to a 75% reduction in carbon emissions over and above the requirements of Building Regulations Part L (2013) unless it is demonstrated that such reductions would not be feasible or viable. The Target Emissions Rate (TER) for proposed new dwellings should be calculated using version 10 of the Standard Assessment Procedure (SAP).

5.34 The supporting information sets out that the developer addresses the policy by improved thermal and acoustic efficiency, with high insulation levels; improving air tightness with the use of robust detailing and membranes; reduction of thermal bridging with the use of robust detailing; the use of air-source heat pumps in each dwelling; the use of reduced flow shower fittings and a standard sized bath.

5.35 It is considered the requirements of policy CC2 can be achieved by condition.

## DEVELOPER CONTRIBUTIONS

### Education

5.36 The Education Planning Officer requests contributions for each sector, totalling £201,679. This would include an expansion to the catchment areas of New Earswick and Joseph Rowntree Schools. The schools identified may also or instead be expanded to provide additional capacity. This obligation would in principle comply with Regulation 122 of the Community Infrastructure Levy Regulations (CIL) subject to viability as set out below.

### Sport and Open Space

5.37 The 2017 green infrastructure update sets out that there is an oversupply of outdoor sports provision in the Huntington and New Earswick ward. The Active Sport and Leisure team advise that the city's Playing Pitch Strategy is being refreshed at the moment and highlights a number of improvements requiring investment at New Earswick Sports Club to bring the pitches up to a playable standard and be used by the local population.

5.38 The request for off-site contributions for sport totalling £7,242 with the suggested beneficiaries for the outdoor sports elements to be New Earswick Sports Club and or another sports project within a 15-20 minute walking distance or within 20 minutes on public transport of the development. In addition they request contributions of £5,134 and £10,520 for amenity and play space respectively.

5.39 The requested obligation towards sports provision is not considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations (CIL). As there is an oversupply of outdoor sports provision it is not considered to comply with para 57 of the NPPF which requires obligations to be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. However the requested obligations towards amenity and play space would in principle comply with Regulation 122 of the Community Infrastructure Levy Regulations (CIL) subject to viability set out below.



## Viability

5.40 Financial Viability is a material planning consideration. The NPPF and Planning Practice Guidance for Viability (PPG) set the framework and principle for undertaking and assessing a Financial Viability Assessment (FVA) for plan making and decision taking. In accordance with this framework, the applicant has submitted an FVA, this concluded that “The applicant intends on delivering an entirely affordable scheme. Our appraisal produces a negative profit and is therefore unviable. The scheme is therefore unable to deliver any non-housing s106 contributions that may be required in accordance with local planning policy”.

5.41 The LPA subsequently commissioned a review of the FVA by an independent property consultant. The review concluded that proposed 100% affordable housing scheme is unable to provide any S106 contributions. The review report further recommends a review of the GDV upon the commencement of the construction works. Requiring a financial contribution secured through a s.106 agreement would not comply with Regulation 122 of the Community Infrastructure Levy Regulations because the contribution would not be fairly and reasonably related in scale and kind to the development.

## **6.0 CONCLUSION**

6.1 The proposal would provide 14 new houses all of which would be affordable housing provided by a Registered Social Housing Provider, this complies with the NPPF and draft local plan policy H10 and its aim of encouraging higher rates of affordable provision. This has very significant weight in the planning balance. The proposed design and layout are appropriate to its surroundings and will have a neutral impact on the setting of the conservation area. The demolition of the garages would be an inconvenience to the users but would not have an unacceptable impact on highway safety; due regard has been given to the requirements of the Public Sector Equality Duty. The impact on the living conditions of neighbouring dwellings is not considered to be harmful. Planning conditions can address or mitigate all other material planning considerations. Subject to conditions and the completion of a legal agreement to secure affordable housing, the provision of housing is considered to outweigh any identified harms and the development would accord with the NPPF, and the draft Local Plan 2018.

