

2.0 POLICY CONTEXT

Upper Poppleton and Nether Poppleton Neighbourhood Plan

PNP4	Village Design Statement
PNP6A	Development with Upper Poppleton and Nether Poppleton
PNP3	Development within Conservation Areas

Draft Development Control Local Plan 2005

GP1	Design
GP4a	Sustainability
HE2	Development in Historic Locations
HE3	Conservation Areas
GP4B	Air Quality
GP15A	Development and Flood Risk
H4A	Housing Windfalls

Publication Draft Local Plan 2018

D1	Placemaking
D2	Landscape and setting
DP3	Sustainable communities
HE2	Development in Historic Locations
HE3	Conservation Areas
ENV2	Managing Environmental Quality
ENV4	Flood Risk
CC2	Sustainable Design and Construction of New Development

2.0 CONSULTATIONS

Design, Conservation and Sustainable Development

City Archaeologist

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2.1 The proposed development area is within the historic village of Nether Poppleton. It occupies a village toft leading back from the Main St which has seen little disturbance. It is an area of archaeological interest.

2.2 An archaeological evaluation of this site is required ahead of the construction of any proposed dwellings. This will assess the impact of the scheme on any surviving archaeology on the site and allow a mitigation strategy to be agreed. Should nationally significant archaeology be discovered during the evaluation preservation in-situ may be required. If archaeological features of regional/local significance are located on the site a full excavation may be required. Conditions are sought.

Conservation Officer

2.3 Significant amendments have been made to the proposal scheme, however, conservation cannot support the application. Development is proposed along the length of the plot and across approximately half of its width. Both houses are 2 storeys. The scale of the dwellings together with the rise of the land would mean that the development would draw attention to the development from outside the site. The subdivision of the site would be apparent as the brick boundary walls (and entrance gate and piers) would be visible from in front of the site access. The effect would be to draw attention to the subdivision of the historic plot and its overlaying with development of modern suburban form. By doing so, it would fail to preserve the character of the conservation area and detract from the setting of the grade II listed Poppleton House.

Landscape Architect

2.4 The trees within the grounds of Poppleton House adjacent to the southeast boundary of the site are subject to a tree preservation order TPO 1/1970 –A5. They are also located within the Nether Poppleton conservation area. The trees contribute to the setting and public amenity of the conservation area and their scale is fitting to the setting of Poppleton House (a Grade II listed property).

2.5 In the latest proposals, the building footprint of the dwelling on plot 2 is much further away from the existing trees within the grounds of Poppleton House. To this end it would probably be possible, with strict adherence to a suitable arboricultural

method statement (AMS), to construct the house and other buildings without entering the recommended root protection area of the trees.

2.6 These are tall mature trees that have a dominating presence both in stature and due to the shade they will cast in the summer months, in particular over plot 2 during the morning and early afternoon. The trees will also produce a large quantity of seasonal fall, e.g. leaves, nuts/seeds, and twigs.

Public Protection

2.7 This application is for the construction of 2 new dwellings close to a commercial use. This commercial use; a public house, can generate noise from plant/machinery located to the rear, noise from the use of the car park and also noise from the customers using the premises. All of these existing noise sources could cause disturbance to the future occupants of these new dwellings. As such a condition is proposed requesting a detailed scheme of noise insulation measures for the dwellings. A condition is also proposed in connection with electric vehicular recharging sockets.

Highway Network Management

2.8 No objections are raised. Adequate turning has been provided within the site for delivery vehicles to the public house and adequate on site car parking has been retained. It is not considered that significant overspill car parking onto the highway will occur due to the public houses' location within the settlement. The parking of the bus to the front of the public house is an existing situation and is unlikely to be affected by the proposal.

Flood Risk Management Team

2.9 The Flood Risk Management Team witnessed site specific soakaway testing on the 9th February 2019 which were successful no objections are raised to the development in principle but if planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment and public sewer network.

