

West & City Centre Area Planning Sub-Committee

To: Councillors Watson (Chair), Funnell, Galvin, Gillies (Vice-Chair), Jeffries, Looker, Orrell, Reid and Semlyen

Date: Thursday, 16 August 2012

Time: 3.00 pm

Venue: The Guildhall, York

AGENDA

Site visits for this meeting will commence at 11.00am on Wednesday 15 August 2012 at Memorial Gardens.

1. Declarations of Interest

At this point, Members are asked to declare any personal, prejudicial or disclosable pecuniary interest they may have in the business on this agenda.

2. Minutes (Pages 5 - 18)

To approve and sign the minutes of the meetings of the West & City Centre Area Planning Sub-Committee held on 14 June and 12 July 2012.

3. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by 5pm the working day before the meeting, in this case **5pm on Wednesday 15 August**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

4. Plans List

To determine the following planning applications related to the West and City Centre Area.

- a) 1 Salisbury Road York YO26 4YN (12/01921/FUL)** (Pages 19 - 28)
Change of use from residential (use class C3) to House in Multiple Occupation (use class C4). [*Holgate Ward*] [**Site Visit**]
- b) 76 The Mount York YO24 1AR (12/01253/FUL)** (Pages 29 - 38)
Change of use from sandwich shop (Class A1) to hot food takeaway (Class A5) and installation of kitchen flue to rear (resubmission). [*Micklegate Ward*] [**Site Visit**]
- c) Bora Bora, 5 Swinegate Court East, Grape Lane, York YO1 8AJ (12/01249/FUL)** (Pages 39 - 46)
Change of use from cafe (use class A3) to drinking establishment (use class A4) [*Guildhall Ward*] [**Site Visit**]
- d) 47 Albermarle Road, York, YO23 1EP (12/02192/FUL)**
(Pages 47 - 52)
Single storey rear extension and dormers to front and rear. [*Micklegate Ward*]
- e) 31 Albemarle Road, York, YO23 1EW (12/02238/FUL)**
(Pages 53 - 60)
Detached store to rear (resubmission) [*Micklegate Ward*] [**Site Visit**]
- f) Flat 1, 99 Nunnery Lane, York, YO23 1AH (12/01961/FUL)**
(Pages 61 - 66)
Creation of 3no. flats (retrospective) [*Micklegate Ward*]
- g) Fox and Hounds 39 Top Lane Copmanthorpe York YO23 3UH (11/02985/FULM)** (Pages 67 - 84)
Construction of 11no. Dwellings following demolition of existing public house. [*Rural West York*] [**Site Visit**]

- h) **Lucia Bar And Grill, 9 - 13 Swinegate Court East, Grape Lane, York, YO1 8AJ (12/01910FUL)** (Pages 85 - 94)

Change of use to mixed use ground floor restaurant and first floor bar (retrospective) [*Guildhall Ward*] **[Site Visit]**

- i) **2 Kings Court York YO1 7LD (12/02419/FUL)** (Pages 95 - 104)

Use of the highway (Kings Square) for tables and chairs in connection with Chocolate, 2 Kings Court. [*Guildhall Ward*] **[Site Visit]**

- j) **Land Between Sports Field and Westview Close, York (12/01911/OUTM)** (Pages 105 - 120)

Erection of 13no. dwellings and associated infrastructure. [*Rural West York Ward*] **[Site Visit]**

5. Appeals Performance and Decision Summaries
(Pages 121 - 140)

This report (presented to both Sub Committees and Main Planning Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1st April to 30th June 2012, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

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

Democracy Officers:

Name: Catherine Clarke and Louise Cook (job share)

Contact Details:

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

(If contacting us by e-mail, please send to both democracy officers named above)

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

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

Contact details are set out above.

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Further information about what's being discussed at this meeting

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

Scrutiny Committees

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

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

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WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE

SITE VISITS

Wednesday 15 August 2012

**Members of the sub-committee meet at Memorial Gardens at
11.00am**

TIME (Approx)	SITE	ITEM
11.10	1 Salisbury Road	4a
11.30	Land at Westview Close	4j
12:00	Fox and Hounds, Top Lane, Copmanthorpe	4g
13:20	31 Albemarle Road	4e
13:40	76 The Mount	4b
14:10	Bora Bora, 5 Swinegate Court East	4c
14:30	Lucia Bar And Grill, 9 - 13 Swinegate Court East	4h
14:50	Chocolate, 2 Kings Court	4i

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City of York Council

Committee Minutes

MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	14 JUNE 2012
PRESENT	COUNCILLORS WATSON (CHAIR), GALVIN, JEFFRIES, LOOKER, ORRELL, SEMLYEN, WILLIAMS (AS A SUBSTITUTE FOR CLLR FUNNELL) AND RICHARDSON (AS A SUBSTITUTE FOR CLLR GILLIES)
APOLOGIES	COUNCILLORS FUNNELL, GILLIES AND REID

1. INSPECTION OF SITES

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
Springfield Farm, Appleton Road, Bishopthorpe	Councillors Galvin, Jeffries, Richardson, Semlyen and Watson.	As objections has been received and the officer recommendation was to approve.
34 St Marys	Councillors Galvin, Jeffries, Looker, Richardson, Semlyen and Watson.	At the request of Councillor Gillies.

2. DECLARATIONS OF INTEREST

At this point in the meeting, members were invited to declare any personal or prejudicial interests they might have in the business on the agenda.

Councillor Galvin declared a personal non prejudicial interest in plans item 4d (Springfield Farm, Appleton Road, Bishopthorpe) as a resident had spoken to him regarding the application but he confirmed that he had not expressed a view on the application.

Councillor Jeffries also declared a personal non prejudicial interest in plans item 4d (Springfield Farm, Appleton Road, Bishopthorpe) as the applicant's son was a friend of hers.

3. MINUTES

RESOLVED: That the minutes of the last meeting of the West and City Centre Area Planning Sub-Committee held on 19 April 2012 be approved and signed by the chair as a correct record.

4. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

5. PLANS LIST

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

5a 34 Cranbrook Road, York, YO26 5JA (12/01424/FUL)

Members considered a full application from Mr G Peters for a single storey front and side extension.

RESOLVED: That the application be approved subject to the conditions listed in the report.

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the residential amenity of neighbours or the impact upon the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan and

City of York Supplementary Planning
Guidance to Householders (Approved March
2001).

5b 9 Cranbrook Road, York, YO26 5JB (12/01836/FUL)

Members considered a full application from Mr Rob Graham for a two storey side, single storey rear extension and porch to the front.

RESOLVED: That delegated authority be given to officers to approve the application in consultation with the chair and vice-chair of the sub-committee following the end of the consultation period (15 June 2012).

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on residential amenity and the impact on the streetscene. As such the proposal complies with Policies GP1 and H7 of the City of York Development Control Local Plan and the 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance.

5c 34 St Marys, York, YO30 7DD (12/01006/FUL)

Members considered a full application for alterations to the garage to form a room in the roof.

Officers advised members that their recommendation to refuse the application was due to the impact of the increased height and massing on both the conservation area and on the living conditions of the neighbouring property as a result of loss of outlook.

The Conservation Architect confirmed that at present, the garage sits quite low on the site which preserves the openness of the area behind the houses across the railway line to the tree cover which is important to the character of the street. However

this application to increase the height of the garage would change this.

Representations were received from a neighbour in objection to the application. He circulated a set of photographs of the garage for Members information. He explained that the garage had been allowed as an exception as the impact on the street scene was reduced due to its height, however these proposals would lead to a considerable increase in both height and size. This would lead to the neighbour at no 35 having to look out onto a large blank wall and the garage would become a large presence in the garden. He agreed that it would harm the character and appearance of the conservation area.

Representations were also received from the applicant in support of the application. He pointed out that the increase in height was less than 5ft stating this would not harm the setting nor the view from the street to the railway line. He advised Members that care had been taken with the design of garage to maintain the relationship with host dwelling, the gable feature of the garage reflecting that of the main house. He explained that he was a publisher and needed the extra space above the garage for storage of books, as there was no longer sufficient space in the house to store them and they were currently in a storage facility which caused problems for access.

Members acknowledged officers concerns regarding the increased height and mass of the building and its impact on neighbours and the conservation area, particularly the possible loss of views from St Marys across the railway line and beyond and noted that some loss of view has already occurred due to other development which has taken place on the street.

Members asked whether it would be practical to condition limiting the use of the additional first floor to storage but having taken advice from planning officers, agreed that the use of the garage extension for any purpose incidental to the use of the house was acceptable and a condition was not necessary.

Members expressed the view that it was an admirable scheme which would enhance the look of the house. Members concluded that the proposed changes would not significantly harm either the conservation area or the neighbour's amenity.

RESOLVED: That the application be approved and delegation be given to officers to issue the decision subject to conditions requiring matching materials and compliance with the approved plans.

REASON: The proposal, subject to conditions agreed, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the character and appearance of the conservation area and the living conditions of the adjacent property. As such the proposal complies with Policies GP1 and HE2 of the City of York Development Control Local Plan.

5d Springfield Farm, Appleton Road, Bishopthorpe, York, YO23 2XA (12/01117/FUL)

Members considered a full application from Mr R J Edmondson for the erection of a 15 metre (to hub) high wind turbine (resubmission).

Officers clarified that any references to “Proven” within the appraisal should be replaced by “Kingspan KW6 turbine”, which was the new name for the Proven turbine which had been proposed in the previous application.

Officers advised that a further representation had been received from a previous objector stating that the Proven and Kingspan KW6 were not the same and the Proven model had a cut off device for higher wind speeds, whereas the Kingspan does not. It asked that, if the application is approved they would like confirmation that the noise levels would be monitored, and action taken to ensure the readings are not above the background level outside the dwellings.

Officers also advised the Committee of the consultation response which had been received from the Ecology Officer. In response to residents observations of a large flock of starlings in the area, the Ecology Officer advised that the location of the turbine in the centre of the field was not thought to be within any major migratory routes and taking into account the proposed location, surrounding area and size of turbine, it was not

considered that any further information or survey work is required as part of this application.

With regard to bats, the Ecology Officer confirmed that the turbine was not close to any potential roosting sites, commuting corridors, mature trees and other areas of good foraging habitat. Furthermore there were no known/recorded bat roosts within close proximity.

The Ecology Officer acknowledged that, whilst individually, this proposed turbine and the other small turbine on adjacent land at Park Farm, were considered unlikely to have any significant impact on local wildlife, there was a potential for a cumulative impact, and if additional turbines were proposed within the area in the future, then these issues would need to be taken into account and further survey information may be required.

Members took account of the noise survey submitted with the application and agreed that it was unlikely that noise from the turbine would be an issue. Members also agreed that the trees in the area would limit the visual impact of the turbine from Temple Lane.

RESOLVED: That the application be approved subject to the conditions listed in the report.

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the locality and the greenbelt. As such, the proposal complies with Policies GP1, GB1, and GP5 of the City of York Council Development Control Local Plan (2005); national planning guidance contained in the National Planning Policy Framework and "Planning for Renewable Energy - A Companion Guide to PPS22".

Councillor B Watson, Chair
[The meeting started at 3.00 pm and finished at 4.00 pm].

MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	12 JULY 2012
PRESENT	COUNCILLORS WATSON (CHAIR), FUNNELL, GALVIN, GILLIES (VICE-CHAIR), JEFFRIES, LOOKER, ORRELL, REID AND SEMLYEN

6. INSPECTION OF SITES

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
10 Bankside Close, Upper Poppleton	Councillor Watson	As objections has been received and the officer recommendation was to approve.

7. DECLARATIONS OF INTEREST

At this point in the meeting, members were invited to declare any personal or prejudicial interests they might have in the business on the agenda. No interests were declared.

8. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That members of the press and public be excluded from the meeting during consideration of Annex A to agenda item 6 (Enforcement Cases Update) (Minute 11 refers) on the grounds that it contains information that if disclosed to the public, would reveal that the Authority proposes to give, under any enactment or notice by virtue of which requirements are imposed on a person or that the Authority proposes to make an order or directive under any enactment. This information is classed as exempt under

Paragraphs 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

9. MINUTES

RESOLVED: That consideration of the minutes of the last meeting of the West and City Centre Area Planning Sub Committee held on 14 June be deferred until the next meeting of the committee.

10. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

11. PLANS LIST

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

11a 10 Bankside Close, Upper Poppleton, York, YO26 6LH (12/00921/FUL)

Members considered a full application from Mr Mark Harris for the erection of a two storey detached dwelling and detached garage (revised scheme)

Officer provided an update. They advised Members that the two storey side extension to the host dwelling had been removed from the application.

They reported that the Flood Risk Team had commented on the revised proposals for the surface water drainage (submitted 27 June 2012), they objected to the scheme on the grounds of insufficient information but considered that this could be

overcome by an additional condition which would replace Condition 8 (DRAIN1). Officers also suggested that condition HT1 (7.1metres) is included.

They reported that two representations had been received from Upper Poppleton Parish council in objection to the revised scheme which raised the following concerns:

- Proposed development is an over development of a green space in a quiet residential area
- Original objections still stand
- Restrictive covenant on the building preventing further dwellings to be built within the original plots
- Drainage would be inadequate, Yorkshire Water have adopted the a drain and the applicant is proposing to build over this sewer
- Agree with the neighbours objections to the scheme

Two further objections had also been received from neighbours raising following concerns:

- Similar development was refused at 13 Bankside Close, 04/02272/FUL, decision sets a precedent.
- Application sets a precedent for further development
- The front and west elevation of the proposed dwelling is larger than the refused, the two storey extension has been removed, the application should be refused on the same grounds
- The proposed dwelling has a larger front elevation than the other dwellings within Bankside Close
- Contrary to Policies GP1, GP9 and GP10 and Guideline 4, 11, 12, and 16 of the Poppleton Village Design Statement
- Changes the nature of the gaps between the buildings in Bankside Close, loose the symmetry of the gaps
- The outlook to the north of Bankside Close would alter
- The footprint of the new dwelling has reduced, however it remains larger that the host property, not a similar scale to the host dwelling
- The loss of the green space from the proposed dwelling and garage, the green space is a link between the Main Street green space and the Bankside green space, Bankside green is currently visited by owls and other wildlife, breaking this link will result in a loss of amenity to the area

- The depth of the proposed garage is excessive when viewed in the context of the surrounding properties; no other garage in the area has the same door arrangement
- No other building in Bankside Close has the same level of off street parking (4 spaces) as proposed for the proposed dwelling
- The host dwelling currently has 4 off street parking spaces, the proposal will result in the dwelling having no garage provision, and every other dwelling in Bankside Close has a garage
- The majority of off street parking in Bankside Close is to the front of garages and to the side of the dwelling, to accommodate the proposed excessive parking provision requires the parking to be located in front of the new dwelling
- Will cause overlooking, loss of outlook, and a sense of enclosure to the dwellings on Riversvale Drive
- There is an adopted sewer running to the front of 10 Bankside Close, the proposed garage and attenuation tank will be located in the same place as the sewer. Legal agreement is required from Yorkshire Water regarding the sewer and may result in the surface water and the garage not being capable of construction. As such inappropriate to allow the current proposal
- Restrictive covenant on 10 Bankside Close stating “No building other than one dwellinghouse (or bungalow) with the usual out offices and garages shall be erected” on the land.

Officers confirmed that the applicant has agreed to the open space payment that is subject of Condition 3.

Representations were received from a local resident in objection to the application. He raised the following concerns:

- A restrictive covenant exists across all of the properties on Bankside Close. Specifically in relation to numbers, 6, 8 and 10, this states that no more than 1 dwelling house should be erected on each plot. This was established to protect local residents and preserve the unique character of the green and surrounding properties.
- Any decision taken by the committee could prejudice the rights of those protected by the restricted covenant.
- The applicant should have addressed the restrictive covenant before entering into the planning process and should have consulted with local residents.

Planning officers advised the speaker and committee members that the restrictive covenant was not a matter for members to take into account and that granting planning permission would not override any private property rights therefore did not affect the covenant in that respect.

A second local resident, a pensioner living on Riversvale Drive, had registered to speak at the meeting but due to family illness she was not able to attend. Councillor Healey read out a statement to the committee on her behalf which put forward the following points:

- Proposed house is a large building which has 4 windows that would look directly over her house and garden.
- Building would be south of her bungalow and because of its size, in the winter would reduce sunlight to her property.
- An application was previously refused for overlooking the gardens of 16, 17 and 18 Riversvale Drive from No 8 Bankside Close (08/00328/FUL) Reasons for refusal included the rear window causing overlooking and loss of privacy in the garden Distances between her property and proposed property are less than for application which was refused.

Representations were received from a third local resident in objection. He made the following points:

- The applicant has not consulted with residents as required by NPPF para 66.
- The garage design is unlike any other garage design with vehicle doors front and rear as well as front pedestrian doors. This is not consistent with the area. The width of the garage extends from boundary to boundary creating enclosure to the open link to Main Street.
- The garage is located above a public sewer and the surface water attenuation clashes with the sewer. Best practice is not to build over sewers .
- The new dwelling's garage is 34% bigger than existing garage and has 4 parking spaces and 2.7 times the size of the proposed garage to the host property, which has 2 parking spaces. This is huge and uncharacteristic with the existing provision for the area. Fails to meet GP1, GP10 and Village Design guidelines 11, 12, 16 and 17.
- New dwelling is bigger than existing dwelling and no 12 Bankside Close. It is also larger in front elevation than any

of surrounding dwellings and is built forward of the existing building line to the host building with overlooking issues in relation to the rear elevation.

- Applicant failed to provide further information on the drainage design required as part of the previous submission, and later added an attenuation tank..
- Flood Management Team still opposes proposal.
- Poor quality of design.

Representations were received from a fourth local resident who raised concerns regarding inconsistencies and/or omissions in the report. He expressed the following concerns:

- Massing and bulk (including scale) – house is bigger by 34% with regard to the frontage and side & rear elevations than that previous application which was refused.
- Overlooking – a previous application at no 8 Bankside Close was refused partly on the grounds of overlooking properties in Riversdale Drive.
- Gaps – the gap between the two properties (4.8m) is a large increase but still substantially smaller than existing symmetry between 6, 8 and 10 and is therefore inconsistent with the area. There is a door from no 10 onto the proposed narrow drive.
- Loss of green space, enclosure and effect on wildlife – loss of existing garden, width of house and paving reduces area of green space. Wildlife aspect and corridor to Main Street is not referred to in the report. Overspill parking and turning area reduced.
- Water drainage – insufficient evident that proposals can be achieved and do not deal adequately with observations in previous refusal.
- Garage – now enlarged and designed appears inconsistent with use as a garage – also 4 parking spaces.
- Residential amenity – submitted plans do not show trees to Main St side of property and the windows on that side of the property. Proximity of trees and shade produced leading to poor level of residential amenity was a reason for refusal of application at no 13.

Councillor Healey, Ward Member for Rural West York Ward asked Members to consider refusing the application for the following reasons:

- The proposed dwelling would impose a mass and density out of character with the close. Other properties in the

close have had applications refused for reasons of massing and density.

- Surface Water Sewer – Yorkshire Water objected due to insufficient details of how the applicant intends to deal with surface water. The use of an attenuation tank is not best practice.
- Recommend committee members undertake a site visit to put issues into context.

Officers advised the Committee that Yorkshire Water had not commented nor objected to the scheme but that an additional condition had been recommended by our Flood Risk Engineers. They explained that the foul sewer runs across the entire frontage including the land where the garage would be located. There is a possibility that Yorkshire Water may agree to a building over agreement or to diverting the sewer, but if not, the garage could not be built in current proposed position. However this could be looked at later in the process. They advised that there were different options for the attenuation tank and this was not seen as a problem. Members asked for confirmation of the path of the water course to Main Street.

Members agreed that due to the fact that only one member of the Committee had been able to attend the site visit, and that fact that there were a significant number of objections to this application, they did not feel in a position to make a decision at the meeting. They agreed to defer the application to allow a further site visit to take place.

RESOLVED: That consideration of this application be deferred until the next meeting of the Committee.

REASON: In order that Members are given a further opportunity to undertake a site visit before making a decision.

11b 10 Beech Grove, York, YO26 5LB (12/01810/FUL)

Members considered a full application from Mr and Mrs Whaley for a single storey rear extension.

RESOLVED: That the application be approved subject to the conditions listed in the report.

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on residential amenity and the impact on the streetscene. As such the proposal complies with Policies GP1 and H7 of the City of York Development Control Local Plan and the 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance.

12. ENFORCEMENT CASES UPDATE

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

RESOLVED: That the report be noted.

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

Councillor B Watson, Chair
[The meeting started at 2.00 pm and finished at 3.15 pm].

COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Holgate
Team: Major and **Parish:** Holgate Planning Panel
Commercial Team

Reference: 12/01921/FUL
Application at: 1 Salisbury Road York YO26 4YN
For: Change of use from residential (use class C3) to House in Multiple Occupation (use class C4)
By: Mr Mark Hutchinson
Application Type: Full Application
Target Date: 2 August 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks planning permission to convert a three bedroom single occupancy dwelling house (Use Class C3) into a three bedroom house in multiple occupation (HMO) (Use Class C4). The application site is a detached two storey dwelling located at the junction of Livingstone Street and Salisbury Road. It sits in a triangular shaped plot which has a large front garden and a small rear yard. A driveway leads to a detached garage to the side. The site is situated behind a high close boarded fence with mature conifer hedging behind and as such is partially screened from the highway. The surrounding neighbourhood comprises of semi-detached dwelling and terrace properties.

1.2 The applicant has stated that he intends to let the property to professionals and not to students and that he owns two additional properties in York which are both let to professionals.

1.3 The application does not seek permission for any external alterations or extensions.

1.4 The application is being brought to committee at the request of Cllr Crisp and Cllr Alexander on the grounds for objection listed in paragraph 3.4.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Floodzone 3 GMS Flood Zone 3

Schools GMS Constraints: St. Barnabas' CE Primary 0224

York North West Boundary GMS Constraints: York North West Boundary CONF

2.2 Policies:

CYH8

Conversion to flats/HMO/student accom

3.0 CONSULTATIONS

INTERNAL

Integrated Strategy Team

3.1 The application site falls within a neighbourhood area where 1.6% of properties are shared houses. Within 100m of the property 3% are shared houses. As such, in accordance with the provisions of the Draft HMO SPD the neighbourhood and street level threshold have not been breached and further change of use to HMO is likely to be acceptable. Albeit an assessment of residential amenity (bin storage, parking etc.) and the ability of the area to absorb further change should also be undertaken.

