

## COMMITTEE REPORT

**Date:** 14 July 2016                      **Ward:** Huntington/New Earswick  
**Team:** Major and Commercial Team                      **Parish:** New Earswick Parish Council

**Reference:** 15/00758/FULM  
**Application at:** Red Lodge Haxby Road York  
**For:** Erection of 129 Extra Care Apartments (Class C3B) and 44 Care Suites (Class C2) and play area following demolition of Red Lodge, former library and tennis clubhouse buildings, external alterations to Folk Hall, construction of multi-use games area on recreation ground.  
**By:** JRHT (the applicant)  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 14 July 2016  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1 Red Lodge comprises a four storey brick and curtain wall clad care home dating to the 1970s lying directly to the west of Wigginton Road within the New Earswick Conservation Area. Planning permission is sought for the construction of 44 care suites (Use Class C2) with a mix of 129 one and two bedroom extra care apartments (Use Class C3B), the re-location of an Multi-Use Games Area and external alterations to the Folk Hall on the cleared site of the care home, the existing library and New Earswick tennis club. Applications for Listed Building Consent for the alterations to the Folk Hall and planning permission for re-development of the tennis club are being considered elsewhere within this agenda. The proposal has been amended subsequent to submission to address design and amenity concerns.

### 2.0 POLICY CONTEXT

2.1 Please see 4.2 to

### 3.0 CONSULTATIONS

INTERNAL:-

3.1 Public Protection raises no objection to the proposal subject to any permission being subject to conditions to control noisy plant, the re-remediation of contaminated land and the submission of a CEMP.

3.2 Highway Network Management raise no objection to the proposal.

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3.3 Housing Strategy raise no objections to the proposal.

3.4 Planning and Environmental Management (Ecology) raise no objection to the proposal subject to adequate bat mitigation measures being put in place as part of the development.

3.5 Planning and Environmental Management (Landscape) raise no objection to the proposal subject to any permission being conditioned to secure further defensive planting and the protection of existing trees within the site.

3.6 Planning and Environmental Management (Conservation) raise no objection to the proposal subject to any permission being conditioned to secure the submission and prior approval of details of new architectural detailing and materials.

3.7 Sport and Active Leisure express concern as to whether the provisions for relocating New Earswick Tennis Club will be sufficient to overcome the harm caused to the sport being delivered in the locality caused by the loss of the facility in its existing location.

3.8 Strategic Flood Risk Management raise no objection to the proposal.

EXTERNAL:-

3.9 New Earswick Parish Council raise no objection to the proposal subject to pedestrian access through the site being appropriately secured, adequate provisions being made to relocate New Earswick Tennis Club and adequate measures being put in place to secure the residential amenity of neighbouring properties.

3.10 Sport England raises no objection to the proposal as amended.

3.11 The Foss Internal Drainage Board raises no objection to the proposal.

3.12 Yorkshire Water Services Limited raises no objection to the proposal.

3.13 The Environment Agency raises no objection to the proposal.

3.14 Historic England raises no objection to the proposal.

3.15 New Earswick Tennis Club raise no objection to the proposal as revised.

3.16 The York CAAP Panel raise no objection to the proposal.

3.17 New Earswick Quaker Meeting raises no objection to the proposal.

3.18 Councillor Keith Orrell objects to the proposal on the grounds of loss of open space, impact upon the residential amenity of neighbouring properties through the over-bearing nature of the proposed new building and the location of the MUGA and impact upon the visual amenity of the wider street scene.

3.19 Julian Sturdy MP raises no objection in principle to the redevelopment of the site but objects to the impact of the submitted proposal upon the New Earswick Conservation Area and the setting of the Historic Garden Village, loss of informal amenity open space and impact upon the residential amenity of neighbouring properties.

3.20 Councillors Carol Runciman and Chris Cullwick object to the proposal on the grounds of loss of informal open space, impact upon the residential amenity of neighbouring properties from the construction of the proposed MUGA and impact upon the residential amenity of neighbouring properties by virtue of the over-dominant and over-bearing nature of the principal development.

3.21 217 Letters of objection and 2 letters of support have been received in respect of the application. The following is a summary of the letters of objection:-

- Concern at loss of informal open space;
- Concern at impact upon the setting of the Historic Garden village and associated conservation area;
- Concern at impact upon the residential amenity of neighbouring properties through loss of light, noise and the overbearing nature of the development;
- Concern at the impact of the proposal upon local habitat and biodiversity;
- Concern at the loss of a formal children's play area;
- Concern at the impact of construction of the complex on the structural stability of neighbouring residential property;
- Concern at the proposed scale and density of the development;\*
- Concern at the loss of the New Earswick Tennis Club from the village centre;
- Concern at the levels of traffic through the village during the construction period.

