



## Notice of meeting of

### West & City Centre Area Planning Sub-Committee

**To:** Councillors Bartlett (Vice-Chair), Sue Galloway, Horton, Livesley (Chair), Macdonald, Reid, Simpson-Laing, Sunderland and B Watson

**Date:** Thursday, 19 October 2006

**Time:** 3.00 pm

**Venue:** The Guildhall, York

### AGENDA

#### 1. **Declarations of Interest**

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

#### 2. **Exclusion of Press and Public**

To consider excluding the public and press from the meeting during consideration of the annexes to agenda item 6 (Enforcement Cases update) on the grounds that they contain information classed as exempt under Paragraph 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006. This information, if disclosed to the public would reveal that the authority proposes to give, under any enactment, a notice under or by virtue of which requirements are imposed on a person or that the Authority proposes to make an order or directive under any enactment.

To consider excluding the public and press from the meeting during consideration of the annex to agenda item 7 (Planning Appeal at 26 – 28 Tadcaster Road) on the grounds that it contains information

relating to the financial and business affairs of the authority, which is classed as exempt under Paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

**3. Minutes (Pages 3 - 16)**

To approve and sign the minutes of the meetings held on 21 September 2006 and 3 October 2006.

**4. Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding specific planning applications, other agenda items or matters within the remit of the Sub-Committee can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is Wednesday 18 October at 5.00pm.

**5. Plans List**

Members will consider a schedule of reports of the Assistant Director (Planning and Sustainable Development), relating to planning applications with an outline of the proposals and relevant policy considerations and the views and advice of consultees and officers.

- a) **131 The Mount, York (06/01468/FUL)** (Pages 17 - 26)
- b) **Glebe Farm, Hessay To Moor Bridge, Hessay, York (06/01769/FUL)** (Pages 27 - 32)
- c) **73 Gale Lane, York (06/01508/FUL)** (Pages 33 - 42)
- d) **Land To Rear Of 3 To 19 Shirley Avenue, York (06/01904/FUL)** (Pages 43 - 52)

**6. Enforcement Cases Update** (Pages 53 - 146)

Members will consider a report which provides a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by the Sub-Committee.

**7. Planning Appeal at 26 - 28 Tadcaster Road** (Pages 147 - 178)

Members will consider an update report regarding an appeal in connection with a planning application for 26 – 28 Tadcaster Road.

*[Note: The annexes to the report do not contain any information classed as exempt under Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006 and therefore Members do not need to consider excluding the press and public during their consideration.]*

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

Democracy Officer

Name: Simon Copley

Contact Details:

- Telephone (01904) 551078
- Email – [simon.copley@york.gov.uk](mailto:simon.copley@york.gov.uk)

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

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

Contact details are set out above.

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**WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE****Thursday 19 October 2006****Index to items**

<b>SITE</b>	<b>ITEM</b>	<b>VISIT</b>
<b>131 The Mount</b>	<b>A</b>	<b>V</b>
<b>Glebe Farm, Hessay</b>	<b>B</b>	<b>V</b>
<b>73 and 75 Gale Lane</b>	<b>C</b>	
<b>Land Rear of 3 to 19 Shirley Avenue</b>	<b>D</b>	

**WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE  
SITE VISITS**

**Wednesday 18 October 2006**

<b>TIME</b> (Approx)	<b>SITE</b>	<b>ITEM</b>
<b>11.10</b>	<b>131 The Mount</b>	<b>A</b>
<b>12.00</b>	<b>Glebe Farm, Hessay</b>	<b>B</b>

City of York Council

Minutes

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MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	21 SEPTEMBER 2006
PRESENT	COUNCILLORS BARTLETT (VICE-CHAIR), SUE GALLOWAY, HORTON, LIVESLEY (CHAIR), MACDONALD, SIMPSON-LAING, SUNDERLAND AND B WATSON
APOLOGIES	COUNCILLORS REID

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**20. INSPECTION OF SITES**

The following sites were inspected before the meeting:

Site	Reason for Visit	Members Attended
Car Park adjacent to The Dutch House, Ogleforth	To familiarise Members with the site.	Cllrs Livesley, S Macdonald, B Galloway, B Watson, Sunderland, Bartlett.
35 Walmgate	To familiarise Members with the site.	Cllrs Livesley, S Macdonald, B Galloway, B Watson, Sunderland, Bartlett.
53 Skeldergate	To familiarise Members with the site.	Cllrs Livesley, S Macdonald, B Galloway, B Watson, Sunderland, Bartlett.
The Judges Lodging, 9 Lendal	To familiarise Members with the site.	

**21. DECLARATIONS OF INTEREST**

At this point Members were requested to declare any personal or prejudicial interests in any of the business on the agenda.

None were declared.

**22. MINUTES**

RESOLVED: That the Minutes of the meeting of the Planning and Transport West and City Centre sub committee meeting on 17 August be approved and signed by the Chair as a correct record with the following amendments;

That;

St Mary's C of E Primary School, School Lane, Askham Richard be removed from minute 15. Inspection of Sites and that the declaration made by Cllr Horton under minute 16. Decalrations of Interest should be amended to read that "he knew one of the applicants".

**23. PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak, under the City of York Council 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 Sustainable Development), relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views and advice of Consultees and Officers.

**24a. 41 Station Road, Upper Poppleton, York, YO26 6PX (06/00662/FUL)**

Members considered a full application, submitted by Mrs and Mrs Deighton, for the erection of a single dwelling with garage and stable block.

Officers clarified that the application site was within the settlement limits and not within the greenbelt, as identified in the Local Plan incorporating the 4<sup>th</sup> set of changes, approved by Full Council in 2005. Officers also stated that there had been no record of Members or residents being formally consulted on the boundary alteration at this site.

Mr Lawson addressed the committee and raised the following concerns as he had always understood the greenbelt boundary to run along the line of his rear garden and he could see no reason why this should have changed. He also expressed concerns about his potential loss of privacy, hours of work for any potential construction, fearful of business use being made of the site, protection of trees, particularly the willow, maintenance of the ditch.

Mr Hill addressed the committee to object to the application, He raised strong concerns in connection with the location of the proposed stable block only 40 yards from his house, he raised the existing problems of the sewerage/drainage problems and that more additions to the system would out more pressure on. He also expressed the view that he believed the site to be in the greenbelt and was very worried about any development taking place in it.

Cllr Hopton addressed the committee in her capacity as Ward Member and she raised substantial concerns in relation to the lack of formal consultation about alterations to the greenbelt in this area. She expressed the view to the committee that she felt that there was material consideration, in that the site should not have been removed from the greenbelt as it served an important greenbelt function and that the consultation procedure at that



point, which should have made people aware of the change was inadequate.

Members discussed the application and the significance of the greenbelt and also expressed concern about the impact of the development on the character of the area.

RESOLVED: That the application be refused.

REASON: The scale, design and location of the proposed backland development would be out of character with the existing linear housing development pattern along Station Road; as such the proposal would harm the character and appearance of the area. This would be contrary to Policy GP10 and H4A of the Development Control Local Plan which states that planning permission for infilling will only be granted where this would not be detrimental to the character and amenity of the local environment and it is of an appropriate scale and density to surrounding development; and contrary to Design Guideline 3 of the Poppleton Village Design Statement Supplementary Planning Guidance which states that any new development on the village periphery should be in keeping with surrounding properties and the countryside and should enhance external views of the village.

**24b. 53 Skeldergate York, YO1 6DS (06/01293/FUL)**

Members considered a full application submitted by A and K Clark for the change of use and alterations to existing gymnasium building to create an additional 4 no. apartments at first and second floor and extension to existing ground floor entrance (revised scheme).

Officers updated the committee with a revision to condition 2 which was that the third drawing reference was LAL Drawing No.3 Rev.E.

RESOLVED: That the application be approved in line with the conditions and informatives in the report.

REASON: As the development complies with Policy E4 of the North Yorkshire County Structure Plan; Policies HE3, HE4, L1 GP15 and GP1 of the City of York Draft Local Plan – Incorporating the proposed 4<sup>th</sup> set of changes deposit draft and national planning guidance contained in Planning Policy Statement 1 “Delivering Sustainable Development” and Planning Policy Guidance Note No. 15 “Planning and the Historic Environment”.

**24c. 53 Skeldergate, York, YO1 6DS (06/01294/LBC)**

Members considered a application for Listed Building Consent, submitted by A and K Clark, for internal and external alterations to existing gymnasium building to create an additional 4 no. apartments at first and

second floor and extension to existing ground floor entrance (revised scheme).

Officers updated the committee with a revision to condition 2 which was that the third drawing reference was LAL Drawing No.3 Rev.E.

RESOLVED: That the application be approved in line with the conditions and informatives in the report.

REASON: As the proposal complies with Policy E4 of the North Yorkshire County Structure Plan; Policies HE4 and GP1 of the City of York Draft Local Plan – Incorporating the proposed 4<sup>th</sup> set of changes deposit draft and national planning guidance contained in Planning Policy Statement 1 “Delivering Sustainable Development” and Planning Policy Guidance Note No. 15 “Planning and the Historic Environment”.

**24d. The Judges Lodging, 9 Lendal, YORK, YO1 8AQ (06/00724/FUL)**

Members considered a full application, submitted by Judges Lodging Ltd, for alterations and refurbishment of existing hotel, restaurant and bar and canopies to rear terrace area.

Officers tabled the list description for this building and also clarified that it had neither had legal status nor represented a comprehensive list of all of the listed features but rather then idiosyncrasies of the author.

Stephanie Leeman, architect addressed the committee to speak in support of the application and also tabled a drawing. As a result it is recorded that drawing number 3679 (00) 07 A in condition 2 be replaced with drawing number 3679 (00) 07B.

RESOLVED: That the application be approved in line with the conditions and informatives outlined in the committee report.

REASON: The proposal complies with Policy E4 of the North Yorkshire County structure Plan; Policies HE2, HE3, HE4, GP18 and GP1 of the City of York Draft Local Plan – incorporating the proposed 4<sup>th</sup> set of changes deposit draft and national planning guidance contained in Planning Policy statement 1 “Delivering Sustainable Development” and Planning Policy Guidance Note No.15 “Planning and the Historic Environment.”

**24e. The Judges Lodging, 9 Lendal, York, YO1 8AQ (06/00725/LBC)**

Members considered an application for Listed Building Consent, submitted by Judges Lodging Ltd, for alterations and refurbishment of existing hotel, restaurant and bar and canopies to rear terrace area.

Officers updated the committee that drawing number 3679 (00) 07 A in condition 2 be replaced with drawing number 3679 (00) 07B.

RESOLVED: That the application be approved in line with the conditions and informatives outlined in the committee report.

REASON: The proposal complies with Policy E4 of the North Yorkshire County structure Plan; Policies HE2 and GP1 of the City of York Draft Local Plan – incorporating the proposed 4<sup>th</sup> set of changes deposit draft and national planning guidance contained in Planning Policy statement 1 “Delivering Sustainable Development” and Planning Policy Guidance Note No.15 “Planning and the Historic Environment.”

**24f. 35 Walmgate, York, YO1 9TX (06/01710/FUL)**

Members considered a full application, submitted by William Moore, for the change of use from retail class (A1) to hot food takeaway Class (A5) with rear extract duct (resubmission).

Officers updated the committee that a further objection had been received which raised concerns about the detrimental impact on the churchyard, intrusion and noise and the need for bins.

Mr Kightly, Church Warden at St Deny’s addressed the committee and made suggestions to minimise the impact

Members requested a condition to limit the hours for home delivery to 10am - 11.30pm Sunday – Thursday and 10am - 12.30am on Friday and Saturday. In addition, that a further condition be added to request the location of the bin storage to be confirmed in writing with the Local Planning Authority.

RESOLVED: That the application be approved in line with the conditions and informatives in the report as well as the additional conditions above.

REASON: As the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (alteration No.3 adopted 1995) and Policies S6 and S7 of the City of York Local Plan Deposit Draft.

**24g. 35 Walmgate, York, YO1 9TX (06/01712/LBC)**

Members considered an application for Listed Building Consent, submitted by William Moore, for the change of use from retail class (A1) to hot food takeaway Class (A5) with rear extract duct (resubmission).

Officer advised of the need for an additional condition to retain an existing fireplace and to prevent the use of suspended ceilings.

RESOLVED: That the application be approved in line with the conditions and informatives in the report as well as the additional conditions above.

REASON: As the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (alteration No.3 adopted 1995) and Policy HE4 of the City of York Local Plan Deposit Draft.

**24h. Plot 13 Great North Way (06/01244/FULM)**

Members considered a full application, submitted by Mandi Riley, for part change of use of black B (currently under construction) from B1, B2 or B8 uses (business, light industry or storage/distribution) to use as indoor children's play centre.

RESOLVED: That the application be refused.

REASON: By the reason of the location of the proposal within an employment site those arriving at the site by sustainable means are likely to be placed in conflict with motor vehicle traffic associated with the employment uses nearby including manoeuvring service traffic this would prejudice road safety conditions.

The proposal would result in the loss of B1, B2, B8 (business, light industry or storage/distribution) employment uses and the applicant has failed to demonstrate that there is sufficient supply of employment land to meet both immediate and long term requirement over the development plan period in both quantities and qualitative terms and that the development of the site will lead to significant benefits to the local economy; as such it is considered that the change of use would harm the City Council's objectives of creating the conditions necessary to stimulate the local economy and to provide for a wide range of new employment opportunities to meet the needs of local incoming employers, this is contrary to policy E3b of the City of York Development Control Draft Local Plan.

The proposed out of centre location is not considered to be genuinely accessible by a wide choice of means of transport and the applicant has failed to demonstrate that sites within York City Centre or on the edge of the City Centre have been assessed and are incapable of meeting the development requirements of the proposal. As such the location is considered to be inappropriate for leisure development and contrary to policy SP7a, GP4a and L1a of the Development Control Local Plan and Central Government advice contained in PPG13 (Transport) and PPS6 (Planning for Town Centres).

**24i. Cat park adjacent to The Dutch House, Ogleforth, York, YO1 7JG (06/01366/FUL)**

Members considered a full application, submitted by Lawton, Lawton and Pickard for the erection of 2 no. dwellings.

Mr Midgely addressed the committee on behalf of the applicant and outlined the features of the scheme. In addition he accepted Members request for an electric gate and dropped kerb entrance.

RESOLVED: That the application be approved in line with the informatives and conditions outlined in the report.

REASON: The proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies H4, GP1, HE2, HE4, HE10 and T16 of the City of York Local Plan Deposit Draft.

**24j. Arclight Project, Bullnose Building, Leeman Road (06/01705/FUL)**

Members considered a full application, submitted by York Arc-Light Project, for the renewal of planning permission 04/02787/FUL for change of use of building to overnight accommodation, offices and support facilities until 17 April 2008.

RESOLVED: That the application be approved in line with the conditions and informatives in the report.

REASON: The proposal complies with policies CYC1 and CYGP23 of the City of York Draft Development Control Plan, incorporating the 4<sup>th</sup> set of changes (April 2005).