Ainsty Internal Drainage Board

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2.10 The application appears to enlarge the impermeable area on site and has the potential to increase the rate of surface water run-off from the site if this is not effectively constrained. The applicant states that surface water will drain by a combination of soakaways and balancing storage.

2.11 A soakaway test has been undertaken and witnessed by Council officers and worked well. As such surface water can be conditioned to soakaway.

2.12 The Board notes that the applicant is proposing to connect into the mains sewer. If Yorkshire Water is content with the proposed arrangement and is satisfied that the asset has the capacity to accommodate the flow, then the Board would have no objection to the new proposed arrangement.

Yorkshire Water

2.13 No objections but recommend a condition in connection with surface water drainage

Conservation Area Advisory Panel

2.14 The Panel considered that the proposals contravened the backland development principles, was over development of the site whilst the proposed designs did nothing to enhance the Conservation Area and considered this to be a missed opportunity for a high quality 'modern' development.

Nether Poppleton Parish Council

2.15 Object on the following grounds:

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- This proposed development is within the Nether Poppleton Conservation Area where there are up to 6 Grade 11* listed buildings adjacent to and/or within walking distance of the proposed new development
- Approach road is subject to flooding
- Existing traffic congestion
- Dwellings should be reduced in height
- Do not fit with the surroundings
- Not seen as sympathetic or empathetic in any way with the surroundings
- Proposed outbuildings could be used for business purposes
- The proposed development with narrow access would not be able to be used by emergency vehicles or refuse vehicles as there is no provision for a turning circle in the development
- The need to protect the roots of the trees in adjacent properties. The trees are in a Conservation Area and therefore have TPOs.
- The land was never identified for development in the Local Plan or the Neighbourhood Plan

4.0 REPRESENTATIONS

4.1 Neighbours and Publicity – 22 properties objecting:

- The site falls within the conservation area
- The land is a Burgage strip and should not be developed
- Proposed dwellings are too large and are not consistent with the objectives of the Village Plan
- The land is not allocated for development within the Village Plan
- Roof heights are higher than those of Hall Garth properties
- Garages could be adapted to increase the number of vehicles stored
- Additional level of hardstanding could lead to surface water drainage issues
- Potential for surface water to run off into neighbouring properties and streets
- Dwellings would result in loss of light, sight lines, noise and nuisance
- Potentially result in 5/6 vehicles exiting onto Main Street at a narrow point where vehicles park on the road
- May impact upon the existing bus stop to the front of the public house

- Inadequate car parking for the public house forcing cars to park on the already busy road resulting in congestion
- Difficulties accessing the public house
- Site is of archaeological importance
- Out of scale with neighbouring properties
- The site is elevation making the development more prominent

Council for British Archaeology

4.2 Object on the following grounds:

- The proposed dwellings are over-large and of a design that is not in keeping with the village and will therefore harm the character and appearance of the Nether Poppleton Conservation Area
- The proposed dwellings will result in over development of the site and will therefore harm the character and appearance of the Nether Poppleton Conservation Area.
- The proposed dwellings will result in the loss of back land associated with Nether Poppleton medieval crofts and therefore harm the significance of a non-designated heritage asset associated with medieval Nether Poppleton as well as the character and appearance of the Nether Poppleton Conservation Area.
- Development of Lord Nelson back land will result in the loss of important open space associated with the potential future viability of an Asset of Community Value (we consider that the proposal to create new access and shrink the available land owned directly by the Lord Nelson may affect viability).
- The impact of the proposed dwellings on the setting of the Listed Grade II Poppleton Hall is not clear and therefore the CBA considers this to be adverse and therefore harmful to the setting of the Listed Grade II Poppleton House.

5.0 APPRAISAL

KEY ISSUES:-

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- Principle of development;
- Design and amenity
- Impact upon conservation area and listed building
- Flood risk and drainage
- Access, parking and Highway safety
- Asset of Community Value
- Landscape
- Sustainability

RELEVANT PLANNING POLICY:

Upper Poppleton and Nether Poppleton Neighbourhood Plan 2017

5.1 The Upper Poppleton and Nether Poppleton Neighbourhood Plan is the statutory Development Plan for the application site, by virtue of the provision of Section 38 (3) of the Planning and Compulsory Purchase Act 2004 which requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Additionally, paragraph 30 of the NPPF states that policies in a made neighbourhood plan take precedence over existing non-strategic policies covering the neighbourhood area where they are in conflict.

