

## COMMITTEE REPORT

**Date:** 10 January 2013      **Ward:** Micklegate  
**Team:** Major and      **Parish:** Micklegate Planning  
Commercial Team      Panel

**Reference:** 12/03131/FUL  
**Application at:** 296 Bishopthorpe Road York YO23 1LG  
**For:** Erection of 2no. four storey dwellings with garages following  
demolition of existing workshop  
**By:** Yorbuild@JRK Properties Ltd  
**Application Type:** Full Application  
**Target Date:** 14 December 2012  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1 296 Bishopthorpe Road comprises a single storey brick and render former industrial building associated with the nearby Terry's Chocolate Works lying to the south west of the City Centre and directly adjacent to the Terry's/Racecourse Conservation Area. It furthermore lies within the setting of the Terry's Factory Office, a Grade II Listed Building and a substantial beech tree of townscape importance and subject to a Tree Preservation Order lies directly to the south east. The derelict car park of the former Terry's factory lies directly to the north west.

1.2 Full planning permission is sought for erection of two substantial 3 1/2 storey semi-detached houses using a Neo-Classical architectural form on the cleared site of the building. The development has been amended since submission to create a set-back to differentiate between the two properties and to create a key block detail to differentiate the proposed garages to both properties.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

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

2.2 Policies:

CYGP1 Design  
CYHE2 Development in historic locations

CYH4A Housing Windfalls  
CYL1C Provision of New Open Space in Development

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### 3.0 CONSULTATIONS

#### INTERNAL:-

3.1 Environmental Protection Unit raise no objection in principle to the proposal subject to no-unexpected contamination being demonstrated during the construction process.

3.2 Lifelong Learning and Leisure raise no objection to the proposal subject to a commuted payment being made in lieu of the provision of on-site open space.

3.3 Strategic Flood Risk Management raise no objection in principle to the proposal subject to any permission being conditioned to require further approval of details of foul and surface water treatment.

3.4 Highway Network Management raise no objection to the proposal subject to details of the access to the property and cycle parking being conditioned as part of any permission.

3.5 Design, Conservation and Sustainable Development raise no objection in principle on archaeological grounds subject to any permission being subject to a condition requiring a watching brief be undertaken. No objection in principle is raised on arboricultural grounds though some concern is raised in respect of the impact of the proposed scale of building on the amenity value of the tree and potential future conflict between occupiers of the new properties and the needs of the tree. Concern on Conservation grounds is expressed in terms of the scale and massing of the proposed building and its relationship to the setting of the Conservation Area.

#### EXTERNAL:-

3.6 Micklegate Planning Panel raise no objection in principle to the proposal but express a preference for a smaller scale of development.

3.7 The York Conservation Areas Advisory Panel raise concerns in respect of the scale of the proposal, the level of external amenity space and the relationship with the adjacent Ashcroft House development.

3.8 Ten letters of objection and 11 letters of support have been received in respect of the proposal. The following is a summary of the letters of objection:-

- Concern in respect of potential land contamination associated with the former printing works at the site;
- Concern in respect of the impact of the proposal upon the local surface water drainage network;

- Concern in respect of the impact of the proposal upon the residential amenity of occupiers of Ash House to the east;
- Concern in respect of the volume of additional traffic likely to be generated by the proposal;
- Concern in respect of the impact of the proposal upon the TPO d Beech Tree to the south east;
- Concern in respect of the impact of the proposal upon the visual amenity of the wider street scene.

3.9 The following is a summary of the letters of support:-

- The existing derelict site be re-developed;
- The development of appropriate sites be welcomed in order that the local economy can be strengthened.

## **4.0 APPRAISAL**

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the visual amenity of the wider street scene;
- Impact upon the residential amenity of the neighbouring property;
- Impact upon the neighbouring protected tree;
- Potential Site Contamination.