COUNCILLOR D LIVESLEY

Chair

The meeting started at 3.00 pm and finished at 5.55 pm.

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MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	3 OCTOBER 2006
PRESENT	COUNCILLORS BARTLETT (VICE-CHAIR), SUE GALLOWAY, HOLVEY, LIVESLEY (CHAIR), MACDONALD, REID, SIMPSON-LAING, SUNDERLAND, B WATSON AND FRASER (SUBSTITUTE FOR HORTON)
APOLOGIES	COUNCILLOR HORTON

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**25. INSPECTION OF SITES**

The following sites were inspected before the meeting:

Site	Reason for Visit	Members Attended
23 St Paul's Square	To familiarise Members with the site, at the request of Cllr B Watson	Cllrs Bartlett, Livesley, Sunderland and B Watson
Fox and Hounds, 39 Top Lane, Copmanthorpe	To familiarise Members with the site	Cllrs Bartlett, Livesley, Sunderland and B Watson

**26. DECLARATIONS OF INTEREST**

At this point Members were asked to declare any personal or prejudicial interests they may have in the business on this agenda.

None were declared.

**27. MINUTES**

Due to an administrative error, the wrong minutes were attached to the agenda which had been previously signed. Therefore there were no minutes to sign at the meeting.

**28. PUBLIC PARTICIPATION**

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

**29. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That the public and press be excluded from the meeting during consideration of annex 3 of Agenda Item 6 (minute 31 refers), on the grounds that it contains information relating to financial and business affairs which forms information which is classed as exempt under Paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

**30. PLANS LIST**

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

**30a. 23 St Pauls Square, York YO24 4BD (06/01901/LBC)**

Members considered a Listing Building Consent application, submitted by Mr Body, for alterations to rear window and door glazing and internal door at 23 St Paul's Square, York.

To ensure clarity, Members requested that the application included the wording "in rear porch" at the end of the description.

RESOLVED: That the application be approved in line with the conditions and informatives in the report.

REASON: The application complies with Policies HE2, HE3 and HE4 of the City of York Development Control Local Plan (2005): and the Planning Policy Guidance 15 – Planning and the historic environment.

**30b. Fox And Hounds 39 Top Lane Copmanthorpe York YO23 3UH (06/01762/OUT)**

Members considered an outline application, submitted by Enterprise Inns Plc, for erection of 8 apartments with associated car parking and landscaping and extension to existing public house car parking facilities at Fox and Hounds, 39 Top Lane, Copmanthorpe, York.

Officers updated the Committee that objections had been received from Copmanthorpe Parish Council, which included concerns relating to loss of views, loss of parking, no mention of the Village Design Statement, and sought inclusion of a S106 agreement. Comments were also received from Highway Development requesting extra highway conditions be included to any permission granted. In addition officers had received 7 additional letters from members of the public in objection to the scheme.



David Johnson, Agent for the Applicant, addressed the Committee in support of the application and emphasised the merits of the scheme.

Members raised concerns about whether the developers could increase the number of flats on the site, which would create highway and parking issues, and resolved to include a condition restricting the number of units to 8. Members agreed to include an informative requesting that the application conform with the Village Design Statement guidelines.

RESOLVED: That the application be approved in line with the conditions and informatives in the report with the following conditions and informatives included:

1. No part of the residential development shall be occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the footway to match adjacent levels.

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

2. The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

a) The provision of a 2m wide footway fronting the site in both Top Lane and Tadcaster Road.

Reason: In the interests of the safe and free passage of highway users.

3. Prior to the commencement of any works on site, full details shall be submitted to and agreed in writing by the LPA of the means of supporting that area of public highway, including proposed new footway, within Top Lane adjacent to the site. Submitted details shall be in all respects in accordance with the City of York council document "Technical Approval Procedures For Developers Structures."

Reason: To ensure that the footway extension to the public highway is constructed in a safe and sound manner and is fit for adoption as a highway maintainable at public expense.

4. The extension to the western car park shall be completed in all respects prior to the commencement of the residential development.

Reason: To ensure adequate car parking facilities are maintained for the "Fox and Hounds" public house throughout the development clear of the public highway and public access is maintained.

5. The residential development hereby permitted shall not commence until full details of the proposed vehicular access, car parking and cycle storage facilities have been submitted to and approved by the Local Planning Authority in consultation with the Local Highway Authority. These facilities shall be constructed in accordance with the specification so approved prior to the development being first brought into use and thereafter shall be maintained clear of any obstruction which would preclude their intended use.

Reason: To ensure appropriate on-site vehicle parking facilities, access and manoeuvring areas are provided in the interest of highway safety and general amenity of the development.

6. 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 -  
Stuart Partington (01904) 551361  
Cafe Licence - Section 115 - Miss T Santana (01904) 551367

7. The development shall comprise of 8 no. flats.

Reason: To accord with the submitted details given the configuration of the site and the submitted parking layout and to provide a mix of unit sizes as required by policy H3c of the Development Control Local Plan.

8. INFORMATIVE: Members of the sub-committee will expect a future reserved matters submission to demonstrate compliance with the design guidelines of the Copmanthorpe Village Design Statement Supplementary Planning Guidance.

**30c. 19 Horseman Avenue Copmanthorpe York YO23 3UF (06/01772/OUT)**

Members were advised that this application had been withdrawn by the applicant prior to the meeting and as such was not part of the Plans List for determination.

**31. URGENT BUSINESS - PLANNING APPEAL AT 26-28 TADCASTER ROAD**

Members considered a report which contained officer advice about an Appeal in connection with planning application 26-28 Tadcaster Road (06/00103/FULM).

A Public Inquiry was due to be held, into the appeal against the Council's refusal of planning permission for residential development at 26 – 28 Tadcaster Road. One of the reasons for refusal was on highway grounds, against highway officers' recommendation. The Council had to provide evidence at a Public Inquiry in support of all reasons for refusal. However, in this case, highway officers considered that it was not possible for them to defend the highway reason for refusal at the Inquiry. Officers advised that this leaves a serious risk of an award of costs against the Council, in the absence of supporting evidence: serious doubts would be raised about satisfying the Inspectorate that the Council had acted reasonably in relation to the highway issues. Officers, therefore, requested Members to consider whether they would wish to withdraw the highway reason, in the hope of reducing the risk of costs. The other reason for refusal, on design grounds, would still be defended at the Inquiry. Officers were taking further advice from an independent traffic consultant.

There were two options presented to Members:

- (i) For the highway reason to be defended at the Inquiry. If the independent traffic consultant's findings concur with those of the Council's own highway officers, then the reason could only be defended as part of the planning officer's proof of evidence; that is without any technical highway evidence or expertise from the highway profession. However, if the consultant's advice differs substantially, the consultant could be retained to appear at the Inquiry as the expert witness.
- (ii) For Members to agree to withdraw the highway reason for refusal; with the planning officer's evidence relating solely to the design reason.

An email from Cllr Hopton, stating reasons for not removing the Highway reason for refusal, was circulated at the meeting. Confidential Annex 3 (the independent traffic consultant's report) was tabled at the meeting.

The meeting was adjourned for 20 minutes to allow Members time to peruse the additional information and for copies of the minutes from the meeting on 16 March 2006, when the original decision was made, to be copied and circulated.

The meeting went into private session to consider the content of Annex 3 and to receive legal advice. Members requested further information relating to the issues contained in this report and agreed to defer the item to the next meeting to allow for a more detailed report to be obtained from the independent traffic consultant.

**RESOLVED:** That the item be deferred to the next meeting on 19 October.

**REASON:** To allow for a more detailed report to be obtained from the independent traffic consultant.

COUNCILLOR D LIVESLEY

Chair

The meeting started at 12.00 pm and finished at 2.10 pm.

**COMMITTEE REPORT**

**Committee:** Central Area                      **Ward:** Micklegate  
**Date:** 19 October 2006                      **Parish:** Micklegate Planning Panel

**Reference:** 06/01468/FUL  
**Application at:** 131 The Mount York YO24 1DU  
**For:** Erection of safety railings above entrance door and bay window on front elevation, erection of service kiosk to side elevation, provision of service ducting to rear courtyard and side elevation and laying of external decking with safety railings to existing flat roof area (all retrospective)  
**By:** Mr W Legard  
**Application Type:** Full Application  
**Target Date:** 24 August 2006

**1.0 PROPOSAL**

1.1 On 6 January 2005, planning permission was granted by the City Council for the conversion of a former antique showroom to five self contained flats, and work is now nearing completion. During the conversion works, a number of alterations have been made which did not form part of the original planning application, and consent is now being sought to regularise the situation. The works are as follows:

- i) the erection of safety railings enclosing the roof area above a bay window facing The Mount, access to which is gained from a window in the first floor flat immediately above the bay window. Safety railings have also been erected enclosing a flat roof area above the entrance to the basement flat, also facing The Mount, access to which is gained through a door in the first floor flat above.
- ii) the erection of a brick built "services kiosk" bridging a narrow gap between the north (side) elevation of the building, and a coach house (in residential use) located within the curtilage of the adjacent property, 129 The Mount.
- iii) the provision of metal ducting on the rear courtyard and side elevation of the building between ground and first floor level, enclosing cabling and pipework.
- iv) the laying of external decking with safety railings to a flat roof area surrounded on three sides by pitched roofs, access to which is gained by a steep "ladder" staircase and access hatch from the first floor flat below.

The building is not listed but is located within the Central Historic Core conservation area.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Central Historic Core 0038

City Boundary York City Boundary 0001

## 2.2 Policies:

CYGP1  
Design

CYHE3  
Conservation Areas

## 3.0 CONSULTATIONS

### 3.1 INTERNAL

HIGHWAYS - No highway implications

URBAN DESIGN AND CONSERVATION - The building is an unlisted building situated just within the central historic core conservation area, on a prominent rise off the major approach road into the centre from the South.

The application seeks to regularize various additional items of work which have occurred during the course of the approved conversion into apartments and which would be external to the building envelope.

The applicant did discuss the addition of safety railings at the front of the building at an earlier stage; and whilst we considered that a simple railing attached to this large building would not necessarily alter its character sufficiently to harm the conservation area we did draw attention to possible amenity issues if the areas were used for sitting out. The upper bay window area in particular is large enough to take tables and chairs and it is in an exposed high location. Consequent activity on the building frontage would not preserve the formal and more private nature of the street elevations in this part of the conservation area. The neighbours in the adjacent coach house might also feel overlooked. It would be possible to introduce guarding within the window reveal of the upper window or alternatively to restrict the window opening except for maintenance access. The smaller area over the new doorway is less of an issue being smaller, lower and set between the projecting bays.

In view of the conversion it is unfortunate to have lost the possibility of egress adjacent to the north side of the building. However the simple nature of the single storey building would not appear to harm the conservation area as the separation between buildings is maintained above. On a point of detail it would have been better to omit the gutterboard as this is an uncharacteristic detail.

The mid height ducting is most unusual in its exposed location and the relatively large and boxy ductwork running horizontally at mid height does not enhance the building itself. This is not a precedent we would wish to set even to the rear of a building. I have not seen its use elsewhere. We must enquire as to why alternatives were not pursued. We need to know what it contains and why it is so large. The agent's statement should be supplemented with this information. It is sometimes better to clip pipework neatly and leave it exposed. If the ducting can be reduced in size or omitted this might be preferable. It is just visible from the street and when the trees have dropped their leaves it will be more apparent. As a minimum the boxing should be rerouted to avoid the NW corner of the building, but the above questions should be addressed first.

I have spoken with building control about the safety railings on the roof and it has been confirmed that fixing hoops would not be a satisfactory alternative given the permanent internal ladder and access hatch. The railings are of simple and lightweight design and are hardly perceptible from public areas outside the site. Using this area for personal amenity though should not be allowed as the access does not comply with regulations and there are critical overlooking considerations. I am concerned that screening should not be suggested as it would appear to accept and legitimize the use of the roof as a private outdoor space. The decking should be removed and the access door locked and used only for maintenance.

### 3.2 EXTERNAL

MICKLEGATE PLANNING PANEL - No objections

NEIGHBOURS - One letter has been received from the occupiers of 129 The Mount making the following points:

- alternative safety methods (such as personal arrest fall equipment) could be used to allow maintenance work to be carried out, thus preventing the use of the roof as an amenity area.
- the applicant claims that the decking has been installed to prevent the theft of lead from the roof. However, the high level of the roof means that access for any potential thief would be difficult.
- in addition, the provision of the decking would make maintenance of the roof covering difficult.
- the timber decking has been designed solely as a flat surface to sit out on and not as a theft deterrent as claimed.
- the use of the decking as an amenity area would result in direct overlooking of a number of windows in the side wall of 129 The Mount, including the corridor access to a number of rooms within the house and a bathroom.
- the roof area also provides a view down into rooflights over a bedroom and shower room within the adjacent coach house. These rooflights often have to be opened for ventilation purposes.
- the decking area also provides a clear view into the rear garden of 129 The Mount, seriously affecting privacy.
- the applicant recognises that a privacy issue may arise and suggests that a condition could be attached requiring a temporary bamboo screen to be erected in order to address this issue. However, it is considered that such a condition would be unenforceable and contrary to advice in Circular 11/95.
- if approved, any screening should be permanent and of appropriate design and materials.
- the provision of railings is not traditional or appropriate to the conservation area. A brick parapet wall or slated structure would be more suitable and would provide permanent screening.
- the railings on the roof of the bay window are not required for safety purposes as there are other ways of securing the window and preventing outside access.
- the amenity space created by the railings directly overlooks a patio area to the front of the coach house.
- the wiring and pipework could have been routed internally, thus avoiding the need for external ducting.
- part of the ducting is highly visible from outside the site and is extremely unsightly and detrimental to the character and appearance of the conservation area.

Further comments have been made in response to the revised proposal incorporating a louvred screen across the upper decking, as follows:

- the revised proposal is a clear acknowledgement that the decking will be used as an amenity area by residents.
- the screen does not fully resolve the problem of loss of amenity, as anyone taller than 1.4 metres will be able to see over the screen. The screen should be 2 metres in height if amenity is to be protected.
- the screen will do little to alleviate the problem of noise to the occupiers of the coach house.
- the screen will be seen as another (non-traditional) item, resulting in visual clutter and having a detrimental impact on the conservation area. An alternative and more appropriate design solution should be sought.
- the use of the bay window for amenity purposes would be unlikely if no railings were installed, and our previous comments on this matter remain unchanged.
- the disruption to residents from having services within the building does not justify the use of external ducting, and does not override the statutory duty to preserve or enhance the conservation area.
- by installing the ducting, the applicant has clearly adopted the cheapest/easiest solution. We do not agree that the ducting only has a limited impact on the conservation area.

#### **4.0 APPRAISAL**

##### 4.1 Key Issues

- visual impact of the proposal on the character and appearance of the conservation area
- impact on the amenity and privacy of neighbours

4.2 The property to which the application relates is a substantial detached two storey (with "split level" basement) building located within an extensive curtilage, with a frontage to The Mount. It is undergoing conversion to five self contained flats, having formerly been in use as an antique showroom with living accommodation on the upper floor. The application is retrospective and relates to the carrying out of a number of operational developments around the property.

