

- 1.7 A parallel application for the demolition of the garage buildings within the Conservation Area is under consideration (ref. 06/02810/CAC). This can be determined by officers under delegated powers following determination of this application.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area - Clifton

2.2 Policies:

SP8 - Reducing dependence on the car

SP10 - Strategic Windfalls

H4 - Housing devp in existing settlements

H5 - Residential densities over 25 per ha

T4 - Cycle parking standards

T13 - Car park standards in York CC/District C

GP1 - Design

GP3 - Planning against crime

GP4 - Environmental sustainability

GP9 – Landscaping

GP11 - Accessibility

HE2 - Development in historic locations

HE3 - Conservation Areas

HE5 - Demolition of Listed Buildings and Buildings in Conservation Areas

L1 – Open space

3.0 CONSULTATIONS

INTERNAL

- 3.1 CITY DEVELOPMENT: The site is not allocated on the City of York Proposals Map (April 2005). However the site is located within a Conservation Area.
- 3.2 Housing Windfalls. Policy H4a (Housing Windfalls) stipulates that proposals for residential development on land not already allocated on the Proposals Map will be granted planning permission in accordance with SP10 where:
- a) The site is within the urban area and is vacant, derelict or underused or it involves infilling, redevelopment or conversion of existing buildings;
 - b) The site has good accessibility to jobs, shops and services by non - car modes

AND

- c) It is of appropriate scale and density to surrounding development, and
 - d) It would not have a detrimental effect on existing landscape features.
- 3.3 The proposed development at Clifton Garage is in compliance with part a) and b) of the policy. The DC Officer must be satisfied that this proposal is in compliance with parts c) and d) of the policy.
- 3.4 National Guidance and Residential Density. PPG3 (Housing) considers density, which stipulates a minimum of thirty dwellings per hectare. It suggests that local planning authorities should therefore;
- avoid development which makes inefficient use of land - less than 30 dwellings per hectare
 - encourage more efficient use of land - between 30 and 50 dwellings per hectare
 - seek greater intensity of developments with good quality transport links.
- 3.5 This is also related to policy H5a (Residential Density). The policy outlines the appropriate densities for new residential developments. Densities of 40 dwellings per hectare are encouraged for developments in the urban area. The policy also suggests that the scale and design of the proposed residential development should be compatible with the character of the surrounding area and must not harm local amenity.
- 3.6 In relation to density at Clifton Garage, fourteen flats have been proposed to be built on an area of 0.2 hectares. The density of the proposed development is approximately 70 dwellings per hectare. Therefore the density is above the recommended amount in policy H5a of 40 dwellings per hectare.
- 3.7 Mix of Dwellings. Policy H3c (Mix of Dwellings on Housing Sites) states that a mix of new houses types, sizes and tenures will be required on all new residential development sites where appropriate to the location and nature of development.
- 3.8 New Local or Village Shops. As part of the proposal is for a ground floor retail unit, account must also be taken of policy S10 (New Local or Village Shops) this policy states that planning permission will be granted for the development or extensions of an existing local/village shop provided that:
- i) the proposal is within the defined settlement limits ; and
 - ii) the shop is intended to serve a local need, and the scale of provision is appropriate to the locality; and
 - iii) there is no adverse effect on the amenity of neighbouring properties or on the character of the area.
- 3.9 The proposed development at Clifton Garage is in compliance with part i) of the policy. The applicant must be able to show that the retail unit will serve local need in both quantitative and qualitative terms. The DC Officer must be satisfied that this proposal is in compliance with part iii) of the policy.

