

COMMITTEE REPORT

Date: 17 October 2019

Ward: Fishergate

Team: East Area

Parish: Fishergate Planning Panel

Reference: 19/00603/FULM

Application at: Frederick House Fulford Road York YO10 4EG

For: Erection of 6no. purpose-built 4 storey student accommodation buildings (providing 368 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping (re-submission of withdrawn application 18/02797/FULM)

By: Summix FHY Developments Ltd

Application Type: Major Full Application (13 weeks)

Target Date: 17 September 2019

Recommendation: Approve

1.0 PROPOSAL

1.1 The site is a roughly rectangular parcel of land located off Fulford Road (A19), approximately 1.2 kilometres south of York city centre. The site contains the former Shepherd Homes office known as Frederick House and the accompanying building to the west known as the Guard House. The existing vehicular access for Frederick House is via a one way loop road off Fulford Road which is shared with North Yorkshire Police who are located directly to the south of the site. To the north of the site, Kilburn Road runs parallel with the site.

1.2 To the east of the site lies an area of woodland and Walmgate Stray. The University of York's Heslington West campus lies beyond the stray to the east. Areas to the north and west of the site are predominantly residential but there are a number of local services and bus stop on Fulford Road. There is an existing cycle and footpath that runs from Fulford Road south of the site towards the university. There is also a footpath running from Kilburn Road through the allotments towards the university.

1.3 The western part of the site, including the Guard House lies within the Fulford Road Conservation Area. Two trees within this area are also subject to a tree preservation order. These are a Horse chestnut (TPO46 –T1) and a Sycamore

(TPO46-T2). Frederick House itself is a monolithic three storey flat roof office building of 1960s or 1970s construction measuring approximately 110 metres in length on an east-west axis and 10.4 metres in height.

1.4 The site is unallocated on the Proposals Map accompanying the 2018 Publication Draft Local Plan. The site also lies within Flood Zone 1.

1.5 Full planning permission is sought for the erection of 6 no. purpose-built 4 storey student accommodation buildings providing 368 bedrooms. Permission is also sought for the associated change of use of, and alterations to, the existing Guard House building which fronts Fulford Road to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping

1.6 The six student accommodation buildings will be 4 storeys in height. The proposed plans refer to the buildings as A through to G with A being the refurbished Frederick House and B to G being the new buildings running from west to east. For clarity they are referred to as such in this report.

1.7 The form and dimensions of the proposed buildings are as follows:

Building B is roughly L shaped with a flat roof measuring 12.2 metres in height. The maximum length is 32.1 metres and the width is between 12.4 metres and 28.0 metres.

Building C is rectangular in shape, 12.2 metres high, 14.4 metres wide and 28.0 metres in length

Building D is L shaped 12.2 metres high, 32.1 metres in length and between 14.4 metres and 26.4 metres in width.

Building E is staggered with a maximum height of 13.2 metres, and maximum width and length of 24.4 metres.

Building F is roughly rectangular and is up to 13.4 metres in height, 25.2 metres in length and 15.7 metres in width.

Building G is also roughly rectangular and includes a single storey projection at the northern end. The maximum height is 12.8 metres, the length is 25.1 metres and the width is 13.2 metres

1.8 The materials proposed for the buildings are a mix of red, light red and bronze brick cladding with detailing including timber ribs and cladding, full length windows to a number of rooms and aluminium frames to windows.

1.9 There are also two further single storey buildings proposed to the northern boundary, an energy centre to the east of the Guard House and a further building containing a sub-station, water tank and Lv room.

1.10 Waste and cycle storage is proposed integrated to the proposed buildings. The proposed lighting is a mix down lit columns, amenity light posts, vandal resistant bollards and down lit wall luminaires mounted to buildings. Surface water drainage is proposed via soakaway.

1.11 Cycle storage is proposed at a rate of 0.53 cycle parks per room, with the potential to increase to 0.66 parks per room. 9 car parking spaces are to be provided for staff and disabled users, with a further 22 temporary parking spaces for use during beginning and end of term drop offs and picks ups.

1.12 Pedestrian access is proposed to be through the Gate House, which fronts Fulford Road. Cycles and cars will access and exit the site via the existing loop road.

1.13 This application is a resubmission of application 18/02797/FULM which was withdrawn following concerns raised by officers with regards to design and highways.

Planning History

1.14 There is extensive planning history relating to this site, the relevant applications are summarised below;

7/15/4149B/PA - Outline application for three storey extension to existing office block – Permitted 16.02.1989

7/15/4149C/PA - Formation of car park – Permitted 12.05.1989

7/15/4149D/PA - Erection of two storey office block – Refused 02.08.1990

7/15/4149F/PA - Erection of 3 storey office block together with modified parking arrangement (reserved matters) – Permitted 02.08.1990

7/15/4149H/PA - Two storey extension to unused building for use as offices – Permitted – 10.06.1993

7/15/4149M/PA - Extension of car parking area – Permitted 09.02.1994

7/015/04149N/OUT - Renewal of outline planning permission 7/15/4149b/pa for 3 storey office block with modified parking – Permitted 06.09.1995

7/015/04149P/FUL - Provision of additional parking space – Refused 28.02.1996

98/01937/REM - Three storey office block extension to rear – Permitted 23.11.1998

03/02202/REM - Renewal of planning permission 98/01937/REM for erection of three storey office block extension to rear - Permitted 12.08.2003

14/00922/CLU - Certificate of Lawful Development for use of land as a car park for employees of Frederick House – Granted 02.06.2014

18/02797/FULM - Erection of 7 purpose-built student accommodation buildings ranging in height between 3 - 5 storeys (providing 440 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping - Withdrawn

2.0 POLICY CONTEXT

National Planning Policy Framework

2.1 The revised National Planning Policy Framework (NPPF) 2019 was published on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied.

2.2 The planning system should contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives.

2.3 Paragraph 14 advises that at the heart of the Framework there is a presumption in favour of sustainable development. Paragraph 11 states planning decisions should apply a presumption in favour of sustainable development and that for decision taking this means where there are no relevant development plan policies, granting permission unless i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Publication Draft Local Plan 2018

2.4 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

2.5 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

2.6 Relevant Policies

DP1 York Sub Area
DP2 Sustainable Development
DP3 Sustainable Communities
SS1 Delivering Sustainable Growth for York
SS3 York City Centre
EC2 Loss of Employment Land
H2 Density of Residential Development
H7 Student Housing
HW7 Healthy Places
ED1 University of York
D1 Placemaking
D2 Landscape and Setting
D4 Conservation Areas
D6 Archaeology
D11 Extensions and Alterations to Existing Buildings
GI2 Biodiversity and Access to Nature
GI4 Trees and Hedgerows
CC1 Renewable and Low Carbon Energy Generation and Storage
CC2 Sustainable Design and Construction of New Development
CC3 District Heating and Combined Heat and Power Networks
ENV2 Managing Environmental Quality

ENV5 Sustainable Drainage

T1 Sustainable Access

DM1 Infrastructure and Developer Contributions

2005 Development Control Local Plan

2.7 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF albeit with very limited weight.

