



**Notice of a public meeting of
Area Planning Sub-Committee**

To: Councillors Hollyer (Chair), Crawshaw (Vice-Chair),
Cullwick, Fisher, Galvin, Craghill, Lomas, Melly, Orrell,
Waudby and Webb

Date: Thursday, 3 October 2019

Time: 4.30 pm

Venue: The George Hudson Board Room - 1st Floor West
Offices (F045)

A G E N D A

Sub Committee Site Visits

The mini-bus for Members of the sub-committee will leave from Tanner Row – adjacent to the gates between the Grand Hotel and West Offices at 10.00am on Wednesday 2 September 2019

1. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Minutes

(Pages 3 - 20)

To approve and sign the minutes of the following meetings held on:

- (i) 8 August 2019
- (ii) 5 September 2019

3. **Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Sub-Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officers on the contact details listed at the foot of this agenda. The deadline for registering is on **2 October at 5.00 pm.**

Filming, Recording or Webcasting Meetings

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Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officers (whose contact details are at the foot of this agenda) in advance of the meeting.

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4. **Plans List**

To determine the following planning applications:

- a) **Royal Masonic Benevolent Institute** (Pages 21 - 44)
Connaught Court

Change of use of existing care home bungalows (use class C2) to residential dwellings (use class C3b) and construction of associated car park and access road from Fulford Park **[Fulford And Heslington]** [site visit]

- b) **26 The Horseshoe York YO24 1LX** (Pages 45 - 62)
[19/01140/FUL]

Erection of 1no. dwelling with associated crossover following demolition of existing bungalow and outbuildings **[Dringhouses And Woodthorpe]** [site visit]

5. Appeals Performance and Decision Summaries (Pages 63 - 86)

This report informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 April 2019 and 30 June 2019, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals at date of writing is also included.

6. Planning Enforcement Cases - Update (Pages 87 - 90)

The purpose of this report is to provide Members with a continuing quarterly update on planning enforcement cases.

7. Urgent Business

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

Democracy Officer:

Michelle Bennett/ Angela Bielby

Contact details:

- Telephone – (01904) 551573 / (01904) 552599
- Email michelle.bennett@york.gov.uk / angela.bielby@york.gov.uk

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim (Polish)
własnym języku.

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

☎ (01904) 551550

AREA PLANNING SUB COMMITTEE**SITE VISITS****Wednesday 2 September 2019**

**The mini-bus for Members of the sub-committee will leave from
Tanner Row – adjacent to the gates between the Grand Hotel and
West Offices at 10.00**

TIME (Approx)	SITE	ITEM
10:15	Royal Masonic Benevolent Institute, Connaught Court St Oswalds Road	
11:00	26 The Horseshoe	

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City of York Council

Committee Minutes

Meeting	Area Planning Sub-Committee
Date	8 August 2019
Present	Councillors Hollyer (Chair), Crawshaw (Vice-Chair), Cullwick, Fisher, Galvin, Craghill, Melly, Orrell, Waudby, Webb and Douglas (Substitute)
Apologies	Councillor Lomas

15. Declarations of Interest

Members were invited to declare, at this point in the meeting, any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in the business on the agenda.

Councillor Cullwick declared a personal, prejudicial interest in application number (19/00981/Ful) The Flat 114 Fishergate York YO10 4BB as he knew the applicant personally. Councillor Cullwick left the meeting for this item.

Councillor Orrell declared a personal, non prejudicial interest in application number (19/00981/Ful) The Flat 114 Fishergate York YO10 4BB as the applicant was known to Councillor Orrell having met several time during Councillor Orrell's role as the Lord Mayor.

16. Minutes

Resolved: That the minutes of the Area Planning Sub-Committee meeting held on 4 July 2019 be approved and then signed by the Chair as a correct record.

17. Public Participation

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

18. Plans List

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

19. Block H, Joseph Terry Grove, York [18/01934/FULM]

Members considered a full application from David Wilson Homes for the erection of four storey block of 34 apartments with associated parking and landscaping. This was the revised design of Block K, previously named Block H.

Officers provided Members with an oral update on the application and reported further consultation responses which had been received but not previously reported to Members. These were received from the York Civic Trust, the Flood Risk Management Team and the Micklegate Planning Panel.

Mr Eamonn Keogh, Agent for the applicant, spoke in favour of the application.

Ms Janette Ray spoke against the application.

Mr Terry Wilson spoke against the application.

It was moved and seconded that the application be DEFERRED:

Resolved: That the application be DEFERRED to a future meeting of this Sub-Committee.

Reason: Members requested to receive full details of any s106 requirements for education and outdoor sport provision and did not accept delegating the decision to the Council's Assistant Director.

Note:

- (i) Members requested that the following paragraphs of the Officer's report to the Sub-Committee be amended: 4.27 – 4.28 (4.30 if necessary) to refer to the contributions secured through the previous permission

(14/01716/FULM) with an explanation if the current scheme does not secure a similar provision.

- (ii) Members requested to visit the site again.

**20. 4 Croft Farm Close, Copmanthorpe, York, YO23 3RW
[18/02614/FUL]**

Members considered a full application from Mr Jon Browne for the erection of a detached one and a half storey dwelling with detached double garage and workshop on the rear garden of 4 Croft Farm Close. Access would be taken from the lane to the east of the site, which is adopted highway.

Officers provided Members with an oral report on the application and reported further consultation responses which had been received but not previously reported to Members this included:

- (i) Responses from the Flood Risk Management Team and the Micklegate Planning Panel.
- (ii) Three additional letters had been received: two new objections from residents on Church Street objecting to vehicular access along the lane because it would be unsafe. A further letter had been received from adjacent occupant reiterating previous points, that plans are not accurate, size of house and garage are large, presence of TPO tree.

Officers also reported the additional Policy context from the Copmanthorpe Village Design Statement ('VDS', 2003 and updated 2018). They had agreed with the officer recommendation to refuse the application. They had noted that the proposal would not accord with the aims set down in the VDS to provide a safe cycling and walking route to school.

The applicant, Mr Jon Browne spoke in favour of the application.

Mr John Carruthers, Independent Highways Consultant spoke on behalf of the applicant.

It was moved and seconded that the application be REFUSED:

Resolved: That the application be REFUSED

Reason: The NPPF establishes the presumption in favour of sustainable development in paragraph 11, which means granting permission where there are no relevant development plan policies unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. York does not have an adopted Local Plan and the Development Plan comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy relating to Green Belt and neighbourhood plans not relating to Copmanthorpe.

The development of the site is acceptable in principle being in a sustainable and accessible location in an existing village. It would contribute one dwelling to the City's housing supply and, to a limited extent, increase natural surveillance on Yorkfield Lane. However, there is considered to be an unacceptable impact on highway safety due to the introduction of traffic along a restricted lane that is primarily used as a pedestrian and cycle link. It is considered that, when balancing the benefits and adverse impacts, the harm to highway safety for the wider public using Yorkfield Lane would significantly and demonstrably outweigh the benefits of one private dwelling. Issues relating to anti-social behaviour and any existing conflict on the lane could be addressed in part through increased lighting, cutting back of vegetation and the gating of the lane at its Low Green end, separate to, and without the need for, the proposed dwelling.

Therefore, in line with paragraph 109 of the NPPF, the proposal is recommended for refusal on highway safety grounds due to the unacceptable impact on highway safety.

21. The Flat, 114 Fishergate, York, YO10 4BB [19/00981/FUL]

As noted at Minute 15 above, Councillor Cullwick left the meeting for this item.

Members considered a full application from Mr Michael Hammill to install a glazed rooflight to the front elevation of his property. It was reported that the property was a two storey end-terrace property with commercial use on the ground floor and residential above. It was one of a number of commercial properties in two terraces that front Fishergate circa 400m to the south of the city centre. It lies close to three conservation areas; the Central Historic Core, the New Walk/Terry Avenue and Fulford Road.

The applicant Mr Michael Hammill spoke in favour of the application.

Mr Michael Laverack spoke in favour of the application.

Councillor Andy D'Agorne, ward Councillor for Fishergate, spoke in favour of the application.

It was moved and seconded that this application be approved. This vote was lost.

Resolved: That the application be deferred with delegated authority to the Assist Director of the City of York Council to APPROVE the application following negotiation with the applicant for a smaller front rooflight.

If no acceptable revision is received it was agreed that this application be referred back to this Sub-Committee.

Reason: Members were minded to approve the application for a front rooflight in principal, if a suitable size could be negotiated that would effectively improve the settlement.

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Meeting	Area Planning Sub-Committee
Date	5 September 2019
Present	Councillors Hollyer (Chair), Crawshaw (Vice-Chair), Fisher, Galvin, Craghill, Orrell, Waudby, Webb, Kilbane (Substitute), Fitzpatrick (Substitute) and Fenton (Substitute)
Apologies	Councillors

Site	Visited by	Reason
Block H Joseph Terry Grove	Cllrs: Fenton, Fisher, Galvin, Hollyer and Waudby	At the request of the Ward Councillor.
2 St Aubyns Place	Cllrs: Fenton, Fisher, Galvin, Hollyer and Waudby	As the recommendation was to approve and objections had been received
Club Salvation George Hudson Street	Cllrs: Fenton, Fisher, Galvin, Hollyer and Waudby	As the recommendation was to approve and objections had been received

22. Declarations of Interest

Members were invited to declare, at this point in the meeting, any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in the business on the agenda.

Cllr Crawshaw declared a personal, prejudicial interest in applications [19/00837/LBC & [19/00836/FULM], Agenda item 3c and 3d, Club Salvation George Hudson Street in that having raised objections to the conversion of music venues in the City for any other use, due to it representing a loss of cultural value and having specifically named Club Salvation as an example of this, he had predetermined his position on this matter and stated that he would leave the meeting for the item.

Cllr Waudby declared a personal, non-pecuniary interest in item 3a on the Agenda [18/01934/FULM] Block H Joseph Terry

Grove, as a family member had attended the site visit. Councillor Waudby declared that this would not affect her consideration of this application.

23. Public Participation

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

24. Plans List

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

25. Block H Joseph Terry Grove York [18/01934/FULM]

Members considered a full application from David Wilson Homes for the Erection of four storey block of 34 apartments with associated parking and landscaping (revised design of Block K, previously named Block H).

The Development Manager updated the Committee on this application which had been deferred from the August 2019 Committee meeting. Since August, further comments had been received from Sports and Active Leisure and Education. The Education and Sports s106 contribution had had been agreed. It was reported that this would be pro-rata.

The Development Manager circulated a further additional condition in relation to providing details of the reduction in carbon emissions this development would achieve through efficient building fabric and/or low carbon technology. A Member requested that the condition state the extent that the applicant would be expected to reduce carbon emissions. The Local Plan had stated 28% carbon reduction.

Mr Eammon Keogh, Agent for the applicant, spoke in favour of the application. He stated that this application was on improvement on the previously agreed scheme as it represented a smaller footprint. In response to questions from Members regarding parking allocation, he explained that there

were 35 parking spaces, one for each apartment plus a further parking space for one visitor.

In response to Members concerns regarding take up of the provision of 5 social rented apartments in this scheme, and whether or not these were occupied, Mr Keogh confirmed that these had been offered to the Housing Association, although he did not have any information regarding take up. Members considered that there had not been take up due to excessive prohibitive service charges. In response to further questions regarding what would happen if there were no take up from the Housing Association, Mr Keogh explained that a commuted sum would be payable to the Council. Some Members considered the cost to be paid to the Council should be the market value of the property rather than the building cost which would be significantly less than the market value.

Mr Terry Wilson, Chair of the Chocolate Works Residents Association spoke against the application. Mr Wilson raised a number of concerns including the following:

That the development:

- (i) Was becoming unbalanced due to subsequent planning applications. Of the 365 total properties 56% of them were one or two bedroom(s) and 70% of these would be apartments. He considered that these properties were inflexible.
- (ii) Impacted upon the heritage at the Terry's site; these concerns had been raised by: the Chocolate Works Residents Association, the York Civic Trust as well as a local residents.
- (iii) Was the width of a football pitch, too large.
- (iv) Impacted on the out of date transport assessment undertaken in 2009 which was based on a lot less residents living in the area.

Ms Janet Ray, a local resident, spoke against the application and expressed similar concerns to Mr Terry Wilson (above), that the proposed buildings were too large for the site and were out of keeping with the heritage area, devaluing the original housing there and representing a marked divorce from the heritage houses. Ms Ray also raised concerns regarding the offer of bikes for new residents which she considered to be intended to entice people to buy a house or flat.

Members discussed the fact that previous planning permission for this block had been granted in 2014 and that the new proposals under consideration represented a smaller footprint than the previous plan permitted.

In response to questions from Members regarding the social housing take up in relation to excessive prohibitive service charges and how to mitigating this problem, the Development Manager acknowledged that this was a concern and that there was uncertainty on how to mitigate this. Members suggested that this may be something that the Housing and Community Safety Policy and Scrutiny Committee could consider.

UPDATE: This was referred to the Housing and Community Safety Policy and Scrutiny Committee and discussed at its meeting on 23 September. The Committee agreed that the Scrutiny Officer, David McLean would undertake a feasibility report from which Members would decide how to proceed. This decision will be reported back to this Committee in due course.

During debate, Members discussed a number of concerns, including the fact that the scheme had changed considerably from the original scheme, that there was a lack of local open space and concerns about whether or not this was a sustainable development.