EXTERNAL

Holgate Planning Panel

3.2 No objections

Neighbours

3.3 Letters of objection from 3, 5, 7, 9 and 11 Salisbury Road object on the following grounds:

- Change of use does not sit with the intended use of the house or the street
- It is the only detached dwelling in the area
- The street has long standing residents and is family focused
- Many other HMOs in the area
- Should not turn a family home into a HMO
- Only one off street car parking space (and the garage) would lead to additional on street parking to an already congested area
- Could lead to increased crime and vandalism
- Who would be responsible for the upkeep of the garden

Ward Councillors

3.4 Comments from Cllr Crisp and Cllr Alexander objecting on the following grounds:

- Lack of family homes within this small area of Holgate Ward
- History of homes in the area being subdivided into flats
- Transient population threatening the community aspect of the area
- The increase in HMOs, flats and micro flats has led to an increase in fly tipping and general lack of respect for the area
- More likely to have additional cars than if it were to remain as a family house

4.0 APPRAISAL

4.1 KEY ISSUES:

- Principle of development;
- Impact on the character and appearance of the area;
- Impact on the amenities of local residents;

4.2 THE NATIONAL PLANNING POLICY FRAMEWORK (2012) sets out the Government's overarching planning policies. As one of 12 core planning principles, it states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17). It also states that in order to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities the local planning authority should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

4.3 DRAFT SUPPLEMENTARY PLANNING DOCUMENT – “Controlling the concentration of Houses in Multiple Occupancy”. This document was approved by Cabinet on 15 April 2012. This guidance has been prepared in connection with an Article 4 Direction that City of York Council placed on all houses within the defined urban area, bringing within planning control the change of use of dwellings (Class C3) to small HMO's occupied by between 3 and 6 people (Class C4). The new SPD advises applications for change of use from dwellings to HMO's will be permitted where:

- a) The property is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent and are known to the Council to be HMOs; and

b) Less than 10% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent and are known to the Council to be HMOs; and

c) The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.

4.4 DEVELOPMENT CONTROL LOCAL PLAN POLICY CYH8 - "Conversions".

Policy H8 sets out the criteria by which conversions of houses to HMO's should be assessed. On this basis planning permission will only be granted for the conversion of a house to a HMO where:

- the dwelling is of sufficient size (min 4 bedrooms) and the internal layout is shown to be suitable for the proposed number of households or occupants and will protect residential amenity for future residents;
- external alterations would not harm the appearance of the area;
- adequate on and off road parking and cycle parking is incorporated;
- it would not create an adverse impact on neighbouring amenity through noise disturbance or residential character by virtue of the conversion alone or cumulatively with a concentration of such uses;
- adequate provision is made for the storage and collection of refuse and recycling.

PRINCIPAL OF CHANGE OF USE

4.5 The application site is a detached three bedroom dwelling located at the junction of Livingstone Street and Salisbury Road. It lies within a sustainable location in an established residential area within a convenient distance from local amenities and good transport links to the city centre. The property would continue to use the three first floor bedrooms and retain the ground floor as existing, being a small kitchen with open dining room and living room. The ground floor would be communal with each bedroom being private. The external amenity space would be shared between the occupants.

4.6 Information received from the Council's Integrated Strategy Team has confirmed that 1 Salisbury Road falls within a neighbourhood area where 1.6% of properties are shared houses. Within 100m of the property 3% are shared houses. It is worth noting that as the application site lies at a junction the 100m street frontage calculation includes properties along Salisbury Road, Salisbury Terrace, Lincoln Street, Livingstone Street, Chudleigh Road, Bromley Street and Albany Street. As such, in accordance with the provisions of the HMO SPD the neighbourhood and street level threshold have not been breached and further change of use to HMO is likely to be acceptable. Albeit an assessment of residential amenity (bin storage,

parking etc.) and the ability of the area to absorb further change of use should also be undertaken.

4.7 With regard to Policy H8 it states that changes of use to HMOs will only be granted where the house has 4 bedrooms. When the policy was written planning permission was not required for the change of use of a dwelling to allow 3 unrelated people to live together, only 6 or more. As such the bedroom requirement was considered reasonable to accommodate such a number of tenants. However, with the removal of permitted development rights and the requirement for an application it appears outdated and unreasonable to attach significant weight to this aspect of the policy.

IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA

4.8 The internal and external layout is suitable for three occupants in terms of providing a reasonable level of residential amenity. The site has a small rear garden area but has ample space to the front. This area is located behind the existing boundary hedge and fence and as such is relatively private. The property has a detached garage, which appears large enough to accommodate bicycles and bin storage. In addition the applicant is proposing two additional off street car parking spaces adjacent to the existing drive, giving a total of three off-street spaces. As there are no external alterations proposed there would not be any visual impact upon the character of the area as a result of the change of use. On balance it is not considered the proposal has a negative effect on the residential character of the area.

MANAGEMENT PLAN

4.9 The applicant has submitted supporting information described as a maintenance plan to protect the amenity of the adjacent occupiers. The supporting information has stated that there would be three off street parking places as well as cycle storage and bin storage in the garage. In addition arrangements for garden maintenance / grass cutting, regular maintenance and cleaning are to be undertaken by the applicant. The implementation of a comprehensive management plan would be required and can be controlled by condition, which would provide an opportunity for any problems that may arise to be referred to the applicant. The occupiers are required to adhere to the plan at all times.

RESIDENTIAL AMENITY

4.10 The applicant has supplied appropriate plans that clearly demonstrate the property would provide adequately sized accommodation suitable for three occupants. The property is a detached dwelling and as such the potential of noise disturbance arising from internal noises is minimal. On this basis it is not considered

the proposed change of use would have a detrimental impact on adjacent residential amenity.

5.0 CONCLUSION

5.1 It is considered that the proposed change of use accords with the supplementary planning guidance 'Controlling the concentration of Houses in Multiple Occupancy'. Adequate off street parking has been provided and the applicant has agreed to enter into a management plan. Officers recommend approval.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

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

Plans received 18th May 2012

Letter and plan dated 24th July 2012

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

3 Prior to the commencement of the development hereby approved, a management plan shall be submitted to and approved in writing by the Local Planning Authority, to include arrangements for the regular maintenance of the front garden, including boundaries, and the storage of bins and recycling boxes within the site. The approved management plan shall be implemented prior to occupation and shall subsequently be adhered to at all times.

Reason: In the interests of visual amenity and the amenity of adjacent occupiers.

7.0 INFORMATIVES:

REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity and the impact on the character and appearance of the area. As such the proposal complies with Policy H8 of the City of York Development Control Local Plan, and the Council's Supplementary Planning Document: 'Controlling the concentration of Houses in Multiple Occupancy' (2012).

Application Reference Number: 12/01921/FUL

Item No: 4a

Page 6 of 7

Contact details:

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Tel No: 01904 551352

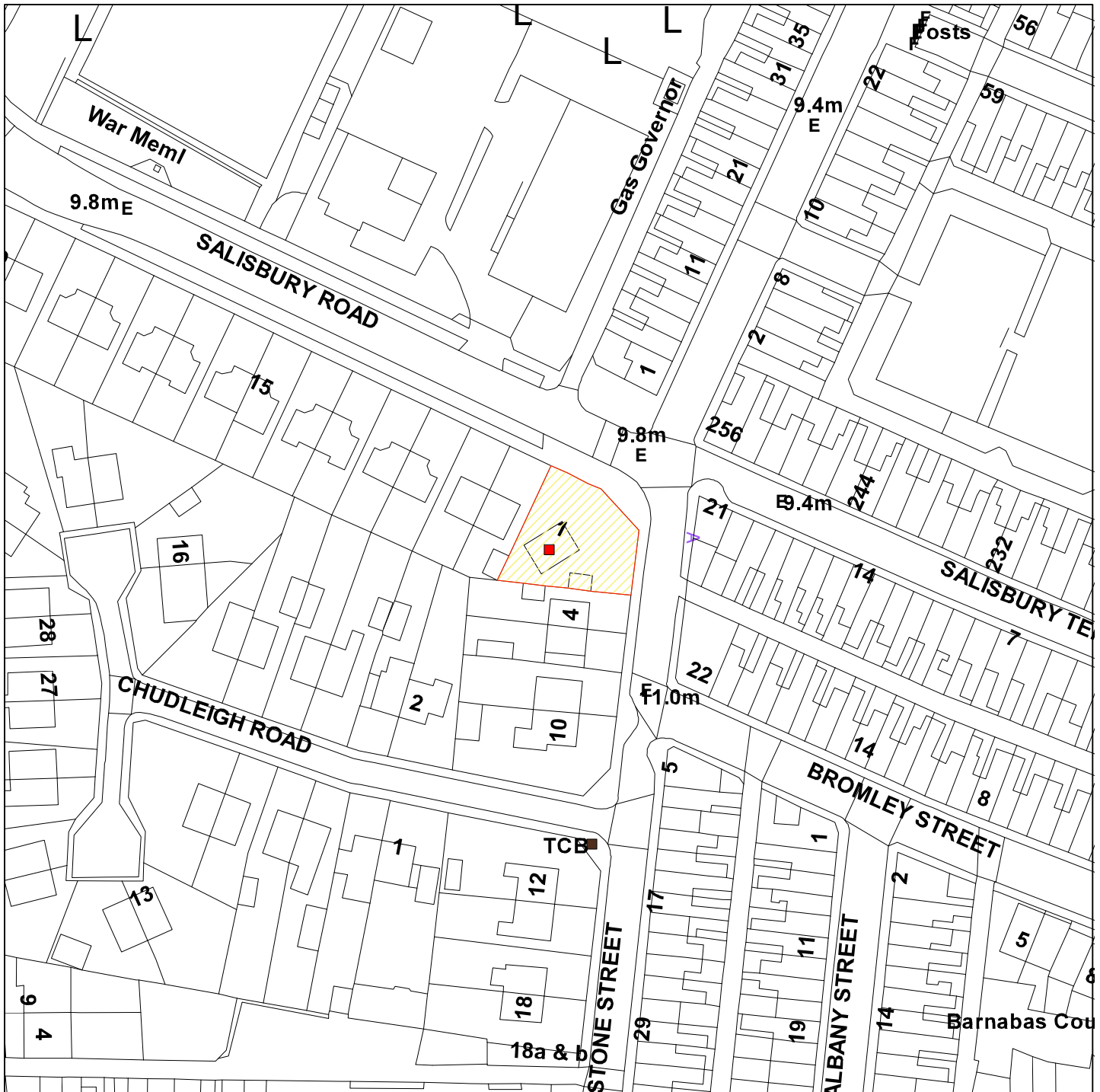
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12/01921/FUL

1 Salisbury Road, YO26 4YN



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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	06 August 2012
SLA Number	Not Set

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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Micklegate
Team: Major and **Parish:** Micklegate Planning
Commercial Team Panel

Reference: 12/01253/FUL
Application at: 76 The Mount York YO24 1AR
For: Change of use from sandwich shop (Class A1) to hot food
takeaway (Class A5) and installation of kitchen flue to rear
(resubmission)
By: Mr Gee Yin Sung
Application Type: Full Application
Target Date: 31 May 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to 76 The Mount which is a two-storey building within the Central Historic Core Conservation Area. The building is situated between a restaurant at no.74 and a sandwich shop at no.78. There is a shared yard area to the rear of the site which is accessed from Holgate and accommodates a number of garages. Nos 11-15 Holgate at the rear of the site are residential. The Pub at No.72 is grade 2 listed.

1.2 The application site is presently vacant, it was last used as a sandwich shop (use class A1:retail). Permission is sought for a hot food takeaway that would open between 16:00 and 24:00 Monday- Saturday, 17:00 to 23:30 on Sundays. There would be a flue on the rear of the building.

1.3 The application is a re-submission after application 11/01803/FUL was refused in December 2011. The grounds for refusal were that the proposed takeaway would lead to increased noise disturbance at the rear of the site, in particular from vehicles coming and going. As such there would be an undue adverse impact on the levels of amenity presently enjoyed by the occupants of the surrounding dwellings on Holgate Road.

1.4 In 1998 permission was also refused for a takeaway to occupy the premises. The refusal grounds were - highway safety, due to a lack of parking and residential amenity - as noise disturbance and smells would seriously reduce the level of amenity of the occupants of the flat directly above the next door restaurant.

1.5 The application is brought to committee at the request of Councillor Merrett. There is concern that there is a lack of car parking to serve the host site and therefore customers arriving by car would compromise highway safety.

Application Reference Number: 12/01253/FUL

Item No: 4b

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest: City Centre Area
Conservation Area: Central Historic Core

2.2 Policies:

CYGP1 Design
CYHE3 Conservation Areas
CYS6 Control of food and drink (A3) use

3.0 CONSULTATIONS

Design, Conservation and Sustainable Development

3.1 Officers consider the flue will be intrusive in views of the rear of the property, but providing a muted colour could be agreed for the external finish, not overly so. Officers would like to comment further if it transpires the flue will need to be taller than as shown.

Environmental Protection Unit (EPU)

3.2 No objection. Officers have asked for the noise levels of the proposed extraction equipment via a condition, to ensure it does not have an adverse effect on residential amenity.

Highway Network Management

3.3 No objection. Officers suggest the applicants fund the installation of street furniture which would prevent vehicles parking on the pavement outside the premises. A contribution of £1,500 is suggested.

3.4 The section of The Mount where cars can park between Park Street and Scarcroft Road has capacity for circa 16 cars. The area is residents parking and pay and display parking until 18:00. The nearby side streets are covered by Residents Parking, where non permit holders can park for 60 minutes. A survey was undertaken of available car parking nearby the site. The survey was undertaken over both a Friday and Saturday, at lunch and from tea time into the evening. It found that the on street parking bays along The Mount in the immediate vicinity of the property are well utilised, although there was generally space available. During the lunch periods the number of available space was within the range of 4-7. The evening period was much tighter with a higher level of parking and

fewer spaces. The minimum number of available spaces was 1-3, although typically over each hour there were more often than not a handful of spaces available.

Micklegate Planning Panel

3.5 No objection

Publicity

3.6 Objections have been received from residents at 1 and 13 Holgate Road and nos. 67, 80, 82, 98 and 122 The Mount. An objection letter with 9 signatures on has also been received. Objections as follows:

- There would be unsightly views of the extraction flue from dwellings on Holgate. The flue would also add to noise disturbance and cooking smells/odour would harm the amenity of surrounding occupants.
- Intensified use of the yard at the rear would cause disturbance. The applicants would use 2 garages and therefore staff coming and going after midnight closing would cause disturbance
- The Mount is a high density residential area and enjoys a quiet environment outside daytime business hours. More takeaway business would damage the residential amenity (noise, litter and anti-social behaviour) of neighbouring properties and pedestrians passing through. There are dwellings in the immediate area at Nos. 63, 65, 67, 69, 73 The Mount and the houses on Holgate behind the site.
- There is already an over-supply of food takeaways in the area. There should be no further late night facilities in this area, with similar restrictions to those imposed at Micklegate (Local Plan policy S7 prevents any increase in takeaways in Micklegate).

4.0 APPRAISAL

4.1 Key Issues

- Residential amenity
- Character and appearance of the conservation area
- Highway safety

Policies of the Local Plan

4.2 Policy GP1 relates to all development proposals and expects that development proposals ensure that residents living nearby are not unduly affected by noise disturbance. Policy S6 states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted provided:

- There is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter.
- The opening hours of hot food takeaways are restricted where this is necessary to protect the amenity of surrounding occupiers.
- Car and cycle parking meets the standards defined in the Local Plan.
- Acceptable external flues and means of extraction have been proposed.
- Where security issues have been addressed.

4.3 Policy HE3 states that within Conservation Areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

Residential amenity

4.4 It is proposed the takeaway would open until midnight 6 days of the week (23:30 on Sundays). Between the application site and the junction with Holgate there is a public house and a restaurant, there are also other takeaways and commercial uses nearby that operate through the evening. The restaurant next door has an external flue at the rear. As there are already a number of commercial premises in the locality, including the restaurant next door, there would not be a material increase in noise disturbance along The Mount as a consequence of the proposed takeaway, nor would smells/odour from cooking be materially different to the existing situation.

4.5 The 2011 application was refused as a delivery service was proposed and it was determined that due to the proposed opening hours, the comings and goings of traffic (delivery vehicles) and general activity in the courtyard area would cause disturbance which would have a detrimental impact on the surrounding residents, in particular those at 11, 13 and 15 Holgate Road. In this resubmission it is stated a delivery service would not be offered. An objection has been made that employees leaving the site via the rear entrance and clearing up late at night would still cause noise disturbance. There is a restaurant next door which also closes at midnight and has a rear yard which backs onto the courtyard area. The opening times of the proposed use and related activities could be controlled through a condition if permission were granted. Overall, in officers opinion it could not be demonstrated that there would be an undue increase in noise in comparison to the existing situation.

4.6 A flue is proposed at the rear of the building and through a condition it could be required that the flue adequately deals with cooking smells and odour.

Highway Safety

4.7 There is no dedicated parking to serve the proposed use. The nearest car parking spaces would be around 10m to the south, around 15m away on the opposite side of the road, along Park Street or at the Crescent around 90m away. It is likely the majority of customers would arrive on foot. A survey carried out found that during the evening typically spaces can be found along The Mount for around 3 vehicles and there is also the possibility cars could use Park Street opposite. There is adequate capacity to meet the expected demand for the development. That illegal parking may take place carries little weight in terms considering the application, as there are powers to control such practice under separate legislation. Overall there is no evidence that the development would have an undue impact on highway safety.

4.8 Highway Network Management have suggested that the applicants fund installation of some form of barrier to prevent cars mounting the pavement in this area. It is felt this requirement would be unnecessary as parking on the pavement can be enforced under other legislation. Furthermore installations would clutter the street, contrary to the aspirations within the Central Historic Core Conservation Area Appraisal. Also the kerb is relatively high in this area, and there is already a cabinet installed on the pavement by the application site, thus, there are already features within the highway which would discourage car users attempting to park on the pavement in this area.

Impact on the conservation area

4.9 A flue is required to deal with cooking smells and it is proposed this would be situated on the rear elevation of the building. There is an existing flue on the rear elevation of the host building that serves the restaurant next door. The proposed flue would be screened by surrounding buildings and not prominent from public viewpoints. Its impact could be mitigated by requiring it is coloured so it blends in with the slate roof of the building. As such there would not be a material detrimental impact on the appearance of the conservation area.

5.0 CONCLUSION

5.1 The proposed development would not have a material impact on the character and appearance of the conservation area. Due to the mix of uses already in the area there would not be a material impact on residential amenity and it has been demonstrated the highway network has the capacity to deal with the proposed use. Approval is therefore recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

2 PLANS1 Approved plans - 795/1 and 2 date stamped 27.3.2012

3 Any extraction system fitted in association with the use hereby approved must be adequate for the treatment and extraction of fumes so that there is no adverse impact on the amenities of nearby occupants by reason of fumes, odour or noise.

Details of the extraction plant or machinery and any filtration system required (including noise levels (max and average) and times of operation) shall be submitted to and approved by the Local Planning Authority. The equipment shall be installed in accordance with the approved details and be fully operational before the proposed use first opens and shall be appropriately maintained thereafter. The equipment shall be fully removed once the use hereby approved has ceased.

Reason: to protect the amenity of neighbouring residents.

4 The use hereby permitted shall only be open to customers between the following hours -

09:00 to 24:00 Mondays- Saturdays

09:00 to 23:30 on Sundays

There shall be no activity in the rear yard, such as putting out litter/rubbish, after 23:00 each day of the week.

Reason: in the interests of the residential amenity of surrounding occupants.

5 No delivery service shall be offered from the premises. Deliveries to the premises shall only occur between the hours of 08:00 to 20:00 and not at all on Sundays.

Reason: in the interests of the residential amenity of surrounding occupants.

6 The external flue shall be colour coated so it reasonably blends in with the roof tiles of the host building.

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

**7.0 INFORMATIVES:
Notes to Applicant**

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to amenity, highway safety and the character and appearance of the conservation area. As such the proposal complies with Policies GP1, S6 and HE3 of the City of York Development Control Local Plan.

Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323

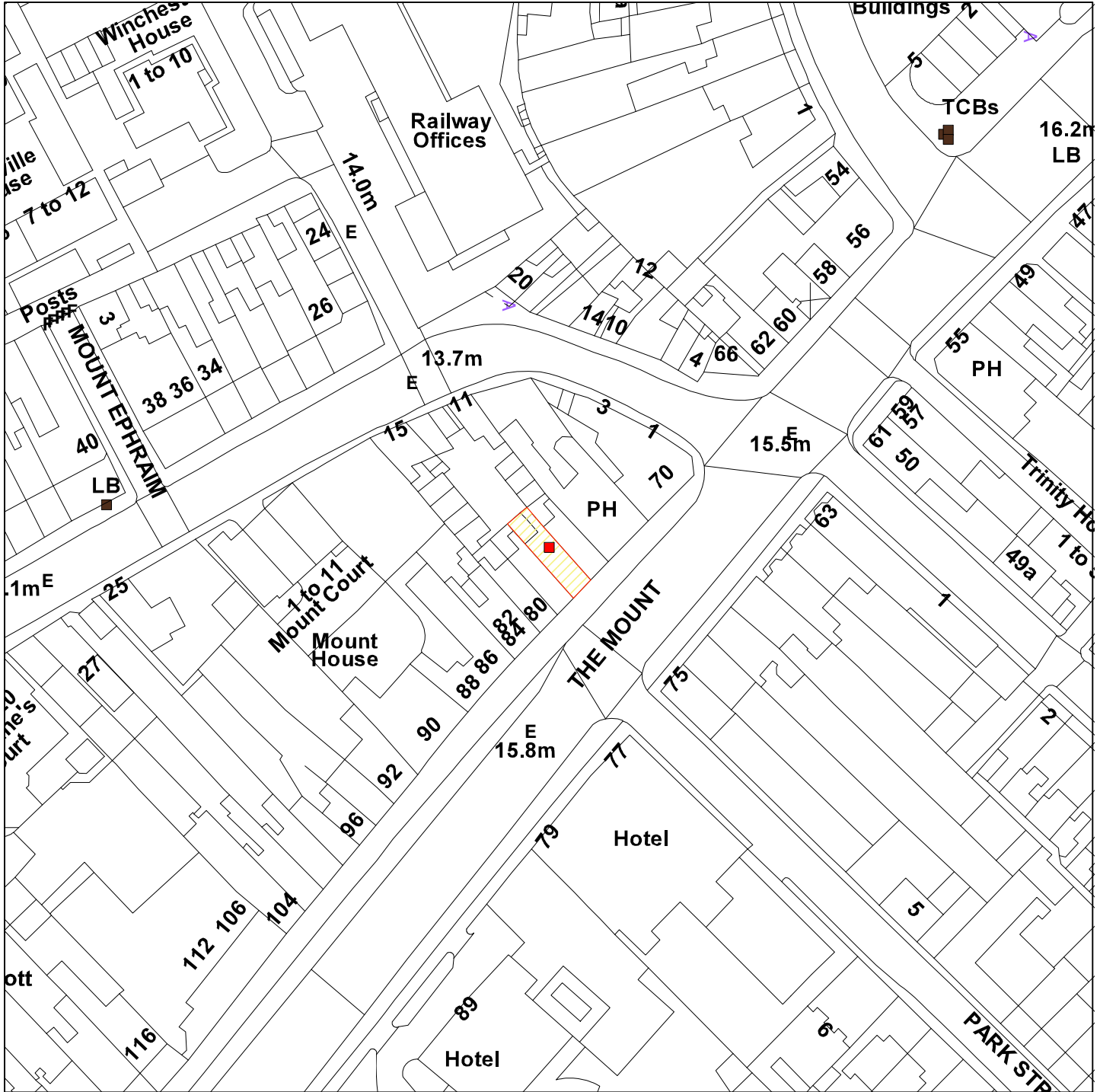
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12/01253/FUL

76 The Mount, YO24 1AR



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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	06 August 2012
SLA Number	Not Set

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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 12/01249/FUL
Application at: Bora Bora 5 Swinegate Court East Grape Lane York YO1 8AJ
For: Change of use from cafe (use class A3) to drinking establishment (use class A4)
By: Mr Bora Akgul
Application Type: Full Application
Target Date: 3 August 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to the ground floor premises at 5 Swinegate Court East, behind 12 Swinegate. The host premises was originally a shop, it was granted permission in 2003 for a change of use to cafe (class A3). Retrospective consent is sought to allow the premises to be used as a drinking establishment (class A4) with opening hours until 03:00 each day of the week.