## **7.0 RECOMMENDATION**

i That delegated authority be given to the Head of Planning and Development Services to APPROVE the application subject to:

a. The completion of a Section 106 Agreement to secure the following planning obligations:

- Affordable Housing: 100% provision  
CYC nominations to 75% of the social rent properties  
Review of the GDV upon the completion of the construction works

ii The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.

iii The Head of Planning and Development Services be given delegated authority to determine the final detail of the following planning conditions:

1 TIME2 Development start within three years

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

Drawing Number (02) 001 Revision A 'Site Location Plan' received 15 March 2022  
Drawing Number (02) 003 Revision I 'Proposed Site Plan' received 26 April 2023;  
Drawing Number (02) 006 'Replacement Storage Block for Existing Flats';  
Drawing Number (02) 100 Revision A 'Proposed Floor Plans House Type A 2B4P' received 17 January 2023;  
Drawing Number (02) 110 Revision # 'Proposed Floor Plans House Type A 3B5P' received 01 March 2022;  
Drawing Number (02) 200 Revision B 'Proposed Elevations House Type A 2B4P' received 14 February 2023;  
Drawing Number (02) 201 Revision A 'Proposed Elevations House Type B 3B5P' received 14 February 2023;

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

3 Samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority following the demolition of the garages but prior to the start of construction of the dwellings. The development shall be carried out using the approved materials.

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

Reason: So as to achieve a visually cohesive appearance.

4 All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday	0800 to 1800 hours
Saturday	0900 to 1300 hours

Not at all on Sundays and Bank Holidays

Reason: To protect the amenity of the occupants of the nearby dwellings.

5 Prior to the commencement of construction of the dwellings, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved CEMP, unless otherwise first approved in writing by the Local Planning Authority.

Reason: To protect the amenity of the locality. The information is sought prior to commencement to ensure that it is initiated at an appropriate point in the development procedure.

6 Following demolition of the garages but prior to commencement of construction of the dwellings, an investigation and risk assessment shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the dwellings. 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:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,
  - o ecological systems,
  - o 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 Following demolition of the garages but prior to commencement of construction of the dwellings, 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) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall 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 shall be carried out in accordance with its terms. A verification report that demonstrates the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority.

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

9 In the event that unexpected contamination is found at any time when carrying out the approved development, 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 submitted to and approved in writing by the Local Planning Authority. Following completion of the measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 No works shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include but not be limited to the following information:

- measures to prevent the egress of mud and other detritus onto the adjacent public highway;
  - a dilapidation survey jointly undertaken with the local highway authority;
- All works shall take place in accordance with the approved CTMP.

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 or the safe and free passage of highway users. The information is sought prior to commencement to ensure that it is initiated at an appropriate point in the development procedure.

11 Prior to the commencement of development, details regarding protection measures for hedge H8 (running along the western boundary of the site) shall be submitted to and approved in writing by the local planning authority. Amongst the detail the statement shall cover details and locations of protective fencing, ground protection, site rules and prohibitions, phasing of protection measures, site access during development operations, types of construction machinery/vehicles to be used, method of demolition and site clearance, parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of site compound. The document shall also include methodologies and construction details where specialist construction techniques are required for a change in surface material and/or boundary treatment within the potential root protection area of the hedge. A copy of the document shall be available for reference and inspection on site at all times. The development shall be implemented and carried out in full accordance with the approved details.

Reason: To protect the retained hedge. The information is sought prior to commencement to ensure that it is initiated at an appropriate point in the development procedure.

12 A biodiversity enhancement plan/drawing shall be submitted to and approved in writing by the local planning authority prior to the commencement of the construction of any dwelling. The plan shall be informed by the Preliminary Ecological Appraisal May 2024 and shall include, but not be limited to; 4 integrated features providing a roosting crevice for bats constructed within the fabric of the new

buildings; 4 boxes for nesting birds; 2 hedgehog houses; hedgehog holes in all partition fences; hedgehog holes every 20m in any perimeter boundary fencing; lighting design plan.

The development shall be carried out in accordance with the approved biodiversity enhancement plan/drawing.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 180 d) of the NPPF (December 2023) to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

13 No development shall take place (including ground works and vegetation removal) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities
- b) Identification of 'biodiversity protection zones'
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)
- d) The location and timing of sensitive works to avoid harm to biodiversity features
- e) The times during construction when specialist ecologists need to be present on site to oversee works
- f) Responsible persons and lines of communication
- g) The roles and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
- h) Use of protective fences, exclusion barriers and warning signs

The development shall take place (including ground works and vegetation removal) in accordance with the approved CEMP: Biodiversity.

Reason: To facilitate the protection of notable/sensitive ecological features and habitats on the application site and within the local area in line with Policy GI2 in the Publication Draft Local Plan (2018).