It was moved and seconded that the application be approved and it was therefore:

Resolved: That the application be GRANTED subject to the conditions listed in the report and the addition of the following condition:

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: The application proposes a development of 34 apartments on previously developed land in a sustainable location. The proposal provides for a mix of smaller apartments including affordable housing. Previous planning permission exists for an apartment block on the site. The scale and design of the scheme would not harm the character and appearance of the conservation area nor the setting of adjacent and nearby listed buildings. The scale and design of the proposal would not harm the living conditions of existing residents. Parking provision is provided to the standards set out in the DCLP and traffic generation, compared with the extant permission would be neutral. It is considered that the proposal as amended complies with the statutory provisions in terms of heritage assets, and is in accordance with the NPPF, the Submission Draft Local Plan and the Development Control Local Plan.

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

26. 2 St Aubyns Place York YO24 1EQ [19/00557/FUL]

Councillor Orrell left the meeting before the presentation and discussion of this item.

Members considered a full application from The Handa Family for the erection of a replacement dwelling (resubmission).

Officers updated the Committee on the application and reported 3 further responses from local residents which had been received but not previously reported to Members (these can be found attached to the Agenda item 3b).

Officers reported that at the site visit they had been asked to comment about the need to close the footpath(s) parallel to the front boundary of the property and / or footpath on Tadcaster Road /The Mount immediately to the East of the property during construction works and whether consideration had been given to the requirements of the Equalities Act in terms of maintaining appropriate access on the public highway. A full response to this question can be found attached to the Agenda item 3b).

Mr Matthew Margetts, Agent for the applicant, spoke in favour of the application. He explained that he had been working with the Council's Planning Team for two years to come up with a family home with a good design that was respectful to the neighbours. In response to questions regarding the environmental impact of the new build, Mr Margetts explained that the new build would have a high standard energy efficient heating system.

A Member expressed concerns that the build had been used as staff quarters for the hotel for 20 years and that this build could possibly serve as an annex to the Elmbank Hotel.

Mrs Angela Wheatcroft, local resident, spoke against the application. She considered that it would be an expensive waste of money if this application were granted as little would be achieved, only one extra bedroom. Drilling below ground level along with all of the work involved would be an overdevelopment of this site which is sensitive. She was concerned that the 1930's materials set in the context of existing house would be wasted. She raised further concern regarding the courtyard, which is north facing, therefore much of the courtyard would be dark with lots of moisture and moss there.

Dr Jens Wiebe, a local resident next door to the premises spoke against the application. Dr Wiebe expressed concern that his family's privacy would be compromised if this application were granted. He had written to the relevant architects regarding overlooking and they had suggested that the windows would be removed completely which is not the case in this proposal. Dr Wiebe explained that they already experience overlooking from the Hotel. He expressed further concern about the brick

boundary wall which currently gives them some degree of privacy. The application had stated that this would be knocked down. It is a shared boundary wall and he had not been consulted. He was concerned that this could damage his garden.

Mrs Patricia Pitt, a local resident for the last 30 years, spoke against the application. She considered that the new proposal would be more unsightly, offered less parking and no disability assessment had been undertaken. She considered that the changes offered no benefit to the community, the developers were not residents of this City. She considered that the Officer's recommendation to grant this application were contrary to the Local Plan.

During debate, Members raised concerns about the design of the proposal, the lack of ecological credentials of the proposal, the potential loss of an asset which they considered should have historical, architectural value and should be a heritage asset.

In response to local objection, the above concerns raised by residents and questions from Members, Officers explained:

- That a number of concerns raised were not a planning consideration, such as whether the development benefitted the community. The internal materials used.
- The property was not a listed building, there were no protection measures on this building and it could be demolished. It would not harm the setting of the Listed Building.
- The previous application was refused due to the impact on the street scene, these concerns had been addressed in this plan.
- The location of the windows had been addressed and were now considered acceptable.

It was moved and seconded that the application be refused and it was therefore:

Resolved: That the application be REFUSED for the following reasons:

The application is contrary to policy DP3 and D1 failing to respect the context of the site,

harming the setting of adjacent listed building and conservation area. Loss of existing building

Reason: The existing bungalow on the site which is of period 1930s design and which references the Arts and Crafts style of nearby listed properties, has heritage value alone and as a group with other 1930s period properties in the Tadcaster Road Conservation Area, which it sits adjacent to. It is in an iconic location, forms part of the historic character of this part of York, enhances the setting of this and the Central Historic Core Conservation Area which it also borders, and also the setting of the Grade II* listed Elmbank Hotel. The proposed replacement dwelling is not an appropriate design in this historic context. The proposed development is found to be contrary to paragraph 130 of the National Planning Policy Framework 2019 being inappropriate and poor design that fails to improve the character and quality of the area. The proposal is also contrary to emerging policy 'DP3 Sustainable Communities' in the City of York Local Plan Publication Draft February 2018 as it does not respect nor enhance the historic character of York. It also causes harm to the setting of both conservation areas and the setting of the Grade II* listed building. There are no public benefits to outweigh this harm and thus it is also contrary to Section 16, particularly paragraphs 194 and 196 in the National Planning Policy Framework 2019, which requires development to sustain and enhance the significance of designated heritage assets.

The applicant has failed to demonstrate that the existing dwelling could not be reused rather than demolished. Section 2, paragraph 8 (c) of the National Planning Policy Framework 2019 sets environmental objectives including protecting the built and historic environment, making effective use of land and minimising waste. Whilst the

proposed design is bold, no environmental benefits of the replacement building have been proposed that outweigh the harm caused by not reusing the existing building or materials. As such, the proposed development is not considered to be sustainable development as set by the NPPF 2019 in the above paragraph.

**27. Club Salvation George Hudson Street York YO1 6JL
[19/00837/LBC]**

There was a 5 minute recess.

Cllr Crawshaw left the meeting having declared a personal prejudicial interest noted at Minute 22.

Members considered an application from Mr Brown for Internal alterations to Nos 27-31 George Hudson Street involving the removal of existing partitions and the installation of new partitions and doorways to facilitate conversion of the properties to serviced apartments.

Officers updated the Committee on the application and reported further consultation responses which had been received but not previously reported to Members (attached at end of these Minutes).

Mr Lee Vincent, Agent for the applicant, spoke in favour of the application.

It was moved and seconded that the application be approved and it was therefore:

Resolved: That the application be GRANTED subject to the conditions listed in the report.

Reason: (i) The proposals would result in conversion of the first, second and third floors and a roof level extension to create 17.no serviced apartments (C1 Use), the change of use of No.23 and 25 Tanner Row at ground floor and basement levels to form a restaurant (Class A3) with ancillary accommodation along with the change of use ground floor and

basement to 31 George Hudson Street to form amenity space for the serviced apartments.

- (ii) The proposed works to the Listed Buildings are, within the context of the development as whole; which included non-listed buildings, relatively minor in their nature. The works consist of new partitioning of the internal space and the closing up of a non-historic opening. Overall it is considered that these works do not give rise to significant levels of harm being caused to the overall character, setting and amenity of the Listed Building. It is therefore recommended that Listed Building Consent be granted.

28. Club Salvation George Hudson Street York YO1 6JL [19/00836/FULM]

Members considered a full application from Mr Brown for a conversion of first, second floor and third floors and roof level extension to create 17 serviced apartments (C1 use), change of use of 23 and 25 Tanner Row ground floor and basement to restaurant (class A3) with ancillary accommodation along with ground floor and basement to 31 George Hudson Street to amenity space for serviced apartments above (c1 use) (revised scheme).

Officers updated the Committee on the application and reported further consultation responses which had been received but not previously reported to Members (attached at end of these Minutes).

Mr Lee Vincent, Agent for the applicant, spoke in favour of the application.

A few Member expressed concern at the loss of another music venue in the City and requested that there is a policy on this in future.

It was moved and seconded that the application be approved and it was therefore:

Resolved: That the application be GRANTED subject to the conditions listed in the report.

- Reason:
- (i) The proposals would result in conversion of the first, second and third floors and a roof level extension to create 17 no serviced apartments (C1 Use), the change of use of No.23 and 25 Tanner Row at ground floor and basement levels to form a restaurant (Class A3) with ancillary accommodation along with the change of use ground floor and basement to 31 George Hudson Street to form amenity space for the serviced apartments.
 - (ii) The proposed works to the Listed Buildings are, within the context of the development as whole; which included non-listed buildings, relatively minor in their nature. The works consist of new partitioning of the internal space and the closing up of a non-historic opening. Overall it is considered that these works do not give rise to significant levels of harm being caused to the overall character, setting and amenity of the Listed Building. It is therefore recommended that Listed Building Consent be granted.

29. Planning Enforcement Cases - Update

Resolved: That this item be deferred to the next Committee meeting.

Reason: Due to it being very late in the evening and In order to allow adequate time to consider this item.

Councillor Hollyer, Chair

[The meeting started at 5:30pm and finished at 8:22pm].

DRAFT

COMMITTEE REPORT

Date: 3 October 2019 **Ward:** Fulford And Heslington
Team: East Area **Parish:** Fulford Parish Council

Reference: 18/02169/FULM
Application at: Royal Masonic Benevolent Institute Connaught Court St Oswalds Road York YO10 4QA
For: Change of use of existing care home bungalows (use class C2) to residential dwellings (use class C3b) and construction of associated car park and access road from Fulford Park
By: RMBI Care Company
Application Type: Major Full Application (13 weeks)
Target Date: 17 October 2019
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 The proposal comprises:

- (i) Change of use of 10 existing bungalows from C2, residential institutions to C3(b), dwellinghouses for people living as a single household and receiving care;
- (ii) Construction of a car park for 10 cars to serve the bungalows;
- (iii) Construction of an 85m-long internal access road to the bungalows from the public highway at Fulford Park.

The application does not include alterations to the bungalows.

RELEVANT PLANNING HISTORY

1.2 16/01577/FUL - Refurbishment of the bungalows 1,2,3,4,5,6,9 and 10. Approved. The building works are underway.

1.3 16/01585/FUL - Single storey extensions and external alterations to bungalows 7 and 8. Approved. The building works are underway.

1.4 05/00022/OUTM - Outline application for erection of extra care sheltered accommodation, extension to elderly mentally frail unit, residential development, relocation of existing bowling green and provision of new access road and car parking. Refused and dismissed at appeal.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area: Fulford Village

2.2 Policies: City of York Publication Draft Local Plan (2018):

H9 – Older Persons Specialist Housing

D4 – Conservation Areas

2.3 Policies: City of York Development Control Draft Local Plan (2005):

CYGP1 - Design

CYHE2 - Development in historic locations

3.0 CONSULTATIONS

INTERNAL

Design, Conservation and Sustainable Development (Conservation)

3.1 I do not consider that the heritage significance of any listed buildings or built non-designated heritage assets or their settings would be affected by the proposals. They have the potential to affect the character or appearance of the Fulford Village conservation area because they involve the construction of a new car park and access road within an area of heritage and landscape significance.

3.2 The access road would have a low level effect on the communal significances of the site and would not affect its other heritage significances. The car park would be detrimental to the aesthetic and communal heritage significances of the site. These effects would amount to "less than substantial" harm to the character and appearance of the conservation area.

3.3 Any intensification of the proposals such as the widening of the proposed road, the imposition of a metalled surface, installation of electric lighting, kerbing or pavements or the creation of private curtilages to the bungalows involving the erection of fences, extension of hard surfacing outwith the courtyard or other forms of encroachment into the open parkland would have the potential to be substantially more detrimental to the landscape character of the site. Similarly, whilst a small number of vehicle movements across the drive would not significantly harm the character of site the parking of vehicles along the drive or on the parkland, as currently takes place, would be detrimental.

3.4 If the application is to be approved I would recommend that:

- o permitted development rights for fences and hardstandings be removed to prevent encroachment into the parkland;

- o parking be restricted to within the approved car park and secured by a section 106 agreement;
- o the car park be screened to reduce its visual impact.

Design, Conservation and Sustainable Development (Landscape)

3.5 Given the latest construction detail (timber edging and gravel wearing course) it would be technically feasible to construct the driveway between the Sweet chestnut and Red chestnut without harming the root protection area (RPA) if carried out in strict accordance with good practice, although there is always a degree of risk when operatives are working within the RPA of a protected tree. There is also a risk of future harm to all three trees closest to the driveway, post-construction, e.g. a degree of compaction (which may or may not be harmful to the trees); vehicle overrun; parking of cars on the grass beside the driveway. Damage to trees is often irreversible and may take several years to show in the crown.

3.6 The development would result in the loss of one protected beech tree and the risk of harm to three trees that make a valuable contribution to the amenity of the conservation area. Given the value of the protected trees, the risk of harm during development, and more importantly post-development, is of significant concern. Thus if the development presented no significant benefits this application should be refused on grounds of the loss of one established beech tree and a real potential risk of harm to at least three trees that are subject to a tree preservation order.

3.7 If the application were to be approved there is scope to re-plant a copper Beech within the courtyard, close to the north-west corner of the car park.

Design, Conservation and Sustainable Development (Ecology)

3.8 Fulford Ings Site of Special Scientific Interest (SSSI) is about 200m west of the application site. Using Natural England's Risk Impact Zones the development does not trigger consultation on likely impacts to the SSSI. Habitat connectivity to the SSSI will be maintained.

3.9 The site is located within 'Local Green Corridor (26) Fulford Park' as set out in the City of York Local Biodiversity Action Plan 2017. The construction of the access road would not significantly impact on the functioning of this green corridor, particularly as no new, additional artificial lighting is proposed.

3.10 Neither of the two trees to be removed have features suitable for use by roosting bats.

3.11 If approved, a planning condition should be used to ensure the new access road is not lit to avoid disturbance to species (such as bats) that are sensitive to artificial light pollution.