5.2 Village Design Statement Policy PNP 4 states that proposals for development within the villages of Upper Poppleton will be supported where they bring forward high-quality design appropriate to their character and appearance. All new developments within the settlement limits of the villages should respect the Design Guidelines in the Village Design Statement.

Poppleton Village Design Statement

5.3 Poppleton Village Design Statement, adopted August 2003, includes design guidelines and advises that to conserve the special character of the traditional communities, the size, scale and massing of new buildings and extensions should harmonise with neighbouring properties and spaces; space should be maintained around dwellings. The use of local characteristic details and materials is to be encouraged.

The National Planning Policy Framework (February 2019) (NPPF)

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5.4 Central Government guidance is contained in the National Planning Policy Framework (NPPF, February 2019), which places emphasis on achieving sustainable development. Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In decision-taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of relevant development plan policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance, including heritage assets, provide a clear reason for refusing the proposed development or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

5.5 In NPPF Chapter 4 Decision-making, Paragraph 38 advises that local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Publication Draft Local Plan (February 2018)

5.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. 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). The evidence base underpinning the 2018 Draft

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Plan is capable of being a material consideration in the determination of planning applications. Relevant policies are set out in section 2 above. Given the advanced stage of the emerging Plan's preparation, the lack of significant objection to the emerging policies relevant to this proposal and the consistency with the Framework, the policy requirements of emerging plan policies can be applied with moderate weight.

York Development Control draft Local Plan 2005

5.7 The York Development Control draft Local Plan was approved for development control purposes in April 2005. Its policies are capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those on the NPPF, although it is considered that the policies should be afforded very limited weight. Relevant policies are set out in section 2 above.

PRINCIPLE OF DEVELOPMENT

5.8 The NPPF supports the Government's objective of significantly boosting the supply of homes, with homes provided in rural areas where it will enhance or maintain the vitality of rural communities. The proposal would provide two dwellings. In NPPF Chapter 5 Delivering a sufficient supply of homes, Paragraph 68 advises that small sites can make an important contribution to meeting the housing requirements of an area and supports the development of windfall sites within existing settlements for homes.

5.9 Paragraph 11 of the NPPF establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. For decision-taking this means approving development proposals without delay that accord with the development plan. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, or specific policies in the Framework indicate development should be restricted. The footnote to paragraph 11 includes those policies relating to land designated as a designated heritage asset.

5.10 Paragraph 12 of the NPPF states that proposals that conflict with up-to-date development plans (including neighbourhood plans) should not usually be granted. It states that Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

5.11 The land is unallocated within the Upper Poppleton and Nether Poppleton Neighbourhood Plan or the Publication Draft Local Plan 2018. Whilst it is not allocated for housing development it is neither identified as existing open space or green infrastructure and until recently was used as a site for the storage of caravans. This use was approved in 1988. The site is located in a sustainable location with easy access to a wide range of services. Indeed, the Vision Statement of the Poppleton Plan includes the following:

'Upper Poppleton and Nether Poppleton are two villages that have coalesced to form a distinctly quintessential English Village, with the right array of facilities, amenities and transport links. It is a desirable place to live, work, raise a family and retire to. This is because first and foremost it is a community, with a place identity, shared green spaces good schools, shops, churches, clubs and most importantly a history of friendliness and caring'.

5.12 The current application is therefore considered acceptable in principle subject to other material considerations being acceptable.

DESIGN AND AMENITY

5.13 Paragraph 127 of the NPPF requires that developments, *inter alia*, function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and landscaping, be sympathetic to local character and history and maintain a strong sense of place. It states in paragraph 130 that development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions should be refused. These aims are reflected in draft Local Plan policies GP1 of the 2005 plan and D1, D2 and DP3 of the 2018 plan.

