

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

Page 1 of 13

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 20th 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.

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