Design, Conservation and Sustainable Development (Archaeology)

3.12 The application site lies within the former grounds of Fulford Park. It is about 150m to the north-west of the medieval village of Fulford and 350m to the south-east of St. Oswald's Church (11th century). The creation of the road and car park could reveal or disturb archaeological features particularly relating to the medieval or Roman periods. It will be necessary to record any revealed features and deposits through an archaeological watching brief.

Flood Risk Management

3.13 No objections. The track construction will permit air and water to pass through it to the tree roots beneath, to maintain the status quo and the health of the adjacent trees.

Public Protection

3.14 No objections. Add conditions to require provision of recharging facilities for electric vehicles and to restrict hours of construction.

Housing Development

3.15 No affordable housing contribution required as the application is for only 10 units and under 1,000sqm total floor area.

EXTERNAL

Fulford Parish Council

3.16 Objection on the following grounds:

- Harm to the conservation area due to intrusion of the access road passing through the green corridor.
- Harm to ecology (especially bats) through loss of parkland plus light and noise pollution.
- Harm to protected trees including the copper beech within the bungalow courtyard. The presence of the new road passing underneath the canopies of mature trees will increase pressure to reduce or fell on safety grounds.
- A change of ownership of the bungalows will necessitate boundary treatment that may further damage the character of the parkland.
- The proposed access road is on a bend in Fulford Park, creating a dangerous highway situation.

Neighbour Notification and Publicity

3.17 12 objections have been received raising the following planning issues:

Heritage

- The site is unsuitable for change of use if it can only be achieved by creating an access road from Fulford Park.
- The introduction of road infrastructure into the parkland will cause harm to the peaceful character of this part of the conservation area and will reduce its function as an important area of open space between Fulford and York.
- The heritage statement does not consider the impact on the undesignated heritage assets ie the Sir John J Hunt almshouses, and rejects any impact on the setting of the Coach House on Fulford Park.
- The proposal would cause significant harm to the conservation area. The applicants have not demonstrated over-riding public benefits.
- If the dwellings are sold off in the future, either to a care provider or to residents direct, they would each require a separate curtilage, which could have a seriously harmful impact on the conservation area.
- The assessment of significance understates the wider historic and symbolic value of the Connaught Court site as the last undeveloped green space separating Fulford village from the city suburbs. Nor does it make clear that public accessibility is not an essential criterion in assessing impact.

Trees

- The proposal will cause harm to the historic open parkland and protected trees, including an established copper beech within the bungalow courtyard. A reduction in the size of the car park would allow this tree to be kept. The loss of the tree and its raised bed is not justified.
- A geogrid grass driveway could be installed for emergency access only. This would have a much lesser impact on the parkland
- A degree of cutting into the existing ground will be unavoidable. It could harm tree roots and the general appearance of the area.

Ecology

- The area forms part of a designated 'local green corridor' The loss of parkland, introduction of lighting and vehicular movements through the parkland corridor will cause harm to bats, a protected species, and will result in loss of habitat for other wildlife.

Traffic and Highway Safety

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Item No:

- There will be more traffic than the applicant suggests.
- The road access onto Fulford Park raises concerns about highway safety due to its location on a bend and where parking pressure is very high.
- The development will cause more traffic at the junction with Fulford Road, a very busy road.
- The access road does not include pavements for pedestrians.
- Parking provision at the adjacent doctor's surgery is inadequate, with the result that vehicles are parked on both sides of the access gate on a regular basis, reducing visibility further.
- The road would seem to be consciously under-engineered in order to minimise intrusion in the conservation area. As a consequence it would seem to fall short of being fit for purpose.
- The road is described as being structurally suitable for 'cars and light vehicles' but by implication not for heavier vehicles. It is not clear how this limit would be enforced, especially in an emergency.
- No suggestions are provided as to how fire tenders or removal vehicles would gain access, requiring the road to be constructed to a much more robust and conventional standard.

Parking

- Parking provision, including for staff and visitors is inadequate. Deliveries, waste collection and emergency access will add further complications. There is a risk that the surrounding parkland will be used as a car park by vehicles that are unable to find a space in the new car park.
- The access road could be the first step towards the whole of the parkland being used for parking.
- Lack of provision for cycle storage.

Amenity and Security

- The access road will have a detrimental and permanent negative effect on the surrounding area, affecting local residents.
- It will damage views from Main Street and Fulford Park, which are highly valued by residents for the visual amenity they provide.
- There would be unwanted lighting and activity across the tranquil, open parkland.

- Miscreants will be able to enter the site freely and have access right up to the bungalow windows. It may be just a matter of time before internal security fencing and security lighting appears.
- Vehicles passing along the new roadway would be seriously intrusive, particularly when leaving the bungalows with headlights beamed towards the public roads.
- Vehicles on the new roadway, especially leaving the bungalows at night with headlights beaming towards the Coach House, would harm its setting and general amenity.
- The development would exacerbate the already high levels of vehicle pollution.

Other Matters

- If the bungalows are no longer needed they should be demolished to enhance the landscape.
- There is no provision for waste storage or collection.
- The extent of the roadway could be difficult to discern during snow or fog, especially its tight corners, posing risks to its users. Robust kerbs and/or kerb markers would be necessary over time, with or without the need for planning consent.
- The absence of road lighting will pose risks for all types of foot and wheeled traffic, some form of lighting would eventually be found essential, and would have to be provided, within or without the scope of permitted development.
- The new road would require upgrading to cope with refuse vehicles and refuse storage.
- If the planning application goes ahead it would encourage further harmful development in the future.

3.18 One letter of support has been received from a local resident: The bungalows have been empty for many years. The current proposals seem appropriate and are welcome.

4.0 APPRAISAL

4.1 KEY ISSUES

- Principle of the proposed development
- Impact on heritage assets
- Landscape

- Future development
- Traffic and access
- Car parking and cycle storage
- Amenity
- Community safety
- Ecology
- Archaeology
- Flood risk and drainage

THE APPLICATION SITE

4.2 Connaught Court is a large (approximately 90-bed) care home in a parkland setting. The site lies between Main Street, St. Oswalds Road, Atcherley Close, Fulford Park and Fulford Ings. The care home site is dominated by a large 2 and 3-storey building, with associated smaller buildings and dwellings grouped around it. Most of the remainder of the site is private open space. The main vehicular access is from St. Oswalds Road. The whole of the site is in Fulford Conservation Area and in flood zone 1.

4.3 The application site mainly comprises five pairs of 1 and 2-bed bungalows, most of which partially enclose a shared, central amenity space. The bungalows are close to the main care home building but project into the care home's parkland setting. The site also includes the route for an internal access road to the bungalows from the public highway at Fulford Park.

PLANNING POLICY CONTEXT

4.4 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy is the National Planning Policy Framework (NPPF). It is against this Framework that the application should principally be addressed. Paragraph 38 states that local planning authorities should 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.

4.5 The Publication Draft Local Plan 2018 ('the emerging plan') was submitted for examination on 25 May 2018. The policies of the plan can be afforded limited weight at this stage of preparation and subject to their conformity with the NPPF. The evidence base underpinning the plan is capable of being a material consideration in the determination of planning applications.

4.6 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for development management purposes in April 2005. It does not form part of the statutory development plan for the purposes of s.38(6) and its policies carry very limited weight.

PRINCIPLE OF THE PROPOSED DEVELOPMENT

4.7 Section 5 of the NPPF contains the Government's objective of significantly boosting the supply of homes. Section 11 promotes the effective use of land. It states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. It goes on to state that planning decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

4.8 The bungalows would operate as self-contained houses for older people with low-level needs to maintain their independence with 24-hour on-call assistance and support. The applicant states that the bungalows would be let by the RMBI on assured shorthold tenancies, which would be subject to criteria restricting occupancy to people over 55 years of age, with residents responsible for arranging their own care package.

4.9 Paragraph 59 states that to support the Government's objective of significantly boosting the supply of homes, it is important that the needs of groups with specific housing requirements are addressed without unnecessary delay.

4.10 Paragraph 117 outlines that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Paragraph 118 states that planning decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively. As part of this approach, decisions should support efforts to bring back into residential use empty homes and other buildings. Paragraph 110 states that applications for development should address the needs of people with disabilities and reduced mobility in relation to all modes of transport and allow for access by service and emergency vehicles.

4.11 Policy H9 of the emerging plan relates to older persons specialist housing and states that the council and its partners will work together to enable the delivery of specialist (supported) housing for vulnerable people including for the ageing population. It notes that the city's population aged over 65 is predicted to continue to grow. It adds that ensuring appropriate accommodation in suitable locations is available to meet everyone's needs, including older people to remain in their homes longer, is a key issue to be addressed. The City of York Council SHMA and Addendum identify a need for 84 specialist units of accommodation for older people (generally considered to be sheltered or extra-care housing) per annum over the period 2012-2033.

4.12 Most of the bungalows have been vacant for over 10 years and all are in need of refurbishment. Although they already exist as residential dwellings they cannot be brought back into use without vehicular access, manoeuvring space and car

parking. The applicant has advised that Care Quality Commission regulations prevent employees of the care home being reallocated to the bungalows as this would have an adverse impact on existing staffing levels and care provision within the care home. Moreover, the number of bungalows is not sufficient to generate a need for a dedicated support staff. Therefore, in order for the bungalows to be returned to use as supported housing the bungalows would have to be occupied independently of the care home, with care provided by a third party. As the bungalows would operate in isolation of the care home it is essential that they have a dedicated access and parking area in close proximity to serve carers, residents and visitors, as well as ambulances in the event of emergency. To maintain the proper security of the care home, the bungalows would have to have their own separate access, i.e. not through the care home. The applicant states that without this separate access the bungalows would not be able to be let, which would result in them remaining vacant. The application would therefore achieve the substantial public benefits of bringing back into use of 10 much-needed homes for older people in need of care.

IMPACT ON HERITAGE ASSETS

4.13 There are no listed buildings in the vicinity of the application site but the whole of Connaught Court, including the application site, lies within Fulford Village Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. A conservation area appraisal for Fulford Village Conservation Area was approved by the council in 2008.

4.14 In the NPPF conservation areas are classed as 'designated heritage assets'. Paragraph 192 advises that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. 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 (paragraph 193). Any harm or loss should require clear and convincing justification (paragraph 194). Paragraph 196 advises 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.

4.15 Paragraph 197 advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Non-designated heritage assets include buildings identified in the conservation area appraisal as being of positive value to the conservation area. They are the St John J Hunt

Memorial Cottage Homes (the almshouses) to the north of the site and The Coach House (the former coach house to Fulford Park House) to the south.

4.16 Policy D4 (Conservation Areas) of the emerging plan states that development proposals within or affecting the setting of a conservation area will be supported where they would preserve or enhance the conservation area. Policy D1 (Placemaking) states that development proposals that fail to make a positive design contribution to the city or cause damage to the character and quality of an area will be refused.

4.17 The conservation area appraisal states, at paragraph 8.11, that the parkland setting of Fulford House (which includes Connaught Court care home and the application site) is a landscaped and planted area in existence before 1851 and probably of late C18 or early C19 origin, and is a private oasis of peace and tranquillity. It adds, at paragraph 8.12, that 20th century development within the park has still left significant large areas of open space, including some fine mature trees, and a margin of parkland between the Main Street and the Fulford Ings, which helps to preserve the distinction between Fulford Village and the city suburbs.

4.18 The Connaught Court part of the park site (including the bungalows) has a distinctive landscape character. Its significance is not limited to the undeveloped green wedge of 19th century parkland but encompasses its later 20th century adaptation. The arrangement of low-rise buildings within the parkland landscape is a relatively sensitive development within the historic parkland. The application proposals have the potential to affect the character or appearance of this historic setting because they involve the construction of a new car park and access road within an area of heritage and landscape significance. However, due to the historic pattern of development of the parkland landscape, the site is not so sensitive to change that any alteration would be harmful. The proposed access road would be single width, informal in layout and material and designed to have a seamless connection with the grassed parkland. Its vehicular use would be intermittent and of low intensity. Consequently officers do not consider that the access road would appear incongruous or diminish the historic or aesthetic significances of the site. However, the proposed car park would occupy the landscaped garden around which the bungalows are constructed and which melds into the adjacent landscape. The car park would appear as a discordant use due to the extent of hard surfacing and presence of parked cars. It would detract from the existing character of the Connaught Court development within the parkland setting. That said, the car park would be seen only from certain viewpoints - glimpsed between the pairs of bungalows and through the surrounding parkland.

4.19 The harm to the conservation area would be less than substantial, requiring the harm to be weighed against the public benefits of the proposal including securing its optimal viable use. The proposals would have no impact on the heritage significance of any listed buildings or non-designated heritage assets or their settings.

LANDSCAPE

4.20 The area of parkland between the existing access from Fulford Park and the bungalows contains a number of mature trees protected by a tree preservation order. The route of the new road would wend its way between these trees to minimise the risk of harm to their root systems.

4.21 The road would pass between tree T1, an over-mature sweet chestnut and T2, a mature horse chestnut. The council's landscape architect agrees with the applicant's assessment that these two trees are of moderate quality (category B1) with a retention life span of over 40 years. Both trees are substantial and contribute to the character of the conservation area and the amenity of the area generally. The sweet chestnut is the most valuable of the affected trees due to its size and species, which is a rarity in York.