3.0 CONSULTATIONS

INTERNAL

Design and Sustainable Construction (Design)

3.1 Comments on revised scheme (August 2019):

3.2 Design revisions have improved the scheme but not to the degree recommended on numerous occasions. The main shortcomings are:

- Generally the proposal is not in character with the neighbourhood for bulk and typology.
- Although it is acknowledged that the former cavalry barracks site-use gives opportunities for a different typology and character to be proposed (compared with the adjacent suburban residences), this opportunity has not been convincingly explored.
- The site layout is a highly informal composition of buildings and this is at odds with the likely-and-evident formal characteristics of a former military barracks site.
- The proposed dead-end nature of such a large redeveloped site is at odds with normal good planning for networked connectivity- especially for cycle/pedestrians

However, the design is now to a standard that is just above the threshold for planning support on design grounds. Some of the benefits are:

- It is not very viewable from public streets and the parts that are viewable do not sufficiently cause detriment to the characteristics of the area to warrant further changes.

-Opportunities are limited to improve connectivity (new connectivity and routes from the site through the stray are problematic for natural environmental reasons, and elsewhere where there are possibilities not impacting the natural environment, such as making a new connection into the existing cycle/pedestrian route to the south, the land is outside the applicant's gift to enact).

- Retention of the "Guard House" (an older but much altered boundary building) and its likely improvement through design changes.

- Whilst the site layout is informal (and this has drawbacks- see above) the architecture is simple and consistent between buildings, adding just enough textual variety to the elevations to avoid it being bland. It is possible to make a virtue out of this simplicity if it is built to a high quality standard with a high quality landscape scheme, and is then carefully maintained. If this happens it could be a successful new place. Refer to recommended conditions to help secure this.

Design and Sustainable Construction (Landscape Architect)

3.3 With the exception of a proposed footpath near the horse chestnut tree, there is objection and the proposed landscaping scheme is good. A no dig footpath may be feasible to mitigate damage to the horse chestnut tree but no formal details have been submitted. Conditions regarding the trees and landscaping scheme have been recommended.

Design and Sustainable Construction (Ecology)

3.4 An Ecological Appraisal by Encon Associates Limited and dated December 2018 has been submitted to support this application. In particular this includes an assessment of the buildings for their potential to support roosting bats. The buildings were considered to be of very low potential and no further surveys were recommended. Protected species will not be impacted by the re-development of this site.

3.5 Some of the vegetation on the site is suitable for nesting birds and therefore mitigation is required to ensure these are not disturbed during site clearance/construction.

3.6 Although situated in a built up urban area the site is close to good bat foraging habitat adjacent to Walmgate Stray. The increased structural integrity of modern developments reduces the potential for bats and birds to utilise modern buildings for roosting and nesting therefore any new developments should integrate a variety of

bird and/or bat boxes. A condition is recommended to enhance the development in line with the National Planning Policy Framework.

Design and Sustainable Construction (Archaeology)

3.7 The site lies in an area of archaeological interest due to its location just off a potential Roman thoroughfare and its use over the last 150-200 years as a military site.

3.8 A desk-based assessment has been submitted. It confirms the high likelihood for archaeological deposits to exist across the site dating from the Roman-modern periods including the potential for Roman roads and burials. However, it is anticipated that the most extensive and significant remains will relate to the 18th and 19th century cavalry and infantry barracks. The assessment also includes reference to built heritage including the 19th century elements of the Guard House, brick structures possibly related to the barracks and gates/piers. These above ground heritage assets will need to be photographically recorded and presented with any archival material relevant to the structures.

3.9 In terms of below ground heritage assets the proposed new build will be constructed on the site of the current building as well as the vacant land to the east. This may potentially destroy or disturb archaeological deposits/features as outlined above.

3.10 An archaeological evaluation is required to assess the survival and character of any deposits or features relating to the historic military use and potentially earlier uses of the site which may be destroyed by the proposed development. The evaluation and building recording can be carried out post-determination with the caveat that the final amount of archaeological work required cannot be estimated at this stage without the evaluation results. Relevant barrack plans listed in the DBA will need to be accessed to inform the evaluation and any further mitigation work.

3.11 A watching brief should be maintained during smaller scale works and the grubbing up of foundations of the existing structure following demolition as a precaution given that we do not know anything about the make-up of this site.

3.12 Archaeology on this site may provide an opportunity for community engagement. Some form of plan for public engagement should be included within the WSI for this site. This may be through social media, information on public display, or should it be feasible, an opportunity to see the revealed archaeology on site through an open day arrangement.

Public Protection

3.13 The Public Protection Officer has no objection in principle and has considered air quality, contaminated land, lighting and noise. A summary of the comments on these matters is set out below.

Air Quality

3.14 The proposed living accommodation is set well back from Fulford Road and the site is unlikely to generate significant amounts of additional traffic due to the low level of parking proposed. Public Protection has previously been consulted on the proposals and it was not considered that an air quality assessment would be required.

3.15 Within the site, the vehicular access leads to a proposed forecourt area to the rear of the guard house and includes parking for 7 vehicles. Three of these parking spaces are intended for staff and disabled use. The remaining four spaces will be for flexible use. In line with paragraph 110 of the NPPF, developments should be designed to incorporate facilities for charging plug-in and other ultra low emission vehicles in safe, accessible and convenient locations. Developments that include less than 50 parking spaces, at least one parking bay should be marked out for use by electric vehicles only, together with charging infrastructure and cabling. Spaces should be for the exclusive use of low emission vehicles.

Contaminated Land

3.16 The report identifies that the site historically formed part of the Cavalry Barracks and various phases of development and demolition appear to have occurred within the site boundary. Given this identified historical use, the report identifies potential contaminants of concern to include asbestos, heavy metals, PAHs and hydrocarbons. The report also identifies potential PCBs associated with the electrical substation located 10m south of the site. The report recommends that site investigation is undertaken to assess the potential contamination present at the site. The report also identifies the need for an Unexploded Ordinance (UXO) risk assessment to be completed at the site given that the site is in an area which is at moderate risk of UXO.

3.17 The Phase 1 report and the proposal to carry out site investigation works are acceptable. Appropriate conditions are recommended

Lighting

3.18 The external lighting has been reviewed with the CIE/ILP (International Institute On Illumination/Institute of Lighting Professionals) guidance on reduction of obtrusive light.

3.19 The CIE/ILP set maximum recommended luminance levels in various types of areas. This takes into consideration the size of the light fixture proposed and how much light already exists in the development location. These zones range from Zone E0 which is classified as a dark zone that should be protected from light being present, for example reserves and dark sky parks to Zone E4, urban areas with high district brightness, town/ city centre areas with high levels of night time activity where light levels can be a lot brighter.

3.20 The site is on the edge of an urban area of the city of York with high lighting to the west side of the site and Fulford Police station to the south. There are residential dwellings to the north with back gardens backing onto the site which would be classified as sensitive darker locations and an intrinsically dark area to the east with the Walmgate Stray.

3.21 This would place the planned site in either the E3 or more appropriately the E2 zone. (The guidance does state that where an area sits adjacent to a lower level light area the more stringent of the two control zones should be imposed).

3.22 The highest levels of illumination are to the west side of the site which is already illuminated by high light levels from other sources and the scheme is designed so that the lighting is away from the residential dwellings to the north with the majority of lighting below the perimeter wall height and there is a lesser level of lighting to the east.