14 No vegetation removal or demolition works shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation and structures for active birds' nests immediately before the works and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To ensure that breeding birds are protected from harm during construction. All British birds, their nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

Informative: The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Suitable habitat is likely to contain nesting birds between 1st March and 31st August inclusive. As such habitat is present on the application site and is to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

15 Within three months of commencement of development a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants. This scheme as approved shall be implemented within a period of six months of the first occupation of the development. Any trees or plants forward of the front wall of any dwelling within the application site which 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: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species across the site, since the landscape scheme is integral to the amenity of the development and mitigation for lost trees.

16 The development shall be carried out in accordance with the details shown on the submitted Proposed Drainage Layout - Drawing Numbers P21-01451-MET-M2-C-002 Revision 5 (received 21 April 2023) and 403/02 (02) 003 Revision I (received 26 April 2023) and unless otherwise approved in writing by the local planning authority there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: In the interest of satisfactory and sustainable drainage and so that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

17 Prior to first occupation details/specification of the hard landscaping scheme including: gates and fences; ground surface finishes for driveways/parking, paths etc shall be submitted to and approved in writing by the Local Planning Authority. The

development shall be carried out in full accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details. In the interests of the character, appearance, and special interests of the area and the heritage assets.

18 The refuse bin storage areas for each dwelling shall be provided in accordance with the approved plans (as detailed in Drawing Number (02) 003 Revision I (received 26 April 2024) prior to first occupation. The facilities shall be retained for such use at all times.

Reason: To promote sustainable transport and in the interests of good design in accordance with section 12 of the NPPF. To ensure there is suitable refuse storage areas of the life of the development. So as to achieve a visually cohesive appearance.

19 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

20 Prior to the occupation of any dwelling, all carriageways and footways fronting that dwelling and along which access is required to that dwelling, shall be kerbed, lit and surfaced to at least base course level.

Reason: To provide a safe means of access.

21 Notwithstanding drawing number (02) 005 Revision # 'Proposed Bike & Garden Store received 14 February 2023 and drawing number (02) 003 revision I received 26 April 2023 prior commencement of the construction of any dwelling details of the cycle parking areas including their precise location and means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles unless otherwise approved in writing and clearly marked as such on the approved drawing.

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

22 The replacement storage blocks for the existing flats as shown on drawing



number (02) 006 Rev # shall be constructed in accordance with a timescale to be approved in writing by the local planning authority prior to the commencement of the demolition of any of the existing storage buildings.

Reason: In the interests of the residential amenities of the existing flats and to ensure the continued provision of cycle and mobility scooter storage in the interests of sustainable and active travel.

23 Prior to the commencement of any works to the rear garden area of the existing flats details of re-provided clothes drying facilities and a timescale for their provision shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be provided in accordance with the approved details.

Reason: In the interests of the residential amenities of the existing flats and in the interests of sustainable development.

24 The new build dwellings shall achieve a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations). The fabric energy efficiency shall achieve a 19% or more reduction in carbon emissions (compared to the target emission rate as required under Part L of the Building Regulations 2013).

The Target Emission Rate (TER) for the new-build dwellings should be calculated using version 10 of the Standard Assessment Procedure (SAP) and submitted to the Local Planning Authority prior to construction to demonstrate that an overall reduction in carbon emissions of at least 75% above Part L of the Building Regulations 2013 is achieved. If a reduction of 75% or more cannot be achieved a statement shall be submitted to demonstrate that such a reduction would not be feasible or viable, and shall be approved in writing by the Local Planning Authority prior to construction.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policy CC2 of the Draft Local Plan 2018.

25 The management recommendations 1, 2 and 3 for the hedge H8 contained in the Addendum to Arboricultural Impact Assessment issued 07 October 2024 shall be carried out as recommended in Table 1 of the Assessment.

Reason: To maintain the integrity of the hedge in the interests of the visual amenity of the area.

## **8.0 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 (paragraph 38) 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:

- Request additional information
- Request revised plans
- Use of conditions

## 2. Informative - bats

It is noted that the flats (1 to 8 Garthway) offer suitable features for roosting bats, as detailed in paragraph 8.2.3.2 of the Preliminary Ecological Appraisal. As such, no works to these units shall be carried out without further consultation. Additional bat presence/absence surveys will be required prior to the commencement of any required works.

In the UK, due to the decline in bat numbers in the last century, all species of bat are protected by the Wildlife & Countryside Act (1981) as amended, Countryside and Rights of Way Act (2000) and the Conservation of Habitats and Species Regulations 2017 (as amended). Planning consent for a development does not provide a defence against prosecution under this act. Because of their protected status, it should be noted that if bats are discovered during the course of the work, all works must cease and Natural England must be informed immediately. It is an offence for anyone to disturb or handle a bat without the appropriate licences. This may cause some delay but should not prevent the work continuing, provided that due account is taken of their presence.