5.14 Policy D1 'Placemaking' of the Draft Local Plan 2018 (read with May 2018 minor modifications) requires development to enhance, respect and complement the historic arrangement of street blocks, plots and buildings, demonstrate that it is of an

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appropriate density and does not dominate other buildings particularly those of historic interest. Development should not be a pale imitation of past architectural styles, use appropriate materials and demonstrate best practice in contemporary urban design and placemaking, creating active frontages to streets. The design should consider residential amenity so that residents living nearby are not unduly affected by noise, disturbance, overlooking or overshadowing.

5.15 Policy DP3 'Sustainable communities' sets development principles including respecting and enhancing the historic character of York, delivering high-quality design, layout and scale, ensuring appropriate building materials are used. Development should create a high quality, locally distinctive place which relates well to the surrounding area and its historic character, promoting sustainable modes of travel and for development not to contribute to flooding.

5.16 There are no policies which directly relate to the redevelopment of backland sites within the Upper Poppleton and Nether Poppleton Neighbourhood Plan. Policy PNP6A is the most relevant but solely relates to the subdivision of an existing dwelling or the construction of a single dwelling with the curtilage of a dwellinghouse. Neither of these categories apply to this site. However, it states that applications will be supported where the proposals are:

- In character with the surrounding development;
- Designed to safeguard the amenities of existing residential properties;
- Designed to provide appropriate elements of garden and amenity space; and
- Designed to provide appropriate levels of parking and vehicular access to the City of York Council standards at the time of application.

5.17 The scheme seeks permission for the erection of two detached dwellings with associated garages and outbuildings. Plot one would be located towards the front of the site, immediately to the rear of The Lord Nelsons garden and car parking area. A detached garage and study would partially wrap around the car parking area of the public house and separate the dwelling from the public house. The dwelling would be constructed in two blocks attached by a lightweight glazed link. The blocks would measure approximately 7.9m in height reducing to 7.14m with the roofs pitching away from the boundary. The dwelling would run along the north western boundary of the site and would be constructed of brick and slate. The site would be separated from the driveway by a low wall and hedge.

5.18 Concerns have been expressed that the dwelling would result in a loss of privacy to number 1 Hallgarth Close. This property faces onto Main Street with its garden running parallel to the proposed garage and dwelling. Two first floor windows are proposed to plot one. These look directly onto the car park of the public house but do have acute views towards 1 Hall Garth. However, a degree of separation of 22m is achievable between the first floor windows and mature boundary treatment is present to protect the amenity of the existing ground floor extension which is present.

5.19 Plot one is also set 3m from the site boundary and as it is located a considerable distance from the rear elevation of 1 Hallgarth Close limited overshadowing would arise.

5.20 Plot two would be located further to the rear of the site and would comprise of a detached two storey dwelling incorporating a rear green roofed single storey element and a single storey projecting front element. A double garage incorporating an office and bike store is also proposed along with two small detached structures within the rear garden to be used as a garden store and music room. The dwelling would measure approximately 7.6m in height and would be constructed of brick and plain roof tiles. The single storey elements are proposed to be clad in timber. The dwelling would side onto 2 Hallgarth Close and would be separated by approximately 3.8m. Whilst the front elevation of Plot 2 would project slightly past the existing front elevation of 2 Hallgarth Close the location of windows central to the front elevation would mean there would be no loss of light or over-dominance arising. Likewise, the two storey element of plot 2 would project past the rear of 2 Hallgarth Close by approximately 2.3m but due to the degree of separation there would be no detrimental impact.

DESIGN AND VISUAL IMPACT ON CHARACTER AND APPEARANCE OF CONSERVATION AREA AND SETTING OF LISTED BUILDING

5.21 The application site is within the Nether Poppleton Conservation Area where 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 or appearance of that area. Section 66 of the same Act requires that in determining planning applications for development which would affect a listed building or its setting the LPA shall have special regard to the

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desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

5.22 Case law has made clear that when deciding whether harm to a conservation area or to a listed building or its setting is outweighed by the advantages of a proposed development, the decision-maker must give particular weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. There is a "strong presumption" against the grant of planning permission in such cases.