4.22 The space between the trees is not sufficiently wide to avoid the road encroaching into the root protection area (RPA) of these trees. Since submission the design and construction of the road have been modified to further reduce its impact. The road as now proposed would comprise granular material in a 'no-dig' Cellweb TRP system laid over the existing grass and topped by a decorative gravel surface. The proposed width of the road has also been reduced from 3.5m to 3m and would be edged in timber (rather than block paviors bedded in concrete).

4.23 The road as currently designed can be constructed between the sweet chestnut and the horse chestnut without harming the RPA as long as the work is carried out in strict accordance with good practice. To that end the applicant has submitted an arboricultural method statement which is acceptable. Compliance with it should be made a condition of approval.

4.24 The works would also encroach into the RPA of two Norway maples (T102 and T103) and a hawthorn (T100). The degree of encroachment would not be significant.

4.25 The provision of the car park would require the removal of two category A copper beeches (T104 and T105). T105 is unsuited to its confined location but T104 has good future potential. The car park would also require the loss of much of the central amenity space for the bungalows. Although the courtyard is not visible from the public domain its current design and central tree (protected by a TPO) are an integral part of the grounds and landscape. The amenity space provides an attractive outlook for the occupiers. The loss of this outlook would be partially mitigated by the proximity of the retained parkland around the bungalows.

4.26 There is a short, steep fall in the land across the width of the proposed driveway where it turns into the car park tight against the first bungalow. A low retaining wall comprising an on-edge flagstone or similar (nominally 300mm high)

would be erected on the inside of this curve to avoid cutting into the ground within the RPA of the adjacent Norway maple (T103).

4.27 In summary, the development would result in the loss of one protected maturing beech tree and the risk of harm to three trees that make a valuable contribution to the amenity of the conservation area, especially T1, a sweet chestnut. The applicant has agreed to plant a suitable replacement for the beech that would be lost. There is scope for replacement planting within the northern part of the central courtyard or in the surrounding parkland, which would remain under the applicant's control. Details of replacement planting and screening of the car park should be made a condition of planning permission.

FUTURE DEVELOPMENT

4.28 Following the submitted design changes and clarification about construction methods, any residual harm to heritage assets would be outweighed by the benefits of bringing the 10 bungalows back into long-term use. Nevertheless, without adequate safeguards relating to the manner in which the dwellings would be occupied (i.e. residential dwellings as opposed to care home bungalows), parking facilities and the management of the adjacent parkland, the proposed use could, over time, have a gradual but significant detrimental impact on the conservation area and other heritage assets. The risk of harm could be reduced to an acceptable level by the provision of an effective management plan, secured by a section 106 agreement, for the lifetime of the development. It is unlikely that the management plan and its effective implementation for the lifetime of the development could be dealt with through planning conditions as it would require the agreement and cooperation of those with an interest in the application site and the surrounding parkland. The bungalows and surrounding parkland are in the ownership of the applicant which, officers are advised, would retain ownership. The applicant has agreed to the principle of the agreement and its heads of terms, which would include:

- Regular inspection and maintenance of trees;
- Regular inspection and maintenance of access road;
- No parking of vehicles other than in the designated parking area shown on the approved plans;
- Weight/size limitation on the access road except for emergency vehicles.

4.29 Other causes of possible conflict in the future could be prevented by planning conditions. These should include:

- Removal of permitted development rights for extensions to buildings, erection of fences, construction of hardstandings, etc;

- Retention of the access road in the form shown on the submitted plans;
- No external lighting outwith the courtyard area

TRAFFIC AND ACCESS

4.30 Policy 108 of the NPPF requires that safe and suitable access to the site can be achieved for all users. It adds, at paragraph 109, that development should only be 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.

4.31 The proposed road would be the sole vehicular access to the bungalows. It would be 3m wide, which is suitable for cars and occasional light vans including ambulances. A passing place would be provided part way along the road and turning/manoeuvring space provided in the car park, thereby enabling vehicles to leave the site in forward gear.

4.32 The road would not have a dedicated footway for pedestrians; they would share the road space with the cars and light vans. Bearing in mind the very low number of traffic movements and the very low traffic speed this arrangement would be acceptable and is commonplace elsewhere.

4.33 Refuse vehicles would not need to use the access. Refuse would be collected from each bungalow by the operator of the care home and taken to a central point for despatch via St Oswalds Road. Ambulances would be easily able to pass along the road, whether routinely or in emergency. The road would be wide enough for use by fire tenders, which would be in emergency only and almost certainly rare. There would be nothing to prevent fire tenders easily reaching the bungalows if the need were to arise. The new road would be an improvement over the present situation as emergency vehicles needing to reach the bungalows currently have no alternative but to drive across the parkland grass. A condition should be attached prohibiting use by large vehicles except in emergency.

4.34 The road width and construction of the road are acceptable bearing in mind the anticipated low level of use and the historic significance of the parkland setting.

4.35 The proposals seek to formalise and reuse an existing access, which is used on an occasional basis. The geometry of the access would need minor adjustment within the highway boundary in order to achieve satisfactory visibility splays for vehicles leaving the site. This has been agreed by the applicant. Details should be made a condition of approval.

4.36 Fulford Park is a quiet, lightly-trafficked cul-de-sac with a 20mph speed limit. The road provides access to up to 30 private dwellings and a doctors' surgery. The level of traffic that would be generated by the application is extremely low and would have no material impact on any existing air pollution. The applicant's traffic survey

(submitted with the application) estimates the worst case to be about one vehicle every 10 minutes. This level of additional traffic is not significant in highway terms and can easily be accommodated on Fulford Park and the nearby junction with the A19. The doctors' surgery on Fulford Park can, at times, cause peaks in parking demand and careless/inconsiderate parking by patients/visitors. This is not an unusual occurrence in urban areas. During these peaks most of the inconsiderate parking is to the east of the site entrance, i.e. towards Main Street. The west side, towards the closed end of Fulford Park, is generally lightly parked. For vehicles exiting the site the primary concern is of vehicles approaching from the right, the closed end of Fulford Park. Visibility in this direction from the site is good, subject to the minor alteration to the highway boundary referred to above.

CAR PARKING AND CYCLE STORAGE

4.37 The site is in a very sustainable location, within York urban area and close to shops, local services and public transport. The proposed level of parking is in accordance with national planning policy which seeks to ensure that appropriate opportunities to promote sustainable transport modes can be taken up while achieving a safe and suitable access to the site for all users (NPPF paragraph 108). It is also consistent with policy T1 of the emerging plan which supports development that provides safe, suitable and attractive access for all users, including those with impaired mobility, and allows the use of more sustainable modes of transport.

4.38 Two of the 10 spaces would be constructed to disabled standard. Five of the spaces would be allocated to occupiers of the bungalows. Allocation of the spaces would be managed by the applicant. The other five spaces would be provided for the use of carers, medical staff and other visitors. Given the nature of the use and the sustainable location of the site this level of provision should be sufficient without the need to park on adjacent streets.

4.39 There is sufficient space around the proposed car park to provide cycle parking for residents together with cycle racks for visitors. Details should be submitted as a condition of approval.

AMENITY

4.40 The presence of cars where there is currently a landscaped courtyard would have some impact on the outlook for residents but it would be compensated for by the improved access and mitigated by the very close proximity of the adjacent parkland, which would continue to be available for their use. The very low number of vehicles passing along the new road would have negligible impact on residents of the bungalows or those of neighbouring houses, whether from car headlights, noise or general disturbance. Cars parked in the car park would be almost entirely screened from view from the A19 and largely screened from Fulford Park.

COMMUNITY SAFETY

4.41 Some objectors are concerned that miscreants will be able to enter the site freely and have access right up to the bungalow windows. From a security perspective the application would not make the site much more accessible than it is already. The bungalows would be no less secure than other homes in the vicinity of the site, which has a generally open character. The existing lamp posts in the courtyard would be retained and any cars in the car park would be overlooked by the residents of the bungalows.

ECOLOGY

4.42 Fulford Ings Site of Special Scientific Interest (SSSI) is approximately 200m from the application site at its closest point. The proposal is unlikely to have any material impact on the SSSI and the development does not require Natural England to be consulted. There are no comparable habitats within the development site, the loss of which could have an indirect impact on the SSSI.

4.43 The site is located within 'Local Green Corridor (26) Fulford Park' as set out in the City of York Local Biodiversity Action Plan (LBAP, 2017). These have been identified across York with the aim to link together habitat to create an overall structural network for wildlife. Green corridors are not fixed boundaries but are a consensus of where multifunctional green infrastructure assets occur.

4.44 Neither of the two trees to be removed (T104 and T105) has features suitable for use by roosting bats. The loss of any trees should be replaced as a condition of planning permission.

4.45 Although the construction of a new access road will result in the direct loss of amenity grassland it is not considered to significantly impact on the functioning of this green corridor, particularly as no new, additional, artificial lighting is proposed. A planning condition should be attached to ensure that the new access road is not lit to avoid disturbance to species (such as bats) that are sensitive to artificial light pollution. Habitat connectivity to Fulford Ings SSSI, through its key elements of open space and mature tree cover, will be maintained.

ARCHAEOLOGY

4.46 This application is located about 150m to the north-west of the medieval village of Fulford and 350m to the south-east of St. Oswald's Church (11th century). It appears that the land has never been built upon and was used for agricultural purposes during the medieval and post-medieval periods.

4.47 Fulford Road, running to the east of this site may have Roman origins so Roman archaeological deposits may exist on the site. An evaluation at Connaught Court in 2004 revealed very significant Roman features to the north of this site on the south side of St Oswald's Road. Trenches to the west of the proposed car park revealed only medieval ploughsoils and furrows but did contain some Roman pottery.

4.48 It is possible that any groundworks associated with the creation of the road and car park could reveal or disturb archaeological features particularly relating to the medieval or Roman periods. It will be necessary to record any revealed features and deposits through an archaeological watching brief during the stripping of the site in preparation for the creation of the road and car park. This should be made a condition of planning permission.

FLOOD RISK AND DRAINAGE

4.49 The site is in low-risk flood zone 1 and should not suffer from river flooding. The proposed angular gravel with timber edging on top of a no-dig road construction will provide a like-for-like permeable surfacing, which would mimic the existing permeable grass surfacing. It will therefore permit air and water to go into and through the track construction to the tree roots beneath, to maintain the status quo and maintain the health of the adjacent trees.

OTHER MATTERS RAISED BY OBJECTORS

4.50 Part of the parkland setting is being used by the care home as a temporary car park for staff until replacement car parking is provided following completion of the housing development elsewhere on the care home site. The council has accepted that this use does not require planning permission as long as it is used only by care home staff and only for a temporary period. The area appears to be being used as parking by the contractor(s) of the housing development. This is the subject of an investigation by the council's enforcement officers. For the avoidance of doubt this use is unrelated to the current planning application.

5.0 CONCLUSION

5.1 The council has paid special attention to the desirability of preserving or enhancing the character and appearance of the conservation area and given great weight to the conservation of all relevant heritage assets. While the harm is 'less than substantial', the harm to the conservation area is nevertheless a matter of considerable importance. This harm has been weighed against the substantial public benefits of bringing back into use 10 much-needed homes for older people in need of care. The council has concluded that, subject to safeguards provided by planning conditions and a s.106 planning obligation, the substantial public benefits of bringing forward the housing proposed outweigh the identified harm to the conservation area and provide clear and convincing justification for approving the application. It complies with the requirements of s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 5 (Delivering a sufficient supply of homes) and 16 (Conserving and enhancing the natural environment) of the NPPF and policies H9 (older Persons Specialist Housing) and D4 (Conservation Areas) of the emerging plan.

COMMITTEE TO VISIT

6.0 RECOMMENDATION:

- (i) Permission granted subject to a s.106 legal agreement to secure the following planning obligations:
 - Regular inspection and maintenance of trees;
 - Regular inspection and maintenance of access road;
 - No parking of vehicles other than in the designated parking area shown on the approved plans;
 - Weight/size limitation on the access road except for emergency vehicles.
- (ii) The conditions outlined below
- (iii) The Assistant Director for Planning and Public Protection be granted delegated powers to finalise the terms and details of the s106 agreement
- (iv) The Assistant Director for Planning and Public Protection be granted delegated powers to determine the final detail of the planning conditions.

Schedule of conditions:

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out only in accordance with drawings numbered 20640-1503 Rev L, 16781-Y-DR-001 Rev.P1 and 16781-Y-DR-002 Rev.P1.

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

3 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) development of the type described in Classes A, B, C, D, E or F of Schedule 2 Part 1 or Classes A or B of Schedule 2 Part 2 of that Order shall not be erected or constructed unless permission has first been granted by the Local Planning Authority.

Reason: In the interests of protecting the historic character and appearance of Fulford Village Conservation Area.

4 The development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme (including replacement trees and visual screening of the car park) 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 Fulford Village Conservation Area.

5 Within one month of commencement of development details of the following matters shall be submitted to the local planning authority for approval in writing. The development shall be carried out in accordance with the approved details and retained in perpetuity:

- o Cycling parking/storage
- o Alterations to access and boundary treatment along the Fulford Park frontage
- o Facilities for the recharging of electric vehicles.

Reason: To ensure that the development is carried out in a manner that will not be detrimental to protected trees, the character and appearance of the conservation area, the amenity of local residents and sustainable transport.

6 The development shall be carried out in accordance with the following programme of archaeological mitigation. All three stages shall be completed and approved by the local planning authority.

A) No development shall commence until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI. The WSI shall conform to standards set by the Chartered Institute for Archaeologists.