- 3.10 Conservation Areas. This site is located within Clifton Conservation Area therefore account must be taken of policy HE3 (Conservation Areas). This policy states that within a conservation area, proposals for the following types of development will only be permitted where there is no adverse effect on the character and appearance of the area:
- § Demolition of a building (whether listed or not);
 - § External alterations
 - § Change of use which are likely to generate environmental or traffic problems.
- 3.11 Provision of New Open Space In Development . Developments for all housing sites will be required to make provision for the open space needs for future occupiers. This should be provided in addition to any area required for landscaping.
- 3.12 Car and Cycle Parking. Policy T4 (Cycle Parking Standards) states that the provision of cycle parking will be required in accordance with the standards set out in Appendix E. Information regarding car parking standards is also set out in Appendix E. Comments should also be received from the Highways Department.
- 3.13 Sustainability. Policy GP4a (Sustainability) states that all residential development is required to be accompanied by a sustainability statement, describing how the proposal fits for the criteria a - i listed in the policy.
- 3.14 UDC - CONSERVATION ARCHITECT: Proposals lie within the Clifton conservation area (no 2) close to the village green which remains the focus of the former village nucleus. About half of the site extends NE beyond the conservation area boundary. The conservation area statement states that "this area still retains its essential rural character, with mainly small scale dwellings and local shopping clustered around the village green. The uses around this open space do not conflict with the predominantly residential character of the area". The existing garage, with its open forecourt and extensive large scale outbuildings to the rear, are considered to be incongruous to the character and appearance of the area.
- 3.15 These revised proposals would restore enclosure onto Clifton. Although of three storeys in height, the frontage buildings have a lowered eaves course resulting in an eaves height and roof profile not uncharacteristic of the area. The apartments facing Clifton introduce some variety through the different window design and the extensive shop-front has been divided into four bays.
- 3.16 The retail unit itself has been reduced in size and given a service yard. It appears to have been successfully integrated into the overall form and massing of the frontage block. Notwithstanding the drawings further development of the shopfront details would be required by way of condition. The exposed gable of this block has been relieved by the window and the use of tumbled gabling.

Slate has been suggested for the roofing but we wish to consider the implications of using pantiles on this block.

- 3.17 It is beneficial to the more open character of the earlier grain to have split the accommodation into two blocks. The reduction in height of the rear block to mainly two floors and its set-back from the boundary of between 2-3m has overcome earlier objections concerning the impact on neighbouring properties and also on the pedestrian ginnel. The windows facing this route will improve security.
- 3.18 Overall the massing, roof modelling and scale of the development is considered compatible with the area. The scheme would appear to improve the character and appearance of the conservation area.
- 3.19 Please condition the following items for prior approval by the LPA: [attached as suggested conditions 3-5]
- 3.20 UDC - ARCHAEOLOGIST: This site is located in the AAI and close to the historic core and village green of Clifton. Clifton and Bootham lie along the line of a Roman road and the area has produced important Romano-British features and deposits, including burials. An archaeological evaluation of this site was carried out by On-Site Archaeology in April 2003. This evaluation indicated that there are three distinct periods of activity on this development site. The first period dates possibly to the 2nd/3rd century AD; activity at this time consists of the infilling of a wide ditch. The second phase dates to the 12th or 13th century and suggests a building which occupied the rear part of the site was demolished at this time and the area was subsequently ploughed. The third phase dates to the 1st century onwards and consists of a sequence of pits which were ultimately used for refuse disposal.
- 3.21 The proposed development will have a significant impact on these features and deposits. The features and deposits are not of national importance therefore they do not merit preservation in-situ. However, they will need to be recorded prior to development taking place. I therefore recommend that condition ARCH1 is imposed to secure the archaeological excavation of the footprint of Block B and those parts of Block A which have not been previously destroyed by petrol tanks and service pits. Conditions ARCH2 and ARCH3 should be imposed to secure an archaeological watching brief on all other groundworks and to approve the foundation system used for this development. [attached as suggested conditions 7-9]
- 3.22 UDC - COUNTRYSIDE OFFICER: Whilst there are some opportunities for bats to nest within the site no evidence of bats has been found. I do not consider that a survey is required but would recommend that a condition be attached requiring suitable replacement habitat [attached as condition 10]. If bats are discovered during construction then work should cease and Natural England be consulted before continuing.