4.3 The building is not listed but is located within the Central Historic Core conservation area. When determining planning applications within conservation areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character and appearance of the area. This duty is re-iterated in Central Government advice contained within Planning Policy Guidance Note 15: "Planning and the Historic Environment", and is reflected in Policy E4 of the Approved North Yorkshire Plan, which states that buildings and areas of special townscape, architectural or historic interest will be afforded the strictest protection.

4.4 Draft Local Plan policies GP1 and HE3 are also relevant to this application. Policy GP1 (Design) states that development proposals will be expected to respect or enhance the local environment and be of a scale and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials, and ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. Policy HE3 states that within conservation areas, proposals involving external alterations will only be permitted where there is no adverse effect on the character and appearance of the area.

4.5 It is generally accepted that the mere use of a flat roof area for sitting out purposes does not constitute development requiring planning permission. However, the carrying out of other



operations, such as the laying of decking or the erection of railings, are considered to be operational development for which planning permission is required, particularly bearing in mind that the properties concerned are apartments and thus have no "permitted development" rights. It is considered that the introduction of safety railings and decking would make it more likely that such areas would be used for sitting out by the occupants of the apartments, particularly bearing in mind the lack of any alternative private amenity space within the site and the fact that the apartments concerned would both have three bedrooms, with potential for occupation by small families. It is considered, therefore, that the intensification of use of the areas as outside amenity space is considered to be a material consideration in this case.

4.6 The applicant states that the provision of railings above the bay window and basement flat entrance to the front elevation of the property address a safety concern for the occupiers of the new living accommodation. The railings are painted black and are of a slim and simple design, those above the bay window being "sleeved in" to the stonework as opposed to consisting of prefabricated sections. It is not considered that they detract from the overall appearance of the building or from the character and appearance of the wider conservation area. Views from the lower level (above the entrance door) are for the most part restricted to the area immediately in front of the building by the bay window on one side and a projecting wing on the front elevation of the building on the other. Any oblique sideways view is restricted by an adjacent densely planted garden area, and also by the fact that 129 The Mount is at a higher level than the application site.

4.7 However, views are available from the upper level (above the bay window) across the front of 129 The Mount, including a patio area in front of the coach house, which has been converted to residential use. The upper terrace and patio are in close proximity to each other, resulting in steeply downward views of the patio area from the terrace. However, the applicants agent points out that the patio area is at least partially open to public view to passers-by from The Mount, and that no condition was attached to the grant of planning permission for the conversion of the building to apartments preventing the use of the terrace as a private amenity space. Furthermore, the coach house, although self contained, is occupied solely as an annex to the main house and not as an independent dwelling unit, its occupation being controlled by a condition attached to the original planning permission granted in May 1996. As such, the patio area is not the sole private amenity space within the curtilage of the property, and when assessing privacy levels at the property as a whole, it is not considered that the overlooking of this individual area would compromise the privacy and amenity of the occupiers to an extent that would warrant the refusal of planning permission.

4.8 The service kiosk is a small single storey building (2.5 metres x 1.7 metres) occupying a discreet location between the main building and the adjacent coach house located within the curtilage of 129 The Mount, and is not readily visible from beyond the immediate area. It is constructed in brick with a pitched, tiled roof matching the main building, and is for the most part screened from the adjacent property by the side wall of the coach house. Thus the kiosk has only a very limited visual impact and is not considered to adversely affect the amenity or privacy of the adjacent property or the character or appearance of the conservation area.

4.9 The ducting along the rear courtyard and side elevations of the property encloses wiring and pipework which could otherwise be unsightly if left exposed. The applicant has explained that the decision to locate the services externally was taken for reasons of accessibility, the alternative of running the services internally being likely to result in serious disruption to the occupants of the individual flats if upgrading, repair or replacement of the services was required in the future. Although it is accepted that the ducting is of a size and appearance that does not enhance the appearance of the building, which is not listed, it is not readily visible from public vantage points outside the site. A small section can be seen

when approaching the site along The Mount from the north, and the ducting on the rear of the building can be seen from Albermarle Road to the southeast across the intervening allotments, but at a such a distance (approximately 230 metres) that it is not readily discernable. The ducting can also be seen from within the curtilage of 129 The Mount, but only from limited locations at the front of the property alongside its southwestern boundary. In these circumstances, it is considered that the ducting could not be regarded to be unduly intrusive, or to have such a significant effect on the character or appearance of the conservation area that the refusal of planning permission could be justified on these grounds.

4.10 The decking and railings at roof level on the building are enclosed by pitched roofs on three sides and are not visible from public viewpoints outside the site. The railings are painted black and are of an unobtrusive design and appearance, and are not considered to be harmful either to the appearance of the building or the wider conservation area. Access to the flat roof area is by way of a steep "ladder stair" and access hatch from one of the upper floor flats. Both the access stair and hatch are long established and thus would have been available for use by the previous occupiers of the building.

4.11 The applicant states that there are essential health and safety reasons for the provision of the railings to the open side of the flat roof area, even if it was to be used solely for maintenance purposes, there being a long and otherwise unprotected fall down to ground level. The need for the safety railings under the Work at Height Regulations is referred to in a report submitted by a Health and Safety Consultant acting on behalf of the applicant. Building Control have confirmed that alternative arrangements, such as the use of a harness clipped onto metal hoops, would not be acceptable given the permanent nature of the ladder and access hatch. The applicant has pointed out that the steepness of the access stair and the exposed and elevated nature of the flat roof will be likely to limit the degree of useage as an amenity area. Nonetheless, it is considered that the presence of the decking and railings are likely to result in the area being made more attractive as an outside amenity space than it would be otherwise, and thus the likely intensification of use of the flat roof is a material consideration in this case.

4.12 When the application was originally submitted, it was proposed to install a 1.8 metre high bamboo (or similar) screen along the railings in order to address any potential concerns relating to loss of privacy. However, this has now been superseded by a proposal to install permanent screening fixed to the railings, consisting of a metal louvred screen to a height of 1.5 metres. This arrangement would be continued along the top of the railings to meet the roof slopes on either side, thus screening views towards the adjacent property and its rear garden from anyone sitting out on the roof. The louvred screen has been chosen in preference to a more solid structure which might suffer from problems with wind loading, although the applicants agent has confirmed that the louvres will be fixed in position as opposed to being adjustable, in order to ensure privacy. It is proposed that the louvres would be coloured to match the slate grey colour of the existing roof material. The applicants agent has submitted a photograph taken from the opposite side of The Mount, close to its junction with Dalton Terrace, which is the only known view of this part of the roof from a public vantage point. From this viewpoint the existing railings cannot be seen, and only a very small section of the louvred screen would be visible, at a distance of approximately 100 metres. It is not considered, therefore, that the screen would have any adverse impact on the character or appearance of the conservation area, particularly if finished in grey to match the colour of the existing roof covering.

4.13 At the present time, there are views from the decking towards the adjacent property, 129 The Mount, and the intervening coach house, which is also in residential occupation in the form of an annex. The side elevation of 129 The Mount contains a number of windows, serving an entrance hall at ground floor, a storage cupboard, en-suite bathroom and corridor

at first floor, and a further corridor at second floor level. Although these windows could be regarded as serving non-habitable rooms, the bathroom window contains clear glass and the corridor at first floor level runs the full length of the house, giving access to a number of bedrooms and bathrooms. Furthermore, because these windows are at a similar height to the decking and railings, there are clear views towards these windows, with the potential for loss of privacy to occur. It is apparent that when viewing the decking from these windows, anybody sat out on the decking would be readily visible and identifiable, creating an uncomfortable perception of "being watched", particularly bearing in mind that in fine weather it is possible that the decking could be occupied for several hours at a time. However, the separation distance between the edge of the decking and the windows is approximately 18 -19 metres, only marginally less than the 20 - 21 metres which is normally regarded as acceptable between habitable rooms in order to maintain privacy, and it is considered that the installation of a permanent screen across the railings, as proposed by the applicant, would satisfactorily overcome any concerns in relation to possible loss of privacy.

4.14 There are also views from the decking down to roof lights installed in the rear roof slope of the adjacent coach house, which is located directly below the flat roof, serving a bedroom and en-suite bathroom. Although these roof lights are screened by louvred blinds, there will inevitably be occasions when the occupiers would wish them to be opened for ventilation purposes. With the roof light open, the edge of the decking and railings are clearly visible from inside the bedroom, resulting in the possibility (or perception) of overlooking and loss of privacy. Once again, it is considered that the installation of the permanent screening arrangement proposed by the applicant would overcome this problem. In addition, it is possible that conversations taking place on the decking, in addition to other noise sources such as a radio, could be audible within the bedroom, resulting in nuisance and disturbance to the occupiers. It is considered that a condition preventing the use of any form of artificial lighting, whether fixed or portable, on the decking would prevent this from occurring during the hours when the bedroom is most likely to be occupied.

4.15 Oblique views are available from the flat roof towards the rear garden of 129 The Mount, including a patio area, although substantial areas of the garden are not visible at all, being screened by mature trees and the intervening coach house. It is also reasonable to assume that people using the decking would normally be seated, further restricting the field of vision available over the adjacent garden area. In these circumstances, it is considered that the separation distance, which is in excess of 20 metres, is acceptable and that any overlooking would not result in an unacceptable loss of privacy, particularly bearing in mind the proposed screening arrangements referred to above.

## **5.0 CONCLUSION**

5.1 It is considered that the works that have been carried out at the property, and which now form the subject of this retrospective application, have not had such a significant impact on the character or appearance of the conservation area as a whole to warrant the refusal of planning permission, particularly bearing in mind the limited visual impact from public vantage points outside the site. So far as the effect on the occupiers of the adjacent dwelling is concerned, the erection of the railings and decking clearly raise issues of possible overlooking, loss of privacy and disturbance. It is considered that the greatest potential impact arises from the upper decking/railings installed at roof level. However, it is considered that the installation of a permanent screen to the railings, together with a condition preventing the use of artificial lighting on the decking, would satisfactorily address any harm to amenity and living conditions which may otherwise occur. The granting of retrospective planning permission is considered to be acceptable subject to the subject to the imposition of appropriate safeguarding conditions.

**COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

1 TIME2

- 2 The external decking area shall not be brought into use unless and until the screening arrangements shown on the drawing received by the Local Planning Authority on 18 September 2006 have been installed in their entirety. The screening shall be finished in a colour to be agreed in writing by the Local Planning Authority. Once installed, the approved screening arrangements shall be thus maintained at all times, unless otherwise agreed in writing with the local planning authority.

Reason : In the interests of the amenity and privacy of the occupiers of the adjacent residential property.

- 3 No artificial lighting (either fixed or portable) shall be used or installed on the external decking area hereby approved.

Reason: In the interests of the amenity and privacy of the occupiers of the adjacent residential property.

**7.0 INFORMATIVES:**

**Notes to Applicant**

1. REASON FOR APPROVAL

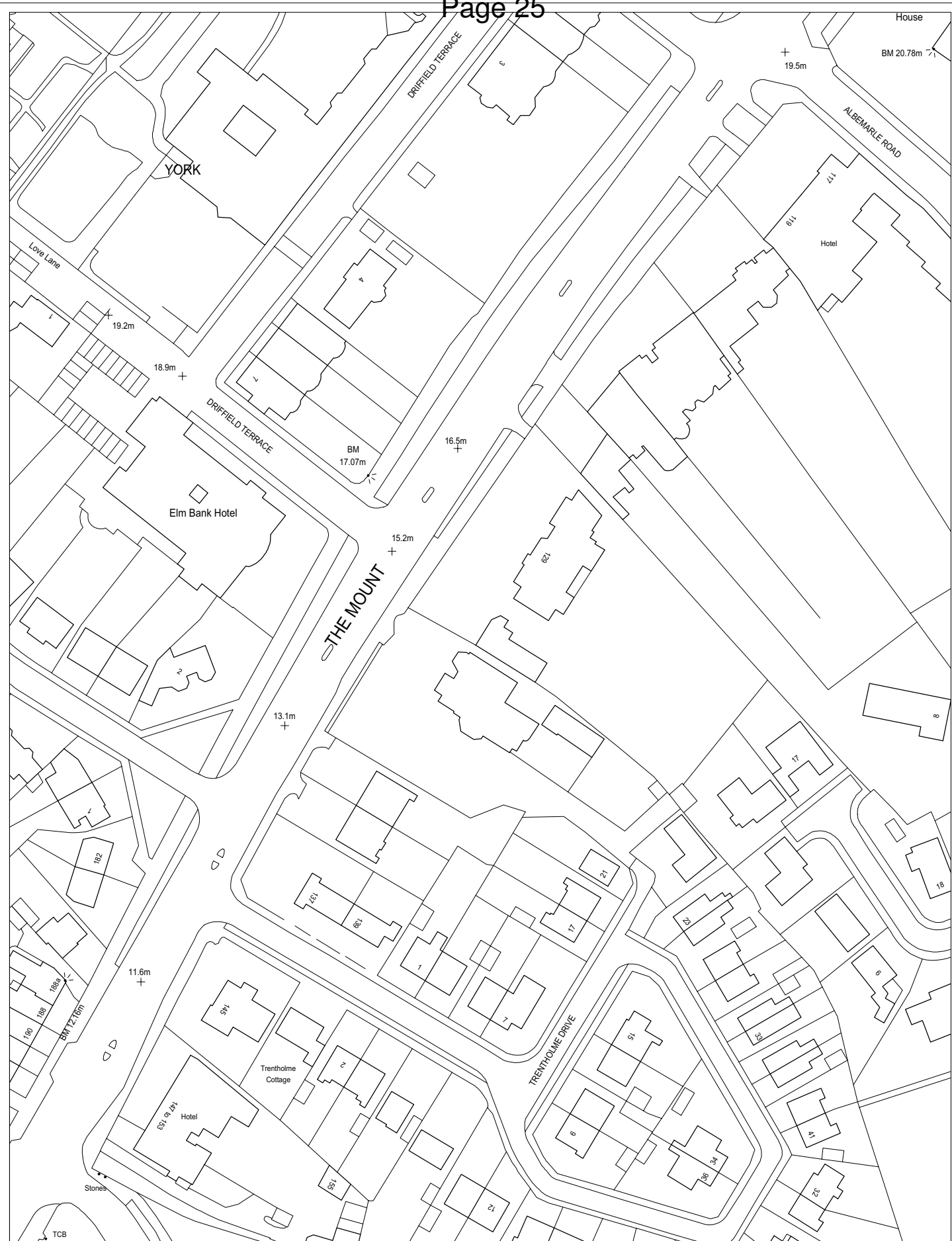
In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- visual impact of the proposal on the character and appearance of the conservation area
- impact on the amenity and privacy of neighbours

As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1 and HE3 of the City of York Local Plan Deposit Draft.