## **THE STATUS OF THE DRAFT LOCAL PLAN**

4.2 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

## **IMPACT UPON THE VISUAL AMENITY OF THE WIDER STREET SCENE**

4.3 Policy HE2 of the York Development Control Local Plan sets down a firm policy presumption that within or adjoining Conservation Areas and in locations which affect the setting of Listed Buildings development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials. Central Government planning policy outlined in the National Planning Policy Framework paragraph 17 Core Planning Principles at the same time requires that Local Planning Authorities encourage the effective use of land by re-using land that has been previously developed providing it is not of high amenity value. The application site comprises a small derelict printing works ancillary to the Terry's Chocolate Works to the north of Bishopthorpe Road. It forms one element of the principal south western approach to the City which includes elements of the wider Terry's complex such as the parking area which now appear visually degraded and two developments of apartments of differing architectural

treatment but set well back from the main road. To the north west of the site lies the Terry's Chocolate Works itself with the main factory office and the Time Office both Grade II Listed Buildings in a Neo Georgian style.

4.4 Concern has been expressed in respect of the scale and massing of the proposed development relative to its surroundings. The proposal envisages the use of a Neo-Classical format that reflects that used in the principal Chocolate Works office and the adjacent Time Office. In order to avoid harm to the protected tree to the rear it sits forward of the building line of the adjacent apartment development to the south east creating an appearance of having a greater scale. However the proposed building would have the same ridge height at 11.7 metres as the adjacent building and its relatively narrow form would respect the relationship of other properties to the street frontage further to the north east along Bishopthorpe Road . It would have the effect of creating a firm visual boundary to the built up area of the City along the eastern edge of Bishopthorpe Road, however it would not extend beyond the line of the existing factory development along the north western side of Bishopthorpe Road and it sits within the developed area created by the now derelict car park to the Chocolate Works along the south east side of Bishopthorpe Road. In terms of its visual relationship with Ash House the two buildings are well related in townscape terms when viewed from the west and the approach into the urban area along Bishopthorpe Road.

4.5 In terms of its impact upon the setting of the Listed Buildings at the frontage of the Chocolate Works the proposal adopts a similar architectural metaphor and is respectful in terms of its scale and massing. The Conservation Area is defined by the tight relationship of the substantial Edwardian and Late Victorian brick built factory and ancillary buildings of the Chocolate Works with the open spaces surrounding the race course. The proposal would not compromise the setting either of the Listed factory buildings or the wider Conservation Area.

## IMPACT UPON THE RESIDENTIAL AMENITY OF THE NEIGHBOURING PROPERTY

4.6 Policy GP1 of the York Development Control Local Plan sets a firm policy presumption in favour of new development proposals which respect or enhance the local environment, are of a density, layout, scale, mass and design that is compatible with neighbouring buildings , spaces and the character of the area whilst ensuring that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. Concern has been expressed in respect of the impact of the current proposal upon the level of sunlight and daylight falling on the apartments particularly at ground and first floor level within the western elevation of the neighbouring property Ash House. The applicant has however submitted a detailed sunlight and daylight analysis adopting the methodology prescribed in the Building Research Establishment publication "Site Layout Planning for Daylight and Sunlight:- A Guide to Good Practice".

The analysis has been undertaken in respect of both the levels of sunlight and daylight entering principal living room windows on the affected elevation of Ash House in addition to the level of overshadowing of the gardens associated with Ash House. The study demonstrates that whilst the development would have an impact upon the levels of light entering the adjacent property its impact would be well within the acceptable levels identified within the BRE document.

4.7 In terms of overlooking and loss of privacy the proposed development lies substantially to the front of the neighbouring property Ash House which partially occupies a sloping site. As a consequence of the relationship of the two properties there would be no windows within the new development directly overlooking Ash House or its garden. Ash House would be some 4 metres from the proposed development at its closest point and would be some 2.5 metres from the garden of the new development at its closest point. Subject to an appropriate boundary treatment being conditioned as part of any permission, then no issue of loss of privacy for Ash House should arise. Any impact upon the residential amenity of the adjacent property is thus felt to be acceptable and the terms of Policy GP1 of the Draft Local Plan would be complied with.