## 3. Informative - hedgehogs

To ensure hedgehogs can make use of the gardens within the proposed development the applicant is advised to consider using permeable fencing or leaving occasional gaps suitable to allow passage of hedgehogs. Any potential hibernation sites including log piles should be removed outside the hibernation period (which is between November and March inclusive) in order to avoid killing or injuring hedgehog.

Hedgehogs are of priority conservation concern and are a Species of Principal Importance under section 41 of the NERC Act (2006). An important factor in their recent population decline is that fencing and walls are becoming more secure, reducing their movements and the amount of land available to them. Small gaps of approximately 13x13cm can be left at the base of fencing to allow hedgehogs to

pass through. Habitat enhancement for hedgehogs can easily be incorporated into developments, for example through provision of purpose-built hedgehog shelters or log piles.

<https://www.britishhedgehogs.org.uk/wp-content/uploads/2019/05/developers-1.pdf>

4. If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), they should contact our Developer Services Team (telephone 03451 208 482, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption - a design and construction guide for developers' as supplemented by Yorkshire Water's requirements.

#### 5. Internal Drainage Board's Consent

Under the Land Drainage Act 1991 and the Boards' byelaws, the Board's prior written consent (outside of the planning process) is needed for:-

- a) any connection into a Board maintained watercourse, or any ordinary watercourse in the Board's district.
- b) any discharge, or change in the rate of discharge, into a Board maintained watercourse, or any ordinary watercourse in the Board's district. This applies whether the discharge enters the watercourse either directly or indirectly (i.e. via a third party asset such as a mains sewer).
- c) works within or over a Board maintained watercourse, or any ordinary watercourse in the Board's district - for example, land drainage, an outfall structure, bridges, culverting etc.

Please note that the Board does not, generally, own any watercourses and the requirement for you to obtain the Board's consent is in addition to you obtaining consent from any land owner or other authority to carry out the relevant works.

Full details of the Consent process can be found on our website:-  
<http://www.yorkconsort.gov.uk>

#### 6. INFORMATIVE:

You are advised that this proposal may have an effect 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.

#### 7. AVOIDING DAMAGE TO THE HIGHWAY GRASS VERGE

Applicants/Developers are reminded that great care should be taken to ensure that no damage to the surface or structure of the public highway is caused, by activities

relating directly to the approved development (e.g. delivery of building materials via HGV's). The Council is particularly concerned at the increasing impacts and damage occurring to grass verges. This is detrimental to residential amenity, can present safety issues and places an unreasonable financial burden on the Council, if repairs are subsequently deemed necessary. Therefore, applicants/developers are strongly advised to work proactively with their appointed contractors and delivery companies to ensure that their vehicles avoid both parking and manoeuvring on areas of the public highway (grass verges) which are susceptible to damage. The council wishes to remind applicants that legislation (Highways Act 1980) is available to the authority to recover any costs (incurred in making good damage) from persons who can be shown to have damaged the highway, including verges. If the development is likely to require the temporary storage of building materials on the highway, then it is necessary to apply for a licence to do so. In the first instance please email [highway.regulation@york.gov.uk](mailto:highway.regulation@york.gov.uk), with details of the site location, planning application reference, anticipated materials, timelines and volume. Please refer to the Council website for further details, associated fees and the application form.

## 8. 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).

## 9. INFORMATIVE:

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:

- Adoption of highway (Section 38) - [development.adoption@york.gov.uk](mailto:development.adoption@york.gov.uk)
- Agreements as to execution of works (Section 278) - [development.adoption@york.gov.uk](mailto:development.adoption@york.gov.uk)
- Works in the highway (Section 171) - [streetworks@york.gov.uk](mailto:streetworks@york.gov.uk)
- Temporary highway closure (Road Traffic Regulation Act 1984, Section 14) [highway.regulation@york.gov.uk](mailto:highway.regulation@york.gov.uk)
- Footpath/bridleway diversion (Town and Country Planning Act 1990, Section 257)

## CONDITION 5 – INFORMATION REQUIRED FOR CEMP

NOTE: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situations, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may result in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by

email to the following addresses [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) and  
[planning.enforcement@york.gov.uk](mailto:planning.enforcement@york.gov.uk)

**Contact details:**

**Case Officer:** Victoria Bell

**Tel No:** 01904 551347