**Contact details:**

**Author:** Simon Glazier Development Control Officer  
**Tel No:** 01904 551351



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Telephone: 01904 613161

# Site Plan : 131 The Mount York

SCALE 1:1250

DRAWN BY JB

DATE 6/10/2006

Originating Group

Project

Drawing No.

Organisation

SP 1



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**COMMITTEE REPORT**

**Committee:** West Area  
**Date:** 19 October 2006

**Ward:** Rural West York  
**Parish:** Hessay Parish Council

**Reference:** 06/01769/FUL  
**Application at:** Glebe Farm Hessay To Moor Bridge Hessay York YO26 8JP  
**For:** Change of use of agricultural store to document store  
**By:** Mr B Curry  
**Application Type:** Full Application  
**Target Date:** 3 November 2006

**1.0 PROPOSAL**

1.0 The applicant seeks planning approval to "change the use" of an existing agricultural store to a document store. No external alterations are required.

1.1 The application relates to an agricultural unit, located in close proximity to a cluster of existing farm buildings. The site is located within the designated Green Belt.

1.2 This application was brought to West and City Centre Area Planning Committee with a site visit at the request of Cllr Hopton.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams West Area 0004

2.2 Policies:

CYGP1  
Design

CYGB1  
Development within the Green Belt

CYGB3  
Reuse of buildings

**3.0 CONSULTATIONS**

Hessay Parish Council - No Response

Highway Network Management - No Objections

Environmental Protection Unit - No Objections

## 4.0 APPRAISAL

### KEY ISSUES

- \* Planning Policy
- \* Impact upon Green Belt

4.1 Policy GB3 'Reuse of Buildings' of the CYDCLP states that proposals for the reuse of buildings outside of existing settlements in the Green Belt will be granted permission where a number of criteria are met:

- (a) the reuse would not have a materially greater impact on the openness of the Green Belt than the present use;
- (b) the buildings are permanent and capable of conversion without major reconstruction;
- (c) the proposed reuse will generally take place within the fabric of the existing building and will not require extensive alteration, rebuilding or extension;
- (d) the form, bulk and general design of the buildings are in keeping with their surroundings;
- (e) the buildings are not in close proximity to intensive livestock units or other uses that may result in a poor level of amenity for the occupier of the building;
- (f) there is already a clearly defined curtilage.

Where the proposal is for reuse for residential purposes the following criteria also apply:

- (g) it can be demonstrated that the building is unsuited to employment or recreation use or that there is no demand for buildings for these purposes in the area; or
- (h) the building is of architectural or historic importance and its reuse for residential purposes would be the only way to ensure its preservation.

4.2 Policy GP1 'Design' of the City of York Development Control Local Plan includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

### IMPACT UPON GREEN BELT

4.3 The "reuse of existing buildings" is considered to be appropriate form of development within the designated Green Belt, compliant with Policy GB1 "Development in the Green Belt" of the Local Plan.

4.4 No external changes have been proposed to the existing agricultural building, therefore the purposes of Green Belt policy as set out in Policy GB3 "Reuse of Buildings" and the openness of the Green Belt are not considered to be adversely affected.

4.5 Designated parking spaces have been provided to the front and are screened by existing hedging. Highway Network Management have raised no objections to any increased traffic movement.

## 5.0 CONCLUSION

5.0 The applicants' proposals are considered to be acceptable in this instance and are therefore recommended for approval.



**COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

- 1 TIME2 Development start within three years
- 2 The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details:-  
  
Drawing No. 287/2 - Proposed Floor Plan/Site Plan  
  
or any plans or details subsequently agreed in writing by the Local Planning Authority as an amendment to the approved plans.  
  
Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.
- 3 The document store hereby approved shall only be used for storage (Use Classes Order B8), unless otherwise agreed in writing by the Local Planning Authority.  
  
Reason: Other uses would not be considered acceptable without the prior consent of the Local Planning Authority

**7.0 INFORMATIVES:**

**Notes to Applicant**

1. REASON FOR APPROVAL

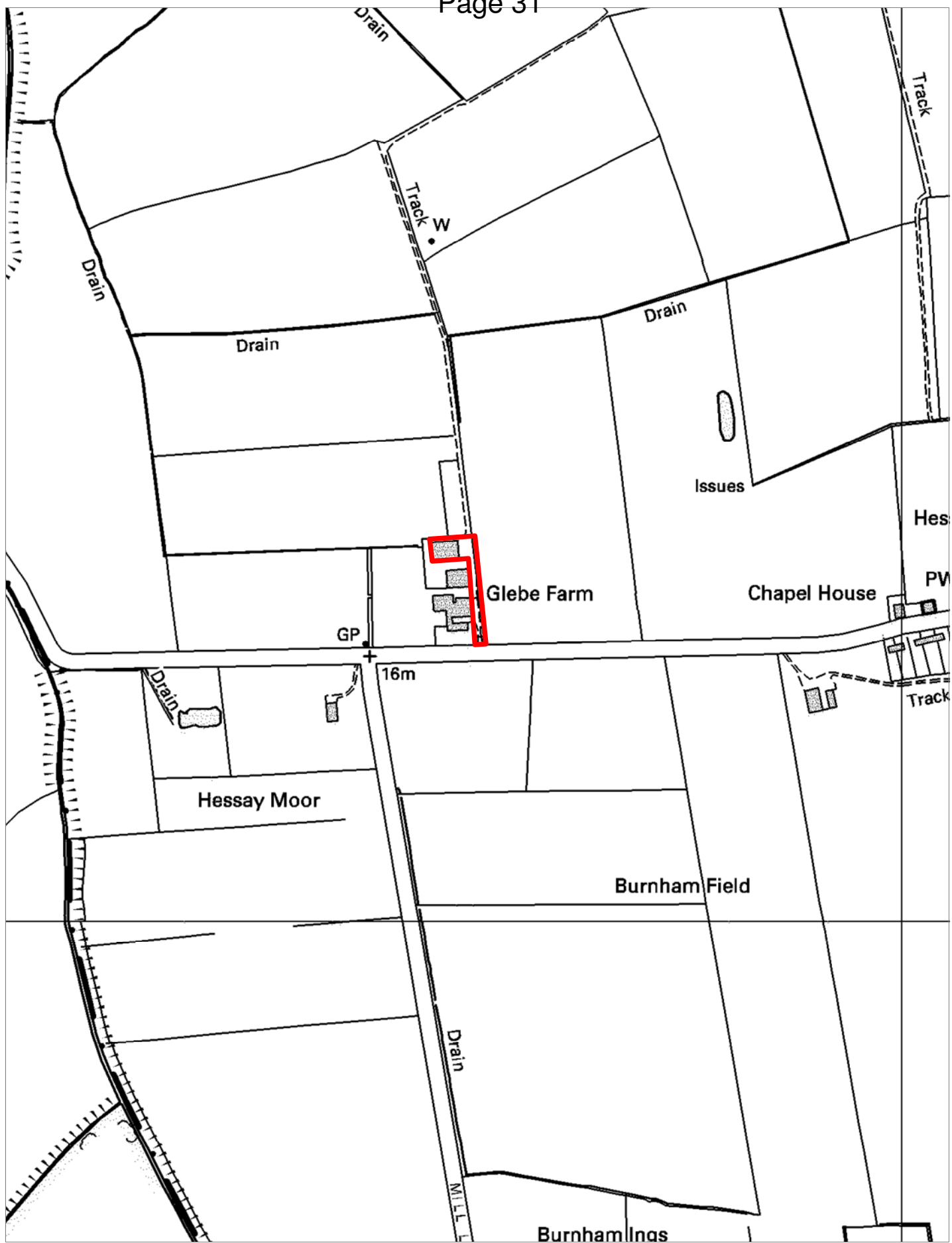
In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the designated Green Belt. As such the proposal complies with Policies GB1 and GB3 of the City of York Development Control Draft Local Plan.

**Contact details:**

**Author:** Richard Mowat Development Control Officer

**Tel No:** 01904 551416

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### Site Plan : Glebe Farm Hessay York

SCALE 1:5000

DRAWN BY JB

DATE 6/10/2006

Originating Group

Project

Drawing No.

Organisation

SP 4



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**COMMITTEE REPORT**

**Committee:** West Area                      **Ward:** Westfield  
**Date:** 19 October 2006                      **Parish:** No Parish

**Reference:** 06/01508/FUL  
**Application at:** 73 Gale Lane York YO24 3AD  
**For:** Erection of apartment block comprising 6 no. two bed flats and 1 no. two bed house after demolition of existing dwellings at 73 and 75 Gale Lane (Resubmission)  
**By:** Mr J Wheldon  
**Application Type:** Full Application  
**Target Date:** 29 August 2006

**1.0 PROPOSAL**

1.1 The application is a resubmission of a scheme previously refused by Members at the West Area Sub-Committee in February 2006 (ref: 05/02410/FULM). The current scheme seeks permission for the erection of a block of seven two-bedroom apartments following the demolition of 73 and 75 Gale Lane.

1.2 The site is currently occupied by a pair of semi-detached houses which face Gale Lane. Planning permission was recently granted for a detached house in the side garden of number 73 Gale Lane. This application has not been implemented.

1.3 The previous refused scheme comprised 12 no. one and two bedroom flats in 2 no. three-storey blocks. The proposal was considered to be an overdevelopment out of character with its surroundings; would cause harm to the living conditions of the neighbours; would harm road safety; did not provide adequate bin or cycle storage and would have resulted in a development that would be vulnerable to crime.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Air safeguarding Air Field safeguarding 0175

City Boundary York City Boundary 0001

2.2 Policies:

CYGP1  
Design

CYGP3  
Planning against crime

CYGP9  
Landscaping

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYT4  
Cycle parking standards

CYL1  
Open spaces in new residential devts

### **3.0 CONSULTATIONS**

#### 3.1 Internal

Highway Network Management - With reference to the amended drawings submitted by the applicant's agent and received on 21st September, for the demolition of existing dwellings on this site and the construction of an apartment block containing 7 no. 2 - bed units, there are now no highway objections to the application.

Engineering consultancy - Insufficient detail has been submitted to determine the potential impact the proposal may have on existing drainage systems. Details of the existing surface water systems should be provided together with details for the new development. Existing and proposed ground levels for the site and adjacent properties should be shown. Existing and proposed surfacing should be shown.

Environmental Protection Unit - The Environmental Protection Unit have no objections to this application. However the site is in close proximity to residential properties that may be adversely affected by noise during any demolition, construction and refurbishment work. Although the site is unlikely to be affected by land contamination, it is recommend that a condition, which places a watching brief for the discovery of any unsuspected contamination, is placed on the approval.

Education - No contributions are required.

Lifelong Learning and Culture - Financial contribution required for improving local leisure facilities.

#### 3.2 External

Environment Agency - No objection.

Safer York Partnership - No response received.

Neighbours - Two letters of objection received to the initial scheme from 106 Gale Lane and 130 Tudor Road:

- Increased traffic at an already busy junction
- Loss of trees and hedges
- Inappropriate to the area as terrace and semi-detached prominent within the area
- Bin store at a distance to the properties and people may store refuse elsewhere on site
- Smell and vermin from the bin store
- Bike stores could be used to store other equipment such as flammables
- Flat roof of bin and bike store will give easy access to garden area by intruders
- Children may play ball games against the bike store and boundary wall
- Loss of privacy by living accommodation
- The gates shown address security issues but only if they are locked

Revised scheme: Two letters of objection from 69 and 71 Gale Lane:

- Possible danger due to number of cars entering and leaving the site at junction
- Kerbed access over neighbouring dropped kerb
- Existing 4ft lap larch fence inappropriate to boundary with proposed access
- Brick boundary wall to 71 Gale Lane should be built within the application site

#### **4.0 APPRAISAL**

##### 4.1 Key Issues

- Design and Visual Amenity
- Impact upon neighbouring residents
- Access and Highway Safety
- Design and Crime

4.2 The relevant City of York Council Draft Deposit Local Plan Policies are GP1, GP3, GP9, H4a, H5a, L1c and T4. Policy GP1 'Design' includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area. Policy GP3 states that new development will be required to incorporate crime prevention measures to achieve natural surveillance, secure locations for car and cycle parking and satisfactory lighting. Policy GP9 requires a suitable landscape scheme to be planned as an integral part of the proposals where appropriate.

4.3 Policy H4a 'Housing Windfalls' states that permission will be granted for new housing development on land within the urban area providing: it is vacant/derelict/underused or involves infilling, redevelopment or conversion; has good access to jobs, shops and services by non-car modes; and, is of an appropriate scale and density to surrounding development and would not have a detrimental impact on existing landscape features. Policy H5a 'Residential Density' states that the scale and design of residential developments should be compatible with the character of the surrounding area and must not harm local amenity. Applications for all new residential developments, dependant on individual site circumstances and public transport accessibility, should aim to achieve net residential densities of greater than: 60dph in the city centre; 40dph in the urban area and 30dph elsewhere in the city of York. Policy T4 states that cycle parking provision should be in line with Council standards. Policy L1c requires that all housing sites make provision for the open space needs of future occupiers. For sites of less than 10 dwellings a commuted payment will be required towards off site provision.

#### **DESIGN AND IMPACT ON THE VISUAL AMENITY OF THE AREA**

4.4 The application site consists of a pair of semi-detached houses located at the junction of Gale Lane and Tudor Road. It is proposed to demolish the houses and erect a block of seven two-bedroom apartments. The building would be two storey with rooms incorporated within the roof space. There would be three self-contained units at ground floor. Individual accesses would be provided to three apartments covering the first floor with their master bedroom being located within the roof space. A single unit is proposed which would incorporate living accommodation at ground floor with two bedrooms to the first floor and no living space within the roof.

4.5 The building has been designed in an 'L' shape allowing frontage to both Tudor Road and Gale Lane. Its design is relatively uniform with slight setbacks and projecting porches to allow relief to the elevations. Details are provided to the cills and headers and a soldier course has been incorporated to all elevations. It would be constructed with a hipped roof to reflect neighbouring residential properties and to reduce its bulk. It would have an eaves height of 5.3m and a ridge height of 8.65m. The section adjacent to 71 Gale Lane has been reduced to two storey only, with no rooms provided within the roof, and as such has a similar eaves height but the ridge is reduced to 7.3m.

4.6 Access to the site would be provided by way of an improved entrance onto Gale Lane, adjacent to number 71. This would serve the car parking area which is enclosed to the rear of the site between the development and the boundary to number 71. Eight car parking spaces would be provided, one per dwelling and one visitor. A communal garden area would also be located to the rear of the building. A long low pitched roof building is proposed along the boundary with 130 Tudor Road which would house eight individual cycle stores, a tool shed and five secure refuse and recycling units.

4.7 The character of the locality is that of a well established suburban residential area, dominated by two storey houses with their own front and rear gardens. Policy H4a encourages residential development schemes in accessible urban sites that increase density. The scheme calculates at 76 dwellings per hectare. It is considered that this intensity of development can be accommodated within the site without being detrimental to the character of the area, the streetscene or neighbouring residential amenity.