1.2 The application is brought to committee at the request of Councillor Watson, to assess the impact of the number of drinking establishments in the immediate area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006
Conservation Area Central Historic Core

2.2 Policies:

S6 Control of food and drink (A3) uses
HE3 Conservation Areas

3.0 CONSULTATIONS

Design, Conservation and Sustainable Development

3.1 No objection.

Environmental Protection Unit

3.2 No objection.

Safer York partnership (Police Architectural Liaison Officer)

3.3 No objection.

Guildhall planning panel

3.4 Object – will lead to an over intensification which will spill out onto the street.

Publicity

3.5 Seven letters of objection have been received. Grounds of objection are as follows:

- Noise and disturbance to nearby residential property due to the increasing number of late night drinking establishments in the area. It is reported the Council's Noise Team have been contacted over disturbance in the area. Letters comment that it is recognised this area has a mix of uses, with numerous goings on but there is a concern this area is in danger suffering the same problems as those associated with Micklegate.
- Increasing anti-social behaviour, damage to commercial property, litter.
- Whilst the commercial development that has taken place in Grape Lane and Swinegate has been positive, the mix between residential, retail units and bars/restaurants is shifting in favour of late night drinking.

4.0 APPRAISAL

4.1 Key issues

- Vitality and viability of the city centre
- Amenity of surrounding occupants

- Any impact on conservation area

Relevant policy

4.2 The National Planning Policy Framework advises planning should positively promote competitive city centres and enhance their vitality and viability. The National Planning Policy Framework notes that residential development can play an important role in ensuring the viability of town centres. Amenity for future and existing occupants is material consideration.

4.3 Local Plan policy S6 states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted provided:

- There is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter.
- Opening hours are restricted where this is necessary to protect the amenity of surrounding occupiers.
- Where security issues have been addressed.

Vitality and viability of the city centre

4.4 The street in which the application site is a passageway between Swinegate and Grape Lane. Swinegate Court East is not a primary shopping street. As such it is a street where non-retail uses, including drinking establishments, are appropriate according to planning policy, provided the impact on vitality and viability is acceptable. Due to the discreet location and size of the host premises, a drinking establishment here would not have a material effect on the vitality and viability of this part of the city centre.

Amenity of surrounding occupants

4.5 There are houses nearby, in Lund's Court, Norman Court and along Petergate (the nearest being upper floor flats at 65 & 71), although there are intervening buildings between these dwellings and the application site. There are other outside areas associated with restaurants nearby, at the rear of Strada (75 Low Petergate) and Lucia's in Swinegate Court East.

4.6 The proposed opening hours are until 03:00 and 60% of the capacity of the host premises is external (there can be up to 40 persons outside according to the premises license). The outside seating area is covered by canopies and there are external heat lamps to encourage its use. There is the potential for noise disturbance from amplified music and from raised voices from customers using the outside area.

4.7 The application site is within the City centre where late night uses are to be expected and noise from persons in the street at night and anti-social behaviour cannot be attributed to any single premises. The closest residential building is Lund's Court. The rear of the building can be seen from Swinegate Court East and there is only one window on the rear which is a relatively small opening. As such and because of the intervening buildings and streets between the application site and surrounding residential premises it is deemed that persons using the outside area would be unlikely to create undue noise disturbance (i.e. no more than that which is already experienced in this area). However it is considered it would be prudent to give a temporary consent for the opening hours of the external area, so this can be re-considered if the 03:00 closing time leads to disturbance. It is deemed necessary to require through a condition that amplified music is controlled so it is not audible externally.

4.8 Matters of crime and disorder/security are predominantly dealt with through licensing. The Premises has license which has been endorsed by the Police.

Any impact on conservation area

4.9 The application is for a change of use only. There would be no effect on the conservation area.

5.0 CONCLUSION

5.1 Conditions are proposed to allow monitoring of the impact of the external seating area and to ensure amplified music is inaudible outside the premises. It is deemed these conditions suitably mitigate possible noise disturbance. There would be no undue harm to the vitality and viability of the city centre and the character and appearance of the conservation area. Approval is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The development hereby permitted shall be carried out in accordance with the following plans:- Location plan and site layout date stamped 07.06.2012.

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

2 No amplified recorded or live music shall be played which is audible outside the host building.

Reason: To protect the amenity of surrounding occupants and in the interests of the character of the conservation area.

3 The use shall only be open to customers between the following hours: 08.00 to 03.00 the following day.

From 1 September 2014 the outside area shall not be open to customers between 24:00 midnight and 08.00 each day of the week unless a further planning permission has been granted to extend or remove this restriction.

Reason: To monitor noise associated with the outside area and to protect the amenity of nearby residents from noise associated with the premises.

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the character and appearance of the conservation area and the amenity of surrounding occupants. As such the proposal complies with Policies HE3 and S6 of the City of York Development Control Local Plan.

Contact details:

Author: Jonathan Kenyon Development Management Officer
Tel No: 01904 551323

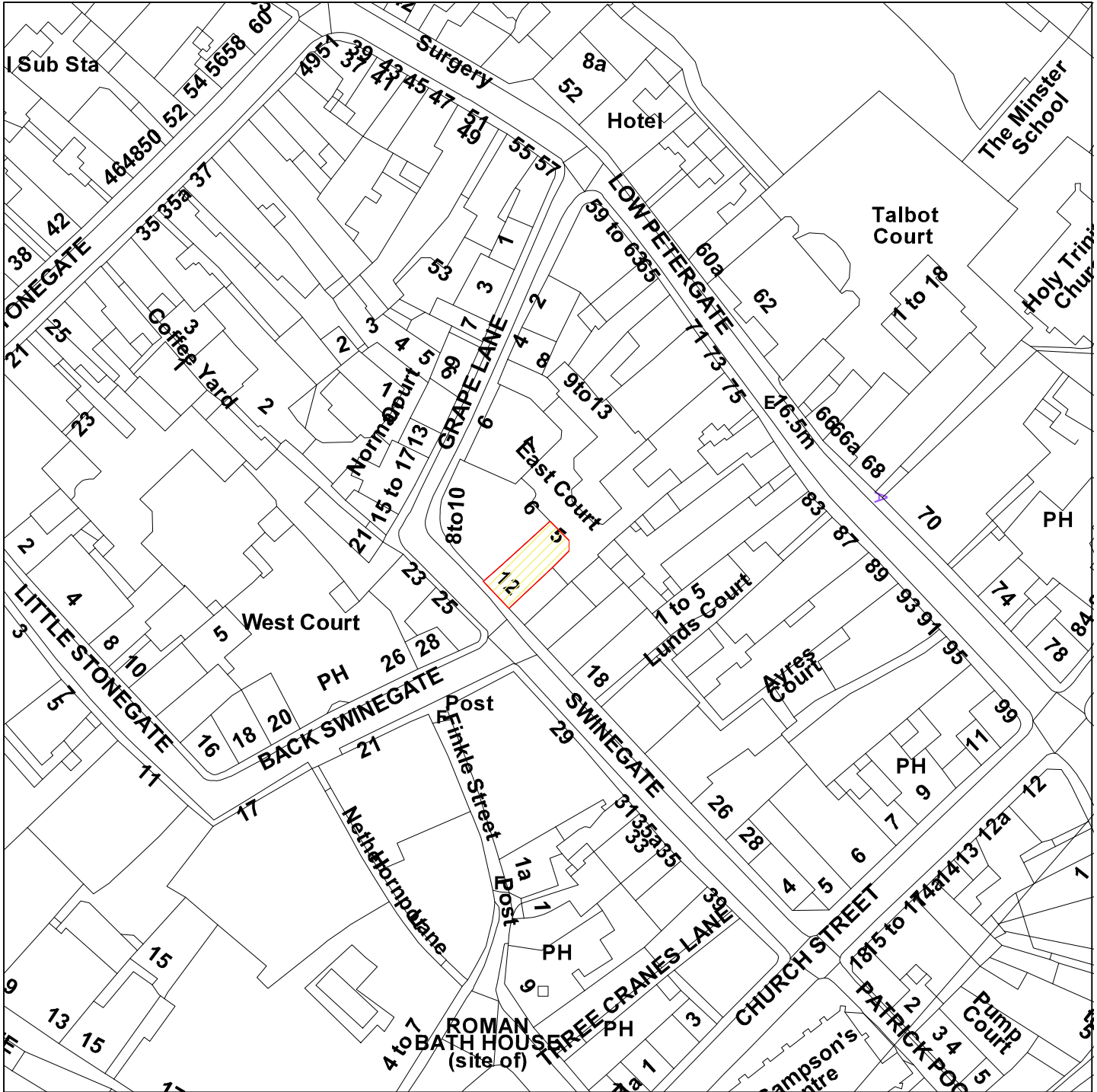
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12/01249/FUL

Bora Bora, 5 Swinegate Court East



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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	06 August 2012
SLA Number	Not Set

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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Micklegate
Team: Householder and **Parish:** Micklegate Planning
 Small Scale Team Panel

Reference: 12/02192/FUL
Application at: 47 Albemarle Road York YO23 1EP
For: Single storey rear extension and dormers to front and rear
By: Mr N Cooper
Application Type: Full Application
Target Date: 23 August 2012
Recommendation: Householder Approval

1.0 PROPOSAL

1.1 This application seeks permission for the erection of a pitched roof single storey rear extension; along with pitched roof front dormer and flat roof rear dormer, to provide additional living space.

1.2 This mid-terrace dwelling lies within a residential area, made up of similar style dwelling, and is located outside of the Conservation Area. The dwelling fronts onto the Knavesmire.

1.3 Relevant Planning History

No. 45 Albemarle Road - Application No. 11/02187/FUL - Single storey rear extension. Approved 07.10.11.

No. 45 Albemarle Road - Application No. 07/01470/FUL - Front and rear dormers. Approved 13.08.07

1.4 The application is brought to Committee due to the applicant being the spouse of a member of staff of City of York Council.

2.0 POLICY CONTEXT**2.1 Development Plan Allocation:**

City Boundary GMS Constraints: York City Boundary 0001
DC Area Teams GMS Constraints: Central Area 0002

2.2 Policies:

CYGP1-Design

CYH7 -Residential extensions

3.0 CONSULTATIONS

3.1 Micklegate Planning Panel - No objection

3.2 No replies to neighbour notification letters

4.0 APPRAISAL

4.1 The key issues are considered to be:-

- Visual impact on the dwelling and surrounding area
- Impact on neighbouring properties

4.2 The National Planning Policy Framework (March 2012) sets out 12 core planning principles that should underpin both plan-making and decision-taking. Of particular relevance is that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

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

4.4 Development Control Local Plan GP1 states that development proposals will be expected to (i) respect or enhance the local environment, (ii) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials; (iii) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (iv) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape features which make a significant contribution to the character of the area, and take opportunities to reveal such features to public view; and (v) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.5 Supplementary Planning Guidance 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 states that (1.12) Good design and a scale of development that respects the original dwelling and established pattern of development are essential to making a quality extension. An extension in the style of the existing dwelling is likely to be the most acceptable. Paras 1.20/1.21 states that dormers should not extend across more than one third of the roof span and should not dominate the existing roof. Front dormers facing a highway are not

encouraged unless small in scale and in keeping with the style of the property. Dormers should incorporate matching materials and pitched roofs if possible.

SINGLE STOREY REAR ELEMENT

4.6 Being sited to the rear this element will not be highly visible to public view. A high rear boundary wall and gate are sited along the boundary with the rear lane, which is sited at a higher ground level than the dwelling. A pitched roof and a matching brick and tile construction are proposed. Sufficient amenity space will remain within the rear yard. Taking the above into account, along with the modest overall height proposed, it is not considered this addition will harm the character or appearance of the dwelling nor surrounding area. This addition will infill the area between the existing kitchen and common boundary with No. 45 Albemarle Road. This neighbouring dwelling already has a high single storey rear extension in place, thus no loss of amenity will occur.

FRONT DORMER

4.7 Amended plans were sought and received to reduce the scale proposed and to locate the dormer centrally within the roofslope in line with other dormers within the row. It is now considered the dormer to be of an appropriate size and design and proposes a matching hung tile to clad the roof and cheeks; and complies with CYC Supplementary Guidance as mentioned above. No harm to any neighbouring amenity will occur.

REAR DORMER

4.8 The rear dormer is considered to be overly large and bulky in design and will dominate the appearance of the rear roofslope, thus contrary to CYC Supplementary Planning Guidance mentioned above. This element alone, however, could be erected within permitted development rights, which is a significant material consideration such that the refusal of the application on the basis of the rear dormer would serve little purpose other than to delay implementation of the other (acceptable) elements of the application. No harm to any neighbouring amenity will occur.

5.0 CONCLUSION

5.1 It is considered that the proposal will not harm the living conditions of nearby neighbours or the appearance of the dwelling within the surrounding area. Approval is recommended.

6.0 RECOMMENDATION: Householder Approval

- 1 TIME2 Development start within three years -
- 2 VISQ1 Matching materials -
- 3 PLANS1 Approved plans - 2012/4/01B received on 27.07.12.

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above and the potential fall-back position of the rear dormer being permitted development if constructed in isolation, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the residential amenity of neighbours or the impact upon the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan and City of York Supplementary Planning Guidance to Householders (Approved March 2001)

2. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available from City Strategy at 9 St Leonard's Place or at:

<<http://www.communities.gov.uk/publications/planningandbuilding/partywall>>

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

Contact details:

Author: Carolyn Howarth Development Management Assistant

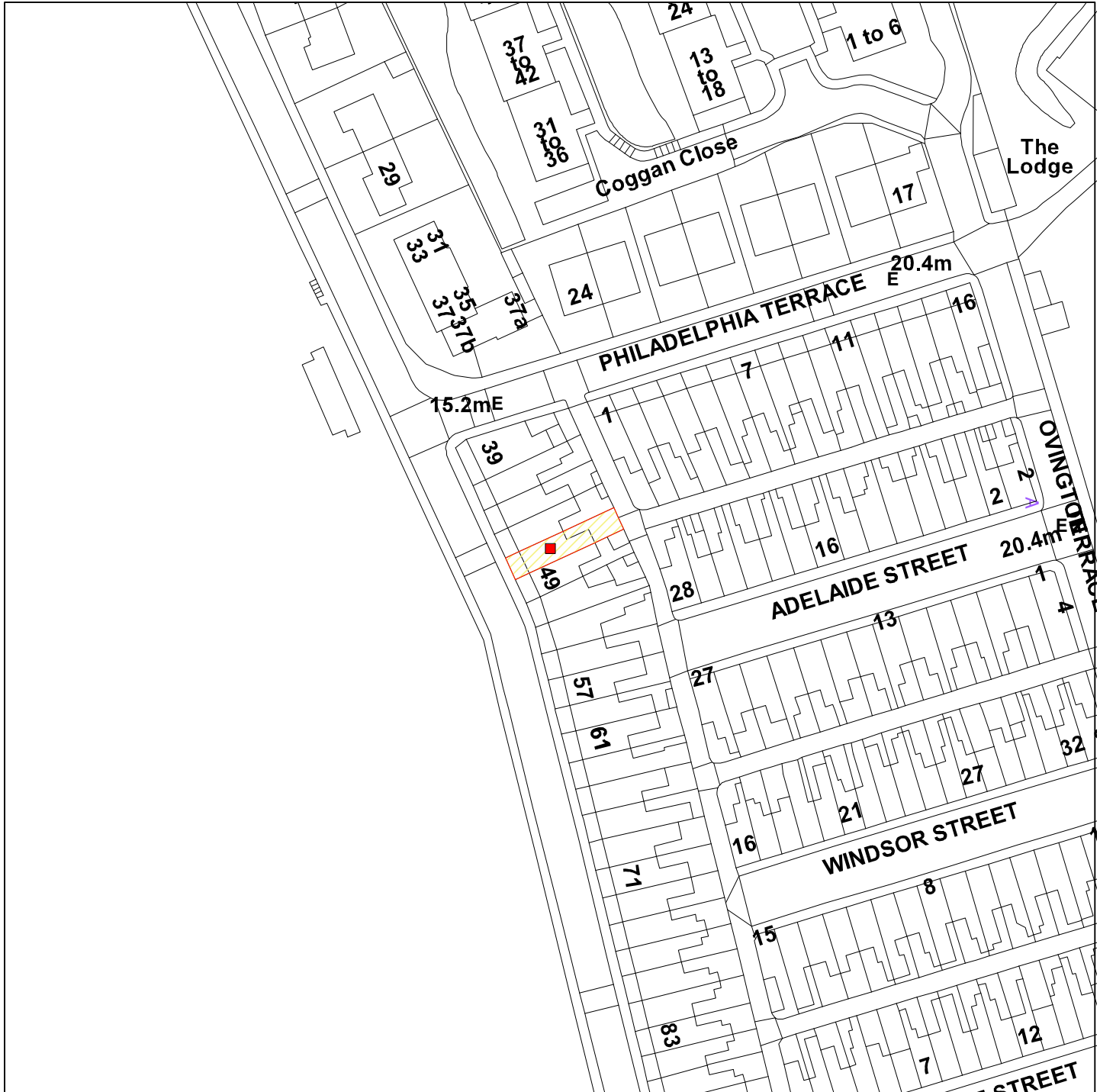
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12/02192/FUL

47 Albemarle Road, YO23 1EP



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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	06 August 2012
SLA Number	Not Set

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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Micklegate
Team: Householder and **Parish:** Micklegate Planning
Small Scale Team Panel

Reference: 12/02238/FUL
Application at: 31 Albemarle Road York YO23 1EW
For: Detached store to rear (resubmission)
By: Mr Graham Harrison
Application Type: Full Application
Target Date: 21 August 2012
Recommendation: Householder Approval

1.0 PROPOSAL

1.1 The application site comprises of an apartment block, with enclosed garden area and brick built stores to the rear. The proposal is for the erection of a detached pitched roof store for the storage of garden tools and equipment relating to the maintenance of the apartments. The store will be located within the rear garden in the corner, sited along common boundaries with No. 29 Albemarle Road and Coggan Close to the rear. Additional fencing along the side common boundary with No. 29 Albemarle Road is also proposed, along with additional permeable hard-landscaping to the side and driveway area. The site lies within a residential area and fronts The Knavesmire.

1.2 Relevant Planning Applications

Application No. 00/02953/FUL - Erection of pitched roof dormers to front and rear at 31-37 Albemarle Road. Approved 01.03.01.

Application No. 02/03938/FUL - Erection of two-storey pitched roof extension to form 2 flats at 31-37 Albemarle Road. Approved 14.02.03.

Application No. 04/02482/FUL - Creation of one additional flat to attic. Approved 06.09.04.

Application No. 12/01054/FUL - Detached store to rear. Withdrawn 23.04.12 due to inaccurate submitted plans and neighbour objection.

1.3 The application is brought to Committee at the request of Councillor Fraser due to neighbour objections.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

2.2 Policies:

CYGP1

Design

CYH7

Residential extensions

3.0 CONSULTATIONS

Micklegate Planning Panel

3.1 No objection in principle, though concerned to ensure the proposed store does not adversely affect the nearby tree.

Publicity

3.2 One letter of objection from neighbouring resident adjacent and No. 29 Albemarle Road, raising strong concern that due to the applicant being a property developer and landlord, the use of the store will be for business purposes as a workshop, rather than for private domestic use; also that loss of outlook will occur due to the close proximity of the store, along this common boundary. The future piece-meal development of the site is of concern.

4.0 APPRAISAL

KEY ISSUES

Visual impact on the building and surrounding area;
Impact on neighbouring properties

4.1 The National Planning Policy Framework (March 2012) sets out 12 core planning principles that should underpin both plan-making and decision-taking. Of particular relevance is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

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

4.3 Development Control Local Plan policy GP1 states that development proposals will be expected to (i) respect or enhance the local environment, (ii) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials; (iii) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (iv) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape features which make a significant contribution to the character of the area, and take opportunities to reveal such features to public view; and (v) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.4 Supplementary Planning Guidance 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 states that (1.12) Good design and a scale of development that respects the original dwelling and established pattern of development are essential to making a quality extension.

4.5 The proposed garage-style structure is proposed to store garden tools and equipment relating to the maintenance of the apartments. It is proposed to be of concrete pre-fabricated panel construction with grey fibre cement profile sheeting for the roof, with brown up and over garage door. The hardstanding area and soft boundary to the side of the building along the common boundary with No. 29 Albemarle Road is proposed to be laid with permeable river pebbles; and additional fencing is proposed along this common boundary, in line with that existing and to the same height; with timber gates to the front of this area also. An additional timber gate is also proposed to link the building with the proposed garden store to the rear. The existing concrete driveway is to be re-laid and an additional area of permeable hardstanding is proposed, to increase the width of the driveway area.

4.6 It is considered that due to the relatively modest height of the store and it being partially screened to the front by the proposed gates it will not cause harm to the appearance of the host building nor that of the surrounding area. Sufficient amenity space will remain to the rear of the apartments. The additional hardstanding proposed behind the gates and additional fencing/gate will not be open to public view; and with the surfacing being permeable, will not cause any additional drainage issues. The increased width of the driveway will not harm the appearance of the building and again is permeable.

4.7 It is not considered that neighbours to the rear at Coggan Close, being in an elevated position in relation to the host, will suffer any loss of amenity. The main

neighbouring impact will be upon those residents at No. 29 Albemarle Road. The new area of fencing along the common boundary is proposed close to this neighbouring garage, and is not considered to result in any significant loss of amenity; again the permeable nature of the additional hardstanding will not result in additional drainage issues. The existing fencing and high shrubbery and trees in place along the common boundary with this neighbouring dwelling will provide some screening of the structure. Some windows to habitable rooms on the ground floor of this neighbouring property will look towards the proposed shed; the proposed materials are not of a particularly attractive appearance, however taking into account the proposed height of the shed, approx. 2m to the eaves and 2.5 metres to the ridge, the loss of outlook is not considered to be so detrimental so as to warrant refusal.

4.8 The adjacent tree within the rear garden of no. 29 Albemarle Road contributes to the visual amenity of the area. The store will be laid on a concrete base which will minimise impact on its roots and as the tree is not the subject of any Tree Preservation Order it would be difficult to refuse the application on these grounds. The applicant should be made aware of the possible harm, by means of an informative, should consent be granted.

4.9 The objector has suggested that the store may be used for commercial purposes related to the applicant's business, however the applicant has confirmed that the store will be used for garden tools and equipment relating to the maintenance of the apartments and without any evidence to the contrary the application must be determined on that basis.