#### IMPACT UPON A NEIGHBOURING PROTECTED TREE

4.8 Policy NE1 of the York Development Control Local Plan sets a firm policy presumption that trees which are of landscape, amenity, nature conservation or historical value will be protected by refusing development proposals which will result in their loss or damage as well as requiring trees which are to be retained on development sites to be adequately protected during site works. Directly to the south east of the site lies a substantial mature beech tree which forms one of a number that define the eastern side of Bishopthorpe Road in a south westerly direction from its junction with Racecourse Road. Concern has been expressed in terms of the impact of the proposal upon the amenity value of the tree and the need to adequately secure its health during the construction process. The applicant has submitted a detailed method statement to secure the root protection zone of the tree during building work which may be the subject of a condition on any permission. In terms of safeguarding amenity value of the tree the key views of it from outside of the site are from the south west approaching the built up area of the City from Bishopthorpe and directly from the west in the vicinity of the Chocolate Works office. In neither case would the views of the tree and its consequent amenity value be compromised. The terms of Policy NE1 of the Draft Local Plan can therefore be complied with.

#### POTENTIAL SITE CONTAMINATION

4.9 Concern has been raised in respect of potential site contamination arising from the previous usage of the site as a printing works and alleged earlier tipping at the site.

The works was used to print wrappers and publicity material for the chocolate works on a small scale and a Contamination Scoping Report has been submitted with the proposal. The process used at the site did not result in the discarding of hazardous chemicals in the vicinity. No evidence of previous tipping activity at the site has been forthcoming and the mature beech tree directly adjacent to the site has not shown any evidence of harm arising from previous contamination of the site. It is however recommended that a condition covering the eventuality of unexpected contamination of the site be included within any permission.

#### OTHER ISSUES:-

4.10 Concern has been expressed in respect of the potential harm that the development may cause to the local surface water drainage network. The application site lies within Flood Zone 1 and is therefore deemed to be at the lowest risk of flooding. The site is elevated relative to the land to the south and east and the ground slopes away sharply below the site towards the River Ouse. An outline drainage scheme has been submitted in respect of the site which illustrates a scheme of attenuation which would connect with the existing combined sewer in Bishopthorpe Road which is felt to appropriate in the current circumstances. Due to the topography of the site and the relationship with the more southerly section of Ash House it would not be appropriate for the site to be raised above the level of the adjacent land as there may be an issue of surface run-off in circumstances of heavy rain. Subject to any permission being conditioned to require precise details of the proposed drainage scheme including details of the proposed attenuation measures and the relationship of finished floor levels to the surrounding land, any impact upon the local surface water drainage network is felt to be acceptable.

4.11 Concern has also been expressed in respect of traffic generation and potential on street parking arising from the proposal. It is felt that any increase in traffic arising from the proposal would be modest and could easily be accommodated.

#### OPEN SPACE ISSUES:-

4.12 The proposal falls within the requirements of Policy L1c) of the York Development Control Local Plan for the payment of a commuted sum in lieu of on-site open space provision. This may be secured by the means of a Section 106 Agreement and generates a total requirement for a payment of £6,504 to contribute towards the layout of 9x9 metre football pitches on the Knavesmire, the improvement of access to the Ouse riverbank and the improvement of play space facilities at Rowntree Park.

## 5.0 CONCLUSION

5.1 296 Bishopthorpe Road comprises a derelict single storey brick and render built print works associated with the former Terry's Chocolate Works to the north west.