4.8 The apartment block has been designed to minimise the impact upon neighbouring residential properties. The scheme incorporates hipped roofs to reflect those present within the vicinity and would have eaves and ridge heights similar to those of 71 Gale Lane. The ridge would, however, be 1.3m higher than that of the adjacent property at 130 Tudor Road but this would be at a distance of 7m away and would not appear to be overdominant or overbearing on the neighbouring property or streetscene. Furthermore, the section of the development immediately adjacent to 130 Tudor Road would follow the same building line, before projecting towards the highway, giving a visual break in the front elevation. This elevation would reflect the neighbouring terrace properties in terms of bulk and mass.

4.9 The scheme has been designed to retain the existing boundary hedge, softening the appearance of the development, and incorporate areas of landscaping to the rear and front of the building. These areas reflect the suburban nature of the street and integrate the scheme into the local environment in accordance with policy GP9.

## IMPACT UPON LIVING CONDITIONS OF NEIGHBOURING RESIDENTIAL PROPERTIES

4.10 In respect of residential amenity policy GP1 i) seeks to ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. The two properties principally affected by this proposal are 130 Tudor Road which is a small end of terrace house with a large rear garden and 71 Gale Lane which is an extended two storey semi detached house with rooms in the roof and a large outbuilding running along the boundary with the application site.

4.11 The scheme has been designed to prevent any detrimental impact upon neighbouring residents in terms of overshadowing or overlooking. The block of apartments would follow the lines of the front and rear elevation of the neighbouring residential properties and would be set at a distance of between 6.8 and 7.4 metres from their side elevations. The main bulk of the building would be at a distance of 15m from the shared boundary with 71 Gale Lane and as such there would be limited impact in terms of overshadowing of the properties and their garden areas.



4.12 The rear elevation of the development facing 71 Gale Lane would be at a distance of between 15m and 18.5m to the shared boundary, due to the slight angle of the development, and 22m to the central section of the garden, immediately behind the property. There would be six windows to this first floor elevation opening into two bathrooms, which would be obscure glazed, two bedrooms and two dining areas. It is considered that these distances are acceptable and would not lead to any detrimental impact in terms of loss of privacy. With regard to the property facing Tudor Road the nearest windows of the development, being first floor bedroom windows, are at a distance of 21.5m to the shared boundary which is also considered to be acceptable.

## ACCESS AND HIGHWAY SAFETY

4.13 One of the reasons for refusal on the previous application specifically related to the vehicular access to the site and highway safety implications. The number of units has been substantially reduced since the original application and accordingly the number of parking spaces has been reduced from 15 spaces to 8 spaces, being one per unit and one visitor. It is considered that traffic associated with seven two bed apartments is in lines with what can be expected from the existing dwellings at 73 and 75 Gale Lane plus the dwelling which has outline consent and is positioned in the corner of the plot.

4.14 Initial comments requested that a formal kerbed access be provided to the site. However, this cannot be achieved due to the close proximity of the neighbouring access at 71 Gale Lane. There are no objections raised though on the condition that the access be widened to allow for two way flow into and out of the site.

## DESIGN AND CRIME

4.15 The Safer York Partnership have been consulted on the current scheme but no reply has been received. However, in comparing the current scheme to the previously refused one it appears that a number of the issues have been addressed. The scheme now clearly identifies defensible space around the building which appears to be private land as opposed to public space. This is emphasised by the retention of the existing boundary hedge and the insertion of gated accesses for pedestrians and vehicles. Secure cycle parking is being provided, the car parking area is clearly visible by all the apartments improving security and the building entrances project forward of the front elevation of the property giving good visibility.

## OPEN SPACE

The applicant has agreed to provide a contribution towards off-site open space in accordance with policy L1c. The contribution would be used to improve local amenity open space such as Hob Moor, local play space such as Foxwood Lane and sports pitches within the West Zone of the Sport and Active Leisure Strategy. The contribution has been assessed as £5257.

## 5.0 CONCLUSION

5.1 It is considered that the proposal accords with council policy. There would not be any detrimental impact upon neighbouring residents amenity in terms of overshadowing or loss of privacy. The design of the scheme reflects neighbouring properties and the bulk and massing are considered to be appropriate. There would not be any highway implications and adequate on site parking is provided. Officers recommend approval.

**6.0 RECOMMENDATION:** Approve

- 1 TIME2 Development start within three years
- 2 The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details:-  
  
JW/GL/6 received 18th September 2006  
JW/GL/7 received 18th September 2006  
JW/GL/8 received 18th September 2006  
  
or any plans or details subsequently agreed in writing by the Local Planning Authority as an amendment to the approved plans.  
Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.
- 3 HWAY10 Vehicular areas surfaced, details reqd
- 4 HWAY17 IN Removal of redundant crossing
- 5 HWAY19 Car and cycle parking laid out
- 6 HWAY21 Internal turning areas to be provided
- 7 HWAY25 Pedestrian visibility splays protected
- 8 HWAY29 IN No gate etc to open in highway
- 9 NOISE7 Restricted hours of construction
- 10 VISQ8 Samples of exterior materials to be app
- 11 DRAIN1 Drainage details to be agreed
- 12 HT1 IN Height...8.7m
- 13 Any suspect contaminated materials detected during site works shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development of the site.  
  
Reason: To protect the health of the occupants.
- 14 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.  
  
Reason: In order to comply with the requirements of Policy L1 of the City of York Draft Local Plan.

**INFORMATIVE:**

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £5257.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

- 15 The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with the approved plans, 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.

**7.0 INFORMATIVES:  
Notes to Applicant**

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the character of the area, residential amenity, open space provision and highway safety. As such the proposal complies with Policy H9 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1, GP3, GP9, H4a, H5a, L1c and T4 of the City of York Local Plan Deposit Draft.

**Contact details:**

**Author:** Heather Fairy (Mon - Wed) Development Control Officer  
**Tel No:** 01904 551668

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9, St. Leonards Place, York, YO1 2ET  
Telephone: 01904 613161

## Site Plan : 73 Gale Lane York

SCALE 1:1250 DRAWN BY JB DATE 6/10/2006  
 Originating Group Project  
 Organisation



Drawing No.  
**SP 2**

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**COMMITTEE REPORT**

**Committee:** West Area                      **Ward:** Acomb  
**Date:** 19 October 2006                      **Parish:** Acomb Planning Panel

**Reference:** 06/01904/FUL  
**Application at:** Land To Rear Of 3 To 19 Shirley Avenue York  
**For:** Erection of 2 no. 4 bedroomed semi-detached houses ( in place of detached house previously approved 14.02.02 under reference 01/03329/FUL)  
**By:** Isoproco Ltd  
**Application Type:** Full Application  
**Target Date:** 31 October 2006

**1.0 PROPOSAL**

1.1 The application is for the erection of 2 x 4 bedroomed semi detached dwellings.

1.2 There was a previous application for the land rear to Shirley Avenue and Ouseburn Avenue. The application was for the erection of 5 dwellings with garages and a new garage for 7 Shirley Avenue (01/03329/FUL), the application was approved by North West Area planning sub committee on 14.02.02.

1.3 This application for 2 x 4 bedroomed dwellings replaces a 1 x 4 bedroomed dwelling on this site that was approved as part of application 01/03329/FUL.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams West Area 0004

2.2 Policies:

CYGP1  
Design

CYGP10  
Subdivision of gardens and infill devt

CYH4A  
Housing Windfalls

CYL1C  
Provision of New Open Space in Development

**3.0 CONSULTATIONS**

3.1 PUBLICITY DATES/PERIODS

Neighbour Notification - Expires 29/09/2006  
Site Notice - Expires 12/10/2006  
Press Advert - N/A  
Internal/External Consultations - Expires 29/09/2006

8 WEEK TARGET DATE 31/10/2006

### 3.2 INTERNAL CONSULTATIONS

LIFELONG LEARNING AND CULTURE - As there is no on-site open space commuted sums should be paid to the council

ENVIRONMENTAL PROTECTION UNIT - No objections

HIGHWAYS NETWORK MANAGEMENT - No objections

DRAINAGE AND STRUCTURES - No objection, providing that the drainage of the road remains more or less changes, and that the drainage shown was approved in the last planning application

### 3.3 EXTERNAL CONSULTATIONS/REPRESENTATIONS

ACOMB PLANNING PANEL - No objections

### 2 LETTERS OF OBJECTION

- Loss of privacy from the windows in the side elevation, request obscure glazing

## 4.0 APPRAISAL

### 4.1 RELEVANT SITE HISTORY

01/03329/FUL - Erection of 5 dwellings with garages and new garage for 7 Shirley Avenue - Approved

98/02530/FUL - Erection of 12 flat roof garages - Approved

7/00/172A/PA - Eight lock-up garages (to replace Nissen hut garages which are to be demolished) - Approved

7/00/172B/PA - Erection of two blocks of garages (of 4 and 6 respectively) within existing garage court - Approved

7/00/172C/PA - Erection of four additional garages within existing garage court - Approved

7/00/172D/PA - Erection of six additional garages within existing garage court - Refused

98/02530/FUL - Erection of 12 flat roof garages - Approved

### 4.2 ADDITIONAL PLANNING POLICY

Planning Policy Guidance 3 - Housing

### 4.3 KEY ISSUES

1. Visual impact on the area



2. Impact on neighbouring property

4.4 ASSESSMENT

PLANNING POLICY

Planning Policy Guidance Note 3 'Housing' (PPG3) sets out Government policy on housing development and encourages more sustainable patterns of development through the reuse of previously developed land, more efficient use of land, reducing dependency on the private car and provision of affordable housing. PPG3 advises Planning Authorities to seek housing densities of between 30 and 50 dwellings per hectare with greater intensity at locations with good public transport accessibility. PPG3 also advises that car parking standards that require more than 1.5 spaces per dwelling are unlikely to secure sustainable development.

Policy GP1 'Design' of the City of York Development Control Local Plan includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

Policy GP10 'Subdivision of Gardens and Infill Development' of the City of York Development Control Local Plan states that permission will only be granted for the development or subdivision of gardens areas where it would not be detrimental to the character and amenity of the local environment.

Policy H4a 'Housing Windfalls' of the City of York Development Control Local Plan states that permission will be granted for new housing development on land within the urban area providing: it is vacant/derelict/underused or involves infilling, redevelopment or conversion; has good access to jobs, shops and services by non-car modes; and, is of an appropriate scale and density to surrounding development and would not have a detrimental impact on existing landscape features.

Policy L1c requires that all housing sites make provision for the open space needs of future occupiers. For sites of less than 10 dwellings a commuted payment will be required towards off site provision.

VISUAL IMPACT ON THE AREA

The proposed dwellings would be semi detached with a pitched roof front dormer on each dwelling. There would be an increase in height of the proposed dwellings from the previously approved dwelling of 0.8 metres, to 9 metres in height. The dwellings would have a gable end roof which is not in character with the area however the previously approved dwellings on this site have gable end roofs. Semi detached dwellings are the predominant character of the surrounding streets. The appearance of the dwellings would be fairly basic and unassuming.

The principle for a dwelling on this specific site has been set in the previous application 01/03329/FUL (approved by the North West Area planning sub committee 12th February 2002). The proposed two dwellings have a slightly larger footprint than the previously approved 4 bedroomed house. The previously approved dwelling had a footprint of 8 metres by 9 metres; together the proposed two dwellings have a footprint of 8.5 metres (at its widest

point) by 10 metres. The proposed dwellings would appear more cramped than the previously approved scheme, but in this location it is unlikely that a refusal could be justified on these grounds. Both dwellings would have two off road parking spaces and small but usable private amenity space to the rear of the properties.

The overall site contains two semi detached dwellings built from the 01/03329/FUL planning permission, the proposed dwellings would be smaller but would reflect the style of what has already been built.

The applicant is aware that a contribution towards off-site open space in accordance with policy L1c would be required. The contribution would be used to improve local amenity open space such as the Carr Allotments, local play space such as Viking Road and the new RR Donnelly site and sports pitches within the West Zone of the Sport and Active Leisure Strategy. The contribution has been assessed as £1630.

#### IMPACT ON NEIGHBOURING PROPERTY

The proposed dwelling would face the recently built dwellings and it is not considered there would be any over looking or loss of privacy by virtue of the 26 metre distance between them. The side elevations have three windows (1 bathroom window and 2 hall windows) the distance between the dwellings on Shirley Avenue and the proposed is 30 metres. A condition is recommended requiring that these windows are obscurely glazed.

It is not considered that the increase in height of the proposed dwellings would significantly increase the loss of light to surrounding dwellings. The proposed dwellings are not considered to have a more overbearing or over dominant impact on what has already been approved.

#### 5.0 CONCLUSION

5.1 The proposed erection of 2 x 4 bedroomed semi detached dwellings would comply with planning policy.

#### 6.0 RECOMMENDATION: Approve

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

Drawing Number 1540/138, received 30 August 2006  
Drawing Number 1540/129, received 30 August 2006  
Drawing Number 1540/130, received 30 August 2006;

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

- 2 Open Space

No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in

writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1 of the City of York Draft Local Plan.

**INFORMATIVE:**

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £1630.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

3 TIME2 Development start within three years

4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A to E; of Schedule 2 Part 1 of that Order shall not be carried out without the prior written consent of the Local Planning Authority.

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

5 VISQ8 Samples of exterior materials to be app

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

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

7 HT1 IN Height...9m...

8 Notwithstanding the submitted plans the windows in the side elevations facing Shirley Avenue and Ouseburn Avenue shall be glazed with obscured glass and shall be maintained with obscured glass thereafter.

Reason: To protect the privacy of the neighbour.

- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order) no additional windows other than those shown on the approved plans shall be constructed.

Reason: As the insertion of additional windows could have a serious impact on the privacy of neighbours and should therefore be controlled.

- 10 All construction and demolition or refurbishment works and ancillary operations, including deliveries to the site and despatch from the site shall only be carried out between the hours of 08.00 and 18.00 Mondays to Fridays and 09.00 to 13.00 on Saturdays and not at all on Sundays and Bank Holidays

Reason: To protect the amenities of the occupants of the neighbouring dwellings.

- 11 Any suspect contaminated materials detected during site works shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development of the site.

Reason: As our in-house research has shown no obvious potential source of contamination at the site, the watching brief is recommended.

- 12 HWAY10 Vehicular areas surfaced, details reqd

- 13 HWAY19 Car and cycle parking laid out

## **7.0 INFORMATIVES: Notes to Applicant**

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

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the dwellings and the locality, and the provision of off-site open space. As such, the proposal complies with Policies GP1, GP10, L1c and H4a of the City of York Development Control Local Plan (2005).

### **2. ENVIRONMENTAL HEALTH INFORMATIVES**

1) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS5228: 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".

2) 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.

3) 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.

4) 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.

5) There shall be no bonfires on the site.