3.23 The E2 zone criteria is met for the sky glow levels, intrusion into the windows and gardens to the north and the design scheme is sensitive to the protection of the darker area to the east and Public Protection are satisfied that the lighting levels will be appropriate for the planned location.

Noise

3.24 The Noise Impact Assessment considers the existing noise climate and identifies the current main noise source as traffic, mainly on Fulford Road. It also identifies considerable siren noise from police vehicles that operate day and night and could lead to sleep disturbance.

3.25 The precise type of combined heat and power plant is unknown at this stage and several pieces of plant with various sound levels are considered and suggestions are made as to how these noise levels can be attenuated. A condition is recommended to include details of noise insulation measures and a maximum noise level for plant and machinery. Restrictions on working hours during construction and a Construction and Environmental Management Plan are recommended.

Highways Network Management

3.26 Examination of the University of York (UoY) 2014 staff and student Travel Questionnaire states that only 7% of students own or have access to a car. However, this is likely to apply to students in on-campus halls of residence where the need to travel by car is much reduced. The same document also states that that [the car alone] mode share for those [students] living off-campus only is 24%.

3.27 If this latter figure is applied to this development of 368 student beds, would result in the potential number of students driving to the UoY being 81, allowing for the 7 spaces on site.

3.28 A similar survey – the University of Sheffield Student and Staff Travel Survey 2012 – showed that 38% of students had access to a car and of these 25% parked on street overnight. Applying these figures to this development of 368 student beds, would result in the potential number of students driving to the UoY being 36.

3.29 It is likely that, in the absence of any measures to deter car use, the actual potential number of students driving to the UoY and parking their vehicles on street in the local area will be between 36 and 88.

3.30 The developer is proposing to incorporate a 'no-car ownership' ownership restriction within the tenancy Agreement for Students residing at the Frederick House development to eliminate displaced parking onto nearby residential streets.

3.31 The developer has submitted several examples of 'car-free' student accommodation where 'no-car ownership' restrictions have been included in Tenancy Agreements deter students from bringing their cars to the town or city where they are studying, or to deter parking in residential areas around the student accommodation in the absence of a town or city-wide restriction. Many of these have been included in S106 Agreements.

3.32 In some cases, such proposals have been deemed acceptable by the planning officer considering the planning application, and in other cases Planning Inspectors

have considered them sufficient at appeal (APP/Z0116/A/08/2090892 Manor Scrap Yard, Bristol). Further details pertaining to some of these are given below.

3.33 Cambridge City Council City Council 14/1496/FUL, Land At 315 - 349 Mill Road Cambridge, Student housing development consisting of 270 rooms. This is a development of similar size and location to Frederick house. Cambridgeshire County Council (as Local Highway Authority) raised concerns about whether there would be sufficient 'Proctorial Control' by the Universities to ensure adequate enforcement of the no car restrictions in tenancy agreements, adding that this was for the LPA to consider. The Planning Officer recognised that residents have concerns regarding the impact of 270 students on the amenity of the area but was satisfied that issues of noise and disturbance and car parking can be mitigated through the appropriate management of the accommodation. It should also be noted that this application was refused on grounds other than car parking by was allowed on appeal.

3.34 Appeal APP/Z0116/A/08/2090892, Manor Scrap Yard, Bristol. This development, allowed on appeal, is a smaller development than Frederick House. Its surroundings are also different, being mainly a low-medium density residential area where residences have a mixture of off-street and on-street parking. Therefore, this area is not equivalent to the Frederick House application.

3.35 With regard to this application, any restriction on no-car ownership needs sufficient monitoring and enforcement. Ideally, this should be undertaken in conjunction with the UoY. However, the applicant has advised CYC that is his understanding that the UoY no Proctorial Controls in place pertaining to enforcing no car ownership in York. Furthermore, the University of York has a web page showing car parking charges at its campuses. This page shows that students can park at the UoY, so the deterrents here are the price of and availability parking.

3.36 CYC Highways DC remain to be convinced that the applicant's proposals to include restrictions within students' tenancy agreements not to allow or permit the keeping of a private motor vehicle in either the City of York, or more precisely, within a specified distance of the accommodation at Frederick House will be effective.

3.37 The applicant has stated that the Council's requests in respect of cycle provision are proposed to be met, in terms of numbers of spaces, location and quality of cycle stands. The horizontal and vertical clearances for tiered cycle parking proposed by the applicant should be in accordance with CYC's latest guidance (overall aisle width of 3500mm where frequent two-way movements are likely within an aisle with stands on either side, and an unobstructed ceiling height of 2800-3000mm).

3.38 Examination of the latest drawings submitted by the applicant, appears to show an under provision of cycle spaces (183 spaces at 0.5 per room). Furthermore, although the cross section through Block G shows vertical clearance in the 'bin store' (and presumably the cycle store) to be 2775mm, thus, being close to CYC guidance, the cross sections for the other buildings appear to show a much reduced vertical clearance. It is also unclear from the drawings whether the required aisle width will be provided between opposing tiered cycle parking racks.

3.39 City of York Highways Development Control objects to this application on the grounds of significant cumulative impact on residential amenity and highway safety. Cycle parking provision also appears to be deficient.

Transport Planning

3.40 A query was raised as to how cyclists exit the site, whether via the existing loop road past the police station or via creation of a shared path by the entrance to the loop road.

3.41 Anyone wishing to cycle into the city centre would probably use New Walk which can be accessed via the ramp at the end of Alma Terrace. Bearing that in an improvement should be sought to make the central refuge in front of Sainsburys larger so more students can cross at a time and it is also wide enough to get a bike across safely (angled).

3.42 Suggestions were also made for creating shared cycle footpaths along the eastern side of Fulford Road.

3.43 The Kilburn Road allotments route is the shortest to the University, improvements are recommended to the barrier at the stray end to make it more cycle and disabled-friendly. There are existing issues for cyclists at this barrier.

Housing Strategy and Development

3.44 A condition is required to ensure the proposal is for student accommodation. Otherwise affordable housing contributions are required.

Forward Planning

3.45 Response to withdrawn application 18/02797/FULM: Key policy issues include a) the loss of employment use and b) the need for additional, purpose built, student accommodation. In relation to a), the principle of the loss of the site's existing employment use remains undetermined, and is subject to the views of colleagues in Economic Development. They would however reiterate that the site was previously

allocated in a draft Local Plan, and as such the loss of the site from the City's employment land supply was accepted at that stage. In relation to b), within the context of submitted analysis and current evidence (SHMA, 2016) they would concur that need for the accommodation exists.

EXTERNAL

Fishergate Planning Panel

3.46 We believe there is a fundamental problem with this application, which is the lack of direct access to The Stray. It is obvious that students will use the route along Kilburn Road and through the allotment site, which is entirely inappropriate. The additional cycle traffic would be particularly damaging for the allotment site and users. We believe that it should be an absolute precondition that there must be direct cycle and pedestrian access to The Stray and without such guaranteed access the application should be refused.

Yorkshire Water

3.47 Condition recommended to ensure separate systems for foul and surface water drainage on and off site to protect the local aquatic environment and Yorkshire Water infrastructure.

North Yorkshire Police

3.48 No objection.

North Yorkshire Fire Service

3.49 No objections at this stage, further comments would be provided at Building Regulations approval stage.

York Civic Trust

3.50 No objection to revised design and recognises improvements compared to withdrawn scheme. Concerns over the transport plan and cannot support application due to the lack of accessibility to and from the back of the site, via Walmgate Stray.