5.23 The NPPF defines listed buildings and conservation areas as 'designated heritage assets'. The NPPF, Chapter 16 - Conserving and enhancing the historic environment, Paragraph 190 states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal. Paragraph 192 a) states that when determining planning applications, local planning authorities should take account of sustaining and enhancing the significance of any heritage asset.

5.24 The NPPF, Chapter 16, Paragraph 193 states 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. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. 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.

5.25 The NPPF sets out where a proposed development would lead to substantial harm or to total loss of significance consent should be refused, unless this is necessary to achieve substantial public benefits that outweigh that harm or other specified factors apply (paragraph 195). The NPPF, Chapter 16, Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

5.26 The national Planning Practice Guidance states that "It is the degree of harm to the asset's significance rather than the scale of the development that is to be

assessed. The harm may arise from works to the asset or from development within its setting."

5.27 The Upper Poppleton and Nether Poppleton Neighbourhood Plan 2017 policy PNP3 is relevant and states that all proposals for development in the Conservation Areas should preserve or enhance their special character or appearance and protect the open character and heritage assets of the village.

5.28 2018 Draft Plan Policy D4: Conservation Areas states that development proposals within or affecting the setting of a conservation area will be supported where they; (i) are designed to preserve or enhance the special character and appearance of the conservation area and would enhance and better reveal its significance; (ii) respect important views; and (iii) are accompanied by an appropriate evidence based assessment of the conservation area's special qualities, proportionate to the size and impact of the development and sufficient to ensure that impacts of the proposals are clearly understood.

5.29 2005 Development Control Draft Local Plan Policy HE2 'Development in Historic Locations' and HE3 'Conservation Areas' are also relevant.

5.30 The long narrow plot to the rear of the Lord Nelson Public House is characteristic of historic development in the settlement, either as a remnant of earlier burgage plots, or 18th century development. Survival of this plot form is good at the eastern end of the village and to some extent to the north of Main Street, however to the south the historic village plot form has been largely lost to 20th century suburban development, leaving the application site and the neighbouring plot to the south. The neighbouring Poppleton House and 5 Main Street are grade II listed as buildings of special architectural or historic interest. The spacious character of the plot contributes to the village character of the settlement, and the plot form is a tangible link to its historic development. The development site thus makes a positive contribution to the character and appearance of the conservation area.

5.31 The scheme has been substantially redesigned since its first submission in order to take into account the historic linear form of the site and to reduce the sense of subdivision across the plot. The traditional form of plot development is a house towards the front of the plot with ancillary agricultural buildings, attached or free standing, to the rear. The redesign has considerably reduced the mass of the

dwelling and orientated them along the boundary of the site adjacent to Hallgarth Close. This echoes the historic plot form and retains the spacious and vegetated setting of Poppleton House. Likewise, the height has been considerably reduced and the dwellings broken up with varying heights and smaller linked and detached elements to represent a more agricultural design. The previously proposed render has been removed and traditional brick is now proposed with minor elements of timber cladding.

5.32 It is considered that the design and location of the two dwellings clearly emphasises the form and historic presence of the historic plot by creating a linear form of development and by only developing across 50% of the width of the site, leaving the boundary with Poppleton House undeveloped. The plots would be separated by a low wall and hedging. This would retain the sense of openness and would, due to the natural hedging proposed, prevent a harsh subdivision which could be considered to be detrimental to the character and appearance of the conservation area.

5.33 Pulling the dwellings away from the boundary with Poppleton House gives a greater degree of separation, 18m to the boundary and 38m between Plot 1 and Poppleton House. In addition the reduced height of the dwellings to a comparable height to those along Hallgarth Close reduces the impact further. Poppleton House is a three storey listed building set within ample grounds and bounded, in part, by mature tree planting. The proposed scheme would not overdominate Poppleton House or have a detrimental impact upon its setting.