5.0 CONCLUSION

5.1 It is considered that the proposal will not seriously harm the living conditions of nearby neighbours or the appearance of the site within the surrounding area. Approval is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Householder Approval

- 1 TIME2 Development start within three years -
- 2 PLANS1 Approved plans - Revised plan no. 31/ALB/002 Rev B received on 27.06.12.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the residential amenity of neighbours or the impact upon the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan and City of York Supplementary Planning Guidance to Householders (Approved March 2001).

2. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available from City Strategy at 9 St Leonard's Place or at:

<<http://www.communities.gov.uk/publications/planningandbuilding/partywall>>

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)

3. You are advised that the development may cause damage to the roots of the adjacent tree which is within the ownership of No. 29 Albemarle Road and located very close to the proposed store.

Contact details:

Author: Carolyn Howarth Development Management Assistant

Tel No: 01904 552405

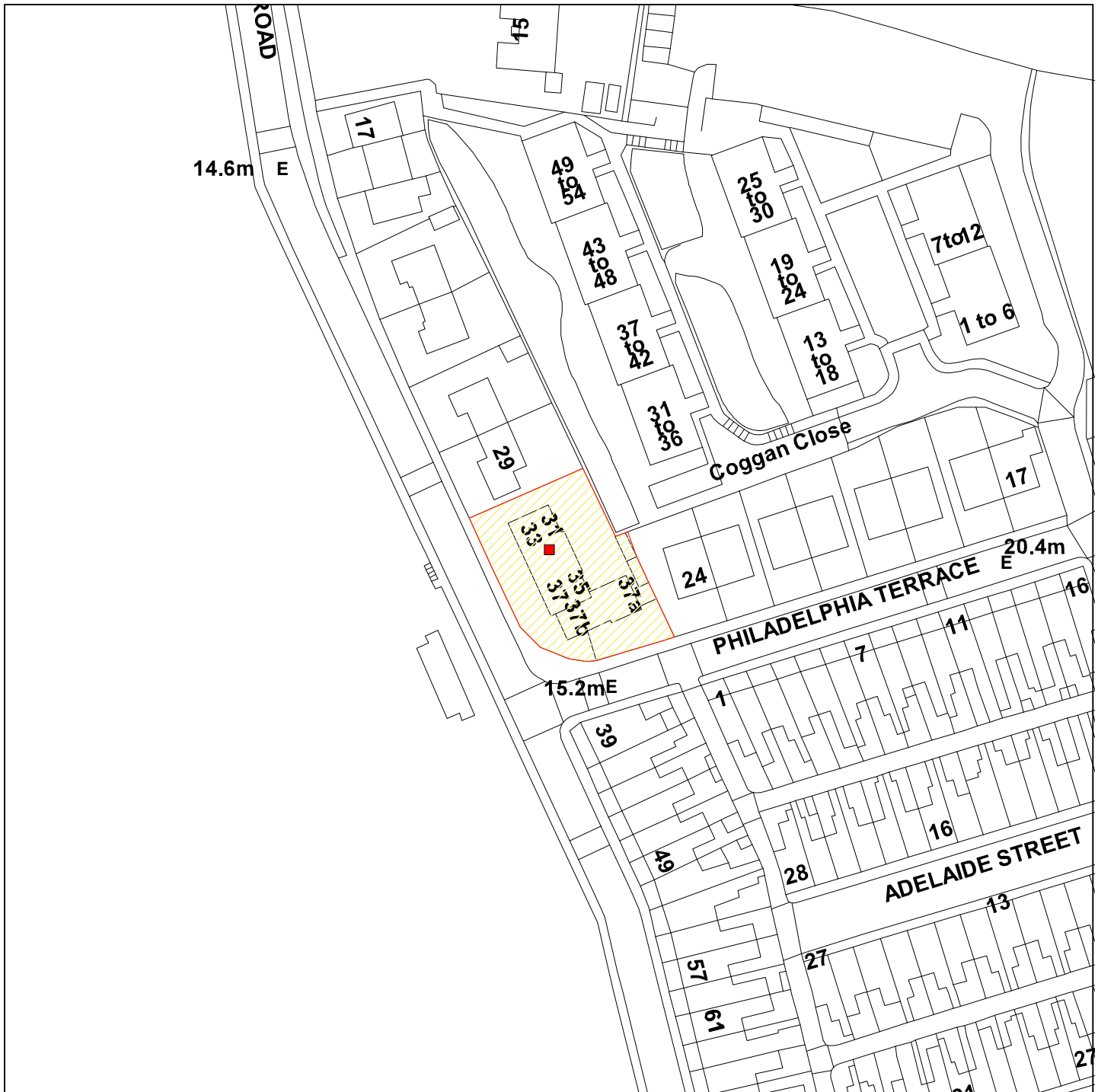
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12/02238/FUL

31 Albemarle Road, YO23 1EW



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Organisation	City of York Council
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Comments	
Date	06 August 2012
SLA Number	Not Set

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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Micklegate
Team: Major and **Parish:** Micklegate Planning
Commercial Team Panel

Reference: 12/01961/FUL
Application at: Flat 1 99 Nunnery Lane York YO23 1AH
For: Creation of 3no. flats (retrospective)
By: Mr Philip Armitage
Application Type: Full Application
Target Date: 29 August 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 The application is retrospective, for permission for the 3 flats that exist above the Old Ebor public house, which is situated on the corner of Nunnery Lane and Drake Street. We understand the flats have been in existence for sometime. The application is made as the pub is under new ownership and there is no record of planning permission for the flats.

1.2 The application is brought to committee as the applicant is a Council employee.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

- Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

2.2 Policies:

- GP1 Design
- H4a Housing Windfalls

3.0 CONSULTATIONSCommunities, Leisure and the Public Realm

3.1 As there is no on site open space commuted sums should be paid to the Council for amenity open space and play space - which would be used to improve a local site such as Scarcroft Green and sports pitches, which would be used to improve a facility within the South Zone of the Sport and Active Leisure Strategy.

Environmental Protection Unit

3.2 No objection.

Publicity

3.3 No written representations have been made.

4.0 APPRAISAL

Key issues

4.1 The key issues are whether the flats are acceptable in principle and whether there are adequate levels of amenity for future and surrounding occupants.

Principle of the proposed use

4.2 The flats make use of an existing building located in the urban area, within walking distance of the city centre. They also assist with the viability of the building. The development is acceptable in principle; it is consistent with the National Planning Policy Framework which seeks to boost the supply of housing and supply housing within empty/underused buildings. The development is also consistent with Local Plan policy H4a in this respect.

Amenity

4.3 The National Planning Policy Framework requires development to provide an adequate level of amenity, this is repeated in Local Plan policies GP1: Design and H4a: Housing Windfalls. GP1 requires that developments provide and protect amenity space; provide space for waste storage; ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

4.4 Local Plan policy L1c seeks a contribution towards off-site open space for schemes of less than 10 dwellings. There would have been living accommodation above the pub originally and it appears that the conversion into flats took place some time ago although they have been recently refurbished. It is not recommended to seek a contribution in this case. Waste and cycle storage can adequately be provided in the rear yard. The application is for the use of the upper floors only; there is no material change in terms of whether the building is over-bearing or over-dominant. The host building is within a terrace where a degree of over-looking would be expected. The amount of occupants of the upper floors has intensified, however given the nature of the area this has not lead to undue over-looking over neighbouring buildings and land.

4.5 The property is within the Air Quality Management Area. One room (the 1st floor lounge) is reliant upon windows facing Nunnery Lane only, where vehicle traffic causes noise and damages air quality. Otherwise rooms have windows facing the rear or Drake Street. There have been no objections from the Environmental Protection Unit with regards air quality and noise and there is no material change between the extant and historic use of the upper floors. It is deemed the scheme could not be refused due to noise disturbance or air quality.

5.0 CONCLUSION

5.1 The development is acceptable in principle; there is adequate amenity for occupants and no harm to the amenity of surrounding occupants.

6.0 RECOMMENDATION: Approve

1 Adequate storage space for bins and covered cycle storage (x3 spaces) shall be retained within the application site at all times.

Reason: To ensure adequate space for such storage, to promote recycling and sustainable modes of transport in accordance with policies GP4a and T4 of the City of York Draft Local Plan and the National Planning Policy Framework.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity. As such the proposal complies with Policies GP1 and H4a of the City of York Development Control Local Plan.

Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323

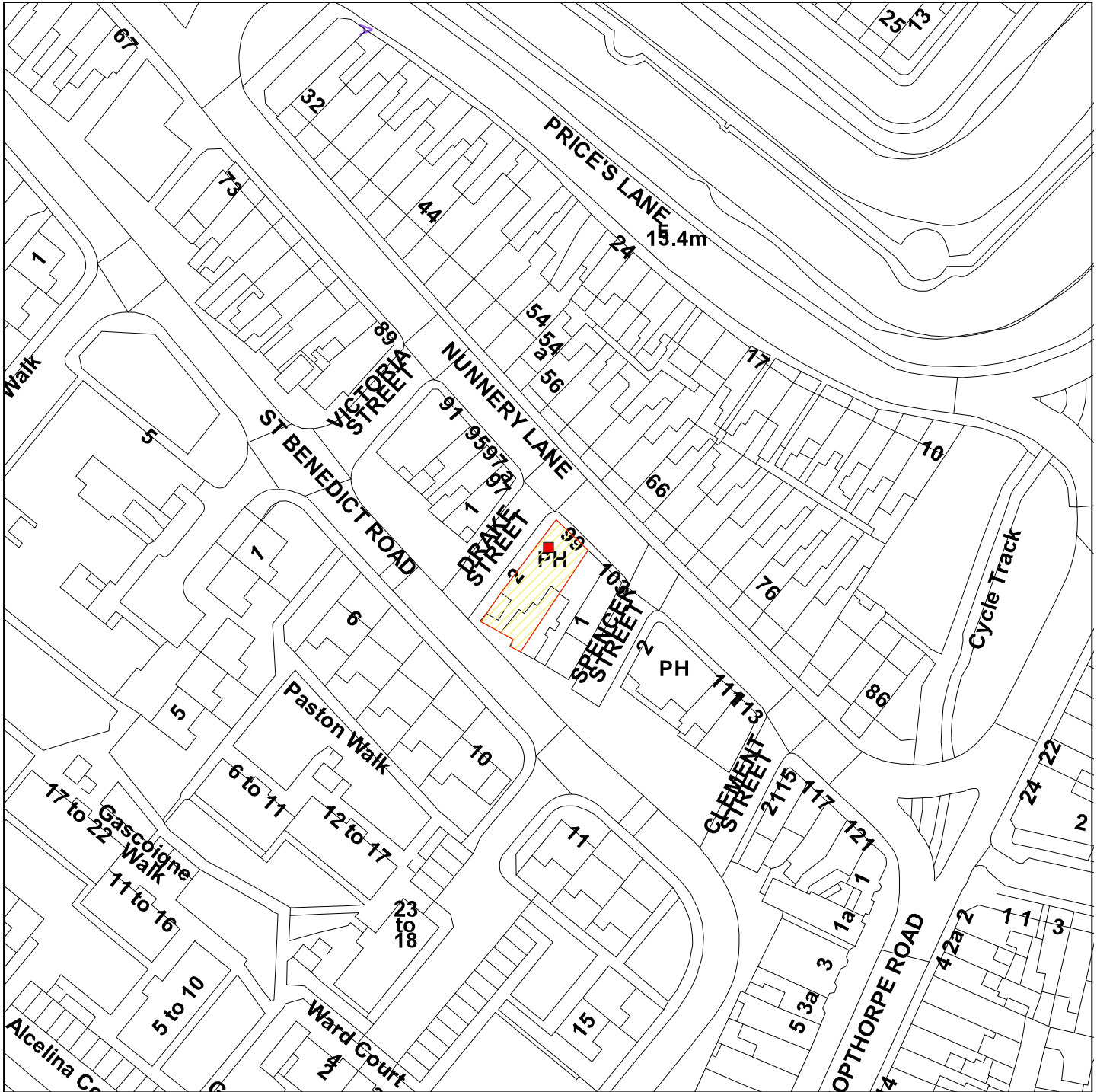
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12/01961/FUL

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Date	06 August 2012
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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Rural West York
Team: Major and **Parish:** Copmanthorpe Parish
Commercial Team Council

Reference: 11/02985/FULM
Application at: Fox and Hounds 39 Top Lane Copmanthorpe York YO23 3UH
For: Construction of 11no. Dwellings following demolition of existing
public house
By: Enterprise Inns PLC
Application Type: Major Full Application (13 weeks)
Target Date: 5 June 2012
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 The Fox and Hounds Top Lane Copmanthorpe comprises a two storey buff brick built structure circa 1970s set within large grounds to the north east of the village adjacent to the A64. Following a decline in trade the pub is now closed and planning permission is sought for the demolition of the building and the construction of 11 dwellings on the cleared site accessed from both Top Lane and Tadcaster Road. Subsequent to the submission of the proposal the details have been amended with an up-dated layout which addresses earlier highway concerns and an outline foul and surface water drainage scheme has been submitted which addresses concerns in respect of the drainage of the site. Two of the properties would be designated as being "affordable". Planning permission for the erection of a development of 8 flats on the pub car park was previously given in October 2006 ref:-06/01762/OUT.

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:

CGP15A

Development and Flood Risk

Application Reference Number: 11/02985/FULM

Item No: 4g

Page 1 of 15

CYH2A
Affordable Housing

CYH4A
Housing Windfalls

CYL1B
Loss of local leisure facilities

CYL1C
Provision of New Open Space in Development

CYGP1
Design

CYNE1
Trees, woodlands, hedgerows

CYNE6
Species protected by law

CYGP4A
Sustainability

3.0 CONSULTATIONS

INTERNAL:-

Lifelong, Learning and Leisure

3.1 No objection to the proposal subject to the payment of a commuted sum in lieu of the provision of on-site open space.

Design, Conservation and Sustainable Development

3.2 No objection to the proposal subject to the retention of the existing landscape planting along the site boundary where ever possible, mitigating for the potential presence of bats, the introduction of further landscape planting and the inclusion of a requirement for an archaeological watching brief on any permission.

Environmental Protection Unit

3.3 Raised concern in respect of the lack of information submitted in respect of potential ground contamination. Details of site investigation work have subsequently been submitted.

Highway Network Management

3.4 Initially raised concerns in respect of the proposed access arrangements to the site but now raise no objection subject to a commuted payment being made in respect of the cost of traffic regulation orders along Top Lane and also improvements to bus stop information along Top Lane.

Housing

3.5 No objection to the proposal.

Flood Risk Management Team

3.6 Express concern in respect of the information submitted with the proposal in respect of surface water drainage.

Adults, Children and Education

3.7 No requirement for a contribution towards education facilities.

EXTERNAL:-

Copmanthorpe Parish Council

3.8 Object to the proposal on the grounds that the proposal would represent over-development of the site and would give rise to a pattern of development alien to the local community involving three storey houses. Furthermore in terms of parking and traffic generation it would give rise to conditions prejudicial to the safety and convenience of highway users and insufficient justification has been advanced for the loss of the public house.

Safer York Partnership

3.9 No objection to the proposal.

Yorkshire Water Services Limited

3.10 No objection to the proposal subject to any permission being conditioned to require submission of details of foul and surface water drainage works for prior approval.

Ainsty Internal Drainage Board

3.11 No objection to the proposal subject to a suitable surface water outfall being identified.

Neighbour Notification and Publicity

3.12 Eight letters of objection have been received in respect of the proposal. The following is a summary of their contents:-

- * Concern at the impact of additional traffic generation upon the surrounding road network;
- * Concern at the density of the proposed development compared with its surroundings;
- * Concern at the impact of the proposal upon the visual amenity of the street scene;
- * Concern at the impact of traffic noise from the A64 on the amenity of future occupiers of the proposed development;
- * Concern at the impact of the proposal upon the existing mature landscaping to the west of the site;
- * Concern at the impact of additional access points and on-street parking on the safe and free flow of traffic in the locality;
- * Concern that the loss of the public house has been insufficiently justified;
- * Concern at the loss of mature trees of townscape value;
- * Concern at the need to control on street parking along Top Lane.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- * Impact upon the visual amenity of the wider street scene;
- * Impact upon the safety and convenience of highway users utilising the local highway network;
- * Impact of road traffic noise upon the amenity of future occupants of the development;
- * Sustainability of the proposal;
- * Provision of affordable housing within the site;
- * Impact of the proposal upon the local pattern of surface water drainage;
- * Loss of the existing public house;
- * Impact upon the habitat of bats;
- * Open Space Issues.

IMPACT UPON THE VISUAL AMENITY OF THE WIDER STREET SCENE:-

4.2 Policy H4a) of the York Development Control Local Plan sets a firm policy presumption in favour of residential development on land not previously allocated where the site is vacant, derelict or underused , it is of an appropriate scale and

density to surrounding development and it would not have a detrimental impact upon existing landscape features. The proposal envisages the construction of 7 two storey and 1 x2 storey properties with dormers and rooms on the roof accessible from Tadcaster Road and 3 x 2 storey properties with dormers and rooms in the roof accessible from Top Lane. There would be a mix of dwelling types with a predominance of 4 bedroom detached houses, with 3, 5 bedroom detached executive houses and a pair of 3 bedroom semi-detached houses for "affordable" occupation adjacent to the Tadcaster Road/Top Lane junction. The site slopes markedly between Top Lane and Tadcaster Road which has the effect of limiting the available options in terms of layout and ultimately density. In terms of scale and massing the proposal would respect that of adjoining development which dates predominantly from the 1960s with earlier development along Top Lane to the rear. In terms of materials it is proposed to use a mix of brick and render with clay plain tile roofs. This reflects the practise adopted in respect of other recent developments in the area.

4.3 Concern has been expressed in respect of the proposed density and layout of the proposal and its consequent impact upon the wider street scene in the vicinity of the key approach to Copmanthorpe from the City Centre to the north east. The proposal envisages the construction of 11 houses on a site some 0.8 hectares in area giving an overall density of 14 houses per hectare. This is relatively low by modern standards and reflective of the density of development surrounding. The sloping topography of the site has necessitated a particular pattern of access to the various plots from both adjoining roads with the appearance of a degree of regimentation in respect of the properties along Tadcaster Road. This is necessary in order to avoid giving rise to an impact upon residential amenity arising from overlooking from the properties along Top Lane. Furthermore the scheme as amended, in addition to addressing concerns in respect of access issues, would more closely reflect the local pattern of development in terms of external amenity space and the relationships between properties.

4.4 The Adopted Copmanthorpe Village Design Statement encourages the use of a range of plot sizes with a scale and massing that respects that of surrounding development with the use of local detailing and the choice of materials which reflects those commonly used in the village. The current proposal makes use of a range of plot sizes and a pattern of scale and massing reflective of the surroundings, thereby broadly following the requirements of the Village Design Statement. It is therefore felt to be acceptable in terms of its impact upon the visual amenity of the wider street scene and the terms of Policy H4a) of the Draft Local Plan have therefore been complied with.

4.5 Concern has been expressed in respect of the loss of trees of significant townscape value along the Tadcaster Road frontage of the site and adjacent to 37 Top Lane. A tree survey has been submitted with the proposal which shows them to be broadly in good health. However they are mostly deciduous fruit species which

make little overall contribution to townscape value and they are poorly related to the existing building. The trees adjacent to 37 Top Lane would be removed as part of the proposal along with all but one of the trees facing on to Tadcaster Road. Two areas of landscape planting would be incorporated in the scheme, one along the south eastern boundary of the site adjacent to Top Lane and the other at the junction of Top Lane with Tadcaster Road. The substantial hedge along the boundary with residential properties to the west would be retained as part of the scheme. The proposal is therefore felt to be acceptable in this respect.

4.6 The application site forms a significant visual gateway into Copmanthorpe from the north east. Views along Top Lane are therefore particularly significant. The applicant has agreed to the provision of a 1.8 metre high brick wall with a landscape belt to the Top Lane road frontage. Associated with this would be an informal landscaped sitting out area which, in addition toward contributing towards the requirement for open space provision, would help secure the visual character of the approach into Copmanthorpe.

IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.7 Concern has been expressed in relation to the potential impact of the proposal in terms of traffic generation and highway safety. The majority of properties would be accessed from Tadcaster Road with three accessed from Top Lane. The scheme has been significantly amended to take account of these concerns notably the possibility of conflict between traffic entering and leaving Merchant Way with traffic entering and leaving the plots located along Top Lane. The location of the access point to Plot 1 has been altered to reflect this and it is recommended that any permission be made subject to a Section 106 agreement requiring a payment be made towards the cost of a Traffic Regulation Order restricting parking along Top Lane and Tadcaster Road. Concern has also been expressed in respect of the number of access points giving onto Tadcaster Road with the potential for conflict with pedestrians and cyclists. The plots facing onto Tadcaster Road have been realigned to increase the length of unencumbered footway and the location of plots 10 and 11 have been significantly re-aligned in order to gain a more acceptable standard of visibility at the junction of Tadcaster Road with Top Lane. Top Lane is a significant bus route between the centre of Copmanthorpe village and the City Centre and the proposed development would impact upon the pattern of usage of public transport it is therefore recommended that a commuted sum be sought by a Section 106 agreement to secure a BLISS or real time information system be available at the existing stop. On balance it is felt that the amendments have resulted in an acceptable layout for the scheme.

IMPACT OF ROAD TRAFFIC NOISE UPON THE AMENITY OF FUTURE OCCUPIERS OF THE PROPOSED PROPERTIES:-

4.8 Concern has been expressed in respect of the impact of noise from the A64 upon the residential amenity of those properties facing on to Tadcaster Road. A detailed noise survey has been submitted with the application. This indicates that the existing mitigation measures along the boundary of the A64 consisting of defensive planting together with an acoustic fence are proving highly effective. However, in order to achieve the required internal noise readings for each dwelling it is felt that a scheme of further noise insulation covering the front facades of the new buildings facing on to Tadcaster Road should be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

PROVISION OF AFFORDABLE HOUSING WITHIN THE SITE:-

4.9 Policy H2a) of the York Development Control Local Plan sets a firm policy requirement for the provision of affordable housing within new volume housing developments based upon targets derived from local market conditions and which are regularly reviewed. The current Interim targets were adopted in April 2011 and in areas outside of the main built up area of the City a rate of 25% affordable provision for schemes of above ten houses is stipulated. This may be adjusted downwards if viability considerations rule against such a level of provision. The applicant has indicated that he would be able to comply with the current target by providing two units on site together with a commuted payment of £15,427 in respect of further off-site provision. It is therefore recommended that any permission be made subject to a Section 106 agreement securing the terms of the provision and the maintenance of the property in affordable use in perpetuity.

IMPACT OF THE PROPOSAL UPON THE LOCAL PATTERN OF SURFACE WATER DRAINAGE:-

4.10 Policy GP15a) of the York Development Control Local Plan sets a firm policy requirement that developers must satisfy the Local Planning Authority that any flood risk will be successfully managed with the minimum environmental effect and ensure that the site can be developed, serviced and occupied safely. The application site lies in Flood Zone 1 and is therefore at the lowest perceived risk of flooding. The site also incorporates a significant area of existing hard surfacing and the existing building has a connection to both foul and surface water drainage within Tadcaster Road. Following on from concerns being expressed ,in particular, in respect of surface water drainage a series of broad principles for the drainage of the site have been submitted by the applicant , these indicate a preference for connection to the existing systems in respect of foul sewerage with a mix of connection to the existing system and attenuation in respect of surface water . It is recommended that the detail of both foul and surface water treatment be reserved by condition for further approval as part of any permission.