B) The watching brief and any necessary post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part (A) above and the resources shall be made available for analysis, publication and dissemination of results and archive deposition. 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 (or publication if required) shall be deposited with City of

York Historic Environment Record to allow public dissemination of results within six months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site is of archaeological interest. Therefore, the development may affect important archaeological deposits which must be recorded prior to destruction.

7 The access road shall be constructed in accordance with approved plan 16781-Y-DR-002P1 and retained in that form for the duration of the development unless otherwise approved in writing by the local planning authority.

Reason: To protect trees that make a significant contribution to the character and appearance of Fulford Village Conservation Area.

8 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no external lighting shall be erected or installed except within the courtyard bounded by the dwellings at plots 3 to 10 on submitted drawing 20640-1002 Rev.B: Existing Site Plan.

Reason: To maintain the character and appearance of Fulford Village Conservation Area and to avoid disturbance to bats and other species sensitive to artificial light pollution.

9 There shall be no parking of vehicles except within the proposed car parking area shown on approved plan 20640-1503 Rev L.

Reason: In the interests of protecting the historic character and appearance of Fulford Village Conservation Area.

10 The development shall be carried out in accordance with the submitted Arboricultural Method Statement No.1 9213.T 09/06/2019 Rev.4 by Ryland Consultant Arborists.

Reason: To protect trees that make a significant contribution to the character and appearance of Fulford Village Conservation Area.

11 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.

12. The dwellings shall provide independent living accommodation for people aged 55+ years old in need of care and for no other purpose including any other purpose in Class C3 in the Schedule to the Town and Country Planning (Use Classes Order) 1987, or in any provision equivalent to that class in any statutory instrument invoking or re-enacting that Order.

Reason: To ensure that the application provides the substantial public benefits to outweigh the less than substantial harm to Fulford Village Conservation Area.

7.0 INFORMATIVES:

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) and, in seeking solutions to problems identified during the processing of the application the local planning authority negotiated with the applicant to, in particular:

- reduce the impact on the conservation area and protected trees;
- ensure that the access is designed to highway standards;
- protect against unacceptable future changes to the parkland setting.

Contact details:

Case Officer: Kevin O'Connell

Tel No: 01904 552830

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Royal Masonic Benevolent Institute Connaught Court

18/02169/FULM



Scale : 1:970

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Organisation	Not Set
Department	Not Set
Comments	Site Plan
Date	24 September 2019
SLA Number	Not Set

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COMMITTEE REPORT**Date:** 3 October 2019**Ward:** Dringhouses And
Woodthorpe**Team:** West Area**Parish:** Dringhouses/Woodthorpe
Planning Panel**Reference:** 19/01140/FUL**Application at:** 26 The Horseshoe York YO24 1LX**For:** Erection of 1no. dwelling with associated crossover following
demolition of existing bungalow and outbuildings**By:** Mrs Erica Hammill**Application Type:** Full Application**Target Date:** 21 August 2019**Recommendation:** Approve**1.0 PROPOSAL**

1.1 The application site is 26 The Horseshoe, located off Tadcaster Road in Dringhouses. The site is on the western side of the street. The site contains a single storey detached bungalow of brick construction with a front and rear garden. There is an existing garage and driveway with crossover on the southern boundary of the site. There are dwellings either side of the site and opposite the front. To the rear of the site is the east coast railway line.

1.2 The Horseshoe is a residential street, laid out in the 1920s with the dwellings constructed in an arts and crafts style. Many of the dwellings are detached and have large rear gardens, particularly those bordering the railway line. There have been two replacement dwellings constructed on the street in recent years at no 18 and 20.

1.3 The application site lies in partly in flood zones 2 and 3. The existing dwelling is sited wholly in flood zone 1. The culverted Holgate Beck is at the rear of the site in the rear garden.

1.4 Planning permission is sought for the erection of 1no. dwelling with associated crossover following the demolition of the existing buildings on site.

1.5 The proposed replacement dwelling is two storey in height with additional living space in the attic. The design is based on the arts and crafts style already evident in buildings on the street and includes design features such as external chimney stacks and splayed eaves to the roof. Proposed materials will be plain clay

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tiles, with clay ridges. The dormer to the rear is to be lead clad and the rooflights proposed to the front elevation will be flush with the roof slope. Brickwork is to be from 65mm handmade bricks in old English bond using a lime mortar with detailing at the eaves.

1.6 The dwelling will be a maximum of 15.5 metres wide (excluding the semi detached chimney stack to the south elevation) and a maximum of 24.1 metres deep. This includes a 5.5 metre two storey rear projection in the north western corner. The building will be 9 metres high to the roof of the ridge, excluding the chimney stacks which measure 1.3 metres above the ridge.

1.7 Planning History

18/02523/FUL - Formation of 2m high bund to rear garden. – Pending decision

19/01334/CPD - Certificate of lawfulness for proposed development for erection of detached garage to rear as detailed on drawing no's 01 and 09 – Pending decision

1.8 The planning application was called in for determination by Committee by Councillor Fenton following an objection from the occupiers of a neighbouring dwelling raising concerns over a loss of amenity.

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. Paragraph 14 advises that at the heart of the Framework there is a presumption in favour of sustainable development.

Publication Draft Local Plan 2018

2.3 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);

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- 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).

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

2.5 Relevant Policies

D1 Placemaking
ENV2 Managing Environmental Quality
ENV4 Flood Risk
ENV5 Sustainable Drainage
T1 Sustainable Access
CC1 Renewable and Low Carbon Energy Generation and Storage
CC2 Sustainable Design and Construction of New Development

2005 Development Control Local Plan

2.6 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.

2.7 Relevant Policies

GP1 Design
GP4a Sustainability
T4 Cycle Parking Standards

3.0 CONSULTATIONS

INTERNAL

Flood Risk Engineer

3.1 The plan shows the existing drainage infrastructure but does not supply details of the proposed foul and surface water drainage. It appears the applicant is proposing to connect the proposed foul water to mains sewer and surface water to

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existing watercourse but with no consideration to the use of soakaways in line with our SuDS Guidance, the Requirement H3 of the Building Regulations 2000 and the hierarchy of surface water disposal which should be explored. Considering the above and knowledge of the existing drainage infrastructure the Flood Risk Management Team has no objections to the development in principle conditions are required.

Public Protection

3.2 The location of the proposed site, for residential, is adjacent to existing residential dwellings. There is however a railway line approximately 50 metres from the proposed site of the residential dwelling therefore in order to ensure that the external and internal recommended noise levels are achieved in line with BS8233:2014, Public Protection recommend a condition for a detailed scheme of noise insulation measures.

Highways Network Management

3.3 The applicant will need to confirm the provision of adequate cycle parking facilities for at least 2 cycles (as this is a large family house, we would expect to see cycle storage able to accommodate one bike per bedroom). The store will need to be covered and secure and easily accessible from the front of the building. Informatives have been suggested regarding the proposed vehicle crossover.

EXTERNAL

Dringhouses and Woodthorpe Planning Panel

3.4 Generally support proposal but think comments of neighbours regarding design and overlooking should be considered.

Yorkshire Water

3.5 Design and Access Statement is acceptable for Yorkshire Water. Condition requiring separate systems for foul and surface water recommended.

Ainsty (2008) Internal Drainage Board

3.6 This application sits within the Drainage Board's district. The Board does have assets within the site in the form of Holgate Beck (culverted). The applicant has been in contact with the Board prior to submitting this planning application for the Board's initial comments. The Board notes that the applicant's intentions remain the same and that the applicant proposes to connect into the existing mains foul sewer;

and connect into the existing surface water watercourse – i.e. the Board's culverted asset on the site in the form of Holgate Beck.

3.7 The Board always recommends that soakaways are first considered in accordance with the Planning Practice Guidance hierarchy for the management of surface water.

3.8 The Board therefore recommends that the applicant be asked to carry out soakaway testing, in accordance with BRE Digest 365, in order to ascertain whether the soil structure is suitable for a soakaway system. If the testing proves unsatisfactory then the Board assumes the applicant will proceed by way of discharging into Holgate Beck.

4.0 REPRESENTATIONS

4.1 The application has been advertised by neighbour notification and site notice.

4.2 1 objection was received from occupiers of 24 The Horseshoe raising the following concerns:

- Loss of amenity due to 2 storey projection extending into the back garden beyond the back of their house
- First floor windows and terrace will result in a loss of privacy
- Loss of light/overshadowing of conservatory, terrace and garden,

4.3 2 representations were received raising the following matters:

- No objection in principle
- Concern over the lack of detail to the front elevation and request that the building be undertaken in arts and crafts style with 2.5 inch bricks to an old English bond, oak framed windows with leaded lights at least to the front elevation.
- Restrictions requested on site activities in terms of hours
- Highway should be swept and cleaned following any vehicular activity
- Noting that the building team had been considerate and careful during construction at 125 Tadcaster Road.

4.4 1 letter of support was received noting the following:

- Design is sympathetic to local vernacular

5.0 APPRAISAL

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5.1 Main Issues

- principle
- impact on the streetscene
- impact on amenity and living conditions of adjacent occupiers
- highways and parking
- flood risk and drainage
- sustainability

PRINCIPLE

5.2 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking this means where there are no relevant development plan policies planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

5.3 Section 5 of the NPPF notes that the Government's objective is to significantly boost the supply of homes. While the proposed development is for a replacement dwelling rather than a new dwelling, planning policies do not identify any planning harm from this principle. As such the presumption in favour of sustainable development is applicable.

IMPACT ON THE STREETSCENE

5.4 Section 12 of the NPPF sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 127 seeks to ensure that developments function well and add to the overall quality of the area while being visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Developments should be sympathetic to local character and history and 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.

5.5 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.

5.6 The Horseshoe was laid out in the 1920s and is characterised as a street by large, mainly detached dwellings set back from the public highway with front

gardens. The City of York Historic Characterisation Project 2013 described the street as a good example of an eclectic mix of inter-war residential architecture. This includes an arts and crafts architectural style which has its origins in the nineteenth century as a reaction against industrialist styles, instead focusing on local materials and traditions. The existing bungalow has a rear dormer and an attached garage. The surrounding dwellings are two storeys in height and several are of a substantial scale, notably the replacement dwellings to the north at 18 and 20.

5.7 The proposed replacement dwelling will be of a similar scale to the houses at 18 and 20 and will include many features found elsewhere in the street in terms of the design and the use of traditional materials. The building will maintain good sized gaps between the two neighbouring dwellings to ensure there is not a terracing effect that would be out of character with the immediate streetscene. The building is set back from the public highway a similar distance to neighbouring properties.

5.8 While it is acknowledged the proposal is much larger than the bungalow, the size of the plot and the fact it is of similar proportions to other large houses on the street will mean it shall not appear as out of character in the streetscene. The roof ridge for example will be approximately 1.6 metres lower than that of no 20 Horseshoe. Furthermore, the proposed dwelling will be of a similar width to no 24 and no 28. While it will be larger in mass than these dwellings, these will principally be due to an extended depth of the house which will be of limited visibility from the public highway. Conditions are recommended to cover materials, landscaping to the front and design. Subject to these conditions, the proposed development is considered to be acceptable on design grounds.

IMPACT ON NEIGHBOUR AMENITY

5.9 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.

5.10 The proposed replacement dwelling will be substantially larger and higher than the existing house. Objections have been raised by the occupier of the neighbouring dwelling to the north over a loss of privacy and light to the dwelling and rear garden resulting from the two storey rear projection and balcony. The first floor balcony/terrace that was part of the original submission has now been removed.

5.11 The proposed two storey rear projection is due south of the objector's house and will project 7.3 metres beyond the rear building line of no 24. There is a gap of approximately 5.5 metres between the side elevations of the two buildings. It is

noted the rear projection has a relatively low eaves height of 5.1 metres, extending to 8.1 metres in height at the ridge, with a hipped design at the rear. The nearest room at no 24 at ground level is a study with full length doors and windows across the width of the room. This room also has a roof light. It is noted that there are no side facing windows to no 24 The Horseshoe. Given the above it is considered that while there may be some loss of light to the study at no 24, due to the distance between the buildings, the design of the rear projection and the full length and width openings to the study, this would not be to the extent that there would be an unreasonable loss of amenity.

5.12 The proposed development also has side facing windows facing no 24 and no 28 at first floor level and also at the mezzanine level on the staircase. A condition is recommended requiring these openings to be obscure glazed.

5.13 Due to the proximity of the site to a busy railway line, a condition will be included requiring details of noise insulation measures be submitted.

HIGHWAYS AND PARKING

5.14 The proposed replacement dwelling is located on a lightly trafficked residential street. There is an existing crossover to a garage. These will be replaced and parking is to be provided to the front and a new crossover constructed. It is noted that a telegraph pole would need to be replaced on the highway verge to allow for a new crossover. Subject to conditions regarding the crossover and cycle parking, the proposal is considered to be acceptable. An informative will be included advising the developer to contact the utilities company will also be included.

DRAINAGE AND FLOOD RISK

5.15 While part of the site lies within flood zone 3, due to the beck to the west of the site, the proposed house will be in flood zone 1. This is appropriate development for this location.

5.16 The applicant proposed surface water drainage to the culverted watercourse (Holgate Beck) to the west of the site. However as per the sustainable drainage hierarchy, it is necessary to rule out the use of a soakaway before this option can be considered. Therefore a condition requiring surface and foul water drainage details is recommended.

SUSTAINABILITY

5.17 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.

5.18 Policy CC2 of the 2018 Draft Plan 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.

5.19 The Design and Access statement states the building will be constructed to a much higher insulation standard than required by current building regulations. The structure will be made of 169 thick SIPS eco panels producing a u-value of 0.20W/m²K. All significant thermal bridges will be designed out. The windows will be high performance triple glazed with glazing optimised to the south and west elevation and reduced to a minimum on the north façade.