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

- Support for the design of the new scheme;
- Support for the continued integration of residents into the wider community.

## **4.0 APPRAISAL**

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the character and appearance of the New Earswick Conservation Area;

- Impact upon the character, appearance and setting of New Earswick Folk Hall a Grade II Listed Building;
- Impact upon the residential amenity of neighbouring properties;
- Loss of Informal Open Space and a Children's Play Area;
- Loss of the existing Tennis Club premises;
- Provision of Affordable Housing/Nomination Rights.

## PLANNING POLICY CONTEXT:-

### Status of the York development Control Local Plan (2005 4<sup>th</sup> Set of Changes)

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

### Status of the Emerging Local Plan:-

4.3 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only very limited weight, where relevant and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

### National Planning Policy Framework

4.4 The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

### Statutory Duty - Planning (Listed Buildings and Conservation Areas) Act 1990 (As Amended)

4.5 Section 66 requires the Local Planning Authority when determining planning applications for development that affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Case law has made clear that when deciding whether harm was outweighed by the advantages of a proposed development, the decision-maker must give particular weight to desirability of avoiding such harm. There is a "strong presumption" against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to the desirability of

preserving the building. (E.Northants DC v Secretary of State for Communities and Local Government [2014] EWCA Civ137).

4.6 This means that even where harm is less than substantial, such harm must still be afforded considerable importance and weight, i.e. the fact of harm to the listed building is still to be given more weight than if it were simply a factor to be taken account along with all other material considerations.

Statutory Duty - Planning (Listed Buildings and Conservation Areas) Act 1990 (As Amended)

4.7 Section 72 requires the Local Planning Authority when determining planning applications for development within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Case law has made clear that when deciding whether harm to a Conservation Area was outweighed by the advantages of a proposed development, the decision-maker must give particular weight to desirability of avoiding such harm. There is a "strong presumption" against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to maintaining the Conservation Area. (E.Northants DC v Secretary of State for Communities and Local Government [2014] EWCA Civ137).

Character and appearance of the conservation area

4.8 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Council "to have special regard to the desirability of preserving and enhancing the character and appearance of Conservation Areas. As a statutory duty any harm to the conservation area must be afforded considerable weight and importance when considering the planning balance and this is outlined below. Where any harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. The presumption in favour of sustainable development set out at Para 14 of the NPPF does not apply in these circumstances.

4.9 Central Government Planning Policy as outlined in paragraph 131 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to the desirability of sustaining and enhancing the significance of heritage assets and putting them to uses consistent with their conservation.

4.10 Policy D4 of the (emerging) Publication Draft Local Plan supports proposals if designed to conserve and enhance the Conservation Area whilst leaving its essential qualities unchanged. Whilst very little weight can be afforded to the emerging policy, it reinforces the need to have special regard to the desirability of preserving and enhancing the conservation area, in line with the statutory duty.

## Impact upon the listed building

4.11 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Council to “have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.” As a statutory duty, any harm to the listed building or its setting must be afforded considerable weight and importance when considered in the planning balance and this is outlined below. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. The presumption in favour of sustainable development set out at Para 14 of the NPPF does not apply in these circumstances.

4.12 Central Government Planning Policy as outlined in paragraph 131 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to ensuring the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and ensuring the desirability of new development making a positive contribution to local character and distinctiveness.

4.13 Policy D5 of the (Emerging) Publication Draft Local Plan supports proposals affecting Listed Buildings where accompanied by a clear evidence based justification and where the significance and heritage value of the building is maintained. Whilst very little weight can be afforded to the emerging policy at this early stage, it reinforces the need to have special regard to the desirability of preserving the listed building, in line with the statutory duty.

## Impact upon residential amenity:-

4.14 Central Government Planning Policy as outlined in paragraph 17 of the National Planning Policy Framework "Core Planning Principles" urges Local Planning Authorities to give special weight in determining planning applications to the need to provide and maintain a good standard of amenity for new and existing occupants of land and buildings.