5.34 Only glimpse views of the properties would be available from Main Street, primarily from along that access which will serve the dwellings and the public house. However, due to the nature of their design and positioning within the site it is considered that they would not be overly intrusive or draw undue attention.

5.35 Para 7.4 of the Neighbourhood Plan states that 'Over-development as a definition in this Neighbourhood Plan refers to increased housing density which is out of character with the surrounding housing types, increases the density of housing on a plot in such a way as to have significant impact on amenities, space for gardening, car parking on site where access may be compromised and which could impact on neighbours, open recreational space, schools or rural ambience.' It is clear that the development does not represent overdevelopment of the site. The site is large and if located elsewhere would be likely to accommodate a higher

number of dwellings. The reduced density has been proposed in order to reflect the character of the area and to preserve the character and appearance of the conservation area.

5.36 Whilst concerns are raised in connection with development of the site and the loss of the historic plot form the site does have planning permission for the storage of caravans which could be reintroduced at any time and whilst the caravans are movable there would still be a degree of visual intrusion as a result. Furthermore, the site is not allocated within the Upper and Nether Poppleton Local Plan as being open space, neither is it specifically referred to within the Conservation Area Assessment.

5.37 In assessing the proposal officers have considered the desirability of preserving and enhancing the significance of the heritage assets, being Poppleton House and the Nether Poppleton Conservation Area, and have considered the impact it would have on the significance of these heritage assets, as required by Paragraph 193 of the NPPF, and have judged that there will be less than substantial harm. As such the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Public benefits should be of a nature or scale to be of benefit to the public at large but do not always have to be visible or accessible to the public in order to be a genuine public benefit. It is considered that the public benefits include the provision of additional housing within the settlement and the economic benefits to the construction industry. These outweigh the harm as defined as the loss of openness of the burgage plot.

5.38 It is considered that the proposal for two dwellings would retain the generous character of the existing site and would preserve the established pattern of development.

FLOOD RISK AND DRAINAGE

5.39 Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided, with development directed away from areas at highest risk. It goes on to say at paragraph 163 that local planning authorities should ensure that flood risk is not increased elsewhere when determining planning applications. Policies GP15a of the 2005 Draft Local Plan and ENV4 and ENV5 of the 2018 Public Draft Local Plan support this approach to flood risk and drainage.

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5.40 The site lies within Flood Zone 1 and should not suffer from flooding. Limited details have been submitted in connection with the drainage of the site. The application states that surface water will drain to SuDs. Soakaway testing was undertaken at the site during February 2019 and witnessed by the council flood risk engineer. The tests were considered to be acceptable and as such no objections are raised in connection with the drainage of the site subject to conditions. In addition the submitted plans indicate permeable paving being proposed.

5.41 Concerns have been expressed that the access to the site floods but Environment Agency records indicate that the site entrance is also located within Flood Zone 1 and as such access to the site would be maintained during a flooding event.

ACCESS, PARKING SAND HIGHWAY SAFETY

5.42 Paragraph 109 of the NPPF requires development only be prevented on highway grounds where there is an unacceptable impact on highway safety. It seeks to encourage sustainable travel and the location of development in sustainable and accessible locations.

5.43 Access to the site would be via the existing driveway which would be shared with the public house. A 5.5m wide drive would lead upto the proposed dwellings along the north eastern boundary. A gate would be set back, past the entrance to the public house car park. Adequate parking and turning is proposed within the residential development for the occupiers and for visitors and delivery vehicles. A refuse store is proposed close to the highway to negate the need for refuse vehicles accessing the site.

5.44 Concerns have been expressed that the scheme would result in an unacceptable loss of parking for the public house and inadequate turning within the site for delivery vehicles. The scheme provides 9 car parking spaces to the rear of the public house. At present the land to the rear of the public house is used for car parking although there are no formal bays marked out. It is considered that the public house serves the local community and is in easy walking distance from a sizable population. Highway officer consider that 9 car parking spaces is sufficient for the size of the premises.