LOSS OF THE EXISTING PUBLIC HOUSE:-

4.11 Policy L1b) of the York Development Control Local Plan sets a firm policy presumption that planning permission which would result in the loss of a leisure facility including a pub will only be given where it can be demonstrated that a need for the facility no longer exists or that appropriate alternative facilities exist within the catchment area. The Fox and Hounds has suffered a steady decline in trade since the alteration to the layout of the A64 in the vicinity in 2004. The applicant has indicated that the pub has been marketed during 2011 without success, having previously been marketed without success in 2007 and trading at a considerable loss between 2006 and 2011, notwithstanding being refurbished by the ground landlord Enterprise Inns in 2007. The Parish Council have sought to challenge to challenge the substance of the viability report based on the population density served by pubs in the local area. This does not however allow for specific local factors such as accessibility, local income pattern and the type of management in operation. Furthermore the applicant draws attention to the relative proximity of the Royal Oak in the centre of Copmanthorpe village which is also owned by Enterprise Inns. It is argued that the transfer of trade from the Fox and Hounds would secure the long term viability of the Royal Oak and that the terms of Policy L1b) can therefore be complied with.

SUSTAINABILITY OF THE PROPOSED DEVELOPMENT:-

4.12 Policy GP4a) of the York Development Control Local Plan sets out a clear policy requirement that new development should have clear regard for the principles of sustainable development. These notably include accessibility by means of transport other than the car, the minimisation of the use of non-renewable resources, the minimisation of pollution, the maximisation of the usage of renewable energy and the making of adequate provision for the storage of refuse and recycling. This follows on from the core planning principles of Central Government Planning Policy outlined in the NPPF notably support for a transition to a low carbon future and encouraging the effective use of land that has been previously developed providing it is not of high environmental quality. The application site lies within the built envelope of Copmanthorpe and it is readily accessible by bus and cycleway to the City Centre and is within a 15 minute walking distance of the shops and amenities of Copmanthorpe village centre. The re-development of the site for housing furthermore reduces pressure for release of green field land elsewhere.

4.13 The applicant has submitted a Sustainability Statement which emphasises the use of energy efficient lighting and heating, the provision of a generous area for recycling bin storage and the use of additional insulation to reduce noise pollution whilst at the same time rendering the development as energy efficient as practicable. These measures may be secured by condition on any permission requiring compliance with a Code for Sustainable Homes Level 3 Assessment. The

proposed palette of materials would match that of nearby properties and would be locally sourced wherever possible. The properties would furthermore be orientated on a north south alignment which would maximise any solar gain. Reference is made within the Sustainability Statement to the use of solar panels which could be located on each property to maximum effect and which can ensure that a significant proportion of the energy needs of each property can be met by renewable means. Providing such renewable generation is secured by condition on any permission then the terms of Policy GP4a) of the Draft Local Plan can be complied with.

IMPACT UPON THE HABITAT OF BATS:-

4.14 Policy NE6 of the York Development Control Local Plan sets a firm policy presumption that planning permission will not be forthcoming for development that would result in demonstrable harm to a protected species or their habitat. The current proposal has been subject to a bat scoping survey which has not shown any evidence of bat activity within the existing buildings. There is however, some evidence of bat foraging in the surrounding area. It is therefore recommended that any permission be conditioned to secure a scheme of mitigation to protect the foraging habitat. The terms of Policy NE6 would thereby be complied with.

OPEN SPACE ISSUES:-

4.15 Policy L1c) of the York Development Control Local Plan sets out a requirement for the provision of open space either on-or off site via commuted payment in respect of residential and substantial employment related developments. In the current case an informal landscaped sitting out area is to be provided on site facing on to Top Lane. A further requirement is however, sought in respect of off-site provision in respect of requirements in the surrounding area. This would total some £29,192 and would be obtained via a commuted sum through a Section 106 Agreement. The terms of Policy L1c) would thereby be complied with.

5.0 CONCLUSION

5.1 The Fox and Hounds Top Lane Copmanthorpe comprises a two storey brick built pub set within large grounds circa 1970s. The pub has undergone a steep decline in trade since the alterations to the layout of the A64 in 2004 removed one of the principal points of access and this has continued notwithstanding the grant of a planning permission for erection of 8 flats on the car park in 2006 and a substantial refurbishment in 2007.

5.2 The scale, massing and palette of materials of the proposed properties would closely match that of neighbouring properties and the proposed density of 14 per hectare is felt to be reasonable in local circumstances. The proposed development is felt to be sustainable and has the capacity to include within it renewable energy generation that would meet as significant element of the site's needs. A modest

sitting out area would be provided on site as part of the required open space with the remainder being met off-site. It is felt that the proposed access and parking arrangements are acceptable subject to payment of a commuted sum in respect of a Traffic Regulation Order and that on balance sufficient effort has been made to try to retain the building in the existing pub use.

5.3 Two of the housing units within the site have been designated as being for "affordable" occupation with a further commuted payment towards off-site provision being made. The permission should be made subject to a Section 106 Agreement which secures the management of the two designated units as affordable in perpetuity with associated off-site commuted payment , contributions towards a real time assisted or BLISS information bus stop, a Traffic Regulation Order on Top Lane and the provision of off site open space. Providing these requirements are secured and the detail of the foul and surface water drainage of the site is secured by condition then the proposal is felt to be acceptable in planning terms and approval is therefore recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

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

Drawing Refs:- E/12/03/K ; E/12/02/B ; E/12/05/A ; E/12/06/A; E/12/07 and E/12/02/C. Date Stamped 27th July 2012.

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 VISQ7 Sample panel ext materials to be approv -

5 VISQ4 Boundary details to be supplied -

6 DRAIN1 Drainage details to be agreed -

7 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A,B,C,E and F of Schedule 2 Part 1 of that Order shall not be erected or constructed.

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

8 ARCH2 Watching brief required -

9 No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority of what measures are to be provided within the new buildings to accommodate bats. The work shall thenceforth be completed in strict accordance with the details thereby approved. Features suitable for incorporation for this group include the use of special tiles, bricks, soffit boards, bat boxes etc.

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

10 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, shrubs and other planting. 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.

11 Trees shown as being retained on the approved plans/drawing E/12/03 K 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 and manoeuvring of vehicles, there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new pipe runs for services or drains. The fencing shall remain secured in position through out 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 the 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 in accordance with Policy NE1 of the York Development Control Local Plan

- 12 NOISE7 Restricted hours of construction -
- 13 HWAY10 Vehicular areas surfaced, details reqd -
- 14 HWAY18 Cycle parking details to be agreed -
- 15 HWAY19 Car and cycle parking laid out -
- 16 HWAY21 Internal turning areas to be provided -
- 17 HWAY40 Dilapidation survey -
- 18 HWAY31 No mud on highway during construction -

19 The development shall not be first 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.

20 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 submitted to and approved in writing by the Local Planning Authority. Such a statement shall include at least the following information:

* Where contractors will park;and

* Where materials will be stored within the site.

The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: - To ensure that the development can be carried out in a manner that will not be to the detriment of the amenity of local residents and secure compliance with Policy GP1 of the York Development Control Local Plan.

21 Prior to the commencement of development, a report demonstrating that the dwellings hereby authorised would comply with the Code for Sustainable Homes Level 3 Assessment for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved report.

Reason: - To ensure that the proposal complies with the principles of Sustainable Development and to secure compliance with Policy GP4a) of the York Development Control Local Plan.

22 Prior to the commencement of development, full details of a renewable energy strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include i) each dwelling's proposed renewable energy generation, which shall be at least 10% of total energy generation ii) measures to reduce energy demand iii) measures to reduce CO2 emissions to a level lower than required under Building Regulations Part L. The development shall then be carried out in accordance with the approved assessment.

Reason: - To ensure that the proposal complies with the principles of Sustainable Development and to secure compliance with Policy GP4a) of the York Development Control Local Plan.

23 Prior to the commencement of the development hereby authorised a detailed scheme of noise insulation outlining the proposed internal dBa levels to be achieved for the properties to be erected facing Tadcaster Road shall be submitted to and agreed in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

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

**7.0 INFORMATIVES:
Notes to Applicant**

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the visual amenity of the wider street scene, impact upon the safety and convenience of highway users, impact of road traffic noise upon the amenity of future occupants of the site, provision of affordable housing impact upon the local pattern of surface water drainage, the sustainability of the development and loss of a public house. As such the proposal complies with Policies L1c), GP1, NE1, NE6, GP15a), H2a), H4a), GP4a) and L1b) of the City of York Development Control Local Plan.

2. CONTROL OF POLLUTION ACT 1974:-

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b)The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

3. WORKS WITHIN THE HIGHWAY:-

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

4. 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.

5. SECTION 62/72 OF THE 1980 HIGHWAYS ACT:-

You are reminded of the need to enter into an agreement with the Local Highway Authority under Section 62/72 of the 1980 Highways Act in order to secure the provision of new footways and street lighting to service the development hereby approved.

Contact details:

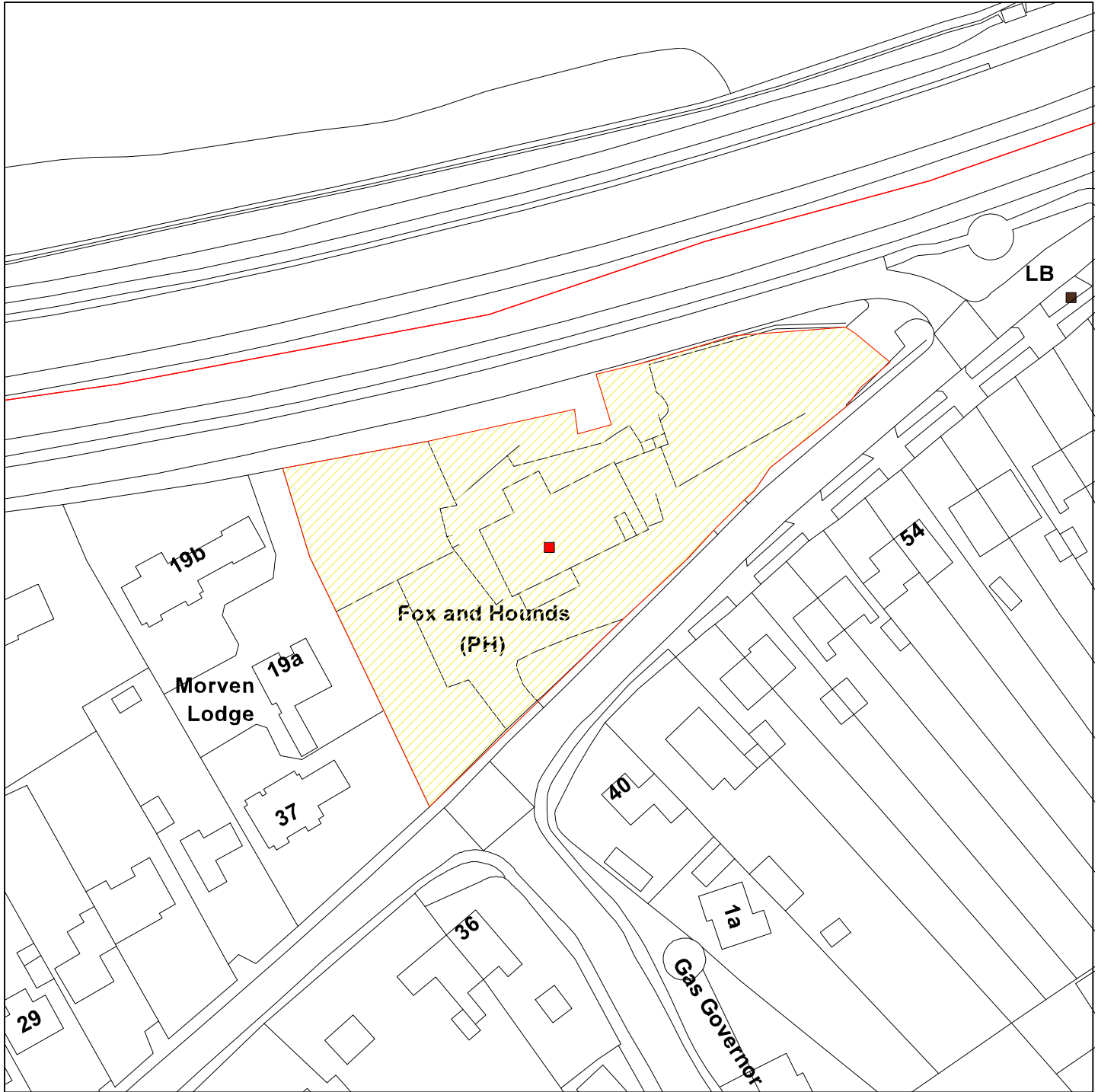
Author: Erik Matthews Development Management Officer

Tel No: 01904 551416

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11/02985/FULM

Fox and Hounds, 39 Top Lane



Scale : 1:1000

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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	06 August 2012
SLA Number	Not Set

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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 12/01910/FUL
Application at: Lucia Bar And Grill 9 - 13 Swinegate Court East Grape Lane
York YO1 8AJ
For: Change of use to mixed use ground floor restaurant and first
floor bar (retrospective)
By: Mr Osman Doganozu
Application Type: Full Application
Target Date: 3 August 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks retrospective planning permission for the change of use of 9 -13 Swinegate Court East, also known as "Lucia Wine Bar" from a restaurant (Use Class A3) to a mixed use restaurant and drinking establishment (Use Class A3/A4).

1.2 Planning permission was granted for the use of the ground floor as a restaurant in the 1990s. In July 2011, the upper floor of the property became vacant and permission was granted for the restaurant to expand onto the first floor. Neither permission restricted the opening hours of the restaurant. There is an outside seating area associated with Lucia's with canopies and external heatlamps to encourage its use.

1.3 The use of the first floor of the property has not been implemented in accordance with the 2011 permission as an expansion of the restaurant and is operating as "Bar Esperanza". Whilst under the same ownership of Lucia's, the bar is marketed to attract its own customers together with custom from Lucia's. Permission is therefore sought to regularise the operations at 9-13 Swinegate Court East and to seek permission to allow the A3 element of the business to open until 1am and the A4 element to 3am (Mondays to Sundays). This would tie in with the opening hours granted under the Premises Licence.

1.4 The application is brought to committee at the request of Councillor Watson to assess the impact of the number of drinking establishments in the immediate area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Application Reference Number: 12/01910/FUL

Item No: 4h

Page 1 of 8

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006
Conservation Area GMS Constraints: Central Historic Core CONF
Listed Buildings GMS Constraints: Grade 2; 71 Low Petergate York 0820
Listed Buildings GMS Constraints: Grade 2 Star; 73 Low Petergate York YO1 2HY
0819

2.2 Policies:

CYS6
Control of food and drink (A3) uses

CYS7
Evening entertainment including A3/D2

CYHE3
Conservation Areas

3.0 CONSULTATIONS

INTERNAL

Environmental Protection Unit

3.1 Concerned regarding the impact on the amenity of the area, however following the commissioning of an acoustic report, officers are satisfied that it should be possible to operate Bar Esperanza/Lucia's in a manner that will not affect nearby dwellings. The premises have permission to play music outside in the courtyard, but the levels are maintained at background level and the external music is not currently a source of noise complaints.

3.2 A number of noise complaints have been received by the Environmental Protection Unit in relation to (i) the noise of external chiller units and also (ii) late night bass beat emanating from the Esperanza Bar. The noise assessment concluded that the current levels of the chiller units were too high but that the noise levels could be reduced by a combination of increasing the mass between the units and the air gap between the buildings in addition to increasing the sound absorptive material in the enclosed space where the external chiller units are located.

3.3 The noise assessment undertaken also monitored the level of music within the nearest residential property and was able to record elevated levels of low frequency noise in the range of 40 - 100Hz when the volume was turned up to "artificially high levels". The noise assessment concluded that most of the noise was escaping from out of the roof, but that implementing mitigation measures in the roof would be

difficult and impractical, and concluded that limiting the levels internally would be the most successful method of reducing noise from escaping.

3.4 In view of the above, EPU would recommend conditions requiring the submission of a scheme (including noise mitigation measures) for all the machinery, plant and equipment installed and for an electronic noise limiter to be installed within Bar Esperanza.

City Centre Management

3.5 No objections

EXTERNAL

Safer York Partnership

3.6 In respect of "designing out crime", no issues to raise. These premises already have in place a Premises Licence which the Police and the Council's Licensing department have endorsed.

Guildhall Planning Panel

3.7 No objections but hope the previous thoroughfare will be restored.

Neighbour notification/publicity

3.8 Eight letters of objection have been received from residents and businesses which raise the following planning issues;

(i) Noise and disturbance to residential properties. Even before the opening of the bar, residents were faced with disturbance and noise of works from 7am to 12am. Since opening in March 2012, the wine bar has introduced a high level of noise from amplified music on the premises, increased the opening hours until 3am and attracted a much greater number of clientele who tend to be more boisterous outside the premises. It is a fully fledged bar / club with manned door staff which has seriously eroded our quality of life and it is difficult to sleep with the noise pollution.

(ii) Noise problem from the external electrics positioned to the rear of the flat at No.2 Grape Lane, two metres from the small courtyard garden. Permission was never granted for this installation and they are active 24 hours a day.

(iii) Positive commercial development has taken place in Petergate, Grape Lane and Swinegate since 1967 however the balance between residential, retail shops

and bars/ restaurants is shifting in favour of late night drinking. The area is in danger of becoming another Micklegate.

(iv) Increased opening hours for premises selling alcohol will result in an increase in anti social behaviour, litter, damage to commercial property.

4.0 APPRAISAL

4.1 Key Issues

- vitality and viability of the city centre
- impact on residential amenity of surrounding occupants
- impact on the character of the conservation area

Planning Policy

4.2 The National Planning Policy Framework advises that planning should positively promote competitive city centres and enhance their vitality and viability. The NPPF advises that residential development can play an important role in ensuring the viability of town centres. It forwards the principle that planning should seek to ensure a good standard of amenity for all existing and future occupants of land and buildings. Planning decisions should aim to achieve places which promote safe and accessible environments where crime and disorder and the fear of crime, do not undermine quality of life or community cohesion. Planning decision should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

4.3 Local Plan Policy S6 states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted provided:

- There is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter.
- Opening hours are restricted where this is necessary to protect the amenity of surrounding occupiers.
- Where security issues have been addressed.

4.4 Policy S7 seeks to promote the introduction of new evening entertainment uses provided there is no adverse impact on the vitality and viability of the city centre and no adverse impact on residential amenity.

Vitality and viability of the city centre

4.5 In principle, the proposed mixed A3 / A4 use of 9-13 Swinegate Court East would be consistent with the aim of retaining and promoting the vitality of the city centre as advised in the NPPF and supported by local planning policies S6 and S7.

In general there is support for drinking establishment uses provided they do not harm retail vitality, the living conditions of nearby residents and public safety.

4.6 Swinegate Court East is not a Primary Shopping Street but a passageway between Swinegate and Grape Lane. Due to the discreet location and given that the building has permission to be operated as a restaurant, Officers consider that this proposal for a mixed A3 / A4 use would not have a material effect on the vitality and viability of this part of the city centre.

Amenity of surrounding residents

4.7 There are houses nearby in this area including a flat at No.2 Grape Lane, which is adjacent to and shares a party wall with the application site together with houses in Lund's Court, Norman Court and Petergate. There are other outside areas associated with cafes, bars and restaurants nearby, at the rear of Strada (75 Low Petergate) and Bora Bora in Swinegate Court East.

4.8 The proposed opening hours are until 01:00 for the A3 restaurant use and until 03:00 for the A4 use. According to the premises licence, the following capacity figures/seating arrangements shall be in place:

- Ground Floor (inside) - a minimum of 42 seated covers.
- Ground Floor (outside) - a maximum occupancy of 30 people. Customers shall remain seated at all times while consuming alcohol outside
- Upstairs - a maximum occupancy of 130 people with a minimum of 60 seated covers.

4.9 The noise complaints received by the Environmental Protection Unit in relation to Lucia's / Esperanza have related to noise from the external chiller units and the late night bass beat emanating from the Esperanza Bar. The acoustic report submitted with the application concluded that the current levels of the chiller units were too high but that the noise levels could be reduced by a combination of increasing the mass between the units and the air gap between the buildings in addition to increasing the sound absorptive material in the enclosed space where the external chiller units are located.

4.10 With respects to music noise, the noise assessment monitored the level of music within the nearest residential property and was able to record elevated levels of low frequency noise in the range of 40 - 100Hz when the volume was turned up to "artificially high levels". The report concluded that limiting the levels internally would be the most successful method of reducing noise from escaping.

4.11 With conditions requiring noise mitigation measures for the plant and machinery at the premises and for an electronic noise limiter to be installed within

Bar Esperanza, the Environmental Protection Unit are satisfied that Bar Esperanza / Lucia's can be operated in a manner which would not affect nearby dwellings.

4.12 Aside from assessing the impact on residential amenity from the "inside" of the premises, Officers acknowledge that the external seating area has the potential for noise disturbance from music and from raised voices. The applicant has confirmed that this seating area is used in association with the bar as well as the restaurant and therefore should this application be approved, this area could be used until 3am by up to 30 persons.

4.13 The licence permits the premises to play music outside in the courtyard but the Environmental Protection Unit comments that the levels are maintained at background level and the external music is not currently a source of noise complaints.

4.14 The application site is within the city centre where late night uses are to be expected and noise from persons in the street at night and anti-social behaviour cannot be attributed to any single premises. The closest residential buildings are the adjacent flat at No.2 Grape Lane whose bedroom fronts Grape Lane which is around the corner from the courtyard seating area. Because of the intervening buildings and streets between the application site and surrounding residential premises, it is deemed that persons using the outside area would be unlikely to create undue noise disturbance (i.e. no more than that which is already experienced in this area). However it is considered it would be prudent to give a temporary consent for the opening hours of the external area, so this can be re-considered if the 03:00 closing time leads to disturbance. It is deemed necessary to require through a condition that music relating to the restaurant/ outside seating area is controlled so it is not audible from within residential properties.

4.15 Matters of crime and disorder/security are predominantly dealt with through licensing. The Premises has a license which has been endorsed by the Police.

Impact on the Conservation Area

4.16 Policy HE3 states that within conservation areas, proposals for changes of use will only be permitted where there is no adverse effect on the character or appearance of the area. The application is for change of use only and involves no external alterations.

4.17 Swinegate forms part of the historic core of the city centre and is a popular cut-through route for pedestrians in the city centre. The area provides for largely leisure uses, with some retail use, and some residential properties within nearby courtyards and management flats for local businesses. There are a number of restaurants, public houses and a take-away restaurant and the Swinegate area is generally a pleasant, safe and quiet environment to visit in the evening.