5.20 The statement also states that PV panels will be installed on the south facing roof slopes, although these are not evident on the plans. While an energy statement has not been provided with regard to the application, the measures set out by the applicant are noted, in particular the proposed PV panels. Details of the panels will be required by condition.

6.0 CONCLUSION

6.1 The proposed replacement dwelling, although materially larger than the existing bungalow will not be out of place in this location due to the existing residential character of large suburban dwellings and is considered to be in compliance with paragraph 127 of the NPPF and Policy D1 of the 2018 Draft Plan. The design is in keeping with the arts and craft character of the Horseshoe. The revised proposal excluding the balcony is considered to be acceptable on the grounds of residential amenity due to its design and location. Conditions are also considered necessary for highways, drainage and land contamination reasons.

COMMITTEE TO VISIT

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:-

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01 received 3 June 2019
02B received 16 September 2019
03B received 16 September 2019
05A received 27 August 2019
06A received 27 August 2019

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 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the above ground construction of the development. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

5 A sample panel of the 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 above ground building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

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.

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

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Planning Authority.

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.

7 Details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the dwelling. The building 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 Details of the proposed photovoltaic panels shall be submitted to an approved in writing by the local planning authority prior to their installation. The details shall include the following information:

- Number of panels
- Design of the panels, including the colour, size and level of projection from the roof slope
- Proposed location on the building

The panels shall be installed in accordance with the approved details.

Reason: In the interests of energy efficiency and visual amenity.

9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the windows in the side elevations at first floor level and above of the dwelling (with the exception of the side window to the room referred to as Bed 1) shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

10 The development shall not occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the footpath and verge to match adjacent levels.

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

11 HWAY19 Car and cycle parking laid out

12 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 above ground 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.

13 EPU1 Electricity socket for vehicles

8.0 INFORMATIVES: Notes to Applicant

1. INFORMATIVE:

You are advised that this proposal may have an effect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

<https://www.openreach.com/network-services/altering-our-network>

2. INFORMATIVE:

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

Works in the highway - Section 171 - Vehicle Crossing - Section 184 - (01904)

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551550 - streetworks@york.gov.uk

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (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 to show landscaping to front and obscure glazing to side windows

4. 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.

5. 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".

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(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

6. SURFACE WATER DRAINAGE

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to except surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

Application Reference Number: 19/01140/FUL

Item No:

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha or if shall be used for the above. For the smaller developments where the Greenfield run-off rate is less than 1.4 l/sec/ha and becomes impractical and unsustainable then a lowest rate of 2 l/sec shall be used.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Details of the future management and maintenance of the proposed drainage scheme shall be provided.

Contact details:

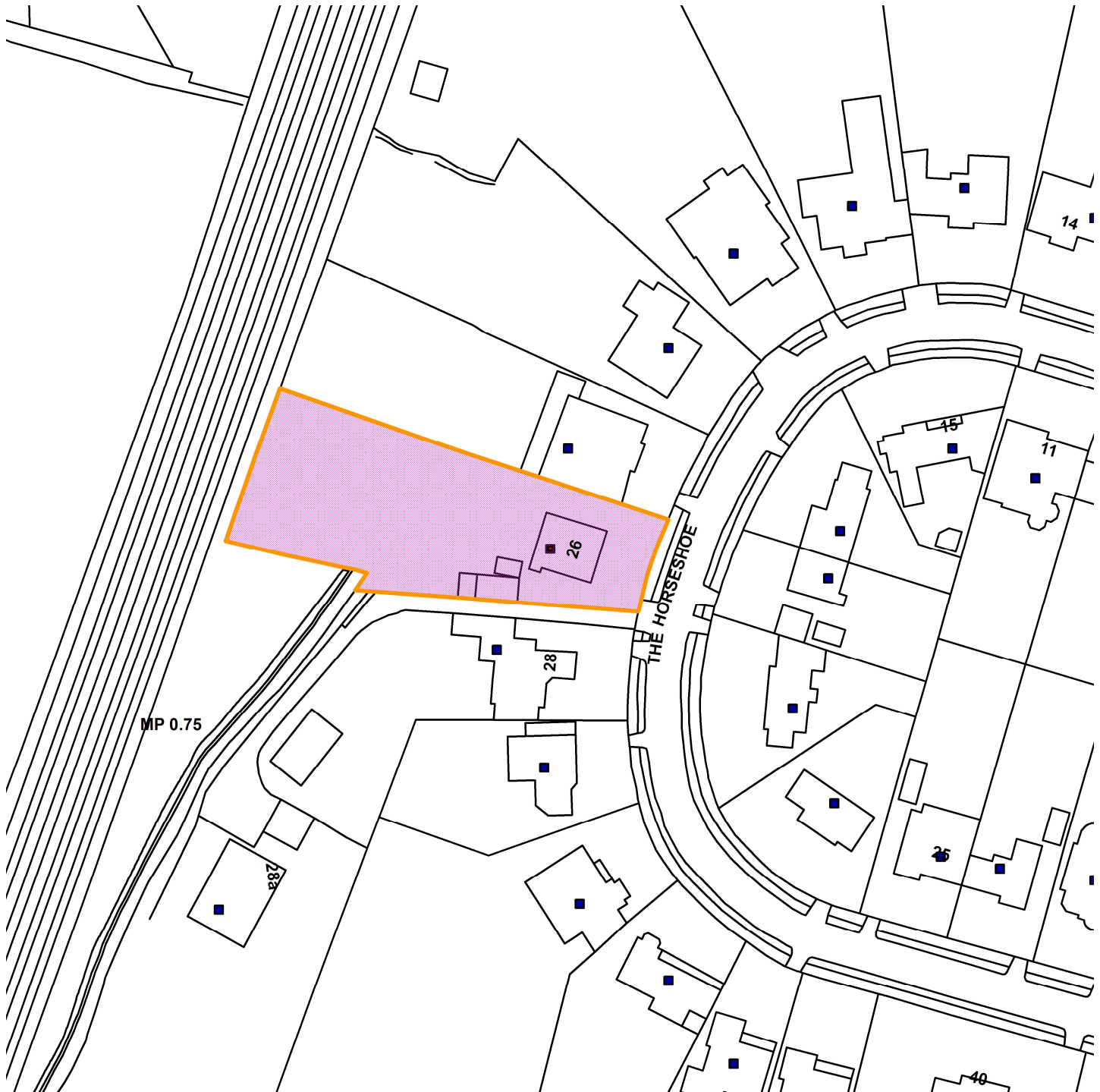
Author: Tim Goodall Development Management Officer

Tel No: 01904 551103

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26 The Horseshoe

19/01140/FUL



Scale : 1:970

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Organisation	Not Set
Department	Not Set
Comments	Site Plan
Date	24 September 2019
SLA Number	Not Set

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Area Planning Sub Committee**3 October 2019****Planning Committee****17 October 2019****Appeals Performance and Decision Summaries****Summary**

- 1 This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 April and 30 June 2019, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals at date of writing is also included.

Background

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. The Government use the quarterly statistical returns as one of a number of measures to assess the performance of local planning authorities. To assess the quality of decisions, this is based on the total number of decisions made by the Local Planning Authorities that are subsequently overturned at appeal. The threshold whereby a Local Planning Authority is eligible for designation as under-performing is 10% of the Authority's total number of decisions on major, non-major and "county-matter" (generally minerals and waste proposals) applications made during the assessment period being overturned at appeal.
- 3 The tables below include all types of appeals such as those against the refusal of planning permission, against conditions of approval, listed building applications and lawful development certificates. Table 1 shows results of appeals decided by the Planning Inspectorate for the quarter 1 April to 30 June 2019 and the corresponding quarter for 2018, Table 2 shows performance for the 12 months 1 July 2018 to 30 June 2019 and the corresponding period 2017/2018.

Table 1: CYC Planning Appeals Last Quarter Performance

	01/04/19 to 30/06/19 (Last Quarter)	01/04/18 to 30/06/18 (Corresponding Quarter)
Allowed	5	4
Part Allowed	0	0
Dismissed	11	11
Total Decided	16	15
% Allowed	31%	27%
% Part Allowed	-	

Table 2: CYC Planning Appeals 12 month Performance

	01/07/18 to 30/06/19 (Last 12 months)	01/07/17 to 30/06/18 (Corresponding 12 month period)
Allowed	19	13
Part Allowed	0	0
Dismissed	50	44
Total Decided	69	57
% Allowed	28%	23%
% Part Allowed	-	

Analysis

- 5 Table 1 shows that between 1 April and 30 June 2019, a total of 16 planning appeals were determined by the Planning Inspectorate. Of those, 5 were allowed (31%). There were no appeals relating to the refusal of a “major” development during this reporting. For the corresponding period 2018, out of 15 appeals 4 were allowed (27%). Using the assessment criteria set out in paragraph 2 above, 1.3% of the total decisions made in respect of non-major applications in the quarter 1 April – 30 June 2019 were overturned at appeal. There were no appeals in respect of major applications or county-matter applications during the quarter. Split decisions are not counted against the authority for the assessment criteria.
- 6 For the 12 months between 1 July 2018 and 30 June 2019, 28% of appeals decided were allowed, which is slightly below the national figure for 2018/19 of 30% of appeals allowed, but above the corresponding 2017/2018 12 month figure. Using the assessment criteria set out in paragraph 2 above, 1.2% of the total decisions made in respect of non-

major applications and 1.8% of total decisions made in respect of major applications in the period 1 July 2018 – 30 June 2019 were overturned at appeal. There were no appeals in respect of county-matter applications during the period.

- 8 The summaries of appeals determined between 1 April and 30 June 2019 are included at Annex A. Details as to of whether the application was dealt with under delegated powers or by committee are included with each summary. In the period covered two appeals were determined following a decision to refuse permission made by the sub-committee/committee.

Table 3: Appeals Decided 01/04/2019 to 30/06/2019 following Refusal by Committee / Sub-Committee

Ref No	Site	Proposal	Officer Recom.	Appeal Outcome
18/01102/ FUL	Spark:York, Piccadilly	Omit previously approved timber cladding	Approve	Dismissed
18/00264/ FUL	64 Newland Park Drive	Use as a 7 bed HMO	Approve	Dismissed

- 9 The list of current appeals is attached at Annex B. There are 21 planning appeals lodged with the Planning Inspectorate awaiting determination.
- 10 We continue to employ the following measures to ensure performance levels are maintained at around the national average or better:
- i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with the NPPF and Draft Local Plan Policy.
 - ii) Where significant planning issues are identified early with applications, revisions are sought where possible to enable recommendations for approval, even where some applications then take more than the 8 weeks target timescale to determine.
 - iii) Scrutiny is afforded to appeal evidence to ensure arguments are well documented, researched and argued.
 - iv) Appeal decisions are reviewed and discussed within the team and with senior officers.

Consultation

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

Council Plan

- 12 The report is most relevant to the “Building Stronger Communities” and “Protecting the Environment” strands of the Council Plan.

Implications

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

Risk Management

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

Recommendation

- 18 That Members note the content of this report.

Reason

- 19 To inform Members of the current position in relation to planning appeals against the Council’s decisions as determined by the Planning Inspectorate.

Contact Details

Author:

Gareth Arnold
Development Manager,
Directorate of Economy
and Place

Chief Officer Responsible for the report:

Mike Slater
Assistant Director (Planning and Public
Protection)

**Report
Approved**



Date 18.09.2019

Specialist Implications Officer(s) None.

Wards Affected:

All

For further information please contact the author of the report.

Annexes

**Annex A – Summaries of Appeals Determined between 1 April and
30 June 2019**

Annex B – Outstanding Appeals at 18 September 2019

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Appeal Summaries for Cases Determined 01/04/2019 to 30/06/2019

Application No: 17/02899/FUL
Appeal by: Mr R Padgett
Proposal: Change of use of dwelling (use class C3) to House in Multiple Occupation (use class C4) (resubmission)
Site: 33 Hadrian Avenue York YO10 3RD
Decision Level: DEL
Outcome: DISMIS

Application property is a 4 bed mid block of four house with an alleyway that leads to a rear garden and it is located in a small cul-de-sac. As a result of proposal the HMO threshold on the street would be 23% (limit is 10%) and in the area 18.2% (limit is 20%). The application was refused because it was considered it would erode of residential amenities and be detrimental to the character of the area as a result of comings and goings of occupiers being likely to be more often than those of a conventional dwellinghouse, and therefore more harmful in a quiet residential cul-de-sac, and because of lack of off street parking. The inspector dismissed the appeal on the grounds that the activity associated with occupation by 4 independent residents would be greater than that of a single family and it would likely give rise to a significantly greater overall variation in movement patterns with increased visitors and fewer linked trips. Also increased activity including likely audible conversations and comings and goings potentially at times when neighbours would seek peace and quiet. He felt the car parking could be addressed by provision of a dropped kerb

Application No: 18/00264/FUL
Appeal by: Mrs Fereshteh Hurst
Proposal: Use as a 7 bedroom house in multiple occupation.
Site: 64 Newland Park Drive York YO10 3HP
Decision Level: CMV
Outcome: DISMIS

The application site comprised a semi-detached house with self-contained annexe and was in use as an HMO within the C4 use class. Sub-committee refused permission for use as a 7 bed HMO because of the impact on the living conditions of nearby residents and the residential qualities of the area from increased noise and disturbance and parking pressures, in the context of existing high levels of HMOs in the area. There is only one car parking space for the property and no proposal to increase the provision. The Inspector noted the considerable parking pressures in the locality and concluded that the potential for further car parking pressures to the detriment of the area would not comply with Council policy or the NPPF. In terms of living conditions, whilst noting that noise and disturbance currently experienced in the area could not necessarily be attributed to this HMO, she concluded that an extra occupant would inevitably result in more trips to and from the property as well as potentially more late night noise and disturbance. This would be contrary to draft Local Plan policies and the objectives of the NPPF.