## Open space issues:-

4.15 Central Government Planning Policy as outlined in paragraph 74 of the National Planning Policy Framework indicates that existing open space, sports and recreational buildings and land including playing fields should not be built on unless the loss resulting from the development would be replaced by equivalent or better provision elsewhere.

## APPRAISAL

### IMPACT UPON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA:-

4.16 New Earswick village was laid out in the 1920s to serve the workforce of the nearby Rowntree confectionary factory as a reflection of the owner's Quaker philosophy. It was laid out according to innovative Garden City principles by the renowned early 20th Century urban designers Parker and Unwin with a standard palette of materials showing a heavy influence from the Arts and Crafts Movement with generous space standards between buildings and a high level of on-site and street landscaping. The area can be closely compared with Port Sunlight laid out by the Lever brothers at Birkenhead and Bourneville laid out by the Cadbury family in southern Birmingham. The Folk Hall which is itself Grade II Listed was designed to form the central focus of the layout.

4.17 Red Lodge was erected to the north of the Folk Hall in the 1970s up to 3 1/2 stories high, in a mix of brick and curtain wall cladding with a pattern of scale and massing not entirely sympathetic with the design and layout of the original Garden Village. The building does not now comply with Modern standards and the proposal envisages its replacement with a network of blocks of one and two bedroom "extra care" apartments to the west and north west of the existing site with a block of 44 extra care suites where care would be directly delivered to the most vulnerable directly to the west. This would include a specialist dementia care centre that would form part of the care provision for the wider area. Each block would be a mix of 2 1/2 and 3 1/2 storeys high in brick with a profiled metal standing seam roof arranged around a central area of informal open space. The existing library building would be demolished with the existing tennis club premises and children's play area relocated. The design of the scheme has been amended since submission to lessen the scale of the development and to re-align the location of the block directly to the west. As amended the pattern of scale and massing, layout and palette of materials of the surrounding development has been broadly respected.

4.18 In terms of its impact upon the character and appearance of the Conservation Area, the central role of the Folk Hall within the layout would be reinforced, the forms and idioms of the Arts and Crafts design of the wider village would be respected and the historical and communal significance of the village as a reflection of the ideals of the Rowntree family maintained. It is furthermore felt that the proposals would add a further character area of townscape to the Conservation Area in a location where it had previously been harmed. It is therefore felt that the requirements of Section 72 of the 1990 Planning (Historic Buildings and Conservation Area) Act would be complied with as the character and appearance of the Conservation Area would be preserved; and that the requirements of paragraph 134 of the NPPF that any material harm be balanced by significant public benefit would be satisfied. At the same time the proposed relocation of the MUGA would

have a broadly neutral impact upon the character and appearance of the Conservation Area by virtue of taking up an area of existing under-utilised open space. Less than substantial harm would be caused to the significance of the Conservation Area in this case, within the terms of paragraph 134 of the NPPF. This would be more than outweighed by the clear public benefit of enhancement to the provision of open space and sports facilities.

#### IMPACT UPON NEW EARSWICK FOLK HALL AND ITS SETTING:-

4.19 The Folk Hall comprises a Grade II Listed two storey render and half timber structure with Arts and Crafts detailing dating to the early 20th Century. It was designed to form a central focus to the Garden village with open space leading from the rear in a central spine through the settlement. This character has to some extent been eroded by the erection of the library and swimming pool buildings in the 1970s directly to its rear. The proposal involves the removal of the library building and the formalisation of the central zone of open space bounded by the new apartment blocks. It is felt that the removal of the library would significantly enhance the setting of the Listed Building and the reconfiguration of the landscaped area would restore it to its original function within the wider settlement.

4.20 A number of significant internal refurbishment works are proposed for the Folk Hall in terms of creating an enhanced cafe space and internal meeting and community rooms. These works are the subject of a separate Listed Building Consent application. It is also proposed as part of the scheme to remove and replace an existing external canopy dating to the 1980s and to provide a more up-to-date disabled access ramp. The proposed works would lead to less than substantial harm to the significance of the Listed Building in accordance with paragraph 134 of the NPPF and would return it along with its context to satisfying a central place within the wider Garden Village. Even when attaching significant weight to it, the harm is felt to be appropriately balanced by the wider public benefit of sustaining and enhancing its function with the range of new cafe and community uses proposed as part of the wider scheme. The proposal is therefore felt to be acceptable in terms of its impact upon the Listed Building and its setting.

#### IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

4.21 Concern has been expressed in terms of the impact of the proposal upon the residential amenity of neighbouring properties to the north and west of the site. Properties to the west and south west are generally single storey with those to the north a mix of two and three storey. The proposed development has been specifically set back from the properties to the west to lessen any sense of over-dominance, with the Care Home Garden with a significantly enhanced area of landscaping separating the scheme from properties to the south and south west. The staff and visitor parking area for the Care Home and apartment block 3

separates the scheme from properties to the north west. A further boundary landscape strip would be provided to the north and north west to further soften the relationship of the scheme to its wider surroundings.

4.22 In terms of separation distance the closest residential property is some 15 metres from the northern elevation of the Care Home with properties to the north and north west between 20 and 25 metres from the rear of the scheme. Such distances are felt to be acceptable in amenity terms and characteristic of the pattern of development within the wider area. The site layout reflects that of the wider garden village and whilst the scale of the new development is proportionally greater than that of the properties to the south and west the degree of separation is such that the proposed scheme would not be over-bearing or over-dominant in terms of the relationship with surrounding properties. The scheme has also been significantly amended to lower its height to two storeys with a single storey link block in the vicinity of the closest residential properties. The proposal is therefore felt to be acceptable in terms of its impact upon the residential amenity of neighbouring properties.

#### LOSS OF INFORMAL OPEN SPACE:-

4.23 Concern has been expressed in terms of the loss of the existing area of informal open space; a MUGA and a children's play area to the north west of the Folk Hall. The proposal envisages the erection of a replacement children's play area within the retained open space with a range of timber bespoke equipment along with the provision of a fenced MUGA to replace the existing, with basket ball hoops and modern layout at the village recreation ground to the north adjacent to New Earswick Primary School. The remainder of the retained open space would be heavily landscaped. The existing space consists of a large area of rough grassland used for informal meeting, play and dog walking with the remnants of an earlier landscaping scheme at the north western edge. In addition to formalising the existing situation the proposal would significantly reduce the physical extent of the available open space. Alternative provision in terms of play space has been made within the scheme in respect of equipment suitable for younger children with the MUGA giving alternative provision for elder children and adults elsewhere. Whilst the requirements of paragraph 74 of the NPPF and of Sport England, as a statutory consultee have been complied with there would be a detrimental impact upon the manner in which the informal space is presently used by local residents although not by virtue of any formal agreement with the landowner JRHT. It is felt on balance that the positive benefits associated with the re-development of the Folk Hall and the provision of the Red Lodge accommodation in a form more appropriate to current care standards and the design philosophy of the wider settlement would outweigh the harm that would result.

4.24 The MUGA would be provided on an alternative section of open space presently under-used adjacent to the primary school to the north. Whilst it lies within

the Conservation Area, its relocation would improve the condition of the area of open space and ensure that facilities of equivalent value are provided. Low level flood lighting would be provided although there would not be any material impact upon the residential amenity of neighbouring properties because of the distance involved and the level of landscaping present within the existing boundary treatment.

#### LOSS OF EXISTING TENNIS CLUB PREMISES:-

4.25 The proposed development would result in the loss of the existing New Earswick Tennis Club House and courts to the north west of the Folk Hall. The facilities are well utilised and of long standing. Central Government Planning Policy as outlined in paragraph 74 of the NPPF sets out a clear requirement in respect of loss of such facilities for the re-provision of equivalent or higher quality facilities on an alternative site. In the current case the provision of flood lit tennis courts to a Modern standard are proposed at the village sport field in association with the existing Rugby and Cricket Clubs. This is the subject of a separate planning application on the current agenda and is felt to be appropriate alternative provision.

#### PROVISION OF AFFORDABLE/HOUSING NOMINATION RIGHTS:-

4.26 The proposed development comprises a mix of one and two bedroom apartments (Use Class C3b) for those over 55 years of age and in need of care with a development of care suites for those in need of the level of care more usually associated with a Care Home(Use Class C2). As a consequence the self contained residential (C3(b)) element of the proposal is considered under general housing policies within the NPPF, taking into account the Strategic Housing Market Assessment, the evidence base underpinning the emerging local plan, and the Council's Interim Policy Thresholds to be considered against Policy H2a) of the 2005 York Development Control Local Plan and the associated Interim Policy Thresholds. Whilst the applicant proposes that the development is 100% affordable, it is nevertheless important that the type and method of securing affordable housing is achieved through an appropriate legal mechanism (S106/condition).