4.18 There are two other applications on the agenda for late night drinking facilities in the Swinegate area; Mr Chippy at 37 Swinegate and Bora Bora at 5 Back Swinegate Court East. The introduction of three late night drinking establishments would result in additional evening activity and has the potential to generate disturbance that would alter the character of the wider Swinegate area. Although each application has to be determined on its merits, Policy S7 advises that the cumulative impact of such uses can be detrimental to an area if the uses cannot be easily absorbed without harming its character or residential amenity.

4.19 On balance, it is considered that Swinegate could absorb the proposed A4 use at 19 Swinegate Court East without detracting from the character of Swinegate. The use would be reasonably compatible with the neighbouring predominantly restaurant /retail/ public house uses if appropriately controlled to ensure that nearby residential amenity is not unduly affected. It would also accord with Policies HE3, S6 and S7 of the Local Plan and guidance within the NPPF that seeks to promote a vibrant local economy whilst protecting the local distinctiveness that contributes to the character and appearance of the conservation area.

5.0 CONCLUSION

5.1 Subject to conditions to allow monitoring of the external area, to ensure noise mitigation measures are implemented with respects to the plant and machinery and to ensure music is inaudible within nearby residential properties, Officers consider potential noise disturbance to arise from the mixed A3/A4 use would be satisfactorily mitigated. There would be no undue harm to the vitality and viability of the city centre or to the character and appearance of the Conservation Area and therefore approval is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

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

Floor plans received 22 May 2012

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

2 Within 1 month of permission being granted, a scheme shall be submitted to and approved in writing by the Local Planning Authority for all the machinery, plant and equipment installed. The machinery, plant and equipment and specifically any approved noise mitigation measures shall be fully implemented and operational

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within 1 month and shall be appropriately maintained thereafter.

Reason: In order to protect the amenity of residents and in the interests of the character of the Conservation Area.

3 Within 1 month of this permission being granted, an electronic noise limiter shall be installed within Bar Esperanza. Amplified music shall be played through the device at all times and it shall be set at a level such that no music and/or bass beat is audible within nearby residential properties.

Reason : In order to protect the amenity of residents and in the interests of the character of the Conservation Area.

4 No amplified, recorded or live music in association with the restaurant and external seating area shall be played which is audible within nearby residential properties.

Reason : In order to protect the amenity of residents and in the interests of the character of the Conservation Area.

5 The use shall only be open to customers between the following hours: 08.00 to 03.00 the following day.

From 1 September 2014 the outside area shall not be open to customers between 24:00 midnight and 08.00 each day of the week unless a further planning permission has been granted to extend or remove this restriction.

Reason: To monitor noise associated with the outside area and to protect the amenity of nearby residents from noise associated with the premises.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the character and appearance of the Central Historic Core Conservation Area and the amenity of surrounding residents. As such the proposal complies with Policies S6, S7 and HE3 of the City of York Development Control Local Plan.

Contact details:

Author: Rachel Tyas Development Management Officer (Wed - Fri)

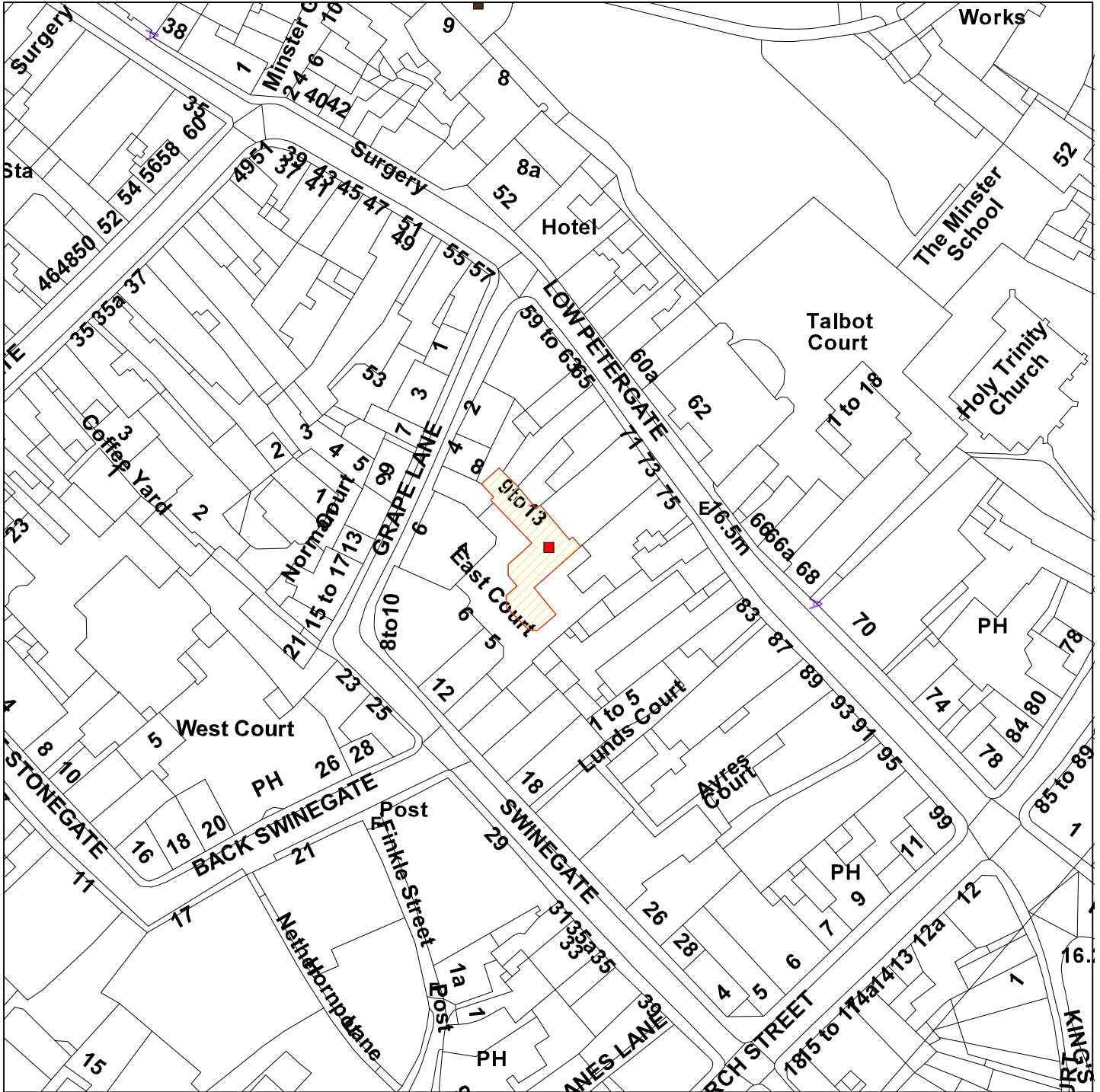
Tel No: 01904 551610

12/01910/FUL

Lucia, 9 - 13 Swinegate Court East



GIS by ESRI (UK)



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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	06 August 2012
SLA Number	Not Set

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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 12/02419/FUL
Application at: 2 Kings Court York YO1 7LD
For: Use of the highway (Kings Square) for tables and chairs in connection with Chocolate, 2 Kings Court
By: The Continuum Group
Application Type: Full Application
Target Date: 3 September 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 Application proposes to have an outside cafe area within King's Square. The area would be operated by the Chocolate Museum which occupies the C20 Kings Court building. Originally the plan was for around 7 tables within a circular area located towards the centre of the square. The plans have now been revised (see revision B) and 4 tables are now proposed toward the northern corner of the square.

1.2 King's Square is within the Central Historic Core Conservation Area.

1.3 The application is brought to committee at the request of Councillor B Watson. To ensure there is no conflict with other commercial operations in the square.

Relevant Planning History

1.4 Planning permission was refused in 2008 for the use of the highway as a seating area outside of Millies Cookies at 6 Kings Square because of the impact upon the historic character of the Square, the obstruction of pedestrians and the setting of a precedent for further similar uses in the area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:
Areas of Archaeological Interest GMS Constraints: City Centre Area 0006
Conservation Area GMS Constraints: Central Historic Core CONF

2.2 Policies:

CYHE2 Development in historic locations

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CYHE3 Conservation Areas
CYS6 Control of food and drink (A3) uses

3.0 CONSULTATIONS

Design, Conservation and Sustainable Development

3.1 No response to date.

Highway Network Management

3.2 No objection. The applicant should note it is also necessary to separately obtain a Pavement Cafe Licence from the highway authority.

Licensing Unit

3.3 The licensing section would object to any planning application which could impinge on the established street traders and their locations preventing them from carrying out their normal business. Kings Square is already a very busy area due to the street traders, street entertainment, which at times is attended by large numbers of spectators and the road across the Square which is used by traders from the market and Shambles.

Publicity

3.4 The consultation period ends 9.8.2012. To date 55 objections have been received and one letter in support from the owners of the premises.

Harm to the vitality and viability of the square

- The square is one of the few areas in the city centre which allows a significant space for performance. Performance in the square creates a vibrant and interesting atmosphere - which is appreciated by both visitors and locals. They bring a significant draw to the area and the impact they have on the surrounding businesses is valued. Without them the vitality of the square would suffer. The proposals would essentially replace the performers with a pavement cafe, something that can be found in almost any town, city or shopping centre in the country. The application wrongfully suggests the performances only take place on the raised area. There would not be space for performance and the pavement cafe proposed.

Impact on the public realm, the conservation area and safety

- There are adequate pavement cafes in the city centre, which privatise the public realm; indeed they are taking over in St Sampson's Square and Parliament Street.
- The cafe would clutter what is a busy thoroughfare. This is inconvenient for its users and damages the appearance of the conservation area. The footpath between the shops and the square is very well used, being the principal route to the Shambles and the market. It is narrow, and servicing of the cafe area will be a major inconvenience to the flow of pedestrians and potentially dangerous to the public and waiting staff. This type of arrangement works in St Sampson's Square which is much wider and less busy, but is completely inappropriate at this location. The use would significantly reduce the amount of space available for pedestrians. Blind and partially sighted people (whom have logged objections) consider they would encounter great difficulties in this area should it become more cluttered.
- The proposals should be re-considered after improvements to the square which should aim to increase footfall in the square. It would be unfair to allow the space to become monopolised by one trader at the expense of the many others in the locality.

Cllr Taylor comments

- King's Square is an important element of Public Open Space in York City Centre and one which is used extensively by citizens and visitors to York. The street performers which are permitted to operate here are a good example of how vitality and vibrancy can be added to a city centre, in line with the Council's strategy to "Reinvigorate York". Often there are several dozen people stood watching the street entertainers and this is a visitor attractor in itself. It would be a mistake to allow a private takeover of this public space.

4.0 APPRAISAL

4.1 KEY ISSUES

- Impact on the character and appearance of the Central Historic Core Conservation Area
- Highway Network Management
- Amenity of surrounding occupants

RELEVANT PLANNING POLICY

National Guidance

4.2 The National Planning Policy Framework advises that planning should be positive and promote competitive town centre environments, development should be encouraged where it supports the vitality and viability of centres.

4.3 A recent document released by central government 'Re-imagining urban spaces to help revitalise our high streets' recognises that centres are not just for shopping, but provide a range of uses and are places for people to meet. The document discusses how to re-invigorate city centres and build on their strengths, to allow them to compete against out of town and internet shopping. It recommends allowing premises such as cafes to 'spill out into the street' where this adds to vitality. It adds that such uses must though be planned so that all users of the space are considered and so there is space for passers by.

Local Policies

4.4 The Central Historic Core Conservation Area Appraisal notes that public squares are few in number, mostly small (compared to other cities) and often cluttered. Key civic spaces are poorly designed for the multiple functions they now serve and as the setting for surrounding buildings. King's Square is described as an important space between Shambles and Low Petergate, which should be enhanced with higher quality hard landscaping and street furniture. There is an aspiration within the appraisal to de-clutter the streets in the city centre. There is no specific approach to pavement cafes.

4.5 Local Plan Policy HE3 states that within conservation areas, proposals will only be permitted where there is no adverse effect on the character and appearance of the area. Policy HE2 states that within conservation areas and locations which affect the setting of listed buildings development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regards to local scale, proportions, details and materials. Proposals will be required to maintain or enhance existing urban spaces, views, landmarks and other townscape elements, which contribute to the character or appearance of the area.

4.6 Local Plan Policy S6 states that planning permission for the extension, alteration or development of premises for A3 uses (food and drink) will only be granted in the city centre provided there is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter.

ASSESSMENT

Impact on the character and appearance of the Central Historic Core Conservation Area and use of the square

4.7 The Central Historic Core Conservation Area Appraisal seeks to reduce clutter to create streets and spaces that through simplified, uncluttered design, careful

management and imaginative use, maximise their potential as pleasant pedestrian places and improve the setting for York's great architecture. This is also promoted by The Civic Trust. However it is also an aspiration of the council, in line with national policy, to enhance the vitality and viability of the city centre. Promoting and enabling pavement cafes is part of the drive to enhance vitality and viability.

4.8 The square is a busy thoroughfare and provides space for people to congregate due to its proximity to popular and narrow streets such as Shambles. The space is used frequently by performers and the council has given licenses for 3 stalls to operate in the square. Additionally there are benches for public use. As a public square it is paramount that there is space for the public to pass by and to use the space, which means it should not be subject to excessive clutter and nor should it be unduly privatised. It is planned in future to upgrade the square and alter the road between Petergate and Colliergate, to provide additional pedestrian and public space.

4.9 The proposed location for tables and chairs has been amended and would be at the northern end of the square (by the bin and the plaque within the surface). It is asked for permission to place 4 tables in this area, surrounded by a rope barrier, and that there is a degree of flexibility which will allow furniture to be placed generally in this area. The location and size of the area has been proposed to retain adequate space for the existing uses within the square.

4.10 The introduction of furniture would clutter the area, and to an extent this would damage the appearance of the conservation area. However the furniture proposed would maintain openness; no umbrellas are proposed, no screens will be placed around the area and the furniture will be removed outside trading hours. As such the harm to the square's appearance would be limited. As part of the management strategy for the area we are advised employees of the museum would ensure the area is kept in a tidy manner.

Highway Network Management

4.11 The tables and chairs would only be installed each day after 10:00 and therefore there would be no undue conflict with servicing vehicles. Due to the scale and the location of the area it is deemed it would not unduly impact pedestrian flows through the square. There are no objections to the scheme on highway management grounds.

Amenity of surrounding occupants

4.12 The area has a mix of uses and a certain level of activity is to be expected throughout the daytime and evening. The proposed development in this area would have no material impact on the amenity of surrounding occupants.

5.0 CONCLUSION

5.1 Given the revised location and scale of the proposed seating area it could be installed without unduly compromising the character and function of the square. The facility will contribute to the vitality and viability of the square both during the daytime and the evening and therefore the application is recommended for approval.

5.2 A temporary permission is proposed to allow for monitoring and given the future plans for alterations for King's Square, which will affect its layout and street furniture, such as seating. Conditions are also recommended to control the hours of operation and furniture.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 This use shall cease by 1 September 2013 unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: So that the Local Planning Authority may assess the impact of this use upon the function of the square and given future plans to re-configure the square and street furniture within it.

2 The development hereby permitted shall be carried out in accordance with the following plans:- KS 01 20B received 2.8.2012.

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

3 Furniture - The tables and chairs within the outside seating area hereby approved shall be those shown in the supporting document submitted with the application unless alternatives are approved in writing by the Local Planning Authority.

Any barriers required shall consist of upright posts (coloured black or similar) linked by a rope or chain only. The barriers shall be no more than 1.1m tall.

There shall be no other furniture used (such as bins or umbrellas) unless otherwise approved in writing by the Local Planning Authority prior to installation.

Reason: In the interests of the appearance of the conservation area.

4 The outside seating area shall only operate between the hours of 10:00 and

22:00 each day of the week. All furniture shall be stored within the curtilage of the host premises (or within a building elsewhere) outside the permitted hours of operation.

Reason: To avoid conflict with servicing vehicles and in the interests of the appearance of the area and amenity of surrounding occupants.

7.0 INFORMATIVES:

Notes to Applicant

1. 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 the officer named:

Cafe Licence - Section 115 - Heather Hunter or Anne-Marie Howarth (01904) 551418

2. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of the area, the character and appearance of the conservation area, highway safety and amenity. As such the proposal complies with Policies HE2, HE3 and S6 of the City of York Development Control Local Plan.

Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323

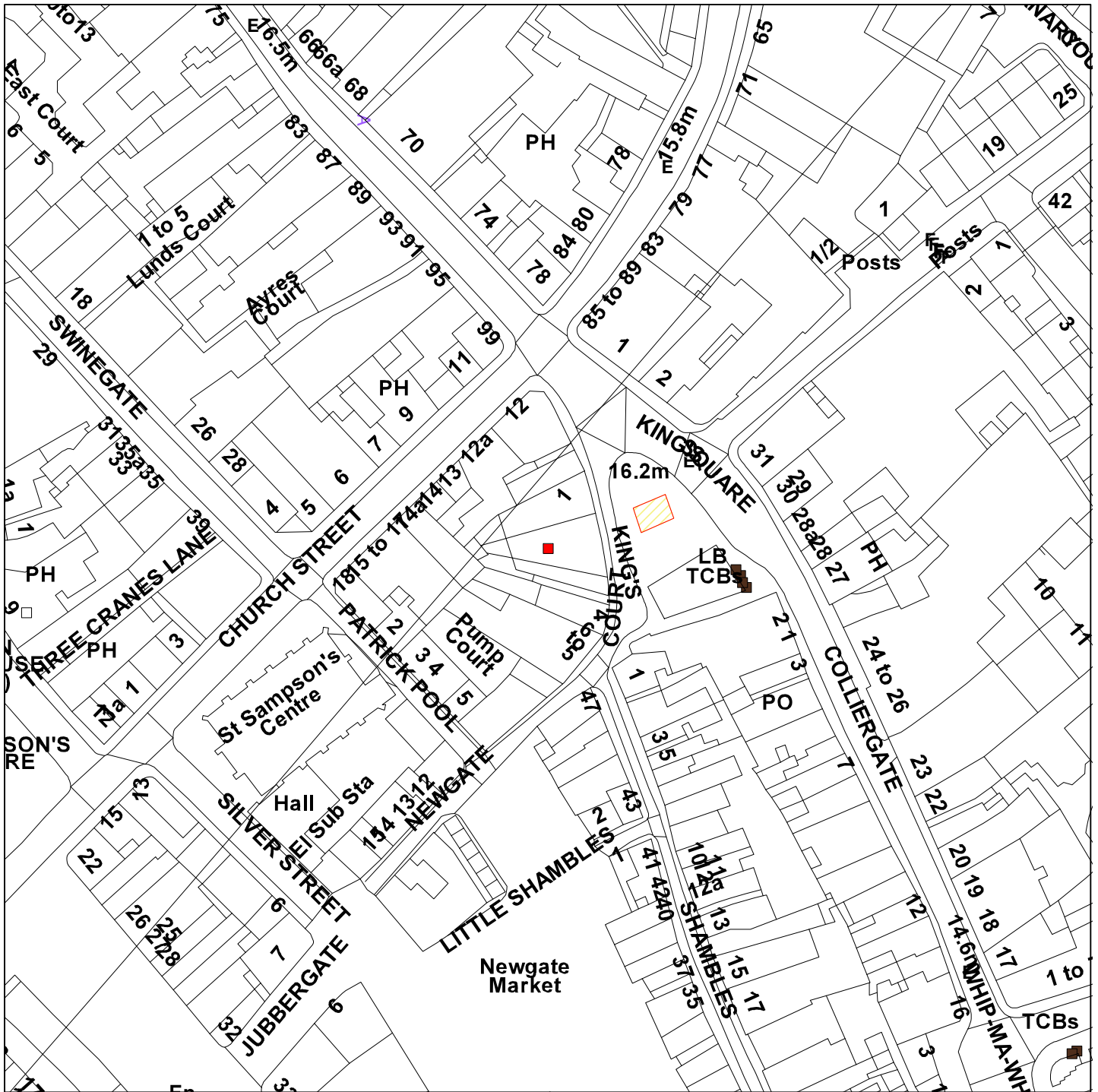
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adj to 2 Kings Court, YO1 7LD



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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	06 August 2012
SLA Number	Not Set

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COMMITTEE REPORT

Date: 16 August 2012 **Ward:** Rural West York
Team: Major and **Parish:** Upper Poppleton Parish
Commercial Team Council

Reference: 12/01911/OUTM
Application at: Land Between Sports Field And Westview Close York
For: Erection of 13no. dwellings and associated infrastructure
By: Hogg Builders (York) Limited
Application Type: Major Outline Application (13 weeks)
Target Date: 10 September 2012
Recommendation: Refuse

1.0 PROPOSAL

APPLICATION SITE

1.1 The application site lies to the west side of Westview Close, a cul-de-sac which is accessed from Boroughbridge Road. Of the 6 existing houses along the eastern side of close 4 are bungalows (although 2 have rooms within the roofspace) and 2 are 2-storey. The former Civil Service playing fields are to the west of the application site and the Villa Court housing development is to the north.

1.2 According to the 2005 Local Plan proposals map the land is within the green belt. Four of the trees on-site have TPO status (2 Sycamore trees and 2 Beech trees). Two Yorkshire Water sewers run through the site.

PROPOSALS

1.3 The application seeks outline permission for 13 houses which would be no more than 9m high (which suggests 2-storey in height). The house sizes would be 2x 2-bed, 4x 3-bed, 5x 4-bed and 1x 5-bed. The only reserved matters item applied for is the means of access.

RELEVANT SITE HISTORY

1.4 An application was made in 2001 for residential development of the site. The application was refused and an appeal dismissed. It was deemed that to allow the development would be premature as the green belt boundaries were at that time under review. It was unclear as to whether the site was within the green belt. The inspector deemed there was inadequate evidence to demonstrate that the site was not in the green belt. The inspector's decision was that the green belt review should be allowed to go through due consultation and the boundaries of the green belt

established. It would be premature to allow this site to be developed before such an exercise had been undertaken.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

Schools GMS Constraints: Manor CE 0250

York North West Boundary GMS Constraints: York North West Boundary CONF

2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP7	Open Space
CYL1C	Provision of New Open Space in Development
CYED4	Developer contributions towards Educational facilities
CYGB1	Development within the Green Belt
CYH2	Affordable housing on housing sites
CYH3C	Mix of Dwellings on Housing Site
CYH4A	Housing Windfalls

3.0 CONSULTATIONS

INTEGRATED STRATEGY

3.1 Object on the grounds that the site is within the draft Green Belt, it is located outside existing settlement limits (therefore inappropriate as a windfall site), there is a lack of affordable housing provision, and potentially the density of development is too low. Officers add that they consider that York does have an adequate 5-year land supply, as required by National Policy and that this site was discounted as a possible site for residential development due to its green belt location.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT - LANDSCAPE ARCHITECT

3.2 Officers advise that the trees on site and their amenity value restrict the amount of development that can occur on site. The layout shown constitutes over development. In order to inform development of the site a fully detailed tree survey and consideration of future tree growth is recommended.

3.3 Two Sycamores and three Copper Beech trees on site, are subject to Tree preservation order (TPO) CYC99. These are high status trees and should be given absolute protection. They are attractive individual trees that add to the public amenity as viewed from Boroughbridge Road and Westview close (and also

informally within the ex-playing fields). Whilst the majority of trees are outside of the site boundary they read in partnership with this wedge of open space on which they have a physical and visual influence.