Planning permission is sought for erection of two substantial 3 1/2 storey semi detached properties on the cleared site. The proposal sits close to the street frontage of Bishopthorpe Road which increases the perception of its scale relative to surrounding properties. It is however executed in the same Neo Classical architectural metaphor as the former factory offices to the north west and in terms of its ridge height it parallels that of Ash House to the north east. Its impact upon the setting of the Terry's/Racecourse Conservation Area is felt to be minimal as is its impact upon the setting of the Listed former Chocolate factory offices. Any impact upon the visual amenity of the wider street scene is therefore considered to be acceptable. Concern has also been expressed in respect of the impact of the proposal upon the residential amenity of the adjacent property Ash House. The applicant has submitted a detailed sunlight and daylight assessment which confirms that any impact arising from the proposal would be at an acceptable level. The applicant has furthermore demonstrated that the development can be undertaken successfully without harm to the integrity of the adjacent protected tree or its amenity value. The proposal is therefore felt to be acceptable in planning terms and approval is therefore recommended.

5.2 The development is subject to a requirement for a commuted payment of £6,504 under Policy L1c) of the Draft Local Plan. This may be secured by means of a Section 106 Agreement.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

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

Drawing Refs:- 8437.20.02 Rev A; 8437.20.04 Rev A; 8437.20.03 Rev A and 8437.20.05 Rev A. Date Stamped 17th December 2012

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

3 VISQ8 Samples of exterior materials to be app -

4 VISQ4 Boundary details to be supplied -

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.

External windows and doors including sections at 1:20 scale.

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

6 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs and other planting. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

7 The root protection area of the TPO tree to the south east of the site shall be secured in strict accordance with the details contained within the Arboricultural Method Statement submitted and dated 17th December 2012.

Reason:- To secure the health and integrity of a protected tree of townscape importance and to secure compliance with Policy NE1 of the York Development Control Local Plan.

8 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority and carried out in accordance with those approved details.

Such Details shall include:

- i) Proposed ground and finished floor levels to Ordnance Datum. The development shall not be raised above the level of adjacent land to prevent, runoff from the site affecting nearby properties;
- ii) Full details of the proposed system of surface water attenuation including locations and dimensions of pipes and holding tanks;
- iii) Full details of proposed external surfacing materials; and
- iv) Full details of the proposed means of connection into the local sewer network.

Reason:- In the interests of the proper drainage of the site in order to ensure that the development of the site does not increase the risk of flooding elsewhere.



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

Reason: In the interests of the amenities of the adjoining residents and to secure the health and integrity of a protected tree of townscape importance the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

10 In the event that contamination is found at any time when carrying out the approved development that has not previously been identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and approved in writing by the Local Planning Authority and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared , which is subject to the approval in writing of the Local Planning Authority.

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

11 HWAY18 Cycle parking details to be agreed -

12 HWAY19 Car and cycle parking laid out -

13 The development shall not be first occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb, footway and verge to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

14 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason:- The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the visual amenity of the wider street scene, impact upon the residential amenity of the neighbouring property, impact upon the neighbouring protected tree and potential site contamination. As such the proposal complies with Policies HE2, H4a), L1c), NE1 and GP1 of the City of York Development Control Local Plan.

#### **2. CONSENT FOR HIGHWAY WORKS**

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

#### **3. INFORMATIVE - CONTROL OF POLLUTION ACT 1974**

#### **4. PUBLIC RIGHT OF WAY:-**

The adjacent Public Right of Way bounding the site to the south at no point shall be affected/blocked by the proposed works/scheme without the prior written notification of the Authority's Public Rights of Way Team

#### **5. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

The submission of a detailed tree protection method statement and amended elevational drawings separating the two properties and distinguishing the two garages.

#### 6. SECTION 106 AGREEMENT:-

The proposal is subject to requirement for a Section 106 Agreement to secure the payment of a commuted sum of £6,504 in respect of the provision of off site open space comprising improvements in access to the Ouse river bank, improvements to play facilities in Rowntree Park and the provision of 9x9 metre football pitches on the Knavesmire.

#### **Contact details:**

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