5.45 Concerns have also been raised that due to the level of on-site car parking being proposed vehicles would be displaced to the highway. Parking spaces are limited at present on the highway and objections state that the majority of the available parking spaces are occupied by residents of existing dwellings or guests to nearby holiday accommodation. It is noted that due to the bus terminal, which is present to the front of the public house, buses idle waiting for the departure time and this often results in congestion due to existing parked cars. If cars are displaced from the car park it would appear that they would have to park some distance from the site, due to existing levels of on street parking. The conflict between the bus and parked cars is an existing situation and would not be worsened as a result of the proposal.

5.46 Swept paths have been identified within the rear car park which clearly indicate that an 8m delivery vehicle can enter and leave the site in a forward gear preventing conflict at the entrance to the site. It is unlikely that given the size of the public house larger vehicles would deliver to the site.

ASSET OF COMMUNITY VALUE

5.47 The emerging 2018 Local Plan views public houses as a community facility. This is in accordance with NPPF. In line with draft Policy HW1, the loss of viable community facilities will not be supported.

5.48 The Lord Nelson has been identified as an Asset of Community Value. Concerns have been raised that the development would have a detrimental impact upon the viability of the public house due to the level of on-site car parking being proposed. However, the public house is located within a sustainable location and is easily accessed by foot for properties within Nether and Upper Poppleton. An external seating area has been retained to the rear and it is not considered that the reduction in car parking would have a financial impact upon the running of the business.

LANDSCAPE

5.49 A tree survey has been undertaken on relation to the protected trees that run along the north eastern boundary.

5.50 The building footprint of the dwelling on plot 2 has been pulled further away from the existing trees within the grounds of Poppleton House. As such it would be possible, with strict adherence to a suitable arboricultural method statement (AMS), to construct the house and other buildings without entering the recommended root protection area of the trees. The most immediate trees include some tall Lime, Beech, and Sycamore. The trees are noted in the tree survey submitted by the applicant, though they have not been surveyed in detail because of their location off site.

5.51 The plans indicate a section of the drive passing under the canopy of the trees to the front of plot 2. However, this section indicates turning space for a fire tender. The car parking area for the occupiers of the dwelling lies to the south west of the protected trees, well away from the canopy spread and as such would have limited impact upon the root zone. Permeable paving is also proposed to the driveway.

5.52 Concerns have been expressed in connection with overshadowing of the dwellings from the trees. The front elevation of plot 2 lies approximately 18m from the boundary with Poppleton House and faces south east. Whilst it is noted that there would be a degree of overshadowing, particularly during the morning, the external amenity spaces which surrounds the dwellings are of a substantial size and allow adequate levels of unaffected amenity space.

SUSTAINABILITY

5.53 Policy PNP 11 Climate Change and Renewable Energy of the Upper Poppleton and Nether Poppleton Neighbourhood Plan is relevant and states that new developments that exceed the Building Regulations with regard to energy conservation and use of renewable energy technology will be particularly supported.

5.54 Development Control Local Plan Policy GP4a) of the 2005 York Development Control draft Local Plan sets out a clear policy requirement for new development proposals to adhere to the principles of sustainable development particularly through minimising the use of non-renewable resources through materials and construction methods as well as designing for the minimal use of energy through the life of the building.

5.55 A sustainability statement is required in line with draft 2018 Local Plan Policy CC2 to demonstrate energy and carbon dioxide savings in accordance with the

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energy hierarchy and water efficiency. It is noted that sustainability statement has been submitted identifying energy efficiency including sustainable construction, insulation, air tightness, heat recovery systems and solar heat gain. Conditions can be attached to secure the reduction.