Conservation Area Advisory Panel

3.51 The new scheme appeared to retail the original elements of the Guard House proposals. The large residential block had however been replaced by a series of individual units generally four storeys in height. Whilst the Panel welcomed the

breaking up of the block however it was felt the elevations treatment could be improved. (Officer comment: These comments were made on the originally submitted plans for 19/00603/FULM, not the revised plans that were subject to re-consultation in August 2019).

4.0 REPRESENTATIONS

4.1 The application has been advertised by neighbour notification, press notice and site notice. 39 objections were received from local residents.

4.2 The issues raised in the objections are summarised below.

- Impact of lighting
- Parking and access via Kilburn Road
- Suitability of the path via the allotments
- 1 general comment was received requesting a separate access to the site to avoid Kilburn Road.
- Scale compared to low rise residential area
- Danger to pedestrians and cyclist
- Noise and light pollution
- Parking on local streets
- Design could be more interesting and innovative
- Height and proximity to dwellings on Kilburn Road
- Overlooking of gardens on Kilburn Road
- Concern that objections to previous application will be ignored
- No oversight or management once development completed
- Edgeware Road is a private road so permit parking is not feasible
- Buildings closer to northern boundary than before
- Suggest trees to northern boundary to reduce light pollution
- Out of character and over bearing
- No objection in principle to the change of use
- Reduction in scheme from withdrawn application welcomed but still a large scheme
- Use of allotments for cycling is not suitable
- Concerns over the level of demand for student housing citing the recent application (18/02819/FULM) for demolition of student accommodation at York St John and ongoing political uncertainty.
- Concern over levels of sewage
- Affordable housing should be encouraged at the site
- Do not want Fulford Road to become overwhelmed by student accommodation like Hull Road has.
- Concern over environmental impact of a path through the Stray
- Majority of concerns have not been addressed from withdrawn application
- Concern over bats roosting nearby

- Only beneficiaries would be the University
- Not appropriate location
- Concern over the impact on local services such as shops and GP surgery.
- Concern over transient nature of students and potential vandalism
- Increase in traffic on Fulford Road at the beginning and end of term
- Loss of light
- Impact on wildlife
- Would change the dynamic of the area
- Increase in traffic to Kilburn Road would be an impact to children playing outside
- Developments are highly profitable and pay neither business rates or council tax
- Questioning the claims of student housing need
- Buildings closer to Kilburn Road than existing

4.3 1 letter of support was received stating the proposals are high quality and sympathetic response to regeneration of derelict site and will support local commerce and employment while reducing the strain on the housing market

4.4 Revised plans were submitted on 1st August 2019 altering the layout of the site and reducing the total number of student bedrooms from 393 to 368. A 14 day re-consultation was undertaken on the revised plans. Six objections were received making the following comments.

- Remain disappointed at the lack of a pedestrian/cycle exit to the east
- 16% reduction in bedrooms is welcome
- Still overbearing
- Parking is an issue unless restrictions are proposed
- Number of pedestrians and cyclists on Kilburn Road is an issue as well as for allotment holders
- Bin and cycle storage may encourage noise and pests unless carefully controlled
- Possible radiation on site as a former barracks
- Request for on-site parking for contractors during building works
- Concern over potential light spill from lamp posts to residential gardens to north
- Lighting will impact on local wildlife
- Too tall, resulting in a loss of light

5.0 APPRAISAL

5.1 Main Issues

- principle of development
- loss of employment land
- justification for student housing
- impact on the character of the conservation area
- design
- impact on amenity and living conditions of adjacent occupiers
- highways and parking
- drainage
- trees
- ecological issues
- sustainability

LEGISLATIVE CONTEXT

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise.

5.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the area.

PRINCIPLE OF DEVELOPMENT

5.4 Paragraph 118 of the NPPF states that substantial weight should be placed on the value of using brownfield sites within settlements for homes. In land use planning terms, the principle of development at this site rests on the acceptability or otherwise of the loss of the land for employment uses, the proposed use for student housing and the impact on the Fulford Road conservation area. These are explored in greater detail below.

LOSS OF EMPLOYMENT LAND

5.5 Paragraph 80 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Paragraph 121 of the NPPF lends support to alternative uses of land which is currently developed but not allocated for a specific purposes in plans, where this would help to meet identified development needs. This includes the use of employment land for homes in areas of high housing demand provided this would not undermine key economic sectors or sites and would be compatible with other NPPF policies.

5.6 Policy EC2 of the 2018 Draft Plan is relevant and states that the applicant will need to provide a statement to the satisfaction of the Council demonstrating that:

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- i. the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and
- ii. the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period.

5.7 The site was subject to consideration as an allocation through the Local Plan site selection process. Following the 2014 consultation, a further request was made to amend the allocation to include B1a, C3, C2, D1 and C1 uses, which was not supported by the Council. At Preferred Sites consultation (2016) the allocation was removed due to deliverability issues, as follows:

(extract from Preferred Sites consultation (CYC, 2016))

“Further consideration of the site has highlighted issues regarding the site layout and physical constraints which would limit its development potential. The site contains a wooded area at the eastern end of Kilburn Road which would need to be protected. In addition the site is located within the Fulford Road Conservation Area so development would need to ensure that elements that contribute to the significance of this area are not harmed. The wall that runs along the frontage would need to be retained meaning that access to the site would need to share the current access into the Police headquarters. All these factors would require detailed masterplanning and would affect the development capacity of the site.”

5.8 From the above it is apparent the Council had accepted the loss of the site for employment land in 2014 during the Local Plan process and the reason for its removal as a possible allocation was due to the site layout and physical constraints and not concerns over the loss of employment land.

5.9 The applicant has stated in their planning statement that under permitted development rights office buildings can be converted to dwellinghouses in use class C3 (dwellinghouses) subject to prior approval. While this is a material consideration, it must be noted that:

- The prior approval process includes consideration of transport and highways impacts, contamination risks and flood risks on the site and must also have regard to the NPPF so far as relevant to the subject matter of the prior approval.
- The current proposal is for the demolition of Frederick House, rather than its change of use. The applicant has not gone through the process of submitting a prior approval application to the local planning authority for consideration.
- Furthermore, student accommodation such as the current proposal normally falls within a wholly different use class to dwellinghouses: C2 (residential

institutions).

5.10 As such, only limited weight can be afforded this assertion.

5.11 With regard to the marketing of the site, the applicant states in section 5.18 of their planning statement that:

“Information supplied by commercial specialists confirms the following in terms of the condition, viability and market attractiveness of the land and buildings at Frederick House in relation to part ii) of 2018 Draft Plan Policy EC2:

- The site is not attractive as an existing employment site:
 - The existing buildings are aged and are not in a condition that occupiers require and demand;
 - The existing buildings are poorly performing in terms of energy efficiency.
- The site was subject to open market sale. There were no expressions of interest from the market to retain it in its current use.”

5.12 While it is noted that the applicant referred to “information supplied by commercial specialists”, this assertion was not accompanied with supporting evidence. However, given the comments of the Forward Planning Officer with regard to the one time inclusion of the site in the Local Plan process for a period, it is not considered reasonable to refuse the application on this basis as the Council’s own evidence suggests the loss of employment land at this site would not conflict with the NPPF or Policy EC2 of the 2018 Draft Plan.