Application No: 18/01102/FUL
Appeal by: Mr Samuel Leach
Proposal: Variation of conditions 1 and 3 of permitted application 17/00274/FUL to amend approved plans to omit timber cladding from containers and for external artwork and vinyl lettering
Site: Spark York Piccadilly York YO1 9PB
Decision Level: CMV
Outcome: DISMIS

The appeal was against not having timber cladding around the exterior of the site. This left the containers, scaffolding and void beneath the containers exposed. The containers vary in their decoration. The scheme was refused by members. The inspector agreed with the views in the appeal statement provided by the council. The timber cladding that was to be installed would have screened the harsher, more industrial elements of the development, whilst still retaining the modern, contemporary ethos of the site. The works as completed expose the industrial nature of the site in its totality, which the inspector found to be at odds with the Conservation Area designation. With regards the temporary nature of the development the inspector noted that despite the master-planning proposed for the area there were no definitive timescales for re-development and consequently the development could remain on site for longer than the initial temporary permission, causing longer-term harm to the conservation area. With regards the cost of the cladding the inspector gave this little weight, the cost should have been considered at the outset and no financial evidence had been provided to support the statement that the cladding would be cost prohibitive.

Application No: 18/01369/FUL
Appeal by: Mr & Mrs D. McKinney
Proposal: Two storey rear extension with dormer to rear and single storey side and rear extensions.
Site: 56 Shipton Road Clifton York YO30 5RQ
Decision Level: DEL
Outcome: DISMIS

Application for single storey side and rear extensions and two storey rear extension. No objections were raised by Officers to the single storey elements. The two storey rear extension was refused on loss of light and overdominance. The Inspector did not agree that there would be an unacceptable loss of light on habitable rooms of external amenity space. The Inspector concluded that the extension would block the flank view from the projecting bay window. This window has an outlook beyond the rear elevation of the house and this would be lost. They referred to the SPD in relation to openness and views of the sky. The Inspector noted that the kitchen window may be classed as a tertiary window but it currently has views of the sky which would be obscured by the extension. The Inspector stated 'In this regard, I consider that, even if afforded lesser weight, the proposal would also dominate the outlook from this window.'

Application No: 18/01501/FUL
Appeal by: Mr & Mrs Gregor Blasiak
Proposal: Single storey rear extension including raised decked external seating area and external staircase to rear (amended scheme) (retrospective).
Site: 59 Westfield Place Acomb York YO24 3HL
Decision Level: DEL
Outcome: ALLOW

The host dwelling is two-storey, semi-detached and on a sloping site. This application sought permission (retrospectively) for a single storey rear extension, along with external staircase and raised balcony, which was refused on the grounds of loss of privacy and outlook for adjacent residents, further to the proposed balcony and staircase being sited along the common side boundary with the adjacent residential site. This application was a re-submission of a recently refused scheme, though now proposed to move the location of an external staircase away from the common side boundary and also now provided a side screen to the balcony area. CYC still considered a balcony sited adjacent to the common boundary, providing views over the neighbouring garden area, was still harmful to privacy levels, despite the provision of a screen. The Inspector, however, disagreed, and considered that removing part of the balcony and providing a Juliet balcony, would increase overlooking of the neighbouring garden, thus the appeal was dismissed.

Application No: 18/01753/FUL
Appeal by: Mr Paul Smith
Proposal: Construction of vehicle access from Heslington Lane
Site: 99 Heslington Lane York YO10 4HP
Decision Level: DEL
Outcome: ALLOW

Application site is at the corner of Heslington Lane and Barmby Avenue. It was refused on grounds that the new vehicular access would lead to the loss of a wide section of the front boundary hedge and replacement of front garden with a gravelled parking surface would have a harmful impact on the streetscene and be at odds with the character and appearance of the road which is one of low boundary walls and/or hedges and natural vegetation to the frontages. The Inspector felt that the provision of a driveway was not a wholly uncharacteristic treatment of front gardens along the street and although the vehicular access would be reasonably wide and require the removal of a section of hedgerow, the remaining hedge to the front and side would contribute to the natural vegetation that was characteristic to boundaries along the street frontage and as he considered that the retention of the remaining hedgerow could be controlled by condition he concluded that the appeal should be upheld. Costs appeal grounds. Development should have been allowed because some parts were permitted development not following case law. Inconsistency. Failing to consider conditions to mitigate harm. The Inspector gave negligible weight to permitted development fallback and considered the officer report clearly set out an assessment of relevant planning policy. The applicant refers to case law and similar proposals in the vicinity but these were only submitted at the appeal stage and the Council did not have the opportunity to respond under the householder appeal process plus the planning decision was a matter of judgement and was supported with reasons. A condition for a replacement hedge to the side boundary would not overcome concerns about the loss of hedge to the front so he did not find that the Council acted unreasonably in discounting such a condition. He found that unreasonable behaviour resulting in unnecessary expense had not been demonstrated and an award for costs was not justified.

Application No: 18/01802/FUL
Appeal by: Mr T Cantrell
Proposal: Extension above existing two storey rear extension to create a third storey, dormer window to rear and single storey rear extension.
Site: 74 Alma Terrace York YO10 4DJ
Decision Level: DEL
Outcome: ALLOW

This application was refused on the grounds that the extensions would result in incongruous and overbearing additions to the property that would impact adversely on the amenity of neighbours and the character of the building and location. The second floor extension and rear dormer would be clad in zinc and the second floor extension incorporated an unusual canted slope with angular edges that officers considered would be incompatible with the original roof form. This awkward appearance was exacerbated by a large square dormer that was considered to be top heavy and when combined with the second floor extension would result in an unbalanced addition to the rear roof slope of this traditional terrace of properties. The inspector noted there were large dormers in the area and no public vantage points to the rear of the appeal property. She considered the use of contrasting materials was appropriate because it would reduce the vertical impact of the extension and successfully bridge the transition from the Victorian terrace to the more modern flats to the west, she also felt that its canted roof would reduce the apparent extent of the dormer. Because it would not be visible from public vantage points she considered it would not have a harmful impact on the character of the area. She also considered there would be no undue harm to the living conditions of neighbours

Application No: 18/01820/FUL
Appeal by: S Headley
Proposal: Hip to gable roof extension, two storey side and rear extension, single storey rear extension, dormer to rear and detached bin and bike store to rear in association with use of property as an HMO.
Site: 50 Heslington Lane York YO10 4NA
Decision Level: DEL
Outcome: DISMIS

Application refused as it failed to provide the number and size of parking spaces to the standard required for maintenance purposes, leading to parking on street. Also with all 3 cars parked up it would be impossible to move bikes/bins from the proposed bin/cycle store in the rear garden to the front street and vice-versa, discouraging bicycle use and leading to bins/cycles being stored in the front garden creating clutter. It was considered pertinent that 6 unrelated residents would have bin/cycle storage requirements greater than those of a single family household. Also the loss of the front boundary wall and exposure of a parking surface to view would have an adverse visual impact on the streetscene and the proposed extensions would be over dominant, unbalanced and incongruous additions. The Inspector noted that 2.7m wide parking spaces would not meet the 3.6m width required by CYC Highway Design Guide. He felt the greater independence of HMO individuals would significantly reduce the potential for shared journeys compared to a single family household, concluding it was likely that the increase in occupants and inadequate parking provision would lead to increased demand for on street parking; noting that parking problems had been referred to in the area. He also noted that occupants cars would extend across the full width of the frontage restricting access to the rear garden, leading to storage of bins/cycles at the front, creating clutter. He felt that the loss of the front wall/hedge, extent of hard surfacing and vehicle parking, occurrence of bin and cycle storage and loss of grass verge due to widening of the dropped kerb would detract from the character and appearance of the area. He felt that although the extensions would not be readily visible from the front they would be visible from private gardens to the rear and would be incongruous/obtrusive additions, harmful to the character and appearance of the area.

Application No: 18/01821/FUL
Appeal by: S Headley
Proposal: Hip to gable roof extension, two storey side and rear extension, single storey rear extension, dormer to rear and detached bin and bike store to rear in association with use of property as an HMO.
Site: 58 Heslington Lane York YO10 4NA
Decision Level: DEL
Outcome: DISMIS

Application refused as it failed to provide the number and size of parking spaces to the standard required for maintenance purposes, leading to parking on street. Also with all 3 cars parked up it would be impossible to move bikes/bins from the proposed bin/cycle store in the rear garden to the front street and vice-versa, discouraging bicycle use and leading to bins/cycles being stored in the front garden creating clutter. It was considered pertinent that 6 unrelated residents would have bin/cycle storage requirements greater than those of a single family household. Also the loss of the front boundary wall and exposure of a parking surface to view would have an adverse visual impact on the streetscene and the proposed extensions would be over dominant, unbalanced and incongruous additions. The Inspector noted that 2.7m wide parking spaces would not meet the 3.6m width required by CYC Highway Design Guide. He felt the greater independence of HMO individuals would significantly reduce the potential for shared journeys compared to a single family household, concluding it was likely that the increase in occupants and inadequate parking provision would lead to increased demand for on street parking; noting that parking problems had been referred to in the area. He also noted that occupants cars would extend across the full width of the frontage restricting access to the rear garden, leading to storage of bins/cycles at the front, creating clutter. He felt that the loss of the front wall/hedge, extent of hard surfacing and vehicle parking, occurrence of bin and cycle storage and loss of grass verge due to widening of the dropped kerb would detract from the character and appearance of the area. He felt that although the extensions would not be readily visible from the front they would be visible from private gardens to the rear and would be incongruous/obtrusive additions, harmful to the character and appearance of the area.

Application No: 18/01827/FUL
Appeal by: Mr Paul Housam
Proposal: Single storey side extensions and erection of boundary wall
Site: 9 Boltby Road York YO30 4UW
Decision Level: DEL
Outcome: DISMIS

Planning permission was refused for erection of boundary wall. Number 9 Boltby Road is a detached dwelling located on the corner with Dale Dyke Grove. The boundary to Dale Dyke Grove is enclosed by a low brick wall of approximately 0.5m in height. The character of dwellings on Dale Dyke Grove, which is a small cul-de-sac, is derived principally from their comparable set back from the road behind an open front garden area. The proposal was to enclose part of the front garden with a 1.8m high wall built to the back edge of the footway. The Council considered the proposed boundary wall by virtue of its corner position, height, appearance and position projecting from the front of the house, across the front garden and along the front boundary to Dale Dyke Grove would appear incongruous, significantly out of character and unduly imposing feature to the front boundary of this cul-de-sac. Dale Dyke Grove is characterised by its openness and open plan layout to the fronts with no equivalent sized front boundary means of enclosure and the proposal here will be at odds with this. The Inspector concluded that the boundary wall would harm the character and appearance of the area, in conflict with the NPPF and the Councils SPD on domestic alterations.

Application No: 18/01862/FUL
Appeal by: Miss Alison Kathryn Kay
Proposal: Single storey rear extension, dormer window to rear and 2no. rooflights to front
Site: 72 Dale Street York YO23 1AE
Decision Level: DEL
Outcome: ALLOW

Application was refused on grounds that both the rear roofscape of the terrace in which this property lies and the row of terraced properties immediately to the north nos. 32-42, both terraces being Buildings of Merit, is relatively undisturbed, apart from one rear dormer on an end property, and make a strong contribution to the qualities of the conservation area. It was considered that any further intervention should be avoided in order to protect the important contribution that the roof of the terrace as a whole makes to the character of the historic townscape. The full width extension was also considered to be out of character with historic grain of the area, where rear extensions generally occupy only one side of the rear yard, with the proposed low pitched roof to the extension being at odds with the higher slope of the main roof to the terrace and the use of the proposed low pitch eternit roof tile appearing incongruous on this traditional slate roofed terrace. It was also considered that the proposed 3.88m high rear extension would have an overbearing and oppressive impact on the narrow rear yard and rear windows of the adjoining property no.74 Dale Street, reducing natural light and being harmful to the outlook of these occupants and the sense of space within their rear rooms and rear yard. The inspector considered that the extension would not detract from the qualities of the conservation area, the roof slope would not be out of keeping, the use of fibre cement tiles would not be discordant and the full width nature of the extension would not harm the urban grain. The dormer was of modest proportions and would appear as an incremental development. She considered that as no.74 lies south west of no.72 it was unlikely that natural light would be reduced and the overall effect would be to increase the sense of space within the yard and rear rooms of no.74 and would not be oppressive.

Application No: 18/02145/FUL
Appeal by: Mr Martin Taylor
Proposal: Erection of 2no. bungalows (resubmission)
Site: Land Fronting 18 Oak Tree Way Strensall York
Decision Level: DEL
Outcome: DISMIS

The application sought permission for 2 small bungalows and associated parking on a strip of land running parallel to the curve of a residential estate road. The application was refused as result of the impact on the character and appearance of the area. The properties would almost entirely fill the site within the only remaining space being taken up by the parking area. The Inspector recognised that the character of the area was of large properties in spacious plots with a set back from the highway and generous rear gardens. The proposal would harm this identified character and would result in the loss of existing trees; it was thereby contrary to policies D1 and GI4 of the emerging Local Plan. Issues relating to drainage were also raised. No detail had been provided with the application and it was suggested that soakaways or a nearby culvert would be used. The inspector noted that soakaways would not be possible given the constricted nature of the site. Issues had been raised by the LLFA, IDB and residents regarding surface water drainage issues in the area; given the lack of detail, and issues raised, the inspector considered that conditions would not be appropriate and it should be established prior to granting planning permission that adequate drainage could be achieved. The appeal was dismissed.