**Contact details:**

**Author:** Victoria Bell Development Control Officer

**Tel No:** 01904 551347

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9, St. Leonards Place, York, YO1 2ET  
 Telephone: 01904 613161

### Site Plan : Land to Rear of 19 Shirley Avenue York



SCALE 1:1250  
 Originating Group  
 Organisation

DATE 6/10/2006  
 Drawing No. SP 3

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## West & City Centre Area Planning Sub-Committee

19 October 2006

Report of the Director of City Strategy

### Enforcement Cases - Update

#### Summary

1. The purpose of this report is to provide Members with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by this Sub-Committee.

#### 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.
3. Some of these cases have been brought forward as the result of information supplied by residents and local organisations, and therefore "The annexes to this report are marked as exempt under Paragraph 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, as this information, if disclosed to the public, would reveal that the Authority proposes to give, under any enactment a notice under or by virtue of which requirements are imposed on a person, or that the Authority proposes to make an order or direction under any enactment".
4. In order to give Members an up to date report, the schedules attached have been prepared on the very latest day that they could be to be included in this report on this agenda.
5. Section 106 Agreements are now being monitored by the Enforcement team. A system has been set –up to enable Officers to monitor payments and commitments required under the Agreement. A schedule below shows the number of Section 106 Agreements currently being monitored in the City/West Area Sub-Committee.

### **Current Position**

6. Members should note that 150 new cases were received for this area within the last two quarters. 126 cases were closed and 135 remain outstanding. There are 44 Section 106 Agreement cases outstanding for this area after the closure of 4 for the last two quarters. No cases resulted in the service of formal enforcement notices. 1 case has been referred to Legal and awaits service.

### **Consultation**

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

### **Options**

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

### **Corporate Priorities**

9. Improve the actual and perceived condition and appearance of city's streets, housing estates and publicly accessible spaces.

### **10. 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**

11. There are no known risks.

### **Recommendations**

12. That Members contact the relevant Enforcement Officers to discuss any particular case detailed in the attached ongoing annex and also note the cases closed annex.

Reason: To update Members on the number of outstanding enforcement cases within the Sub-Committees area.

**Contact Details**

**Author:**

*Author's name /*

Hilary Shepherd/

Andy Blain

Planning Enforcement Officers

**Chief Officer Responsible for the report:**

***Chief Officer's name***

Michael Slater

*Assistant Director (Planning and Sustainable Development)*

**Dept Name** City Strategy

*Tel No.* 551647/551314

**Report Approved**

**Date** 10/10/06

**Specialist Implications Officer(s)**

None

**Wards Affected:** *All Wards in the West and City Centre area*

**All**

**For further information please contact the author of the report**

**Background Papers:**

Environment and Development Services Business Plan (2000/2001).

Report to Area Sub-Committee in July 2006 – Enforcement Cases Update.

**Annexes**

Annex A - Enforcement Cases – Update (Confidential)

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of the Local Government Act 1972.

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**West and City Centre Area Planning Sub-Committee**

19 October 2006

Report of the Assistant Director (Planning &amp; Sustainable Development)

**PLANNING APPEAL AT 26-28 TADCASTER ROAD****Summary**

1. At the meeting on 3 October 2006 Members were asked to consider withdrawing a highway reason for refusal, relating to the current planning appeal at 26 Tadcaster Road. An independent traffic consultant's report was presented at the meeting. Members considered this to be inadequate and resolved that the consultants should be retained to undertake further survey and analysis of the highway issue for Members to consider.
2. In view of the likely significant cost involved in retaining the consultants, the Head of Network Management has produced the attached report (at Annex A). This advises Members that it is not considered possible to bring forward viable evidence to defend the highway reason for refusal at the Public Inquiry. The serious risk of costs against the Council remains and Members' further instructions are sought.

**Background**

3. The planning application in question was submitted by Pilcher Homes for the erection of 4 No 3 storey houses and a 3 storey block of 9 No flats at 26 – 28 Tadcaster Road, together with ancillary garages and cycle/bin stores. Existing dwellings and lock-up garages on the site were to be demolished. (reference 06/00103/FUL).
4. The application was recommended for approval at Committee on 16 March 2006. However, by unanimous decision, Members overturned the recommendation, the application being refused upon design and highway safety reasons.
5. An appeal has been submitted, to be heard at a forthcoming Public Inquiry. Officers will defend the design reason for refusal at the Inquiry. However, because highway issues are more bound by technical considerations, highway officers feel unable to defend the highway reason for refusal. This leaves the Council at serious risk of an award of costs.
6. The report of the independent traffic consultant also concluded that "the likely level of traffic generated by the proposed development would not have a

material impact on the use of the access in either highway capacity or road safety terms". The consultant also stated that in their view a refusal on highway grounds could not be defended at a public inquiry.

7. The attached memo dated 16 October 2006 (at Annex A) from the Head of Network Management advises Members that there are no grounds for sustaining a highway reason for refusal. This is based upon an analysis of estimated existing and proposed traffic flows to and from the site, assessed against the current standards and practice applied to considering the traffic implications of planning applications.
8. Attached at Annex B and C respectively are the pre-Inquiry statements of the Appellant and the Council. These summarise the issues and evidence that each party will bring forward at the Inquiry. Members will note that the appellant will bring forward highway evidence to substantiate their case that the highway reason for refusal is unreasonable. Also Members will note that the Council's statement does refer to defending the highway reason. This is because the statement had to be submitted by 28 September 2006 before the issue was debated by Members. This could be withdrawn if Members are minded to do so, even at this stage.

### **Consultation**

9. There have been no further external consultations. Discussion have been held with the relevant highway and legal officers of the Council.

### **Options**

10. There are two main options at this stage:-
  - (i) For the highway reason to be defended at the Inquiry. However both the Council's own highway officers and the Consultant who was retained, feel unable to bring forward highway evidence to defend the reason.
  - (ii) For Members to agree to withdraw the highway reason for refusal. The design reason for refusal would continue to be defended.

### **Analysis**

11. Members are advised that option (i) above has the disadvantage of leaving the Council seriously exposed, to possibly substantial costs, on the grounds that it has acted unreasonably in not producing tangible highway evidence, through an expert witness. Local residents or individuals could still appear at the Inquiry (that is not representing the Council) and object upon highway grounds.
12. Option (ii) would significantly reduce, but not entirely remove, the risk of costs against the Council. However, any defence of the highway reason would fall upon local residents or individuals, who are unlikely to have highway expertise.

### **Corporate Priorities**

13. Members are referred to the Background and Analysis sections.

### **Implications**

#### **Financial**

14. The financial implications are discussed in the Background and Analysis sections.

#### **Human Resources (HR)**

15. There are no HR implications.

#### **Equalities**

16. There are no equalities implications.

#### **Legal**

17. There are no legal implications.

#### **Crime and Disorder**

18. There are no crime and disorder implications.

#### **Information Technology (IT)**

19. There are no IT implications.

#### **Property**

20. There are no property implications.

#### **Other**

21. There are no other implications.

### **Risk Management**

22. The main risk is the award of costs against the council and as discussed in the Analysis section.

### **Recommendations**

23. Members are asked to withdraw the highway reason for refusal from the refusal notice dated 20 March 2006 (reference 06/00103/FUL),

Reason: On the basis of the assessment provided by the Head of Network Management.

**Contact Details**

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Mike Slater  
Assistant Director (Planning & Sustainable  
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**Report Approved**



**Date** 16 October 2006

**Specialist Implications Officer(s)**

There are no specialist implications.

**Wards Affected:** Dringhouses and Woodthorpe

**All**

For further information please contact the author of the report

**Background Papers:**

None

**Annexes**

- Annex A – Report of Head of Highway Management**
- Annex B – Pre-Inquiry statement from appellant**
- Annex C – Pre-Inquiry statement from City of York Council**

16 October 2006

cn/lt/comm/area/west/191006 – planning appeal at 26-28 Tadcaster Road



**DIRECTORATE OF CITY STRATEGY**

**MEMORANDUM**

**From: Peter Evely, Head of Network Management**

**Extn: 1414**

**To: Members of the West and City Centre Planning Sub Committee**

**Cc: Mike Slater, Bill Woolley, Martin Blythe**

**Date: October 16, 2006**

**Ref: 06/00103/FULM**

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**Planning Appeal – 26 – 28 Tadcaster Road**

I write in my capacity as Head of Network Management and in the light of the responsibility I have for providing advice to the Council on matters concerning the management and movement of all users of the public highway. Under the Traffic Management Act 2004 I am also the councils Operational Traffic Manager. In that position I have a responsibility for discharging the Statutory function imposed by that Act to:

*secure the expeditious movement of traffic on the authority's network*

In this context the word 'traffic' means people on foot or using cycles as well as vehicles. In other words I am responsible for maximising the efficient use of the highway by all users so as to minimise delay to all users. With that need in mind I therefore approach any advice given to the Planning Committee from the perspective of producing an end result that respects these obligations. Not to do so would be a serious breach of the Statutory Duty.

I have over 30 years experience in the field of traffic planning and management, 28 of these in a senior position. In that time I have dealt with thousands of planning applications of all sizes including two major town centre regeneration schemes and a significant number of Planning Inquiries.

On my behalf my Officers have been advising Members in connection with an application for a development at 26 – 28 Tadcaster Road.

## **Background**

The original application for this site was considered by Members on the 20 January 2005. My advice to the Committee at that time was that there were no issues of a highway/traffic related nature that would justify refusal. That advice was rejected and the application refused on several grounds, one of which was that “the proposal would result in the intensification of use of an unsuitable access point that would create a hazard to highway users.”

The developer submitted a revised application for less dwelling units and this was considered by the Committee on the 16 March. Again my advice was that there were no issues of a highway/traffic related nature that would justify refusal. That advice was also rejected and the application refused. The justification for refusal was on two grounds, one of which was for highway reasons. Despite the application being on a smaller scale than that considered in January 2005 the stated reasons for refusal were far more extensive and detailed than those made in January.

The developer appealed against refusal and a Public inquiry is to be held.

At its special meeting on the 3 October the Committee received a report from the Assistant Director (Planning and Sustainable Development) which outlined serious concerns over the ability of the council to sustain the stated reasons for refusal at Public Inquiry and recommended that the highway reasons for refusal were withdrawn. As that meeting Members heard that an Independent specialist Transport Consultant had been engaged to review the advice given by my officers. They were told that this Consultant supported the advice previously given and that there were no grounds for supporting a highway reason for refusal. Members elected not to accept either piece of advice but deferred the matter for further consideration at the meeting on the 19 October after additional work had been undertaken by the Consultant.

My purpose in writing is two fold. Firstly to advise that this additional work has not been undertaken due to the cost and evidence that such work would provide to the applicant in support of his appeal. Secondly to explain the position that the council will find itself in should the Highway grounds reason be continued through the Public Inquiry.

### **Additional Consultancy work**

As a business the Consultant provided a fee for undertaking the work requested by Members. This work would have cost £2,950 in addition to which the council would have had to have paid directly for its own enumerators to undertake traffic surveys needed by the Consultant to complete his work. The Consultants, however, advised that the completion of the commission would not alter their view that there were no highway grounds for justifying a refusal of planning consent.

It was and is my view that the extra information that would have been obtained by the Consultant would have strengthened the case for granting planning permission.

### **The Council's case at Public Inquiry**

To sustain the Committee's objection at appeal it will be necessary to prove the following statements made in the reasons for refusal are true:-

1. "unacceptable increase in the level of vehicle movements using this access point"
2. "traffic increase would be greater than the maximum number of potential movements that could reasonably be expected if the garages at the site were to be fully reused for vehicles"
3. "traffic movements associated with the development here would be significantly greater than the existing (and any future likely) vehicular use of the garages"
4. "The proposal would ..... result in the intensification of use of an unsuitable access point causing interference with the free flow of traffic and a consequent danger to highway and pedestrian traffic"

These statements all in effect say the same thing – there will be greater vehicular use of the site causing unacceptable danger due to the access arrangements.

So what is the use when the development has been built? Table 1 below gives the movements that could be anticipated if the council were to use the nationally accepted rates of generation for residential development in this sort of location. These are HIGHER than a typical situation in York.

Table 1

	Arrivals	Departures	Total
AM Peak	2	6	8
PM Peak	6	3	9

In other words during the peak hour the site if developed as proposed would generate around 8 vehicle movements in each peak hour.

So how does this compare with the flow on Tadcaster Road? Table 2 gives the AM and PM situation with a mean flow and the typical variation range.

Table 2

	2 Way Flow	Daily variation
AM Peak	1600 vph	+/-209
PM Peak	1600vph	+/-89

In other words the additional 8 vehicles an hour in the peak will be reflected in the existing peak flow which has a significant daily flow variation substantially greater than the 8 involved.

Clearly that 8 vehicles will join at a busy traffic light junction so will that cause problems? The Institution of Highway Engineers, The Institution of Civil Engineers and the guidance issued by the Highways Agency concerning the assessment of the impact of developments upon Trunk Roads state that variations in flow of less than 50 vehicles per hour will have no material impact upon the operation of Traffic Signal junctions.

Assuming that the 8 vehicles per hour is still of concern, how is such a volume viewed in the light of National and the Council's own policies?. The Institution of Highway Engineers and the CyC guide on Transport Impact Assessments state that no account should be taken of the impact of a development if its generated traffic impact is less than 5% of the current flow. For Tadcaster Road that would be about 80 vehicles per hour or ten times that generated by this site, if it were a green field.

This site is, however not a green field. In Planning law the council are obliged to take in to account the so called Fall Back consideration. What this means is that the current land use must be taken into account when considering the grant of consent for a new land use. Where this has not been taken into account Courts have overturned planning and appeal decisions. Table 3 shows what the site could generate were it to be used to the full extent of its current planning permission.

Table 3

Existing Land use

- 2 No Detached houses
- 1 No Detached bungalow
- 13 No Lock up garages

	Arrivals	Departures	Sub Total	Total
AM Peak				

Homes	1	1	2	
Garages	1	4	5	7
PM Peak				
Homes	1	1	2	
Garages	4	1	5	7

Table 4 therefore shows the intensification of use of this actual site.

Table 4

	Fall Back	Development	Difference
AM Peak	7	8	1
PM Peak	7	9	2

What the above says very clearly is that:

- a The site will generate between 1 and a maximum of 8 extra vehicles in the peak hour
- b This generation is 1/10<sup>th</sup> or less than the council's own guides say should be taken into account when considering if traffic movements are significant
- c The generation is 1/6<sup>th</sup> or less than would be considered by a range of authorities as likely to cause adverse impact upon the operation of the adjacent traffic signals.

In terms of the access:

- a It is unusual to have an access through a bus layby. It is however, not unique either in York or in the country
- b In terms of the frequency of use likely this is, at an average of one every 7.5 minutes, easily comparable with access to private dwellings where a bus stop is located on highway – of which there are hundreds in York and millions around the country
- c If the council had considered this use to be dangerous with the current land use permission they had the power to deal with it, either by relocating the bus stop or using a Section 124 Order under the Highway Act. No such action was take or has ever been discussed.
- d The visibility for drivers existing the new entrance exceeds the national and council standards for visibility

### **Prospects for Council success at a Public Inquiry**

An Inquiry examines facts, not opinions. The Council has to defend its decision based upon the facts. A statement of fact not substantiated is not a fact. The Committee cannot place facts before an Inspector other than those I have described above since no others exist.