- 3.23 LIFELONG LEARNING AND LEISURE: In accordance with adopted Supplementary Planning Guidance a contribution should be required to provide funding towards 2 additional secondary school places at Canon Lee School.
- 3.24 DRAINAGE ENGINEER: The site is in low Flood Risk Zone 1 and should not suffer from river flooding. No objections subject to approval of full drainage details prior to commencement [suggested conditions 38-41 secure this].
- 3.25 ENVIRONMENTAL PROTECTION UNIT: The EPU has considered the application with regard to the environmental protection interests, namely air quality, contaminated land and noise and other amenity issues. Comments on each are provided;
- 3.26 Air Quality. In January 2002 City of York Council declared an Air Quality Management Area (AQMA) based on predicted exceedences of the annual average nitrogen dioxide objective in five areas of the city. The declaration of the AQMA placed a legal duty on the council to improve air quality in the city and to demonstrate that it is actively pursuing the 40ug/m³ annual objective to be achieved by 31st December 2005. In order to demonstrate a commitment to improving air quality the council was required to prepare an Air Quality Action Plan (AQAP). The AQAP identifies measures the council intends to take to improve air quality in the city following the declaration of the AQMA. The proposed site along Clifton is not included within City of York Council's Air Quality Management Area. At this location only the carriageway is included within the AQMA since at the time of the declaration, although it was demonstrated that the nitrogen dioxide annual average objective would most likely be met, it was an area in which residents and businesses wanted to see an air quality improvement. Despite this area regularly experiencing long periods of standing/slow moving traffic, particularly during peak hours on the outbound carriageway, historical monitoring data from nitrogen dioxide diffusion tubes in the vicinity of this site has indicated that nitrogen dioxide concentrations are currently well within current health based guideline values. The introduction of further residential dwellings at this location will therefore not result in any requirement to extend the AQMA beyond it's current boundary (providing air quality in this area does not deteriorate).
- 3.27 From an air quality perspective, it is encouraging to see that the ground floor is maintaining its retail use, and that residential is proposed for first floor and above only. This will, to some extent, protect future occupants from poor air quality if the air quality situation should worsen in future years. The Traffic Assessment submitted in support of the application has indicated that the proposed redevelopment of the application site will not materially change it's traffic generating potential beyond that associated with the present use. There is therefore unlikely to be any significant deterioration in air quality as a direct result of additional traffic from this development. Since the site is located adjacent to the AQMA, it is recommended that any parking facilities should reflect the Council's minimum parking standard. In summary, the Environmental Protection Unit does not anticipate any air quality grounds on which to refuse this application.

- 3.28 Contaminated Land. The site has previously been an operational garage and currently operates as a vehicle hire site. Both these uses have the potential to contaminate the site which would affect future occupiers of the site and workers developing the site. Should permission be granted for this development, I would request that conditions [11 to 17] suggested below be placed on the permission.
- 3.29 Noise and other amenity issues. The application site fronts the Clifton Road which is a busy route in to and out of York. There is the potential that the site could be adversely affected by noise from the traffic however, the road is predominantly residential so in this case I would request that should permission be granted for the development, the applicant carries out a noise survey and that the facade of the properties facing Clifton Road be capable of achieving acceptable internal noise levels. This is covered by suggested condition 18.
- 3.30 The proposed retail unit and servicing access is both close to existing residential and the proposed new flats. The transport assessment shows that the traffic generated by the proposal will not increase beyond that already accessing the site, however, the hours these vehicles may access the site should be restricted to minimise disturbance to existing and proposed residents. This is suggested by conditions [19-20] which reflect the hours contained within the application form.
- 3.31 The retail unit may cause noise which could adversely affect the occupiers of the flats above, this noise could arise from within the retail unit or from the use of external plant and machinery such as refrigerators, compressors or air conditioning units. To ensure this does not occur I would request suggested conditions [21 and 22] be placed on the permission should it be granted. In addition, the retail unit may require extraction units to be installed to cover cooking or welfare areas. To ensure these do not adversely affect existing or future occupants I would request suggested condition [23].
- 3.32 Finally, the redevelopment of the site may adversely affect the existing residents, to minimise the disturbance, I would request that condition [24] and the following informative [informative number 2] be placed on the permission.
- 3.33 HIGHWAYS NETWORK MANAGEMENT: A Transport Assessment has been carried out for the proposed development and whilst there is expected to be an increase in traffic that will be generated by the site over the existing use, it will not result in unacceptable delays, congestion or safety issues on Clifton.
- 3.34 The development is to be served via the existing easternmost access on the site frontage, which is to be upgraded and will lead to an internal highway, which is to be designed and constructed to an adoptable standard and offered for adoption under Section 38 of the 1980 Highways Act. Sightlines at the proposed access are acceptable on the critical traffic approach side but could be hindered on the departure side by the presence of parked cars to the front of the adjacent bank. In order to protect the sightlines at the junction and manage the parking effectively kerb build outs are proposed.