Application No: 18/02202/FUL
Appeal by: Mr Mark Allen
Proposal: Dormer window to rear (retrospective)
Site: 19 Tisbury Road York YO26 4UJ
Decision Level: DEL
Outcome: DISMIS

Retrospective permission was sought for a large flat roof rear dormer to a recently extended traditional semi-detached dwelling. As part of the approval for the previous extensions, a flat roof rear dormer was also approved but never built. In building the dormer, the applicants enlarged the space believing it to be p.d. however due to the scale of previous extension there is no p.d. fallback position. The dormer was very large, occupying the full rear roof slope of the original dwelling and was built off of the eaves causing it to take on the appearance of a third floor. The inspector noted that whilst the dormer would not have a significant impact on neighbours amenity, the design, scale and massing of the dormer window substantially alters the two-storey character of the original property.

Application No: 18/02470/FUL
Appeal by: Mr Thomas Wood
Proposal: Erection of 1.8m high boundary fence to side and rear boundaries (retrospective).
Site: 9 Celtic Close York YO26 5QJ
Decision Level: DEL
Outcome: DISMIS

Retrospective planning permission was refused for the erection of a 1.8m high boundary fence on a prominent corner site. The estate is open plan in form, giving a spacious character. In the few cases where there is any boundary treatment this is almost exclusively in the form of hedging or low enclosures along the back edge of the pavement. The boundary timber fence was erected to the side and rear garden of the property after removal of the previous hedgerow that ran around the boundary. The Council considered the site to be very prominent in the street scene, by virtue of its corner position and the fence as built introduced a very solid, stark, extensive and incongruous looking form of enclosure into the street which is at odds with the character of the estate. The erection of the fence conflicted with the NPPF guidance on good design and the Council's draft and emerging Local Plans which seek to ensure that development is designed so as to respect or enhance the local environment and be compatible with the character of the area, and also the Council's SPD on domestic type alterations. The Inspector concurred with the Council that the fence was harmful to the character and appearance of the area due to its size, length and appearance which was at odds with the prevailing character of the area, which was open and undeveloped.

Application No: 18/02620/FUL
Appeal by: Mrs Sabine Kelly
Proposal: First floor rear extension (resubmission)
Site: 58 Middlecroft Drive Strensall York YO32 5UP
Decision Level: DEL
Outcome: ALLOW

58 Middlecroft Drive is a 2 storey brick built detached dwelling in a residential area of Strensall. The property has an existing single storey rear extension around 4m wide and projecting around 3.5m from the rear wall of the house. The application sought to add a first floor hipped-roof element above this. In respect to the effect of the proposed development on the living conditions of the neighbouring occupiers, the Inspector acknowledged that No 56 and 60 have quite spacious, open views from their front windows with a large expanse of sky between and above the surrounding houses. However, at a separation distance of 16m the proposed extension would not be unduly proximate or overbearing. The first-floor element would be brought closer, but not so much that the occupiers of No 56, or No 60, might reasonably feel hemmed in by the development. The second issue related to the effect of the proposed development on the character of the dwelling and the local area. In this regard, the Inspector considered that the modest rearward projection would be commensurate with the length of the side wall of the property's western neighbour at No 62 and would not be out of kilter with that or other properties in the vicinity. The extension would appear subservient to the original dwelling. The separation distances between the property and those surrounding it would enable the spacious feel of the estate to be maintained. The appeal was allowed. The appeal was accompanied by a claim of cost, however the award of costs was refused. The Inspector notes that whilst they do not agree with the Council's assessment of the merits of the proposal, it is not an unreasonable planning judgement and is adequately supported by analysis. Endeavouring to determine the application within statutory timescales was a reasonable approach to have taken.

Application No: 19/00054/FUL
Appeal by: Mr Graeme Kyle
Proposal: First floor side and rear extensions (resubmission).
Site: 66 Grantham Drive York YO26 4TZ
Decision Level: DEL
Outcome: DISMIS

The appeal relates to a two storey semi-detached dwelling which along with the attached dwelling, has a distinctive design with a hipped mansard roof which varies from the majority of more uniform dwellings in the street. It is also set well back from the street frontage compared with the majority of neighbouring properties. Permission was previously sought and refused for a two storey flat roof extension which was dismissed at appeal due to the impact on the character and appearance of the area. Permission was sought again for the two storey extension, however in order to try to overcome the character and appearance concerns, a hipped roof was added to the extension, despite advice from officers that this was not sufficient to overcome the existing concerns. The appeal was submitted due to non-determination of the application, and was dismissed again on character and appearance grounds. The inspector agreed with the Council's viewpoint that the extension would have a jumbled appearance and the addition of the roof would increase the massing of development resulting in an imbalance between the host and adjoining property. The inspector also noted that the extension would be clearly visible in wider views from St Swithins Walk opposite, and concluded that the design, scale and location would unduly harm the character and appearance of the host dwelling and the wider area.

Decision Level:	Outcome:
DEL = Delegated Decision	ALLOW = Appeal Allowed
COMM = Sub-Committee Decision	DISMIS = Appeal Dismissed
COMP = Main Committee Decision	PAD = Appeal part dismissed/part allowed

Outstanding appeals

Officer: Alison Stockdale					Total number of appeals:	2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
10/04/2019	19/00048/REF	APP/C2741/W/19/3226504	W	3 Hawthorne Mews Strensall York YO32 5RR	Extension of garden curtilage onto land at the rear (retrospective resubmission)	
25/07/2019	19/00052/REF	APP/C2741/W/19/3233973	P	OS Fields 5475 7267 And 8384 Moor Lane Acomb	Outline planning permission (with all matters reserved except for means of access) for up to 516 residential units (Class C3) with local centre (Use Classes A1-A4, B1a, C3, D1) public open space with pavilion and associated infrastructure and full application for demolition of existing buildings and structures and creation of ecological protection and enhancement zone.	
Officer: Brian Williams					Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
28/08/2019	19/00056/REF	APP/TPO/C2741/7579	I	York Racecourse Racecourse Road	Fell 18. no G1, mature Lombardy Poplars	
Officer: David Johnson					Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
21/03/2019	19/00019/REF	APP/C2741/Y/19/3220972	W	Blacks 2 St Helens Square York YO1 8QP	Reinstatement of original entrance doors and insertion of glazed entrance screen	
Officer: David Johnson					Total number of appeals:	2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
16/04/2019	19/00041/REF	APP/C2741/D/19/3226856	H	15 Yarburgh Way York YO10 5HD	Two storey and single storey side and rear extension and detached cycle and bin storage building to rear in connection with use of house as a C4 HMO.	
26/07/2019	19/00054/REF	APP/C2741/D/19/3234074	H	4 Farrar Street York YO10 3BZ	First floor rear extension (resubmission).	
Officer: Erik Matthews					Total number of appeals:	2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
29/05/2019	19/00047/NON	APP/C2741/W/19/3229825	W	The New England Lodge Country Park Pottery Lane	Erection of porch to front and conservatory to side	

14/06/2019	19/00046/REF	APP/C2741/W/19/3230969	W	Beetle Bank Farm And Wildlife Sanctuary Moor	Change of use of land for the temporary siting for 2 years of a static caravan, construction of earth bunding and associated facilities for use as a combined animal hospital/accommodation and living accommodation for the owner's family and construction of earth bunding (retrospective)
Officer: Jonathan Kenyon					Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
25/04/2019	19/00032/NON	APP/C2741/W/19/3227359	P	Former Civil Service Club And Agricultural Land To	Residential development of 266 dwellings with associated access, public open space, landscaping and infrastructure
Officer: Lindsay Jenkins					Total number of appeals: 4
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
10/05/2019	19/00058/REF	APP/C2741/W/19/3228547	I	The Punch Bowl 9 Blossom Street York YO24 1AU	Two storey and single storey extensions with roof terrace garden following the demolition of existing single storey rear extensions and fire escape (resubmission)
25/06/2019	19/00050/REF	APP/C2741/H/19/3231821	W	Missoula Montana 1 Bridge Street York YO1 6DD	Display of 1no. internally illuminated panel sign
14/08/2019	19/00057/REF	APP/C2741/W/19/3235333	W	The Judges Lodging 9 Lendal York YO1 8AQ	Temporary change of use of courtyard for holding of annual Christmas market during St Nicholas Fair (approx 6 weeks during November and December).
25/06/2019	19/00049/REF	APP/C2741/Y/19/3231820	W	Missoula Montana 1 Bridge Street York YO1 6DD	Display of 1no. internally illuminated panel sign
Officer: Neil Massey					Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
18/04/2019	19/00026/REF	APP/C2741/W/18/3213654	I	The Jubilee Balfour Street York YO26 4YU	Conversion of first and second floor of public house building to 4no. self-contained apartments and retention of reduced size public house on part of the ground floor.
Officer: Rachel Tyas					Total number of appeals: 2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
20/03/2019	19/00016/REF	APP/C2741/W/19/3220541	W	Bartizan House Lord Mayors Walk York	Change of use of ground floor from retail (use class A1) to 3no. letting bedrooms and the application of self adhesive window film to ground floor windows. (Resubmission - 18/00791/FUL).

20/03/2019	19/00017/REF	APP/C2741/Y/19/3220543	W	Bartizan House Lord Mayors Walk York	Internal and external alterations associated with the change of use of ground floor from retail (use class A1) to 3no. letting bedrooms. (Resubmission - 18/00792/LBC)
Officer: Sandra Duffill					Total number of appeals: 3
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
30/05/2019	19/00051/REF	APP/C2741/D/19/3230287	H	Rufforth Hall Wetherby Road Rufforth York YO23	Dropped kerb and formation of vehicular access and erection of timber entrance gates.
12/03/2019	19/00034/REF	APP/C2741/D/19/3224523	H	1 Church View The Green Skelton York YO30 1XU	Two storey and single storey rear extension and canopy extension to front.
08/08/2019	19/00053/REF	APP/C2741/D/19/3234933	H	Church View 57 Main Street Askham Bryan York	Two storey side extension
Officer: Sharon Jackson					Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
17/07/2019	19/00055/REF	APP/C2741/D/19/3233128	H	100 The Village Strensall York YO32 5XB	Two storey side extension and dormer window to rear.
Officer: Tim Goodall					Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
22/02/2019	19/00025/REF	APP/C2741/W/19/3223376	P	Land At Grid Reference 458205 449925 West Of	Erection of poultry farm comprising 3 no poultry sheds with ancillary buildings, access road and landscaped embankments (resubmission)
Total number of appeals:			21		

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**Area Planning Sub-Committee****3 October 2019****Update on Planning Enforcement Cases****Summary**

1. The purpose of this report is to provide Members with a continuing quarterly update on planning enforcement cases.

Background

2. Members have received reports on the number of outstanding enforcement cases within the Sub-Committee area, on a quarterly basis, since July 1998, this report continues this process for the period 1 April 2019 to 30 June 2019.
3. The lists of enforcement cases are no longer attached as an annexe to this report. The relevant cases for their Ward will be sent to each Councillor by email as agreed by the Chair of the Planning Committee.
4. Section 106 Agreements are monitored by the Enforcement team. A system has been set up to enable Officers to monitor payments required under the Agreement.

Current Position.

5. Across the Council area 165 new enforcement investigation cases were received and 184 cases were closed. A total of 570 investigations remain open.
6. During the quarter 1 Enforcement Notice was served. This related to the erection of an extension without planning permission.
7. Across the Council area 0 Section 106 cases were closed. A total of 117, S106 investigations remain open.
8. A figure of £293'425 has been received from Section 106 payments. This was received in respect of 1 development for affordable housing.

Consultation.

9. This is an information report for Members and therefore no consultation has taken place regarding the contents of the report.

Options

10. This is an information report for Members and therefore no specific options are provided to Members regarding the content of the report.

The Council Plan

11. The Council priorities for Building strong Communities and Protecting the Environment are relevant to the Planning Enforcement function. In particular enhancing the public realm by helping to maintain and improve the quality of York's streets and public spaces is an important part of the overall Development Management function, of which planning enforcement is part of.

Implications

- Financial - *None*
- Human Resources (HR) - *None*
- Equalities - *None*
- Legal - *None*
- Crime and Disorder - *None*
- Information Technology (IT) - *None*
- Property - *None*
- Other - *None*

Risk Management

12. There are no known risks.

Recommendations.

13. That members note the content of the report.

The individual case reports are updated as necessary but it is not always possible to do this straight away. Therefore if members have any additional queries or questions about cases on the emailed list of cases then please e-mail or telephone the relevant planning enforcement Officer.

Reason: To update Members on the number of outstanding planning enforcement cases and level of financial contributions received through Section 106 agreements.

Contact Details

Author:

Author's name
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Principal Development
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Tel. No: 553775

Directorate: **Economy
and Place**

Chief Officer Responsible for the report:

Chief Officer's name
Michael Slater

Assistant Director (Planning and Public
Protection)

**Report
Approved**

☐

Date

Specialist Implications Officer(s) *List information for all
Implications:*

Financial

Patrick Looker

Legal:

Wards Affected: *All Wards*

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