6.0 CONCLUSION

6.1 The proposal would result in less than substantial harm to the designated heritage assets in terms of loss of openness of the plot. However, this harm is outweighed by public benefits. As such the revised proposals are considered acceptable in relation to the character and appearance of the conservation area, the setting of the listed building, residential amenity and would comply with the NPPF, the Upper Poppleton and Nether Poppleton Neighbourhood Plan, Policy D1 (Placemaking), D2 (Landscape and Setting) and D4 (Conservation Areas) of the Publication Draft City of York Local Plan 2018, Policies GP1 (Design), GP4a (Sustainability), HE2 (Development in Historic Locations), HE3 (Conservation Areas) and HE11 (Trees and Landscape) of the 2005 Development Control draft Local Plan.

7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing number 748-P10E Proposed Site Plan received 3rd August 2020

Drawing number 748-P50C Proposed Elevations Plot 1 received 31st January 2020

Drawing number 748-P40C Proposed Plans Plot 1 received 31st January 2020

Drawing number 748-P70C Proposed Elevations Plot 2 received 3rd August 2020

Drawing number 748-P60B Proposed Plans Plot 2 received 31st January 2020

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

3 VISQ8 Samples of exterior materials to be app

4 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved in writing by the Local Planning Authority. The

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

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

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

- a dilapidation survey jointly undertaken with the local highway authority contact: George.green@york.gov.uk
- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- how vehicles are to access and egress the site
- how the bus stop facility is to remain clear of obstructing vehicles and accessible by pedestrians
- how pedestrians and cyclists are to be safely routed past the site
- details of any implications to the highway of abnormal load vehicles including details of dates/times any required escort
- where contractors will park to avoid affecting the highway
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

All works shall be carried out in accordance with the approved method of works statement.

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

6 HWAY21 Internal turning areas to be provided

7 Prior to the residential development coming into use details of the cycle parking

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areas, including means of enclosure, for the dwellings and the public house shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

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

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

Reason: In the interests of highway safety.

9 Prior to any alterations to the access are undertaken, provision shall be made within the public house site for accommodation of delivery/service vehicles in accordance with the approved plans. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

10 A programme of post-determination archaeological evaluation specifically trenching on the footprint of the proposed dwellings is required on this site.

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

A) No trenching or development 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 site investigation and post investigation assessment shall be completed in

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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 during trenching 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 6 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 Before the commencement of development a fully detailed Arboricultural Method Statement (AMS) regarding protection measures for the existing trees within the grounds of Poppleton House shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement shall include details and phased locations of protective fencing, ground protection, a schedule of tree works if

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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. 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 AMS.

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 the conservation area.

12 The development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of the area.

13 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes A to E of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

14 Notwithstanding the information contained within the approved plans details of all means of enclosure shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to achieve an acceptable form of development

15 EPU1 Electricity socket for vehicles

16 No development shall take place until a detailed scheme of noise insulation measures for protecting the approved residential accommodation 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.

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.

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:

Sought revised plans to address concerns of overdominance, flood risk, design and impact upon the character and appearance of the conservation area.

2. AVOIDING DAMAGE TO THE HIGHWAY GRASS VERGE

Applicants/Developers are reminded that great care should be taken to ensure that

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no damage to the surface or structure of the public highway is caused, by activities relating directly to the approved development (e.g. delivery of building materials via HGV's). The Council is particularly concerned at the increasing impacts and damage occurring to grass verges. This is detrimental to residential amenity, can present safety issues and places an unreasonable financial burden on the Council, if repairs are subsequently deemed necessary. Therefore, applicants/developers are strongly advised to work proactively with their appointed contractors and delivery companies to ensure that their vehicles avoid both parking and manoeuvring on areas of the public highway (grass verges) which are susceptible to damage. The council wishes to remind applicants that legislation (Highways Act 1980) is available to the authority to recover any costs (incurred in making good damage) from persons who can be shown to have damaged the highway, including verges. If the development is likely to require the temporary storage of building materials on the highway, then it is necessary to apply for a licence to do so. In the first instance please email highway.regulation@york.gov.uk, with details of the site location, planning application reference, anticipated materials, timelines and volume. Please refer to the Council website for further details, associated fees and the application form.

3. 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

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accordance with manufacturer's 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

Contact details:

Case Officer: Heather Fairy

Tel No: 01904 552217