#### PROVISION OF FLEXIBLE EXTRA CARE HOUSING:-

4.27 The proposal envisages in association with the 44 Extra Care Units, a development of conjoined apartments which will have the fundamental characteristics of Use Class C3b) at the point of implementation. The development is further predicated upon an element of flexibility allowing for the possibility of conversion of the apartments from conventional residential accommodation where the occupants receive a fixed but low level of care by providers coming in from outside to the receipt of a higher level of care, including nursing care as a transitional arrangement before admission to a conventional care home. The novel and unique nature of the concept which does not sit squarely within the Use Class C3b) sets up a requirement for a clear and unambiguous definition as part of the

requested Section 106 Agreement in order that appropriate affordable provision and nomination rights can be secured.

4.28 It is felt that the apartment proposal falls within C3b) on the basis that it consists of single apartments occupied by individuals living together as a single household but in need of care. Each unit has a separate front door with dining, cooking and laundry facilities comprised in each unit. The units are secured in the same manner as conventional extra housing and whilst communal facilities are provided as part of the wider development they are physically divorced from the apartments.

#### RELATIONSHIP OF DEVELOPMENT PERMISSIONS:-

4.29 The proposal being considered forms the central element of the wider re-development scheme involving additionally internal works to the Grade II Listed Folk Hall and the relocation of New Earswick Tennis Club to the Sport Ground. It is felt that the substantial public benefit arising from the wider proposal provides a sufficient case of very special circumstances to justify the harm to the openness of Green Belt generated by the relocation of the Tennis Club as well as justifying the less than substantial harm caused to the interior of the Folk Hall. In view of the clear functional linkage relationship will need to be formally established by means of condition and within the Section 106 Agreement.

### **5.0 CONCLUSION**

5.1 The proposal has been amended subsequent to the original submission to address design and amenity concerns.

5.2 It is felt that the proposal as amended would fulfil the statutory tests within Sections 66 and 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act of preserving and enhancing the Conservation Area in respect of both the new built development and the relocation of the MUGA as well as safeguarding the character and setting of the Listed Folk Hall building. A substantial public benefit arising from the wider proposal can also be demonstrated in each case to justify the less than substantial harm that would be caused by the development in respect of paragraph 134 of the NPPF. At the same time the residential amenity of the adjacent properties to the north and west would similarly be safeguarded. Whilst it is acknowledged that there would be some harm arising from the reconfiguration of the existing open space within the centre of the development it is felt on balance to be outweighed by the substantial public benefit arising from the redevelopment of the Red Lodge complex and the reconfiguration of the Folk Hall. Subject to completion of a S106 agreement to define and secure the affordable, flexible extra care concept within the C3(b) residential apartments and the Folk Hall and Tennis Club permissions being linked to the provision of the Care Home the proposal is felt

to be acceptable in planning terms and approval is recommended subject to appropriate conditions.

**6.0 RECOMMENDATION:** Approve subject to completion of a Section 106 Agreement which shall:

- define and secure 100% affordable extra care concept housing within the residential apartment building
- link the provision of replacement tennis facilities and works to the Folk Hall to the provision of the care home and residential flexible extra care building.

1 TIME2 Development start within three years

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

Drawing Refs:- 2575 15 Rev A; 13D; 16 A; 2083A; AA4761 2014 B; AA4761/2063 Rev A; BA4822AIA 3; BA4822AIA4; AA4761 2066D; AA4761 2067D; 2062 Rev E; 2575/1 10D; 03746-0511A; AA47612040D; 2081A; AA47612010F; AA47612011F; AA47612015 Rev B; AA47612016B; AA47612030D; AA4761200A; AA47612045A; AA47612021;

AA47612031; AA47612041; AA47612050; AA47612051. AA47612060 G ground floor;

AA47612061 D first floor; AA47612062 F demol plan grd; AA47612063 C demol plan fst; AA47612066 E elevs 1

AA47612067 E elevs 2

AA47612068 C works to ground floor

AA47612069 works to first floor

AA47612070 internal and external doors

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

3 VISQ8 Samples of exterior materials to be app

4 VISQ7 Sample panel ext materials to be approv

5 VISQ4 Boundary details to be supplied

6 No development shall take place until there has been submitted and approved  
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in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, shrubs and hard landscaping. 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 Trees shown as being retained on the approved plans shall be protected in accordance with BS: 5837 Trees in relation to construction.