JUSTIFICATION FOR STUDENT ACCOMMODATION

5.13 Policy H7 of the 2018 Draft Plan states that proposals for new student accommodation will be supported where:

- i. there is a proven need for student housing; and
- ii. it is in an appropriate location for education institutions and accessible by sustainable transport modes; and
- iii. the development would not be detrimental to the amenity of nearby residents and the design and access arrangements would have a minimal impact on the local area.

5.14 Emerging Policy ED1 states that the University of York must address the need for any additional student housing which arises because of its future expansion of student numbers. Provision will be expected to be made on campus in the first instance. In assessing need, consideration will be given to the capacity of independent providers of bespoke student housing in the city and whether it is economically prudent to provide additional student accommodation.

5.15 In terms of part i. of policy H7, the applicant has submitted evidence to show the proven need for student housing. The Council's Forward Planning Officer in their consultation response to application 18/02797/FULM in January 2019 stated that with regard to the proven need for student housing, the SHMA (2016) notes that number of planning permissions for student accommodation have been granted in recent years. Whilst it is not anticipated that there will be as significant levels of growth in student numbers over the plan period as have been experienced through 10 year trends, it is acknowledged that the student rental market remains strong and that the demand for purpose built student accommodation is high, particularly from international students.

5.16 While concerns have been raised during the consultation process by local residents over the evidence provided and the accuracy of the projected numbers, on the evidence available the proposal complies with part i. of Policy H7. Parts ii. (appropriate location) and iii. (amenity) of the policy will be considered in the relevant sections below.

IMPACT ON THE CHARACTER OF THE CONSERVATION AREA

5.17 Paragraph 192 of the NPPF states that with regard to heritage assets, (which include conservation areas) when determining applications local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

5.18 Paragraph 190 advises that the particular significance of a heritage asset that may be affected by the development proposal should be identified and assessed. Paragraph 193 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 194 states that any harm to the significance of a designated heritage asset from development within its setting should require clear and convincing justification.

5.19 Policy D4 of the 2018 Draft Plan advises that harm to buildings, open spaces, trees, views or other elements which make a positive contribution to a conservation area will be permitted only where this is outweighed by the public benefits of the proposal. Emerging Policy GI4 seeks to retain trees that make a positive contribution to a conservation area.

5.20 Part of the site lies within the Fulford Road conservation area, which is a designated heritage asset. This part of the site includes the 'Guard House' which fronts Fulford Road. This building was included within the conservation area as it makes a positive contribution to the character of the area through sympathetic architectural language and by reinforcing the wall like characteristic of the barrack's boundary. The retention of this building is supported as it makes a positive contribution to the conservation area. The proposed design response locates communal uses in the guard house building, and creates a prominent new pedestrian entrance from the street. Despite weakening the boundary "wall" through these changes, given the limitations of the guard house's historical significance, this is supported as it is the primary means of making a vital connection with the street scene.

5.21 The existing Frederick House is utilitarian in design and does not have a positive impact on the character of the conservation area. The proposed new buildings would be outside of the conservation area but due to its proximity building 'B' would affect the character of the conservation area. The design of Building B has been revised to produce a narrow western elevation not dissimilar to the existing office building, only somewhat higher. The two protected trees sited between the Guard House and Building B are to be retained. Given the building will sit outside of the conservation area and will be of a similar massing to the original but with greater design detail. It is considered that subject to appropriate conditions such as materials and soft landscaping details the character and appearance of the conservation area shall be preserved in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF.

DESIGN

5.22 Paragraph 127 of the NPPF states that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

5.23 Policy D1 of the 2018 Draft Plan states that proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment.

Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused. Emerging Policy HW7 encourages design principles including well designed streetscapes, foot and cycle paths, spaces for communities to come together and considerations of how design impacts on crime or the perception of safety. Policy D11 provides further details on alterations to existing buildings to ensure they are acceptable in design, heritage, setting and amenity.

5.24 Planning permission was originally sought in late 2018 through application no 18/02797/FULM which was withdrawn by the applicant following fundamental concerns expressed by Council Officers in relation to the proposed design. The current application was submitted in March of this year with revisions submitted in August. The revisions have resulted in the number of student beds reducing from approximately 450 to 368, representing a decrease in numbers of nearly 20%. The decrease in numbers has allowed for design improvements including an increase in open space and a reduction in both the number of storeys from a maximum of 5, to no more than 4 for each building. The buildings have also been reduced in scale, particularly towards the western end of the site which will increase the sense of openness of the site. The application site is for the most part obscured from public view on Fulford Road due to its shape stretching back from the highway and from existing buildings and structures.

5.25 The Council's Design Officer has considered the proposal and notes the reduction in length of Building B and the narrow gable elevation to the Fulford Road aspect which is an improvement on previous iterations of the scheme. The revised scheme has slightly improved the functionality of the open spaces and will allow for greater sunlight. Other improvements include clarification that there are now no proposed windows in sensitive areas directly overlooking the gardens of Kilburn Road.

5.26 It is noted the proposal is not generally in character with the neighbourhood, the site layout is highly informal which is at odds with the formal characteristics of a former barracks site and also the dead end nature of the site in terms of connectivity. The alterations to the prominent Guard House are noted as an improvement. Furthermore, the existing appearance of the site is of a monolithic utilitarian building with extensive hard standing. The proposed architecture, while informal, is simple and consistent and there is the potential for a successful place if high quality materials and landscaping schemes are enacted.

5.27 Overall, the layout and design of the buildings are considered to comply with Paragraph 127 of the NPPF and the relevant policies of the 2018 Draft Plan that consider design. Conditions for materials and large scale details are recommended. Landscaping is considered further below.

TREES AND LANDSCAPING

5.28 Emerging Policy D2 considers landscaping and setting for design proposals. The Policy states that proposals will be supported where, amongst other things, they conserve and enhance landscape quality and character, and the public's experience of it and make a positive contribution to York's special qualities. Proposals should create opportunities to enhance the public use and enjoyment of existing and proposed streets and open spaces. They should recognise the significance of landscape features such as mature trees and other important character elements, and retain them in a respectful context where they can be suitably managed and sustained. Proposals should include sustainable, practical, and high quality soft and hard landscape details and planting proposals that are clearly evidence based and make a positive contribution to the character of streets and spaces. Emerging Policy G14 seeks to ensure that proposals do not create conflict between existing trees to be retained and new buildings, their uses and occupants, whether the trees or buildings be within or adjacent to the site.

5.29 The proposed development seeks the retention of the two protected trees within the conservation area and also includes a proposed landscaping scheme that concentrates on the proposed amenity spaces between the various buildings. It is noted that due to the location of the site and its relationship with surrounding buildings, there will be limited public view of the landscaping scheme. As a student housing scheme with restricted public access, one of the main functions of the space will be to provide an attractive setting for the buildings and one that provides outdoor amenity space for residents. The Council's Landscape Architect has considered the submitted information and has no objection subject to recommending appropriate conditions with regard to a no dig path near the protected trees and the landscaping scheme. The proposal is considered to enhance the existing character

of the site and to provide landscaping of a sufficient quality to meet the requirements of draft Policy D2 and D1.