This is not a case where Officers on the balance of probabilities consider that a development is acceptable but Members, again on the balance of probabilities consider that it is not. There is no fine line here. The evidence is clear cut and unequivocal. No amount of work by Officers or Consultants will alter the basic facts of the case and those facts do not support refusal on highway ground.

On the basis of these facts no case against the development proceeding can be substantiated using national or CyC policies and thus the prospect of convincing an Inspector that there is a valid highway reason for refusal is Nil.

## **Other Considerations**

CyC Professional Traffic Officers have considered this development on TWO separate occasions prior to Members refusing permission on the 16 March and are on record as stating that neither the current scheme nor the slightly larger one, would raise any highway concerns.

Independent Consultants have considered the current application and reviewed the Officers highway advice. They conclude that the application is acceptable on highway grounds

At Public Inquiry the CyC Officers views and those of the Consultant will be made known to the Inspector by the applicant as this strengthens their case.

Given that Officers views have been presented clearly, have been supported by Independent Consultants and both advise that there are no grounds for sustaining a highway reason for refusal, the Inspector is almost certain to conclude that the Applicant has been put to an expense that he had no right to be subjected to.

## **Summary**

Members are advised that the possibility of providing evidence to back up the highway reasons given by the Local Planning Authority for refusing to grant Planning consent is Nil.

Members are further advised that the possibility of an Inspector giving sufficient weight to the view of Members that permission should be refused so as to reject the appeal by the developer is probably less than 1%.

Members must recognise that the possibility of the Inspector considering that the highway reason for refusal is vexatious and unfounded is greater than 99% and thus also recognise that costs will be awarded against the Council.

**APPEAL LODGED ON BEHALF OF  
PILCHER HOMES LTD**

**PROPOSED RESIDENTIAL REDEVELOPMENT SCHEME  
ON LAND FRONTING TADCASTER ROAD,  
DRINGHOUSES, YORK  
ERECTION OF 3 NO. 3 STOREY HOUSES  
AND A 3 STOREY BLOCK COMPRISING 9 FLATS  
AND 1 ATTACHED TOWNHOUSE, TOGETHER WITH  
ANCILLARY WORKS**

**APPEAL LODGED PURSUANT TO CITY OF YORK COUNCIL'S  
DECISION NOTICE DATED 20 MARCH 2006**

**PRE-INQUIRY STATEMENT OF CASE  
PREPARED ON BEHALF OF THE APPELLANTS**

**STATEMENT OF CASE  
PREPARED BY:**

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**PLANNING INSPECTORATE REF. NO: APP/C2741/A/06/2020992/NWF**

**LPA REF. NO: 02/00103/FULM**

**SEPTEMBER 2006**

**APPEAL LODGED ON BEHALF OF PILCHER HOMES LTD**

**PROPOSED RESIDENTIAL REDEVELOPMENT SCHEME ON LAND FRONTING  
TADCASTER ROAD, DRINGHOUSES, YORK  
ERECTION OF 3 NO. 3 STOREY HOUSES AND A 3 STOREY BLOCK COMPRISING 9  
FLATS AND 1 ATTACHED TOWNHOUSE, TOGETHER WITH ANCILLARY WORKS**

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## 1. INTRODUCTION

- 1.01 This Appeal is occasioned by the decision of the City of York Council to refuse an application for full planning permission, comprising a scheme for the redevelopment of a brownfield site for a total of 13 residential units on land fronting Tadcaster Road, York. *(Contrary to the description of the development adopted by the Council, the rear block actually comprises 9 flats and 1 attached townhouse, rather than the "block of 10 flats" referred to by the Council in the Committee Report, Decision Notice and elsewhere).*
- 1.02 This current proposal, hereinafter referred to as **the Appeal Scheme**, was lodged as a re-submission following the refusal of an earlier scheme, pursued on behalf of the same Applicants (**the Original Scheme**). That Original Scheme was refused by Members, against an Officers' recommendation of approval, in January 2005.
- 1.03 The Appeal Scheme was submitted under cover of application forms and the Agent's letter, both dated 17 January 2006. That letter made it clear that the proposal was a re-submission of the Original Scheme and set out, in broad terms, how the Applicants believed that they had addressed the two Reasons for Refusal cited in respect of the Original Scheme. In particular, the letter confirmed that scheme numbers had been further reduced, given a total of 13 units in place of the previous 16, as refused in January 2005.
- 1.04 Following consideration of the Appeal Scheme, a detailed Officers' Report was subsequently placed before a meeting of the West Area Planning Sub-Committee of the Council, held on 16 March 2006. Following a full analysis of relevant issues, that Report put forward a recommendation of **Approval** for the Appeal Scheme, subject to specified conditions.
- 1.05 Notwithstanding that recommendation, Members resolved to refuse planning permission. It is understood that the decision was unanimous. As a result, the situation in respect of the Appeal Scheme is, then, a repeat of that in respect of the Original Scheme, notwithstanding the significant revisions which had been advanced in the meantime. In other words, two schemes for the same brownfield site had both

been recommended for approval by Officers, only to be refused permission, against that professional advice.

1.06 For ease of reference, the two Reasons for Refusal subsequently set out on the Decision Notice in respect of the Appeal Scheme are worded as follows:

- " 1. ***In the opinion of the Local Planning Authority the proposed buildings, by virtue of their scale, height, massing and design are inappropriate in this area and would harm the appearance and character of the area, the setting of the Tadcaster Road Conservation Area, and the amenities of residents living close to the site. As such, the proposal is contrary to Policy E4 of the North Yorkshire County Structure Plan and Policies GP1 'Design', H4 'Housing Development in Existing Settlements', GP10 'Subdivision of Gardens and Infill Development' and HE2 'Development in Historic Locations' of the City of York Local Plan Deposit Draft.***
2. ***The Council considers that the proposal would result in an unacceptable increase in the level of vehicular movements using this access point, which emerges from within a busy bus stop lay-by and into the lane structure of a busy signalled junction on a principal arterial route into the City. Traffic levels and potential conflicts on the highway at this junction have intensified since the garages on the site were last used as garages rather than for storage, and the traffic increase would be greater than the maximum number of potential movements that could reasonably be expected if the garages at the site were to be fully reused for vehicles. Furthermore, traffic movements associated with the development here would be significantly greater than the existing (and any future likely) vehicular use of the garages. The proposal would, therefore, result in the intensification in the use of an unsuitable access point, causing interference with the free flow of traffic and a consequent danger to highway and pedestrian safety'.***

1.07 In essence, the Appellants' case at the forthcoming Inquiry will offer a detailed response to both of these specified Reasons and produce evidence to demonstrate that they are not soundly based and that the harm alleged will not occur.

1.08 The remainder of this Pre-Inquiry Statement outlines the way in which such arguments will be advanced.

## 2. SITE LOCATION, DESCRIPTION AND SURROUNDINGS

- 2.01 Notwithstanding the detail provided within the Appeal Scheme submission, in terms of the submitted Design Statement and 'Street Scene' elevational drawings, it is judged important that the Inspector appreciates how the proposals for the subject site fit within their immediate surroundings on Tadcaster Road. Accordingly, the Appellants will explore and analyse those local surroundings in some detail, in order to provide an appropriate context.
- 2.02 Reference will be made to the adjacent designated Tadcaster Road Conservation Area which lies on the opposite (eastern) side of Tadcaster Road. In particular, the Appellants will acknowledge and examine the content of the relevant Conservation Area Statement.
- 2.03 The Appellants will argue that the general environs of Tadcaster Road (*whether within or without the designated Conservation Area*) have evolved over a number of centuries, largely by a process of new built development and infilling, and that this current Appeal Scheme is no more than a further instance of that long-running process.
- 2.04 Reference will also be made to a recently constructed residential scheme on the same side of Tadcaster Road, just several hundred metres further to the south, now named as Calcaria Court. It will be argued that there are distinct similarities between that scheme, as approved and built, and the current Appeal Scheme\*. It will, however, be further argued that such similarities call into question why that scheme should have been allowed and the Appeal Scheme resisted. On the basis of all available documentation, in respect of both schemes, it will be argued that the only

\* For example, in addition to issues relating to the scale of that scheme, it is noted that the Officers' Report offered the following assessment upon the principle of residential development: *'The application involves redevelopment for residential of a previously developed site within the urban area of York, on a main arterial road and public transport route into the city and within walking distance of local facilities. As such, the scheme accords with national and local planning policy set out in Planning Policy Guidance Note 3: Housing and Draft Local Plan policies H3. Mix of housing types proposed within scheme including 3 and 4 bed houses and 2 bed apartments. The latter is not common in this part of Tadcaster Road – mainly single dwellinghouses – therefore the proposal would add to the variety of land uses and accommodation type available in the area'*

readily discernible difference between the two was the more evident level of local objection in respect of the Appeal Scheme.

- 2.05 In this regard, the evidence to be advanced on behalf of the Appellants will fully explore the substance of third party objections, with a view to demonstrating that they cannot be properly substantiated on relevant and credible land use planning grounds.
- 2.06 It is anticipated that all factual information in respect of site location, description and surroundings can be agreed with the Council in due course, with a view to such details being included within a Statement of Common Ground (**SOCG**)\*. That said, it may well be that the inferences to be drawn from such base information may vary between the two main parties. If so, then the Appellants will advance their own analysis through the preparation of their Evidence.

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\* It has been noted that the site identification plan attached to the 16 March 2006 Committee Report is incorrect. The Appellants look to the Council to confirm this error in due course.

### 3. RELEVANT PLANNING HISTORY

- 3.01 The planning history of the subject site will be explored by the Appellants, in order to place this current appeal proposal in its proper context. That said, the reality of the situation is that the only relevant element of such planning history is that related to the Original Scheme already referred to above.
- 3.02 At this stage, it is judged sufficient to offer the following brief observations:
- If one compares the two sets of Reasons for Refusal (*in respect of the Original Scheme and the current Appeal Scheme*), it will be seen that the first Reason still being relied upon is identical in both instances.
  - As a result, it is clear that, despite the very tangible changes to the scheme which have been effected through pursuit of this re-submission, and despite the consistent support of the Council's professional Officers, Members have chosen to maintain exactly the same position. The Appellants will argue that this is not a credible stance for the Council to adopt, and that there is every reason for the Appellants to have expected that the significant revisions promoted through pursuit of the Appeal Scheme warranted a different, positive outcome from that which prevailed in respect of the Original Scheme.
- 3.03 As regards the second Reason for Refusal, it will be noted that the Appeal Scheme has attracted a far more detailed exposition of the Council's alleged concerns in respect of highway issues, compared with that which was previously advanced against the Original Scheme.
- 3.04 Bearing in mind that no highway objections were offered by Officers in respect of either scheme, the Appellants will endeavour to explore why a more elaborate Reason has been advanced in the current instance, in the absence of any support from professional Officers for any highway grounds for resisting this scheme.
- 3.05 Put simply, the Appellants will seek to establish the source of this second Reason for Refusal which, on its face, offers a technical highway reason for resisting this

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proposal, but in the absence of any support from the very Officers who are best qualified to advise on such matters.

- 3.06 This is, in our submission, all the more important, when one bears in mind that the Appeal scheme was recommended for **approval**. In other words, given that recommendation, there was no wording for the resultant second Reason for Refusal before Members, at the point at which they determined to refuse planning permission.
- 3.07 It is anticipated that factual information relating to (*albeit limited*) relevant planning history can be agreed with the Council and included within the SOCG. That said, it is anticipated that the two main parties will be likely to offer differing views in respect of that earlier decision, so far as it may be relevant to the determination of this appeal.



#### 4. PLANNING POLICY CONTEXT

- 4.01 Reference will be made to the **statutory development plan** which, in this instance, currently comprises the approved North Yorkshire County Structure Plan and the Regional Spatial Strategy (**RSS**) for Yorkshire and the Humber.
- 4.02 As regards the more local planning policy framework, there is no statutorily approved Local Plan in place. Previous pursuit of such a Plan got to the point of a Deposit Draft version, augmented by 4 Sets of Pre-Inquiry Changes. *(It is that emerging policy context which is alluded to in the first of the Council's two Reasons for Refusal in respect of the Appeal Scheme).*
- 4.03 It is acknowledged that more recent work is now in train, regarding the Council's progression of its new Local Development Framework. However, such work is at an early stage, to such an extent that there is, in essence, no local statutory planning policy framework which can be said to be of relevance to the circumstances of this appeal.
- 4.04 Accordingly, the Appellants will argue that only relevant national and regional policies have any real weight in determining the outcome of this appeal. Local Plan policies will, however, be assessed as material considerations.
- 4.05 It is envisaged that the factual content of all relevant policy sources will be included within the SOCG, with any varying interpretation of that guidance being set out separately in the Evidence to be presented by both main parties.
- 4.06 In reality, in this particular instance, the anticipation is that this appeal will fall to be determined on its individual, site-specific circumstances, against a general background of conformity with broad planning policy. In other words, the Appellants will advance the argument that there is a presumption in favour of the beneficial and efficient use of an existing, under-used urban brownfield resource, subject obviously to such location-specific considerations as good neighbourliness, amenity considerations and due regard being paid to the character and setting of this particular locality.

**5. THE COUNCIL'S CONSIDERATION OF THE SUBJECT APPLICATION**

5.01 By reference to the documents included within the Council's Appeal Questionnaire and the bundle of appeal papers submitted on behalf of the Appellants, the authority's deliberations on the Appeal Scheme will be considered in detail.

5.02 It will be noted, *inter alia*, that:

- There was a relatively significant degree of local objection to the Appeal Scheme;
- Many of these objections were couched in the same terms as used in respect of the Original Scheme, despite the fact that clear revisions had been introduced in the meantime. (*Indeed, it is noted that many letters, in essence, asserted that the previous Reasons for Refusal remained valid, despite such changes*);
- Key consultees were, again, supportive of the proposals, most notably the relevant Officer from Highway Development and the Council's Head of Design, Conservation & Sustainable Development. Their areas of expertise are noted as being directly related to the two main topics which are now relied upon in the Reasons for Refusal devised by Members;
- The support of those Officers is perhaps not surprising, given that the Appeal Scheme is now of a reduced scale from that which they previously found acceptable; and that
- The Officers' objective assessment was that permission should be granted.

5.03 The Appellants will explore the substance of third party concerns, as set out in the various letters of objection, and will demonstrate that these are insufficient to amount to credible reasons for resisting this scheme, on land use planning grounds, taking account of all relevant circumstances.

5.04 Evidence will also be advanced, by detailed reference to the analysis set out in the Officers' Report, and to all relevant supporting documentation, to demonstrate that contrary arguments in favour of the appeal scheme are more persuasive.