3.4 Due to the importance of the trees, there should be no operations at all within the root protection area or canopy spread which ever is the greater. Due to the high significance of the trees, and their maturity, there shall be no change to the immediate ground conditions, thus no paving, paths, or driveways shall be permitted with thin RPA or root spread. Officers consider:-

- The main elevations of units 1 and 2 do not face the adjacent Sycamore (3). Nonetheless, the Sycamore is an exceptionally large tree, and concerns about its safety at such close proximity to property is very likely to be a concern for residents, therefore it would be more appropriate to keep this front area free of development. A young Rowan is also in this area but has not been shown on the drawings.
- Due to the orientation of the site and properties, units 3, 4 and 5 will be particularly affected by shade from the adjacent trees.
- Unit 6 is compatible with existing trees, though the front corner of the house does appear to be uncomfortably tight to the road.
- Unit 7 is too hemmed in between Beech 5 and Sycamore 14.
- The cul-de-sac turning head and unit 8 are too close to Sycamore 14.
- The proximity of unit 9 to the existing hedge and site boundary is impractical.
- Given the trees in the rear gardens of the adjacent properties, the gardens of units 10 and 11 are too short.
- The proposal includes a number of opportunities for new tree planting in front gardens that would add to the public amenity of the development. Ownership of proposed trees should be clear, trees should be in sustainable locations, therefore should be kept a reasonable distance from edges of driveways, pavements and walls to avoid damage in the future.

EDUCATION

3.5 No contributions required.

ENVIRONMENTAL PROTECTION UNIT

3.6 No objection. If the scheme is approved officers ask for conditions to control building works (environmental protection plan and times of working) and that the houses are constructed so future occupants do not suffer an adverse impact from traffic noise. Acceptable noise levels are deemed to be :-

- Bedrooms night-time (23:00 to 07:00) - 30 dB average noise levels and 45 dB max.
- Habitable rooms - 35 dB average during the daytime (07:00 - 23:00) .
- Gardens - average daytime noise levels not to exceed 50 dB.

FLOOD RISK MANAGEMENT TEAM

3.7 No objection. The development is in low risk Flood Zone 1 and should not suffer from river flooding. A condition is recommended so that drainage details are agreed by the LPA.

HIGHWAY NETWORK MANAGEMENT

3.8 No objection. The application is seeking approval for means of access only, which is to be taken from the existing priority junction of Westview Close/Boroughbridge Rd. The level of traffic that will be generated by the scale of development proposed can be accommodated by the existing access, which will continue to operate satisfactorily in terms of capacity and safety. Visibility at the junction is satisfactory and in accordance with national guidance.

3.9 Officers ask for a contribution from the applicants towards the provision of BLISS real time bus displays at adjacent bus stops, to promote sustainable travel by making the public transport offer more attractive. Conditions covering car and cycle parking, together with the provision of improved turning facilities to ensure vehicles can leave the site in a forward gear have also been recommended.

LEISURE, COMMUNITIES AND CULTURE

3.10 Advise that as over 10 houses are proposed there should be some for of public open space within the development. Given that the development is predominantly family housing a small equipped play area for younger children would be appropriate. Off site contributions would be required in lieu of on site amenity space and sports provision.

POLICE ARCHITECTURAL LIAISON OFFICER

3.11 The layout provides natural surveillance. It is recommended access to rear gardens is restricted, using 1.8m fencing and lockable gates or similar and any gaps in the hedge along the west boundary should be in-filled to provide a clear and secure boundary.

INTERNAL DRAINAGE BOARD

3.12 No objection.

YORK NATURAL ENVIRONMENT PANEL

3.13 Object. The proposal constitutes overdevelopment of the site which would threaten well established trees T5 (beech) and T14 (sycamore). The Panel suggest

the removal of plots 7 and 8 to protect and ensure the long term retention of tree No's T5 and T14 respectively.

3.14 There is concern about the potential loss of the historic native hedge along the northern boundary by actions of new property owners. The Panel would ask for a condition to be included if consent is granted to protect the hedge before, during and after construction is complete

YORKSHIRE WATER

3.15 No objection. Note that there are public sewers recorded to cross the site. The applicant/agent is aware and has adjusted the layout accordingly to include the required stand off distances.

UPPER POPPLETON PARISH COUNCIL

3.16 Object

- Inadequate access - The access is onto the A59 close to a busy junction and roundabout and crossing a designated cycle lane. Increased access and egress at this point is therefore prejudicial to road safety and cannot be recommended. The width of Westview Close (4.2 m.) does not allow vehicle passing and refuse vehicles currently reverse into the cul-de-sac owing to inadequate turning radius.
- Established hedgerows and mature trees exist on the site, some with TPOs (Oak, Beech, Sycamore), and these should not be prejudiced by over-development of the site.
- Harm to openness of the green belt - The application site is within the green belt and the rear aspect of the proposed dwellings would be visible from the A59 for some months of the year and at all times if hedgerows were reduced to a height acceptable to residents.

RUFFORTH WITH KNAPTON PARISH COUNCIL

3.17 Object.

- Site is within the green belt therefore inappropriate for housing. It is also unsuitable as a windfall site as the site is not in the urban area and is not in a sustainable location.
 - The development would not deliver the houses required in the city (2 and 3 bed sized houses).
 - Development would be over-dominant over the existing houses along Westview Close. The development would be inappropriate as it would lead to the loss of
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trees and houses should all face onto the access road so to be in character with the immediate area.

- The access is inadequate and increased use would have a detrimental effect on highway safety.
- The drainage in the area does not have the capacity to accommodate the extra development proposed.

PUBLICITY

3.18 Eleven objections have been received. Grounds of objection are as follows:-

- The development is inappropriate as the site is in the green belt (designated by Harrogate Council). The 2001 appeal decision (for residential development of the site) noted that there was inadequate evidence to prove the site was not in the green belt. The land deserves its green belt status in that it prevents coalescence between York and the surrounding villages. This is in particular important now given the growth at Northminster Business Park and the A59 Park and Ride proposals.
- Over-development - it is proposed 13 houses are placed on the site, whilst there are only 6 on the already developed side of the street. Houses 6 and 13 would be unduly close to Cranbrook (house to the south of plot 13).
- Loss of openness / views of the green belt from the surrounding houses.
- Drains have overflowed in the past and the system does not have the capacity for further houses. Yorkshire Water should be consulted on this scheme.
- Extra traffic movement will have a detrimental impact on highway safety.
- Reduced biodiversity value of the site and harm to protected trees.

4.0 APPRAISAL

4.1 KEY ISSUES

- Principle of the proposed development - if the site is within the green belt, and if so, whether there are very special circumstances that justify the proposals.
- Whether the development meets the good design standards required by the NPPF
- The impact on the amenity of surrounding occupants
- Highway Network Management
- Affordable housing
- Open space and education provision

- Sustainable design and construction
- Site drainage and flood risk

PRINCIPLE OF THE PROPOSED DEVELOPMENT

4.2 The Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework. The National Planning Policy Framework advises that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted.

4.3 The NPPF maintains that the purpose of green belts is to prevent urban sprawl and keep land open. The housing that is proposed is classed as inappropriate development, which is by definition harmful to the green belt.

4.4 The application site was last subject to an application to develop it for housing in 2000 (application 00/03065/FUL). The application was refused and dismissed at appeal. At that time the green belt boundaries were under review. The inspector agreed with the view of the Local Planning Authority that it would be premature to allow development of the site prior to the green belt review. Drawing of the green belt boundaries should be subject to due public consultation. The current version of the Local Plan was approved in 2005. The plan is accompanied by the Development Control Local Plan Proposals Maps. The maps show the extent of the green belt and the application site is within the green belt. Although the Core Strategy submission has now been withdrawn, it was proposed as part of the strategy that this land would remain in the green belt.

4.5 Because the site is deemed to be within the green belt the proposal should only be accepted if there are deemed to be very special circumstances.

Whether there are any very special circumstances to allow 'inappropriate' development within the green belt.

4.6 The applicant's case is that York has no statutory green belt and an under-supply of housing. It is argued that York's housing supply is over-reliant on non-allocated (windfall) sites and much of the 5-year supply will either not come forward in the upcoming 5 years, or delivery within 5 years is uncertain. The sites identified include the Barbican, British Sugar, Former York College, Germany Beck, Hungate, Metcalf Lane and Terrys. Additionally if the green belt boundary were reviewed the application site would not warrant inclusion into the green belt. The purposes of the green belt are:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.7 It is the opinion of the applicants that the green belt boundary could be drawn between the application site and the former Civil Service Sports ground without compromising the above objectives.

4.8 As such the scheme should be approved given that the National Planning Policy Framework advises where the Local Plan is out of date planning permission should be granted unless the proposal is contrary to any of the policy within the National Planning Policy Framework.

Green Belt assessment

4.9 The green belt designation was addressed in the 2001 appeal where the inspector found that there was not adequate evidence to rule that the site was not in the green belt. In the 2005 version of the Local Plan the site is in the green belt. Although the Local Plan has limited weight the Local Planning Authorities view is that the 2005 Green Belt boundaries must be those used for decision making purposes at this time. The National Planning Policy Framework states that the Government attaches great importance to Green Belts. The message within the document is that generally the Green Belt boundaries are already established and any alterations should only be made following review of the Local Plan. York is undertaking work to update the Local Plan. If there are any variations proposed to the green belt it would need to be addressed within that process and not on an ad-hoc basis.

York's Housing supply

4.10 The National Planning Policy Framework seeks to boost housing supply. It requires that Local Planning Authorities establish housing need and annually identify a deliverable 5-year supply.

4.11 York's most recent Annual Monitoring Report is as of October 2011. The AMR identifies a small deficit in supply in the short term (years 1 - 2 of the trajectory). However, overall the AMR demonstrates that York has sufficient evidence to support a five year supply of housing (years 2012/13 to 2016/17), with an over-supply of 949 homes over the timescale. This site was discounted as being suitable for housing in York's (SHLAA) Strategic Housing Land Availability Assessment due to it being within the Green Belt.

DESIGN AND VISUAL IMPACT OF THE PROPOSED DEVELOPMENT

4.12 A core planning principle of the National Planning Policy Framework is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Developments should:

- function well and add to the overall quality of the area;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- be visually attractive as a result of good architecture and appropriate landscaping.

4.13 The site is presently greenfield, the houses to the east represent the edge of the built up area. The existing houses along Westview Close exude openness due to layout, their low density and volume. The open character marks a gradual transition between the built up area and the countryside. The proposed site is defined by the trees on and adjacent the site, some of which have TPO (Trees Preservation Order) status.

4.14 The proposed development would be out of character and harmful to the setting as a) it would be incompatible with the trees on site and would inevitably lead to demand for the removal of vegetation, and this would be harmful to the setting and b) because of the proposed layout and the size/volume of the houses on site they would impose on the setting and be visually incompatible with the rest of the street.

4.15 The development would be incompatible with existing trees and hedges on site:-

- Units 3, 4 and 5 will be particularly affected by shade from the adjacent trees.
- Units 7 and 8 are too close adjacent trees
- The proximity of unit 9 to the existing hedge and site boundary is impractical.
- The gardens of units 10 and 11 are too short given the Birch and Ash in the rear gardens of the adjacent properties.

4.16 The development would have an urbanising effect, and would be inharmonious with the setting:-

- House 2 would have a 2-storey side elevation that would only be 14m from the front elevation of 1 Westview Close
- The lack of spaciousness and openness due to the clusters of houses and their volume (houses are typically 11m wide and continuously 2/2.5 storeys in height).
- House 9 would be 2-storey and only around 1m from the rear garden of 7 Villa Court.
- The side elevations to Houses 2 and 6 would be atypically close to the highway. This arrangement would be out of character with the area where houses are typically set back from, and front onto the street.

4.17 The development would have adequate natural surveillance of public areas. Security of private spaces (i.e. back gardens) could be secured through a planning condition relating to boundary treatment.

RESIDENTIAL AMENITY

4.18 The National Planning Policy Framework requires that developments secure a good standard of amenity for all existing and future occupants of land and buildings. This is amplified in Local Plan policy GP1, which requires that development does not have an undue impact on residential amenity, ensuring the undue over-looking and over-shadowing does not occur.

4.19 Given the existing open character of the area there would be a harmful impact on the existing levels of amenity presently enjoyed by surrounding residents. The proposed development would appear unduly overbearing due to the proximity of the 2-storey side elevation of house 2 to no.1 Westview Close and the proximity of the side elevation of house 9 to the garden of 7 Villa Court. There would be unsatisfactory levels of amenity for the future occupants of house 6 as the rear elevation would only be 12m from the side elevation of house 5. No details of storage space (for cycles and garden equipment) have been provided for houses 12 and 13. Such facilities could be provided outside but this would lead to a cramped environment and would put further pressure on the need to remove trees; not the high quality housing required by the National Planning Policy Framework. Houses 7, 10, 12 and 13 would be unduly close to trees which would restrict outlook. There would be demand to remove trees, which would be harmful to the setting.

HIGHWAY NETWORK MANAGEMENT

4.20 The 2001 application was not refused on highway safety grounds. Officers are content that the existing road can adequately accommodate the additional traffic that would be generated by the development and that visibility is adequate at the junction. The road is continuously at least 5m wide which is adequate for servicing and emergency vehicles.

AFFORDABLE HOUSING

4.21 The site is in the rural west area, outside the Acomb Ward boundary. In accordance with the Council's Affordable Housing Advice Interim targets an on-site provision of 25% (as 11-14 dwellings are proposed) is required, unless it is demonstrated by the applicants such provision would be unviable. The requirement is 3 units plus one off site financial contribution of £15,427.50. No affordable housing is proposed.

HOUSE TYPES PROPOSED AND DENSITY

4.22 A mix of 2, 3, 4 and 5 bed units are proposed. To better meet housing need, as defined in the North Yorkshire SHMA (2011), a higher percentage of 2 and 3 bed units would be preferred. The density of development proposed is 27 dwellings per hectare. The Local Plan seeks to achieve a density of 30 per hectare in rural housing and this may be achievable if fewer 4-bed sized houses were proposed. However in developing the site considerable weight must be given to national policy in the National Planning Policy Framework which states that density should reflect local/site circumstances. In this case the adjacent housing is of low density and development of the site would be required to respect the vegetation on site, in particular trees which are subject to preservation orders.

OPEN SPACE AND EDUCATION PROVISION

4.23 Local Plan policy L1c: Provision of Open Space in New Developments advises that when over 10 dwellings are proposed on site open space may be required subject to provision in the locality. In this case it is deemed that children's play space is necessary on site. A financial contribution would be adequate for other types of open space (based on the dwellings proposed this would equate to an off site contribution of £14,620). No on site open space is proposed, only a contribution towards off site provision. The lack of on site open space is on the basis that there is a sewer which runs along the west side of the site, which significantly reduces the amount of development possible on the site, and therefore there is no space for on site open space. However there is a second sewer that runs through the site and also trees which prevent development in certain areas, and within these spaces play space could be provided.

4.24 Local Plan policy ED4: Developer Contributions Towards Education Facilities advises that a contribution toward education will be required if there is inadequate capacity in schools in the catchment area. In this case no contribution is required.

SUSTAINABLE DESIGN AND CONSTRUCTION

4.25 Over 10 dwellings are proposed therefore the Sustainable Design and Construction Interim Planning Statement requires the dwellings meet code for sustainable homes level 3 and that at least 10% of energy demand is from low-

carbon technologies. There is no clear commitment from the applicants that the houses would meet such standards. However these requirements could be required through planning conditions.

SITE DRAINAGE AND FLOOD RISK

4.26 The NPPF advises that schemes should ensure flood risk is not increased elsewhere and that development is appropriately flood resilient. Soakaways, a sustainable means of drainage, is proposed. We are advised this was recommended by Yorkshire Water. A condition could be used to agree drainage. Soakaways would need to work, otherwise an alternative method that controlled surface water run-off would be required.

5.0 CONCLUSION

5.1 Refusal is recommended because:-

- The site is deemed to be in the green belt. The development proposed is inappropriate development within the green belt and there are no very special circumstances in this case.
- The site is outside the urban area and therefore on site affordable housing is required. No affordable housing is proposed and there is no justification for such.
- The development would not be of the quality required by the National Planning Policy Framework, it would not respect the local character and surroundings, there would be a detrimental effect to the local character and amenity value of the site due to the loss of trees, there is no on site play space and amenity levels would be inadequate; the development would be over-bearing / over-dominant over neighbouring residents, there would be inadequate outlook for future residents of some dwellings due to separation distances and the proximity of houses to trees and there is inadequate space for storage in houses 12 and 13.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The application site is within the Green Belt according to the 2005 Local Plan. The housing development proposed is inappropriate development in the Green Belt which, according to the National Planning Policy Framework, is by definition harmful and should not be approved. There are no very special circumstances in this case as the development would materially harm the openness of the Green Belt and as York has a 5-year housing supply of alternative sites to meet housing need.

2 The development would harm the quality of the area, contrary to paragraph 58 of the National Planning Policy Framework and Local Plan policy GP1: Design.

The proposed development would be out of character and harmful to the setting. It would be incompatible with the trees on site, some of which have TPO status. The development would inevitably lead to demand for the removal of vegetation, and this would be harmful to the setting. In addition because of the layout and the volume of the houses proposed the development would appear unduly imposing and would be incompatible with the urban grain and character of the locality.

3 The site is outside the urban area. According to Local Plan policy H2a and the Council's Affordable Housing Advice Interim targets an on-site provision of 25% affordable housing is required to meet demand for such housing within the city (as identified in the 2011 Strategic Housing Market Assessment). No affordable housing is proposed and no evidence has been supplied which indicates that the scheme would be unviable without on site affordable housing. The proposals are therefore contrary to the aforementioned local policy and paragraphs 47 and 50 of the National Planning Policy Framework.

4 No on site open space, for children's play space, is proposed. According to the Open Space, Sport and Recreation Study 2008 there is an inadequate supply of such open space within the locality. To provide no such play space on site would be contrary to Local Plan policy L1c and the requirements of the National Planning Policy Framework, in particular paragraph 73 which seeks to provide adequate access to open space, in the interests of the health and well-being of communities.

5 The proposed development would appear unduly overbearing due to the proximity of the 2-storey side elevation of house 2 to no.1 Westview Close and the proximity of the side elevation of house 9 to the garden of 7 Villa Court. There would be unsatisfactory levels of amenity for the future occupants of houses 6, 7, 10, 11 and 13 due to the proximity of rear elevations to surrounding buildings and trees. As such the development would fail to provide the high quality design and good standard of amenity required by the National Planning Policy Framework (paragraph 17).

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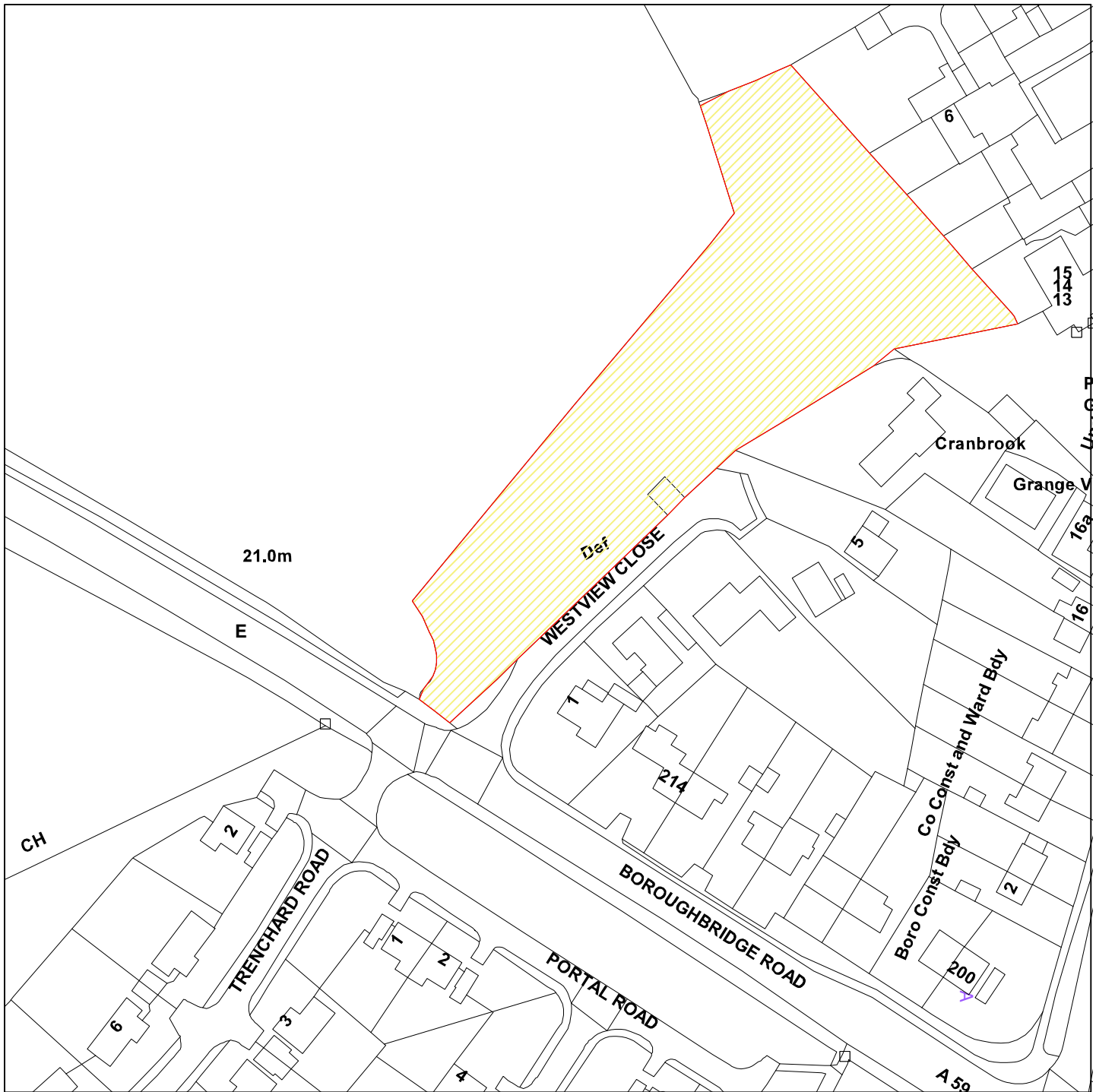
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12/01911/OUTM

Land to rear of Westview Close



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	06 August 2012
SLA Number	Not Set

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East Area Planning Sub Committee	9 th August 2012
West and City Centre Area Planning Sub Committee	16 th August 2012
Planning Committee	23 rd August 2012

Appeals Performance and Decision Summaries

Summary

- 1 This report (presented to both Sub Committees and Main Planning Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1st April to 30th June 2012, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

Background

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, it has in the past been used to abate the amount of Housing and Planning Delivery Grant (HPDG) received by an Authority performing badly against the average appeals performance. Appeals performance in York has been close to (and usually above) the national average for a number of years.
- 3 The table below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Figure 1 shows performance on appeals decided by the Inspectorate, in each CYC Sub Committee area and in total, from periods from 1st July 2011 and 30th June 2012, and 1st April 2012 to 30th June 2012.