IMPACT ON NEIGHBOUR AMENITY

5.30 The NPPF states that developments should create places with a high standard of amenity for all existing and future users. It goes on to state that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Policies D1 and ENV2 of the 2018 Draft Plan consider amenity. The key issues with regard to amenity that concerns this application are noise, light and the levels of comings and goings associated with the development. A number of objections to the application have been regarding potential noise and anti-social behaviour.

5.31 With regard to noise, the use will be residential, albeit for student housing which has raised concerns with local residents with regard to late night noise in particular. There is also a proposed energy centre on the northern boundary of the site. In mitigation, the proposed management plan submitted in March 2019 states that the site will be staff 24 hours a day, 365 days a year and that the site is fully equipped with direct access to CCTV equipment. The management plan states that the site operators would work with the university and student union to ensure managing student behaviour is a priority. Staff and security will monitor excessive noise and raise issues with residents directly. Tenancy agreements will include clauses regarding anti-social behaviour. The management plan is considered to undertake reasonable measures to manage potential noise complaints and a condition is recommended in this regard.

5.32 A noise impact assessment has been submitted which recognises the main impacts with regard to existing noise as traffic and also considers potential noise generated by the energy centre. Conditions are suggested with regard to maximum noise levels for any plant equipment for student residents and for the occupiers of nearby dwellings such as those on Kilburn Road. A condition for noise insulation measures for residents of the student accommodation to protect against traffic noise is also recommended.

5.33 Concerns have been raised by residents of Kilburn Road to the north regarding the proposed lighting strategy. The lighting strategy is considered to be reasonable for the proposed use and acceptable subject to recommended condition covering the final design of the lights and also curfews for the lighting. Conditions are also recommended with regard to land contamination remediation measures.

HIGHWAYS AND PARKING

5.34 Paragraph 108 of the NPPF states that when assessing applications for development, it should be ensured that

- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.35 Para 109 goes onto say development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.36 Para 110 expands on this, stating that applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

5.37 Policy T1 of the 2018 Draft Plan states that to provide safe, suitable and attractive access, development proposals will be required to demonstrate there is safe and appropriate access to the adjacent adopted highway. Development proposals should also create safe and secure layouts for motorised vehicles (including public transport vehicles), cyclists, pedestrians that minimise conflict. Emerging Policy H7 notes that student housing should be in an appropriate location for educational institutions to be accessed by sustainable transport means.

5.38 The application site lies, on the face of it, in what appears to be a sustainable location and would be considered as such were non student housing proposed for

the site. It is approximately 800 metres south of Fishergate Bar and on the A19 (Fulford Road) with good bus links to the city centre and railway station. There are also cycle paths along Fulford Road, the river bank and across Walmgate Stray. Residents at the site would be able to access the city centre, supermarkets to the south on Fulford Road (Aldi, Iceland) and the Designer Outlet by sustainable transport measures. There are further local amenities on Fulford Road close to the site including a Sainsbury's Local, café, pharmacy, doctor surgery and public house. The surrounding area contains a number of residential streets with unrestricted parking on either side of Fulford Road.

5.39 Some weight should be afforded to the location of the proposed development in terms of its sustainability with regard to the fact that student occupiers would use local amenities and the city centre. However, as the site is proposed to house 368 students and is to be a car free development, it is of greater relevance as to whether the site is in an appropriate location for access to the University of York by sustainable transport measures.

5.40 Access to the University's Heslington West campus would be on foot or via cycle across Walmgate Stray with an alternative route via Heslington Road to the north. The route onto Walmgate Stray from the application site is either via Kilburn Road to the north or the cycle path to the south of the barracks. It is noted that the surrounding area of the application site is already popular with students and employees of the University, many of whom will commute via the Stray. The applicant intends to encourage usage of the route via the Barracks, to reduce the impact on Kilburn Road. This is the existing route for vehicles, including cyclists, to take from the office at Frederick House. There is a give way marking on the road at the entrance to Frederick House, but it is worn out and it is recommended that the applicant provide improvements to the road marking and signage. The proposed layout of the site is such that a potential future access to the south east of the site towards the police station has been included to allow for an improved potential access if that site were ever to be redeveloped.

5.41 The proposal is to be car free and the applicant has proposed tenancy agreements to restrict car ownership. This is in line with student housing schemes elsewhere in the country that have included similar tenancy clauses.

5.42 The Transport Statement, dated March 2019, submitted with the application refers to walking and cycling distances to the University of York (UoY) of between 1.5 km to 2km. However, these distances are for routes that cross Walmgate Stray and are, therefore, not lit. The walking and cycling distance to the UoY West Campus along routes that are illuminated is approximately 2.5km. This distance is close to the maximum distance that people would be willing to walk for travel to work (or study) purposes.

5.43 The Council's Highways Officer has objected to the application on the evidence available as they have concluded that there is likely to be an increase of between 36 and 88 cars parked on the public highway as a result of the proposed development. This is considered to be a possibility due to the lack of a direct bus service and the unattractiveness of Walmgate Stray at certain times of day/year for walking and cycling with the increased distance via alternative routes. The Highways Officer noted that there is car parking at the University of York. The main deterrent being the cost of parking and the number of spaces and also the restrictions to tenancy agreements.

5.44 Concerns have been expressed by the Highways Officer regarding the enforceability of the tenancy restrictions for on street parking. The alternative sites have been considered and the Highways Officers notes that there are differences with the individual cases such as the scale and public transport options.

5.45 Several planning appeal decisions have considered whether parking restrictions tied to tenancy agreements can be controlled via conditions or legal agreement. These include appeals dealt with by way of hearing (appeal reference 3178946, Chester, 2017) or public inquiry (appeal reference 2090892, Bristol, 2009) and have found that these restrictions do meet the necessary tests.

5.46 The proposal includes for 0.53 cycle parking spaces per room, rising to 0.67 cycle parking spaces per room, should the need arise. This level of provision has been agreed following discussions with the Council's Highways Officer although there is a lack of detail in the submitted plans. Conditions are recommended to provide further details and to allow future additional cycle parking provision should this be warranted.

5.47 The previous application for redevelopment of the site (18/02797/FULM) included an indicative route from the application site heading east through the woodland and onto Walmgate Stray. The purpose of this route was to provide a shortcut to the University and reduce movement on alternative routes such as Kilburn Road. Several consultation responses referred to this potential route. The Council's Ecology and Countryside Officer did not support the proposed link to the east for the following reasons:

- The Stray is managed by grazing cattle and/or sheep and hay cutting. A new access point will increase the maintenance costs to the council or tenant farmer in insuring it remains stock proof.
- Walmgate Stray is managed under a Higher Level Stewardship agreement with Natural England. If land were to be removed from this to create a surfaced foot/cycle path the council would incur a financial penalty. A

surfaced path would be an additional hazard/barrier for the agricultural management of the land.

- If a new footpath was un-surfaced it would create a new, or multiple, 'desire lines' which will cause long term damage to the grassland sward.
- There is already pressure to introduce artificial lighting across the Stray which would have a negative impact on wildlife, and this proposal would add to this pressure.
- There will be pressure either at construction stage or through future use, to remove trees and introduce lighting within the woodland on site on the grounds of safety/feeling of security.

5.48 Given these fundamental concerns and noting that part of the indicative route would be outside of the applicant's control, this was removed from the current application.