Before the commencement of development, including demolition, building operations or the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing; phasing of works; site access for demolition/construction and methodology; type of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading); parking arrangements for site vehicles; locations for storage of materials; locations of utilities. Details of existing and proposed levels and surfaces shall also be included.

The protective fencing line shall be adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, mechanical cultivation or deep-digging, parking or manoeuvring of vehicles; there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, or pipe runs for services or drains. The fencing shall remain secured in position throughout the construction process including the implementation of landscape works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To ensure protection of existing trees before, during and after development which are covered by a Tree Preservation Order and/or make a significant contribution to the amenity of the area.

8 Unless otherwise agreed in writing with the Local Planning Authority, prior to commencement of development the developer shall submit in writing and be approved by the local planning authority a formal pre-design BREEAM assessment for the design and procurement stages of the development. The developer shall submit a further BREEAM assessment after construction, at a time to be agreed in

writing by the local planning authority. The developer shall submit a completion assessment when issued by the BRE. All assessments shall confirm the minimum 'Very Good' rating anticipated in the preliminary BREEAM assessment submitted with the application

Reason - To ensure the development complies with the principles of sustainable development

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

For each of the approved building types large scale details (1:20 & 1:5 as appropriate) of new buildings shall be provided as follows:

- i) Typical bays shall be identified for detailed design development. Large scale details shall be provided illustrating plan, section and elevation of a bay
- ii) Main entrance areas
- iii) Gable ends
- iv) Eaves and dormer and other special roof conditions
- v) Canopies including any typical details where attached to buildings
- vi) Details of external doors, windows and roof lights shall be provided.
- vi) Details of external plant, flues, vents, grills shall be provided in context, including any proposed measures for their screening or disguising. Full details of external plant and/or compounds related to the energy centre shall also be provided.

Reason: So that the Local Planning Authority may be satisfied with these details and to secure the character and appearance of the New Earswick Conservation Area.

10 Unless otherwise agreed in writing by the local planning authority, no building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the sewer, which crosses the site.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

11 No new tree planting, shall be permitted over or within 5.0 (five) meters either

side of the centre line of the sewer, which crosses the site.

Reason: In order to protect the structural integrity of the pipe from tree root infestation.

12 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interest of satisfactory and sustainable drainage.

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

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

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

If existing connected impermeable areas are not proven then a Greenfield run-off rate based on 1.4 l/sec/ha shall be used for the above.

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

14 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal

15 The development hereby permitted shall be implemented in accordance with the scheme of mitigation set out in Section 7.6.2 Method Statement of the Extended Phase 1 Habitat Survey, June 2015 by Wold Ecology Ltd in all respects and any variation thereto shall be agreed in writing by the local planning authority before such change is made.

Reason: - To safeguard the habitat of a protected species

16 If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the date of the planning consent, the approved ecological measures secured through Condition 15 shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of bats and ii) identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason:- To secure the habitat of a protected species

17 HWAY14 Access to be approved, details reqd

18 HWAY18 Cycle parking details to be agreed

19 HWAY19 Car and cycle parking laid out

20 HWAY40 Dilapidation survey

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

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

22 Prior to the commencement of any works on the site, a detailed method of

works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. Such a statement shall include at least the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

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

23 No part of the site shall be occupied until a Full Travel Plan has been submitted and approved in writing by the LPA. The Full Travel Plan should be developed and implemented in line with local and national guidelines and the submitted Interim Travel Plan dated December 2014. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

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

Reason: To ensure the development complies with local and national highways and planning guidance, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

24 Prior to commencement of the development, an Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

NOTE: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to

lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

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

For dust details should be provided on measures the developer will use to minimise dust blow off from site, i.e. wheel washes, road sweepers, storage of materials and stock piles, used of barriers, use of water bowsers and spraying, location of stockpiles and position on site. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any).

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

In addition to the above I would also expect the CEMP to provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved.

Reason. To protect the amenity of local residents

25 All construction and demolition works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday                      08.00 to 18.00

Saturday                                  09.00 to 13.00

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Not at all on Sundays and Bank Holidays.

Reason. To protect the amenity of local residents

26 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval. These details shall include maximum sound levels (L<sub>Amax</sub>(f)) and average sound levels (L<sub>Aeq</sub>), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

REASON: To protect the amenities of adjacent residents

27 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozon treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

Reason: To protect the amenity of future residents and nearby properties.