Fig 1: Appeals Decided by the Planning Inspectorate To 30th June 2012 in Quarter and 12 month Period

	1/4/12 to 30/6/12 (Last Quarter)			1/7/11 to 30/6/12 (Last 12 months)		
	East	West/ Centre	Total	East	West/ Centre	Total
Allowed	6	1	7	9	6	15
Part Allowed	1	0	1	1	0	1
Dismissed	4	1	5	16	15	31
Total Decided	11	2	13	26	21	47
% Allowed	54.0	50.0	53.85	34.61	28.57	31.91
% Part Allowed	16.67	0	7.69	3.85	0	2.13
Withdrawn	0	0	0	2	2	4

Analysis

- 4 The table shows that between 1st April and 30th June 2012, a total of 13 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 7 were allowed. At 53.85%, this rate of appeals allowed is significantly higher than the 33% national annual average. The appeals that were allowed in the quarter highlighted certain issues
- i) The Council decided the related applications decided prior to the publication of the National Planning Policy Framework. However the appeals were decided following its publication and so the guidance within the Framework was taken into account by the Inspectorate. In particular the lack of a formal local plan and the employment land strategy within the draft Core Strategy were highlighted as issues.
 - ii) In one appeal, the use of conditions to secure contributions towards open space provision was considered contrary to Circular 11/95 related to the use of conditions. It was suggested that a Section 106 legal agreement was the appropriate method for securing financial contributions. Other appeal decisions have accepted the use of the condition, which is constructed to allow financial contributions as one option for provision of a contribution (the other being on or off site land). Nonetheless officers have produced a draft template for a Section 106 Unilateral Obligation for completion by an applicant and to be used as part of the pre-application and application process, which can more readily allow payments to be agreed prior to issue of the planning permission, rather than delay the issue of a consent pending the formulation and completion of full Section 106 Agreements.

- 5 Between 1st July 2011 and 30th June 2012, CYC performance was 31.91 % allowed, higher than the previously reported 12 month period of 27.08% but still below the national average.
- 6 The summaries of appeals determined since 1st April are included at Annex A. Details as to whether the application was dealt with under delegated powers or Committee (and in those cases, the original officer recommendation) are included with each summary. Figure 2 below shows that in the period covered, one appeal determined related to applications refused by Committee.

Figure 2: Appeals Decided against Refusals by Committee 1st April to 30th June 2012

Reference	Site	Proposal	Outcome	Officer Recom.
11/01468/OUT	Arabesque House, Monks Cross Drive	Retail warehouse after demolition of existing offices	Allowed	Refuse
11/02371/FUL	93 Newland Park Drive	Extensions	Allowed	Approve
11/02371/FUL	1 Meam Close	First floor extension	Dismissed	Approve
11/02318/FULM	Plot 6b Great North Way Poppleton	Care Home	Allowed	Refuse

- 7 The list of current appeals is attached at Annex B. There are 26 appeals lodged with the Planning Inspectorate, 9 in the West and City Centre Sub Committee area and 17 in the East Sub Committee area. 16 are proposed to be dealt with by the Written Representation process (W), 4 by Informal Hearing (I), 5 by the Householder procedure (H) and 1 by Public Inquiry (P).

Consultation

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

Council Plan

- 9 The report is relevant to the furthering of the Council Plan priorities of Protecting the Environment as it relates to actions taken to safeguard

against unacceptable impacts upon the environment, and to Building Strong Communities through the opposition of development which have an adverse impact within a local area or community.

Implications

- 10 Financial – There are no financial implications directly arising from the report.
- 11 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.
- 12 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 13 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

Risk Management

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

Recommendation

- 15 That Members note the content of this report.

Contact Details

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City Strategy

**Report
Approved**



Date 30th July
2012

Specialist Implications Officer(s) None.

Wards Affected:

All Y

For further information please contact the author of the report.

Annexes

Annex A – Summaries of Appeals Determined between 1st April and 30th June 2012

Annex B – Outstanding Appeals to 30th July 2012

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Appeal Summaries for Cases Determined 01/04/2012 to 30/06/2012

Application No: 11/00497/FUL
Appeal by: Mr Robert Winston
Proposal: Conversion of stable to 2 bed holiday let (resubmission)
Address: Holly Tree Farm Murton Way York YO19 5UN

Decision Level: DEL
Outcome: ALLOW

The application was refused because the site was in the functional flood plain (zone 3b). As part of the appeal the applicant commissioned a Flood Zone Investigation which re-categorised the land within Zone 3a. This was accepted by the Environment Agency and the City Council and as such the appeal was contested only in respect of an inadequate flood risk assessment and the raising of ground levels around the site. The Inspector concluded that the conversion of the building could proceed without an unacceptable increase in flood risk in the area, and as such would not conflict with the NPPF, its associated Technical Guidance of the Council's Strategic Flood Risk Assessment. In imposing conditions he considered it necessary and reasonable to restrict the use of the building to holiday accommodation and that a further flood risk assessment was necessary to safeguard future users of the accommodation. He also required that the existing ground levels be retained to prevent the displacement of water in the event of flooding. An application for the Council to pay the appellant's costs was refused.

Application No: 11/00869/FUL
Appeal by: Miss J Graves
Proposal: Erection of 2no. pig rearing units to rear (retrospective)
Address: The Market Garden Eastfield Lane Dunnington York YO19 5ND
Decision Level: DEL
Outcome: DISMIS

The application sought retrospective planning permission for the erection of two pig rearing units at the Market Garden in Dunnington. The application was refused on the grounds that the development is harmful to neighbouring amenity through odour generated within the pig rearing units and the associated storage of waste. The pig rearing units are in close proximity to a large number of residential dwellings and evidence provided by local residents clearly identified that the units have a significantly harmful impact on the living conditions of local residents and their ability to enjoy their homes and gardens. The Inspector concluded that the proposed pig activities at the site represented a substantial business venture which is in close proximity to a large number of residences. Despite weather conditions on the day of the site visit resulting in relatively low odour levels, the Inspector concluded that the proposal could cause significant odours which would harm the amenity of local residents. The Inspector stated that the number of objections received highlighted the odour problems which the pig enterprise creates. The appeal was dismissed.

Application No: 11/01015/FUL
Appeal by: St Peters School
Proposal: Erection of two storey dwelling to the rear
Address: St Catherines House 11 Clifton York YO30 6AA

Decision Level: DEL

Outcome: DISMIS

The application sought planning permission for the erection of a two storey dwelling to the rear of 11 Clifton. The application site would be occupied in connection with St Peter's School and the proposed house would be accessed via the school grounds. The application was refused on two grounds. The first was the visual impact on the character and appearance of Clifton Conservation Area. The second was that the proposed building could result in the loss of two trees within the curtilage which were considered to positively contribute to the character and appearance of the area. The appeal was dismissed on the grounds of the Council's reasons for refusal. The Inspector concluded that the application site is an important open space and provides a suitable interface between the older residential developments along Clifton and the later higher density developments to the south west. Views of the site from North Parade were considered to be particularly important as the application site provides a green open outlook from what is an enclosed victorian street. The proposed development would erode this. The Inspector agreed with the Council that the Sycamore and Copper Beach trees on the site are of importance and contribute to the character and appearance of the area. Whilst the applicants specialist stated that the development could be created without harming these trees, the Inspector felt that the plans had no margin for error and the trees could be damaged despite tree protection measures. It was also felt that the size of the trees and their closeness to the proposed house would result in pressure for them to be felled in the future. For the reasons above the Inspector did not feel that the application represented sustainable development and the appeal was dismissed.

Application No: 11/01468/OUTM
Appeal by: Smith And Ball LLP
Proposal: Outline application for erection of a retail warehouse following demolition of existing office building (resubmission)
Address: Arabesque House Monks Cross Drive Huntington York

Decision Level: COMPV

Outcome: ALLOW

The was an appeal against the refusal of planning permission for the demolition of an office building and erection of retail warehouse development at Monks Cross. The reason for refusal related to the need to maintain a menu of office properties around different sites in the city, of varying sizes and quality providing for the immediate and longer term employment requirements of York. The Inspector allowed the appeal considering spatial terms that the site is as much a part of the retail area as the partially developed office area. Weight attached to RSS diminished by forthcoming likely abolition but in any event its relevance, other than in the broadest sense is minimal. Inspector says relying on the core strategy policies at the stage when it has not been independently examined and tested against the evidence base is counter to the intention of national policy that decision taking should be genuinely plan-led. The draft local plan does not accord with Paragraph 215 of the NPPF and so little weight can be afforded to it, but the employment aims of E3b are similar to the framework requirements. The Inspector's view was that the choice and churn required by the core strategy policies have not been sufficiently tested through the independent assessment process and little weight could therefore be attached to having an excess of supply to provide choice in the office market. The Inspector attached weight to the fact that the building could be demolished even without any new scheme being brought forward and to the fact that employment would come from the retail use of the site despite the proposal being speculative and such employment not be certain. Despite objections from third parties the Inspector saw no reason why a bulky good retail could not be acceptable on the site. The view was that when the core strategy got closer to adoption policies within it may preclude further such developments

Application No: 11/02318/FULM
Appeal by: Miss Tracey Kay
Proposal: Erection of 3 storey 64 bed care home for older people
Address: Plot 6 Great North Way Nether Poppleton York

Decision Level: CMV

Outcome: ALLOW

The decision was recommended for refusal following a strong objection from City Development and their concerns that the loss of the site would cause the loss of usable employment land that was immediately available for development (CD argued that the usable employment land figure availability was less than the figure for employment land availability) and that the use was not considered an employment use as set out in PPS4. Committee refused the application on the same grounds. Between the decision and the appeal the NPPF was issued which stated that policies should avoid the long term protection of employment use sites. The definition of employment that was in PPS4 was not carried over into the NPPF. The Inspector considered that as a garden centre has been allowed on the neighbouring site and that the Monks Cross Stadium site was being considered that the loss of this site was not considered to be significant. The Inspector concluded that the benefits of the provision of employment opportunities through the provision of a care home, together with the community benefits associated with that provision, outweighs any disbenefit from the loss of a relatively small area of B1, B2 or B8 employment use land.

Application No: 11/02371/FUL
Appeal by: Mr And Mrs Luke-Wakes
Proposal: First floor side extension
Address: 1 Meam Close Osbaldwick York YO10 3JH

Decision Level: CMV

Outcome: DISMIS

The East Area Planning sub-Committee refused the application because of the oppressive and overbearing impact on the adjacent neighbours and impact on the street scene. On the basis that the proposal would create an incongruous feature by occupying part of the gap above the adjoining garages. The inspector dismissed the application because of the extension would articulate the overall facade of the building creating a poorly proportioned gap that would be incongruous in the street scene. However, the inspector ruled out the neighbour amenity issues.

Application No: 11/02711/FUL
Appeal by: Mr And Mrs Pierson
Proposal: Removal of condition 7 (open space) for approved outline application 10/02271/OUT for erection of detached bungalow
Address: Yew Tree House Vicarage Lane Naburn York YO19 4RS

Decision Level: DEL

Outcome: ALLOW

Outline planning permission was granted for a bungalow (10/02271/OUT). The permission included the council's standard open space condition requiring a financial contribution of #1172. A s.73 application later sought to remove the condition on the ground that there was sufficient open space in the area. The council acknowledged that, in the interim, a children's play area had been provided in the village. Nevertheless there remained a shortfall in the other categories of open space. The council therefore did not remove the condition but reduced to #680 the amount quoted in the informative. The applicant appealed. The inspector quoted paragraph 83 of Circular 11/95 which states that, when granting planning permission, a local planning authority cannot require, by means of a planning condition, a financial contribution from the developer. As such, condition 7 was clearly contrary to the advice. He said that if a contribution were justified the council should have negotiated it by means of a s.106 obligation. Notwithstanding this, and even if it were reasonable to seek a contribution by means of a planning condition, there was no certainty or specificity as to the sorts of open space to which the money would have contributed. The council indicated only that any money would probably be spent on improving sports pitches in Fulford without any details of what this might entail or the necessity for it. Condition 7 was neither necessary nor reasonable, contrary to the tests in Circular 11/95. Accordingly, the appeal was allowed and condition 7 was removed.

Application No: 11/02774/FUL
Appeal by: Mr And Mrs Rodwell
Proposal: Single storey side and rear extension with rooms in roof (amended scheme)
Address: 42 Dikelands Lane Upper Poppleton York YO26 6JF

Decision Level: DEL

Outcome: DISMIS

Two main issues regarding the effects of the proposed extension. The effect upon the appearance and character of the host bungalow and the surrounding area. Second, the effect upon the living conditions of the neighbouring residents at No 2 Montague Walk with particular regard to levels of sunlight and visual impact. The proposed rearward extension would be intrusive in views from Dikelands Lane. It would not appear subservient to the modest bungalow but instead disproportionate and unduly dominating the host building in views from Dikelands Lane. The Inspector concluded that the rear extension would harm the appearance and character of the host bungalow and the surrounding area. The works to the front garage elevation would add interest and be more in keeping but does not outweigh the detrimental impact of the rear section. The Inspector also concluded that there would be an increased overshadowing effect upon the secondary kitchen/breakfasting window and a reduction in afternoon/evening sun to the adjoining section of rear garden of the neighbouring property. The enlarged structure would in addition have an intrusive and overbearing effect upon the neighbours rear rooms and garden. He concluded there would be unacceptable harm to the living conditions that the neighbours at No 2 could reasonably expect to enjoy.

Application No: 11/02949/FUL
Appeal by: Mr Richard Pearce
Proposal: Garage to side after demolition of existing sheds (resubmission)
Address: Glencoe Main Street Elvington York YO41 4AG

Decision Level: DEL

Outcome: DISMIS

Planning permission was refused on the basis that the garage because of its size and scale would have a negative visual impact on the character and appearance of the conservation area by virtue of its mass, design and inappropriate detailing. The inspector considered that Glencoe is an important component within this part of the Conservation Area, where built development is characterised by cottages in the local vernacular and larger period properties surrounding the open expanse of The Green. The inspector dismissed the appeal on this basis the scale and proportions of the building and the inappropriateness of the garage door would be evident, resulting in a disruptive feature in the Conservation Area.

Application No: 11/03052/FUL
Appeal by: Mr And Mrs Poole
Proposal: Single storey rear extension
Address: 40 Fordlands Road York YO19 4QG

Decision Level: DEL

Outcome: ALLOW

permission was refused for the following reason. 'The proposed rear extension would project approximately 5 metres from the rear elevation of the application property, in close proximity to the boundary with the adjoining semi-detached property at no. 42 Fordlands Road. It is considered that the size and scale of the extension is such that the development would unduly dominate the side boundary and would cause significant harm to light levels and outlook. As such the proposal conflicts with policy GP1 (criterion i) and H7 (criterion d) of the City of York Draft Local Plan (fourth set of changes) approved April 2005.' The inspector stated that the existing high hedge between the properties, although a less permanent, solid feature than the extension proposed, should be taken into account when assessing the impact. He asserted that an extension projecting 3 metres could be erected under permitted development, which together with a 2 m high fence beyond, would not be significantly different to the proposed extension. He considered that the necessary removal of the hedge to make way for the extension would be an improvement to the outlook from the adjoining property.

Application No: 11/03187/FUL
Appeal by: Mr And Mrs Prescott
Proposal: Extension to garage and erection of boundary wall
(retrospective / resubmission)
Address: 4 Springbank Avenue Dunnington York YO19 5PZ

Decision Level: DEL

Outcome: PAD

The appeal related to alterations to a previously approved garage and retention of a front boundary wall. The Council was not opposed to the alterations to the approved garage. However, planning permission was refused for the retention of the boundary wall as it was considered that the higher section of the wall and timber infill panels would, as a result of its design and scale, appear as an unduly imposing and incongruous feature, which would be out of character with other front garden boundaries within Springbank Avenue. The Inspector concurred, asserting that along Springbank Avenue front boundary walls are generally very low, which gives the street an open and uncluttered character, with views over front gardens. He concluded that amidst such surroundings the front boundary wall at 4 Springbank Avenue looks incongruous and unduly imposing. It makes this part of the road appear far more built up and obscures views of front gardens. As a result it detracts from the streetscene. The appeal was allowed insofar as it related to the alterations to the approved garage, but was dismissed in respect of the retention of the wall. It is understood that the wall has subsequently been reduced in height and now falls within permitted development tolerances.

Application No: 11/03191/FUL
Appeal by: Mr Steve Oates
Proposal: First floor side extension
Address: Kilburn View Murton Way York YO19 5UW

Decision Level: DEL

Outcome: ALLOW

The application was for a first floor rear extension with balcony. The application property is a recent back land development in the conservation area. The area still has in parts the visual character of an agricultural settlement. It was felt that the development would further encroach on open land and that the balcony would appear unduly ornate in its context. The Inspector allowed the appeal. He considered that there was a wide variety of building styles in the conservation area and that the first floor rear extension would have minimal impact on the open character.

Application No: 12/00091/FUL
Appeal by: Mr D Rose
Proposal: First floor side and rear extension.
Address: 93 Newland Park Drive York YO10 3HR

Decision Level: CMV

Outcome: ALLOW

This application was to erect a first floor side extension and single storey rear extension which was recommended for approval. The East Area Planning sub-Committee refused the application because of the visual appearance within the street scene. The inspector allowed the appeal on the basis that it was felt the extension would be in accordance with the councils SPD, thus it would harmonise with the visual appearance of the surrounding area. Furthermore there would be no impact on residential amenity. The inspector confirmed that the proposal was for a residential extension and the local objections relating to student occupation could not be considered as part of the application.

Decision Level:

DEL = Delegated Decision

COMM = Sub-Committee Decision

COMP = Main Committee Decision

Outcome:

ALLOW = Appeal Allowed

DISMIS = Appeal Dismissed

PAD = Appeal part dismissed/part allowed

Outstanding appeals

Officer: Andy Blain						Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
05/10/2011	11/00044/EN	APP/C2741/F/11/2160562	W	91 Micklegate York YO1 6LE	Appeal against Enforcement Notice	
Officer: Carolyn Howarth						Total number of appeals: 2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
14/03/2012	12/00020/REFL	APP/C2741/E/12/2172676	W	36 Clarence Street York YO31 7EW	Single storey outbuilding to rear	
04/05/2012	12/00027/REF	APP/C2741/A/12/2174584	W	7 The Horseshoe York YO24 1LY	Dormers to front and rear	
Officer: Diane Cragg						Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
10/02/2012	12/00008/REF	APP/C2741/H/12/2170797	W	Sainsbury Plc Monks Cross Drive Huntington York YO32	Display of 4no. timber frame banner signs	
Officer: Heather Fairy (Mon - Wed)						Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
17/07/2012	12/00039/REF	APP/C2741/D/12/2178222	H	21 Wolsey Drive Bishopthorpe York YO23	Erection of 6ft boundary fence (retrospective)	
Officer: Jonathan Kenyon						Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
26/04/2012	12/00028/REF	APP/C2741/A/12/2173369	W	Site To Rear Of 22A Huntington Road Dennison	2no. semi-detached dwellings	
Officer: Kevin O'Connell						Total number of appeals: 4
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
27/02/2012	12/00009/REF	APP/C2741/X/12/2170664	W	2 St Aubyns Place York YO24 1EQ	Use of property as a House in Multiple Occupation	
14/03/2012	12/00017/REF	APP/C2741/X/12/2172646	W	25 The Avenue Haxby York YO32 3EH	Certificate of lawfulness for proposed siting of caravan/mobile home within the curtilage	

12/06/2012	12/00034/REF	APP/C2741/A/12/2174807	W	Fleurdelys 5 Princess Road Strensall York YO32 5UE	Erection of dwelling following demolition of existing dwelling (resubmission)
12/06/2012	12/00035/REF	APP/C2741/A/12/2174807	W	Fleurdelys 5 Princess Road Strensall York YO32 5UE	Demolition of dwelling (resubmission)

Officer: Michael Jones **Total number of appeals: 1**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
13/03/2012	12/00015/REF	APP/C2741/A/12/2170530	W	12 Malton Way York YO30 5SG	Two no. 2 storey detached dwellings with garages after demolition of existing bungalow and outbuildings (amended scheme)

Officer: Matthew Parkinson **Total number of appeals: 6**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
17/06/2011	11/00026/EN	APP/C2741/C/11/2154734	P	North Selby Mine New Road To North Selby Mine	Appeal against Enforcement Notice
20/03/2012	12/00023/EN	APP/C2741/C/12/2172765	I	238 Strensall Road York YO32 9SW	Appeal against Enforcement Notice
20/03/2012	12/00024/EN	APP/C2741/C/12/2172766	I	238 Strensall Road York YO32 9SW	Appeal against Enforcement Notice
11/05/2012	12/00030/EN	APP/C2741/C/12/2176016	W	House Of James Stamford Bridge Road Dunnington	Appeal against Enforcement Notice issued 10 April 2012
11/05/2012	12/00031/EN	APP/C2741/C/12/2176005	W	House Of James Stamford Bridge Road Dunnington	Appeal against Enforcement Notice dated 10 April 2012
19/06/2012	12/00036/EN	APP/C2741/C/12/2178152	W	The Market Garden Eastfield Lane Dunnington	Appeal against Enforcement Notice

Officer: Neil Massey **Total number of appeals: 1**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
04/07/2012	12/00040/REF	APP/C2741/D/12/2179080	H	27 Wigginton Road York YO31 8HJ	Single storey side extension

Officer: Paul Edwards **Total number of appeals: 1**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
24/07/2012	12/00041/REF	APP/C2741/D/12/2179414	H	29 Sandringham Close Haxby York YO32 3GL	Single storey rear extension with replacement attached garage to side and canopy to front

Officer: Rachel Tyas						Total number of appeals: 3
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
26/01/2012	12/00004/REF	APP/C2741/A/12/2168876/NWF	I	Relay Recruitment 116 Micklegate York YO1 6JX	Change of use of recruitment consultancy (Class A2) to bar/restaurant	
25/04/2012	12/00026/REF	APP/C2741/E/12/2172471	W	Athena 5 Feasegate York YO1 8SH	New shopfront and signage (retrospective)	
09/07/2012	12/00038/REF	APP/C2741/A/12/2172469	W	Athena 5 Feasegate York YO1 8SH	New shop front (retrospective)	
Officer: Sharon Jackson						Total number of appeals: 2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
13/06/2012	12/00033/REF	APP/C2741/D/12/2177140	H	8 Rowley Court Earswick York YO32 9UY	Two storey and single storey side extensions	
28/06/2012	12/00037/REF	APP/C2741/D/12/217894	H	16 Vicarage Lane Naburn York YO19 4RS	Detached garage to rear (retrospective)	
Officer: Victoria Bell						Total number of appeals: 2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
20/03/2012	12/00021/REF	APP/C2741/A/2172764	I	238 Strensall Road York YO32 9SW	Erection of two storey live/work annex (retrospective) (resubmission)	
31/05/2012	12/00032/REF	APP/C2741/A/12/2177126	W	Unit 2 Moor Lane Bishopthorpe York YO23	Change of use from storage unit (use Class B8) to vehicle workshop (use Class B2)	
Total number of appeals: 26						

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