5.49 It is agreed with the Council's Highways Officer that there is the potential for an adverse impact to highway safety as a result of the proposed development. However, it is also a material consideration that planning inspectors have consistently found that the use of restrictive tenancy agreements meet the 6 tests required for the use of planning conditions. It is considered with this in mind that the impact on highway safety as a result of the proposed development would be acceptable, if tenancy restrictions were applied and properly enforced via a Section 106 agreement to cover the following, which the applicant has agreed in principle to:

- Management agreement to include the restriction on residents' cars through the tenancy agreement
- Monitoring of current on-street parking and future surveys to monitor, with provision for funding a residents parking zone if it proves that this is required in future – completion of the S106 would be subject to a reasonable cap on the funding of the RPZ and clarification on the phasing and triggers for surveys and any payments.
- Widening of the pedestrian refuge on Fulford road outside the site, to better accommodate increased numbers of pedestrians and cyclist crossing movements arising from the development – YCC cost estimate capped at £15,000
- Replacement of the kissing gate along the pedestrian route between Kilburn Road and the Stray to facilitate cyclists using this route. YCC cost estimate capped at £10,000.

ECOLOGY

5.50 Policy GI2 of the Draft Plan seeks to conserve and enhance York's biodiversity. Where appropriate, any development should result in net gain to, and help to improve, biodiversity. The proposed development includes the demolition of

the existing office building known as Frederick House. The Ecological appraisal submitted by the applicant has been considered by the Council's Ecologist who concurs with the assessment in that the existing buildings on site are of very low potential for the potential to support roosting bats. It is also noted that the two single storey buildings will have green roofs and there will be an increase in soft landscaping and tree planting when contrasted with the existing extensive hardstanding at the site.

DRAINAGE

5.51 The application site lies wholly within an area at low risk of flooding (flood zone 1). It is relevant that the site is currently a brownfield site contain buildings and extensive hardstanding in the form of car parking. There is currently limited soft landscaping which would allow for surface water drainage. As a result of the development, 6 new residential buildings will be erected with ancillary buildings such as the energy centre.

5.52 The applicant's drainage strategy states that there is a public foul water sewer in Fulford Road, at a point to the west of the site. There is no public surface water sewer shown within the vicinity of the site and this suggests that surface water discharges to a soakaway (assumed to be at the eastern end of the site). The proposed strategy for surface water drainage is by soakaway. Foul water drainage is proposed to be via an underground gravity pipe network discharging to a package pumping station. As per the sustainable drainage hierarchy this method is acceptable in principle. Relevant conditions are recommended.

SUSTAINABILITY

5.53 Policy CC1 of the 2018 Draft Plan states that new buildings must achieve a reasonable reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable. This should be achieved through the provision of renewable and low carbon technologies in the locality of the development or through energy efficiency measures. Emerging Policy CC2 states that proposals for new residential buildings will be supported where they achieve the following at least a 19% reduction in Dwelling Emission Rate compared to the Target Emission Rate and a water consumption rate of 110 litres per person per day. Emerging Policy CC3 strongly supports the development of decentralised energy, including both combined cooling, heating and power (CCHP) and combined heating and power (CHP) distribution networks

5.54 The highest energy demand for this type of development is hot water. The energy strategy for the development is for a central energy centre, incorporating natural gas fired boilers, with a natural gas fired combined heat and power (CHP)

plant. Efficiency measures include high efficiency condensing boilers, variable speed fans and pumps, energy efficient lifts and lighting controls. The applicant's sustainability statement shows that the new blocks will achieve between a 26% and 34% carbon emissions saving against the target emission rate and the BREEAM pre assessment report demonstrates the proposed development will achieve a prospective BREEAM 2018 new construction rate of 'excellent', which accords the emerging policy requirement. A condition is recommended to require measures to be incorporated to ensure that the BREEAM level is met.

6.0 CONCLUSION

6.1 Paragraph 11 of the NPPF states that where there are no relevant development plan policies planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. In this case, there are no restrictive NPPF policies that give a clear reason for refusing the proposals and the proposed development is considered to be acceptable in principle with justification for the student housing provided. It is also noted that the provision 368 student housing beds is positive with regard to the national and local policy requirements for new housing. A condition is recommended that the site be restricted to student housing, otherwise affordable housing contributions would be required. With regard to the loss of employment at the site it is noted there is a permitted development fall back to convert the existing building to a residential use. Furthermore it is noted that the existing building due to its scale and age is unlikely to be attractive to potential commercial operators.

6.2 The revised design of the site is considered to be an improvement to both the original submitted scheme in 2018 and also the initial resubmission in 2019. It is noted that there is relatively limited public view of the site and that some of the design constraints of the site such as the 'dead end' nature and the lack of access to the south and east are outside of the applicant's control to remedy. The landscaping scheme is considered acceptable and the TPO'd trees on site can be retained. Conditions are proposed with regard materials, landscaping and tree protection.

6.3 The proposed development, including the erection of new buildings, the alterations to the Guard House and the retention of the protected trees are considered to preserve the character of the Fulford Road conservation area.

6.4 The proposed development is also considered to be acceptable with regards to ecology, noise, light, privacy, contaminated land and also archaeology subject to recommended conditions.

6.5 It is recognised that there are concerns with regard to parking and highway safety that include an objection from the Highways Officer and also from local residents. This is primarily due to the distance of the site from the University of York, particularly during inclement weather or poor light which will reduce the appeal of travelling via Walmgate Stray to the university. The resultant concerns are that this will lead to increased use of Kilburn Road both by cyclists and also for on street parking. The applicant has proposed measures to restrict private car usage including subject to a legal agreement covering car ownership in student tenancies, parking surveys and if deemed contributions towards permit parking for residents of nearby streets.

6.6 In the planning balance it is considered that the identified benefits of the site, including the re-use of brownfield land for residential use and the sustainable transport measures proposed. Significant weight should be given to the acceptable design and the positive landscaping scheme in favour of granting planning permission, as should the sustainable design and construction measures. Limited weight should also be attached to the proposed ecological enhancements. While the objection from Highways is acknowledged and this should carry appropriate weight in the decision making process, moderate weight should also be attached to previous appeal decisions that have indicated that the principle of using planning conditions or obligations to control student parking via tenancy agreements is acceptable. Overall, the proposal is considered to comply with Paragraph 11 of the NPPF in that the adverse impacts do not significantly or demonstrably outweigh the identified benefits.