28 A full Lighting Impact Assessment for all proposals involving floodlighting, must be undertaken by an independent assessor (not the applicant or the lighting provider), and should include:

- A description of the proposed lighting: number of lighting columns and their height, and proposed lighting units.
- Proposed level of lighting
- Drawings showing the illuminance levels (separate drawings for each item listed):
- Plan showing horizontal illuminance levels(Eh), showing all buildings within 100 metres of the edge of the site.
- Plan showing vertical illuminance levels (Ev), showing all buildings within 100 metres of the edge of the site.
- Specification of the Environmental Zone of the application site, as defined in The Institution of Lighting Professionals' Guidance Notes for the
- Reduction of Light Pollution.
- A statement of the need for floodlighting.

Note : Ev is the average vertical illuminance, which is a measurement of the quantity of light at height of 1.5 metres above the ground.

Eh is the average horizontal illuminance, which is a measurement of the quantity of light falling on a horizontal plane.

The assessment shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development above foundation level. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: To protect the amenity of future residents and local businesses.

29 LC1 Land contamination - Site investigation

30 LC2 Land contamination - remediation scheme

31 LC3 Land contamination - remedial works

32 LC4 Land contamination - unexpected contam

33 . Prior to the first occupation of the accommodation, the Owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Plan that will detail the maintenance, servicing, access and bay management arrangements for each Electric Vehicle Recharging Point for a period of 10 years which will ensure the Points are fit for the purpose of charging electric vehicles.

Notes: Electric Vehicle Recharging Point means a free-standing, weatherproof, outdoor recharging unit for electric vehicles with the capacity to charge at 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point.

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

34 Before occupation of the residential care suites, two (2) electric vehicle charge points shall be provided in a position to be agreed in with the Local Planning Authority. Electric vehicle recharge points should be in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Also, to prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the Local Planning Authority.

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

35 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority all tree planting details. Where trees are to be located within paved areas, the planting details shall accommodate suitable soil volumes underneath porous surfacing so that the trees have the capacity to survive and thrive.

Reason: To ensure that the trees are able to perform as intended within the approved landscape scheme.

36 Prior to the commencement of the development hereby authorised above foundation level full details of the proposed MUGA (Multi-Use Games Area) shall be submitted to and approved in writing by the Local Planning Authority. Such details

shall include:-

- i) full details of all lighting including type of fitting, location, intensity and hours of operation;
- ii) full details of all proposed gates and fencing, with heights, locations and finishes;
- iii) full details of the proposed terms of operation of the Games Area including management and hours of operation.

The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason:- To safeguard the residential amenity of neighbouring properties and to safeguard the character and appearance of the New Earswick Conservation Area.

37 The premises shall be used only as a Care Suites within Use Class C2 with associated apartments Use Class C3b) for those in need of some care for persons who have attained the age of 55 years or over and shall not be used for any other purpose , including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: The nature of the development as a development of care suites (Use Class C2) with associated apartments (Use Class C3b) ensures that the lack of provision for on-site affordable housing and the level of contributions towards off-site open space and affordable housing provision does not comply with policies H2a, H3c, L1c and GP13 of the York Development Control Local Plan(2005 4th Set of Changes) and paragraphs 50 and 203 of the National Planning Policy Framework.

38 No development shall take place until such time as the replacement tennis facilities the subject of planning permission 15/02446/FUL have been fully constructed and made first available for use.

Reason:- To secure compliance with paragraph 74 of the National Planning Policy Framework

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

### **1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs

186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- i) Sought clarity in respect of the arrangements for relocation of the New Earswick Tennis Club and the associated timescale;
- ii) Sought clarification in respect of the nature of the residential element of the scheme and the levels of care required to be provided to residents.

## 2. LANDSCAPING:-

It is recommended that the services of a landscape architect are employed to produce a landscape scheme and to oversee the landscape contract on site, in order to ensure that the ground preparation and planting are carried out to a satisfactory standard and are in strict accordance with the approved drawings. The developer is also advised to inform the local authority of when the planting is complete, so that i) the local authority can monitor the planting within the five-year period and hence continue to ensure that the requirements of this condition are met and ii) there is no discrepancy as to when the requirements of the planning condition cease.

## 3. HIGHWAY WORKS:-

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

Works in the highway - Section 62 - Stuart Partington (01904) 551361

## 4. UTILITIES:-

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

### **Contact details:**

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