- 5.05 Given such analysis, it will be argued that there is genuine merit in the Officers' assessment, that Members were wrong to resist that professional advice, and that the Reasons for Refusal upon which they seek to rely cannot be sustained.
- 5.06 In particular, it will be contended that undue weight was accorded by Members to the claimed concerns raised by local objectors and that, as a result, Members were inappropriately swayed to resist a robust recommendation of approval.
- 5.07 Given that refusal of the Appeal Scheme is now the second time that such a negative outcome has occurred, it will be noted that proposals for this brownfield site remain unresolved, despite having first been submitted as long ago as **December 2003**.
- 5.08 Given that context, it will be argued that the Council have acted unreasonably in continuing to resist a beneficial development which should, on any objective assessment of all available information, have been allowed to proceed.
- 5.09 Indeed, if that had occurred, it is considered that there is every likelihood that the dwellings involved would, by now, either be completed and occupied or at least be under construction, offering imminent housing opportunities to the benefit of the local residential market.
- 5.10 In short, this beneficial re-use of an underused brownfield resource has been unnecessarily and unreasonably delayed, to a significant degree, by the actions of this Council.

**6. OUTLINE OF THE APPELLANTS' CASE**

- 6.01 In due course the Appellants will produce evidence to counter all of the concerns specified in the two Reasons for Refusal set out on the Decision Notice of 20 March 2006.
- 6.02 At this stage, for the purposes of this Statement, it is judged sufficient to indicate the general approach which the Appellants will take towards the production and presentation of that evidence.
- 6.03 Accordingly, the text below addresses the two Reasons, in turn.
- 6.04 Beginning with the **first Reason for Refusal**, this is already quoted in full at *Paragraph 1.06* above.
- 6.05 For clarity, and unless the Authority indicates otherwise in due course, the "**proposed buildings**" referred to in this Reason are taken to be the two principal buildings. Namely, Villa A and Villa B. It is assumed that the specified concerns do not relate to either the cycle parking/bin store structure or the garage blocks located to the rear (western) portion of the site.
- 6.06 Proceeding on that basis, the Appellants will consider each of the specified elements of the two Villas (*ie. their scale, height, massing and design*) and go on to test whether these:
- i) are inappropriate in this area;
  - ii) would harm the appearance and character of the area;
  - iii) harm the setting of the Tadcaster Road Conservation Area; and/or
  - iv) harm the amenities of residents living close to the site.
- 6.07 This will be done by offering an objective analysis of the Appeal Scheme, from a range of relevant perspectives. These will include:

- The original assessment of the character and 'grain' of the locality, which was used as a vehicle for establishing a suitably sensitive scheme in terms of scale, massing and "good neighbourliness";
- Original research into existing (good quality) design features within the immediate locality (*eg. materials, window types and treatments, building details etc*) which assisted the designer in developing a scheme which is both distinctive and bespoke, but which nevertheless complements its surroundings; and
- A related assessment of existing spatial and urban design characteristics within the locality, as a vehicle for identifying the constraints and opportunities associated with the proposed redevelopment of this site. (*eg. the scope for improving the street scene quality of the Tadcaster Road frontage, and the clear opportunity to enhance the townscape composition along St. Helens Road which is, at present, of poor quality, in terms of visual appeal, scale and containment...*).

- 6.08 It will be explained how this early (and essential) evaluation work informed the evolution of a scheme which is judged to be individual, original and well-suited to such an urban opportunity site alongside one of the main approaches to York City Centre.
- 6.09 In this context, reference will be made to the Design Statement which was submitted as an integral part of the application, and to the Street Scene Elevations which were always regarded as an essential element of this submission by the Appellants.
- 6.10 The Appellants will also rely upon the recorded views of others who were involved in assessing this scheme, by reference to relevant consultation responses and the contents of the Committee Report itself.
- 6.11 In particular, reference will be made to the consultation response from the Council's own Head of Design, Conservation & Sustainable Development who, overall, confirms that he regards both Villas as acceptable in terms of architectural design, scale and proportion, as well as indicating that the effect of the scheme on the setting of the adjacent Conservation Area is also acceptable.

- 6.12 The Committee Report on the Appeal Scheme reproduces the full text of that consultation response from the Head of Design & Conservation, and goes on to offer the further observation that "**although the buildings would have a significant presence in the street scenes of Tadcaster Road and St. Helen's Road they would not dominate the street to the extent that they would harm the character of the area**".
- 6.13 The Report goes on to conclude that the scheme is acceptable and that it "**would not harm the character of the area, the amenities of residents, worsen highway safety or harm the biodiversity of the area**", subject to a range of specified conditions.
- 6.14 As regards the question of potential harm to the amenities of nearby residents, which is also alleged in the first Reason for Refusal, this is covered at some length in the Committee Report, which concludes that the scheme is acceptable, in terms of "space about dwellings" distances and any potential for noise or activity arising from use of the proposed garage blocks.
- 6.15 The Appellants will offer their own detailed analysis on all potential amenity issues and will demonstrate that relevant guideline standards are exceeded by a significant margin. Indeed, it will be explained that, notwithstanding the level of objection, particularly from residents on Mayfield Grove and St. Helen's Road, there are in fact only a very limited number of existing properties where a 'new to old' direct relationship will arise. Where this occurs, it will be demonstrated that separation distances are significant and that even 'new dwelling to garden' relationships can be effectively addressed by the planting measures which are proposed.
- 6.16 **Overall**, it will be argued that the various issues raised in the first Reason for Refusal do not bear close scrutiny and cannot be substantiated in the light of any proper objective assessment. Indeed, it will be argued that one can arrive at the opposite (positive) conclusion in respect of each of the matters which is alleged.

- 6.17 Turning to the **second Reason for Refusal**, the Appellants will again offer their own analysis, as well as having regard to the consultation response from Highway Network Management and the assessment offered in the Committee Report.
- 6.18 By way of background, reference will be made to a Highway Assessment report which was submitted on behalf of the applicants, in support of the Original Scheme. The content of that document was accepted by Officers, leading Highway Network Management to the conclusion, *inter alia*, that as **"there would be no material intensification in use of the access and given the improvements it is considered that there are not significant highway grounds to warrant refusal of planning permission"**. (Quotation taken from the 20 January 2005 Committee Report on the Original Scheme).
- 6.19 In the event, notwithstanding such support, many objections to the Original Scheme focused upon highway concerns. Certainly, in going against the original Officer recommendation of approval, Members chose to rely upon a highway reason for refusal. It is understood that the relevant Highway Officer was present at that original Committee Meeting and spoke against that intention, indicating that he would be unable to support such a reason.
- 6.20 Coming forward to the current Appeal Scheme, it will be noted that Highway Officers have re-stated their previous position, not least because the number of units involved has now been reduced from 16 to 13.
- 6.21 Reference will be made to the relevant consultation response from Highway Development which includes the following commentary:

**"The previous application was refused permission and included the following highway reason: "In the opinion of the Local Planning Authority the proposal would result in the intensification in the use of an unsuitable access point that would create a hazard to highway safety". This reason was generated at committee and was contrary to officer advice. It is considered that points in the report submitted by the applicants' Transport Consultant in the previous application are still relevant and as the current application is for three fewer units with attendant lower traffic movements then the officer recommendation is again to allow the application subject to ...conditions"**.

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- 6.22 As previously, it is noted that letters of objection have very much focused upon highway issues, and those speaking against the Appeal Scheme at Committee certainly referred to the access arrangements as being unsatisfactory.
- 6.23 In the event, Members again resolved to rely upon a highway reason for refusal, against officer advice, although in the current instance it will be seen that the text of the second Reason has now been elaborated upon when compared to that used in January 2005. That wording is set out within the quotation above from Highway Network Management. For ease of reference, and by way of cross-reference with that earlier Reason, the current second Reason for Refusal is set out in full in *Paragraph 1.06* above.
- 6.24 Notwithstanding the fact that this Reason goes into greater detail than was previously the case, the Appellants will argue that the Appeal Scheme is now numerically preferable to the Original Scheme, in terms of vehicle generation. Given that the Council's technical Officers have again indicated that this proposal is acceptable (*Indeed, they have in essence acknowledged that it is now more acceptable than previously...*), it will be argued that the Council are unable to substantiate this second Reason for Refusal.



## **7. SUMMARY & CONCLUSIONS**

- 7.01 For the reasons outlined above, and to be elaborated in due course through the presentation of Evidence, it is argued that the Reasons for Refusal relied upon by the Council do not bear close scrutiny and that there are no good planning grounds for continuing to resist this proposal.
- 7.02 It represents the beneficial redevelopment of a markedly under-used brownfield site in a highly sustainable urban location which should, on any reasonable basis, be allowed to proceed.
- 7.03 In addition, it is seen as very regrettable that what is, in essence, a relatively modest proposal should have been frustrated for such a considerable period of time, not least because the schemes involved have now been recommended for approval by Officers on two separate occasions.
- 7.04 All of that said, the Appellants welcome the opportunity to present their case to the forthcoming Inquiry, where they will invite the Inspector to uphold this appeal and to grant full planning permission for this residential development, as proposed, on land off Tadcaster Road, Dringhouses, York.

**8. LIST OF DOCUMENTS**

8.01 The Appellants anticipate that further elaboration of their case may necessitate reference being made to any or all of the following documents:

- i) All papers relating to the subject application (Ref: 06/00103/FULM);
- ii) All papers relating to the Original Scheme (Ref: 03/04013/FUL);
- iii) Current Government planning policy guidance including PPGs, PPSs, Circulars, Ministerial Statements and emerging guidance;
- iv) Photographic material depicting the subject site and its immediate locality;
- v) Relevant elements of the approved North Yorkshire County Structure Plan;
- vi) Relevant elements of the current/emerging Regional Spatial Strategy for Yorkshire and the Humber;
- vii) Relevant elements of the Draft City of York Local Plan (including the Four Sets of Pre-Inquiry Changes), as approved for development control purposes on 12 April 2005 and subsequent LDF documents;
- viii) The Council's published Conservation Area Statement for the adjacent Tadcaster Road Conservation Area;
- ix) Papers relating to a residential development due south of the signalised junction between Tadcaster Road and St Helen's Road, now named as Calcaria Court (Ref: 02/03537/FUL);
- x) "Design Bulletin 32: Residential Roads and Footpaths", published by DoE/DTP, 1992;
- xi) "Place, Streets and Movement" – A Companion Guide to DB32, published by DETR, 1998;
- xii) IHT document "Guidelines for Traffic Impact Assessment";
- xiii) Such other documents and/or drawn or graphic material as may become relevant, arising from the Appellant's further progression of their case.



CITY OF YORK COUNCIL

LOCAL PLANNING AUTHORITY REF: 06/00103/FULM  
PLANNING INSPECTORATE REF: APP/C274/A/06/2020992/NWF

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (DETERMINATION BY INSPECTORS)  
(INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

**Appeal by Pilcher Homes Ltd**

**Site at 26/28 Tadcaster Road, York**

STATEMENT UNDER RULE 6

The appeal is against the refusal of planning permission for the erection of 3 No. storey houses and a 3 storey block of 10 flats, with ancillary garage and cycle parking blocks, following the demolition of existing buildings.

In support of the decision to refuse planning permission, the Local Planning Authority will refer to the following in its Proof of Evidence:-

1. The *site and the surrounding area* will be described, to establish the context for the proposed development.
2. The *planning history* of the site will be explained with reference to (i) existing and historical uses upon the appeal site and (ii) more recent planning history, notably the refusal of planning permission for the erection of 16 dwellings upon the site on 20<sup>th</sup> January 2005 (ref: 03/04013/FUL).
3. Reference will be made to the *consultation responses* received upon the appeal proposal, as follows:-
  - (i) Responses from the relevant departments of the City of York Council.
  - (ii) Responses from Yorkshire Water, Marston Moor Internal Drainage Board, and North Yorkshire Police.
  - (iii) Response from Dringhouses and Woodthorpe Planning Panel.
  - (iv) Individual letters received from local residents and other interested parties.
4. The Local Planning Authority will contend that there are two *key issues* in this case:-
  - (i) the proposal would be detrimental to the appearance and character of the area, the setting of the Tadcaster Road Conservation Area and to resident amenity.
  - (ii) the proposal would lead to an intensification of the use of a sub-standard vehicular access to the site, to the detriment of free traffic flow along Tadcaster Road, and consequent danger to highway and pedestrian safety.
5. Reference will be made to the key *planning policy framework* at National Regional and Local levels as follows:-

## ANNEX C

## (i) National

- Planning Policy Statement 1 (PPS1)  
“Delivering Sustainable Development”
- Planning Policy Guidance Note 3 (PPG3)  
“Housing”
- Draft Planning Policy Statement 3 (PP3)  
“Housing”
- By Design – Better Places to Live – A Companion Guide to PPG3 (CABE  
September 2001)
- Planning Policy Guidance Note 13 (PPG13)  
“Transport”
- Design Bulletin 32 (DB 32)  
“Residential Roads and Footpaths”.

## (ii) Regional

- North Yorkshire Structure Plan 1995, with particular reference to Policy E4.
- Draft Regional Spatial Strategy for Yorkshire and the Humber to 2021  
(December 2004).

## (iii) Local

- City of York Highway Design Guide
- City of York Draft Local Plan, incorporating the 4<sup>th</sup> set of changes, as adopted  
for Development Control purposes (April 2005). Reference will be made to the  
relevant policies, in particular Policies CY GP1 (Design), CYHE2 (Development  
in Historic Locations), CYGP10 (Sub-division of Gardens and Infill  
Development) and CY4A (Housing Windfalls).

6. Regarding the key issues, the Local Planning Authority will contend that detriment to the *character and appearance of the area, the setting of the Conservation Area and resident amenity*, would result from the scale, height, massing and design of the proposal. It will be demonstrated that the appeal site is set mostly within the well established and small-scale residential enclave between St Helen’s Road and Mayfield Grove; with the site currently occupied by dwellings and low scale garages that have evolved as part of this enclave.
7. It will be shown that, in contrast, the combined effects of the footprint and mass of the proposal would be over-bearing and intrusive, in this context; aggravated, within the confines of the appeal site, by the lack of space and a proper setting around the proposed buildings, in relation to their size. The Local Planning Authority will contend that the proposal is a poor response to the opportunities and constraints presented by the site in terms of appearance and living conditions. Large bulky scale buildings will be brought close up against the existing frontage properties on Tadcaster Road, creating an over-dominant and cramped appearance causing the detriment to local residential amenity and the setting of the Tadcaster Road Conservation Area referred to in the reasons for refusal. In addition reference will be made to the impact upon the amenities of adjoining residents caused by the proposed car parking and turning areas.
8. Regarding the second key issue of *highway safety*, the Councils evidence will be based upon all the factors set out in the reason for refusal.

ANNEX C

9. Prior to the Inquiry the Local Planning Authority and the Appellant will agree a Statement of Common Ground for consideration by the Inspector.
10. Once the Proof of Evidence is prepared, all relevant documents will be available for inspection at the Council's reception at 9 St Leonard's Place, York YO1 7ET.

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