7.0 RECOMMENDATION: Approve subject to Section 106

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:-

(415)1808-GWP-00-XX-DR-A-(PA)-0057-P05

(415)1808-GWP-01-GF-DR-A-(PA)-0030-P06

(415)1808-GWP-01-GF-DR-A-(PA)-0031-P06

(415)1808-GWP-01-GF-DR-A-(PA)-0048-P06

(415)1808-GWP-01-GF-DR-A-(PA)-0049-P02

(415)1808-GWP-01-ZZ-DR-A-(PA)-0035-P06

(415)1808-GWP-01-ZZ-DR-A-(PA)-0045-P06

(415)1808-GWP-01-ZZ-DR-A-(PA)-0046-P02

(415)1808-GWP-01-ZZ-DR-A-(PA)-0047-P06

(415)1808-GWP-04-00-DR-A-(PA)-0036-P06

(415)1808-GWP-04-00-DR-A-(PA)-0037-P06
(415)1808-GWP-04-E-DW-A-(PA)-0058-P05
(415)1808-GWP-04-GF-DR-A-(PA)-0055-P06
(415)1808-GWP-04-GF-DR-A-(PA)-0056-P06
(415)1808-GWP-XX-00-DR-A-(PA)-0007-P09
(415)1808-GWP-XX-00-DR-A-(PA)-0008-P04
(415)1808-GWP-XX-00-DR-A-(PA)-0009-P04
(415)1808-GWP-XX-00-DR-A-(PA)-0010-P03
(415)1808-GWP-XX-00-DR-A-(PA)-0075-P01
RFM-XX-00-DR-L-0001-S1-PL03
RFM-XX-00-DR-L-0003-S1-PL04
(415)1808-GWP-XX-00-DR-A-(PA)-0017 P05
(415)1808-GWP-XX-00-DR-A-(PA)-0018 P05
(415)1808-GWP-XX-00-DR-A-(PA)-0019 P05
(415)1808-GWP-XX-00-DR-A-(PA)-0020 P05

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

3 DRAIN1 Drainage details to be agreed

4 VISQ8 Samples of exterior materials to be app

5 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

Detailed bay elevations and sections for all fenestration types including ground to roof level parts to demonstrate interfaces at scale 1:20

Window reveals and wall pane recesses at scale 1:10

Details of all fixed equipment to the exterior of the proposed buildings.

The Guard House window reveal at scale 1:10

Reason: So that the Local Planning Authority may be satisfied with these details.

6 Sample panels of all the types of brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. These panels

shall be retained until a minimum of 2 square metres of wall of the relevant building has been completed in accordance with the approved samples.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

7 The development shall not be occupied until a detailed landscaping scheme in accordance with the approved General arrangement and Planting strategy has been submitted to the Local Planning Authority for approval in writing. This shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; and seed mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation; tree planting details; paving, and street furniture. The proposed tree planting shall be compatible with existing and proposed utilities. This scheme as approved shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species and other landscape details across the site, since the landscape scheme, is integral to the amenity of the development.

8 Before the commencement of development including demolition, excavations, building operations, an up to date detailed Arboricultural 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. Amongst others, this statement shall include details and locations of protective fencing, ground protection, a schedule of tree works if applicable, site rules and prohibitions, phasing of works, site access during demolition/construction, types 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 stored materials and means of moving materials around the site, locations and means of installing utilities, location of site compound and marketing suite. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material is proposed within the root protection area of existing trees. A copy of the document will be available for reference and inspection on site at all times. The development shall be carried out in accordance with the approved Arboricultural Method Statement.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development.

9 The development hereby approved shall be occupied only for the purposes of student accommodation by either students engaged at all times in full-time or part-time further or higher education courses within the City of York administrative boundary or by delegates at all times attending courses or conferences within the City.

Reason: In order to control the future occupancy of the development in the event of it any part of it being sold or rented on the open market without securing adequate levels of affordable housing, in accordance with Policy H7 of the 2018 Draft Plan.

10 A programme of post-determination archaeological evaluation is required on this site.

The archaeological scheme comprises 3-5 stages of work. Every stage shall be completed and approved by the Local Planning Authority (LPA) before the condition can be discharged.

A) No archaeological evaluation, grubbing up of foundations or development shall take place until a written scheme of investigation (WSI) for evaluation and watching brief has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an

amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

E) No development shall take place until:

- details in D have been approved and implemented on site

- provision has been made for analysis, dissemination of results and archive deposition has been secured

- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

11 A programme of archaeological building recording, specifically a written description and photographic recording of the Guard House and any other historic structures on site to Historic England Level 2 is required for this application.

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged.

A) No demolition/ alteration of the Guard House or other associated historic structures shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The programme of recording and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and digital archive deposition with ADS will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report shall be deposited with City of York Historic Environment Record and digital archive images with ADS to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The buildings on this site are of archaeological interest and must be recorded prior to alteration or removal of fabric.

12 No development shall take place until a detailed scheme of noise insulation measures for protecting current and proposed residents from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with the National Planning Policy Framework.

13 No above ground construction work shall take place until details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed

in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

14 The lighting levels achieved at the development shall not exceed those stated in the lighting report by Desco dated: 1 September 2019 reference: 1809-60-RPT-01-External Lighting Assessment Report.

Reason: To protect the amenity of the surrounding area.

15 There shall be no external lighting between the hours of 23:00hrs and 07:00hrs by obtrusive lights (as defined in the External Lighting Assessment Report by Desco dated 3rd September 2019 as A1 and C1) at the site, other than those necessary for emergency and security lighting. A scheme outlining which lights will be switched off between these hours shall be submitted to and agreed by the Local Authority in writing before use of the site commences and the curfew implemented in accordance with the said scheme as approved thereafter.

Reason: To protect the amenity of the surrounding area

16 VISQ4 Boundary details to be supplied

17 Prior to first occupation or use of the development hereby approved four integrated features providing a roosting crevice for bats must be constructed across the site within the fabric of the new buildings, and four Swift nest boxes.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 175 d) of the NPPF (2019) to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

18 HWAY18 Cycle parking details to be agreed

19 HWAY19 Car and cycle parking laid out

20 Before the occupation of the development 1 Electric Vehicle Recharging Point shall be provided and retained in a position and to a specification to be first agreed in writing by the Council. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Parking bay marking and signage should reflect this. The charge points should include

sufficient cabling and groundwork to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point of the same specification, should demand require this in this future. Within 3 months of the first occupation of the development, the owner will submit to the Council for approval in writing an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years. The approved Electric Vehicle Recharging Point Maintenance Plan shall thereafter be implemented in accordance with its terms

Reason

To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

21 Details of the reduction in carbon emissions the development hereby approved would achieve when compared against Part L of the Building Regulations (the notional building) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the building and the development shall be carried out in accordance with the approved details.

The details shall demonstrate a reduction in carbon emissions of at least 28% through the provision of renewable or low carbon technologies or through energy efficiency measures and at least a 19% reduction in dwelling emission rate compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L1A of the Building Regulations).

Details shall also be submitted that demonstrate that the development shall also achieve a water consumption rate of no more than 110 litres per person per day (calculated as per Part G of the Building Regulations).

Reason: In the interests of sustainable design and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018.

22 LC1 Land contamination - Site investigation

23 LC3 Land contamination - remedial works

24 LC4 Land contamination - unexpected contam

25 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the

hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays.

The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason: To protect the amenity of local residents

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

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

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

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable

measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

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

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

Reason: To protect the amenity of the locality

27 No part of the development shall be occupied until a Full Travel Plan has been submitted and approved in writing by the LPA. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the Local Planning Authority. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure that traffic flows from the site can be safely accommodated and to promote the usage of sustainable means of transport.

28 The area shown as 'potential future cycle storage' on drawing no (415) 1808-GEP-XX-00-DR-A-(PA)-0007 -P09 shall be reserved for cycle parking only at all times throughout the lifetime of the development unless it is first agreed in writing with the local planning authority that it is no longer necessary for this purpose.

Reason: To encourage the use of sustainable transport modes.

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Revised Plans

2. INFORMATIVE:

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

(a) 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. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

4. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

Contact details:

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