- 3.35 The internal access provides a turning head which is suitable for the types of vehicle likely to be servicing the site. An internal loading bay is also to be provided, which will allow delivery vehicles to wait clear of the public highway. In order to ensure the lay-by is available for delivery vehicles and to protect the adjacent public highway from indiscriminate parking the applicant has indicated that they are willing to fund the provision of Traffic Regulation Orders.
- 3.36 Car parking for both the flats and the retail unit has been provided in accordance with CYC Annex E standards. Secure cycle stores for the flats have been provided within the development. Cycle parking for the retail unit is to take the form of Sheffield stands to the Clifton frontage, within the public highway.
- 3.37 The site is bounded to the West by a Public Right of Way (Clifton no.9) As part of the redevelopment of the site an existing blind spot along the route is to be widened out to improve visibility along the route thus reducing the fear of crime factor for footpath users.
- 3.38 Suggested conditions and informatives; [are attached to the recommendation as conditions 25-33 and 37 and informatives 5-7]

EXTERNAL

- 3.40 POLICE COMMUNITY SAFETY OFFICER: Raising height of wall to Dead Mans Alley is welcomed and the railings should extend along the length of this wall. Surveillance of cycle stores has been improved but is still poor. Improved security for associable doors and windows should be considered. The flat roof provides the opportunity for access. The amenity spaces are too small to cause problems but thought should be given to the ownership of these areas, the open plan design creates the impression of public rather than private space. Significant levels of anti-social behaviour have been recorded in other open plan developments. Whilst these areas are behind gates these will not always be closed. There is no provision of secure storage space other than for cycles and bins.
- 3.41 FIRE SERVICE: No comments. Comments will be provided when the consultation is received from building control.
- 3.42 YORKSHIRE WATER: Development should take place with separate systems for foul and surface water drainage. Surface water discharge to the existing network should be restricted to current surface water run-off rates and discharge points. Water supply can be provided to the site. Conditions are recommended regards the disposal of waste water [attached as conditions 38 to 41].
- 3.43 CONSERVATION AREAS ADVISORY PANEL: The panel were encouraged by this much improved scheme. However they would prefer to see uniform pitch roof dormers on the front elevation and clarification of the first floor windows with the attic windows and the recess on the front elevation.

- 3.44 ENGLISH HERITAGE: We do not wish to comment. The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.
- 3.45 YORK CIVIC TRUST: The retail unit will attract large vehicles and these will park on the adopted site road to the detriment of local residents. We would not object to a smaller shop. Adopting the highway would prevent control of HGV parking. The Clifton elevation is improved from previous schemes.
- 3.46 CLIFTON PLANNING PANEL: We object. The retail unit is an excessive size and will create traffic that will be oppressive and dangerous.
- 3.47 PUBLICITY: neighbour letter, press notice and site notice have advertised the application. 8 letters of support (including two petitions totalling 32 signatures) and 218 letters of objection have been received.

The following points were raised in support of the application:

- modest size of retail unit
- little parking so little traffic generation, bus stop outside
- the proposed buildings are a great improvement on the current eyesore
- this shop more overlooked than existing SPAR
- would provide much needed housing
- this will improve shopping choice in Clifton and attract shoppers
- will generate more customers for all businesses in Clifton

The following points were made in objection:

- will increase traffic levels
- additional traffic noise, congestion and pollution
- the proposed access is dangerously close to an existing junction
- the Conservation Area is essentially residential
- this large retail unit will destroy small traders
- this will cause noise and disturbance
- the access is not suitable for HGV
- the large retail unit is not compatible with flats
- no provision of affordable housing
- overshadowing
- overlooking
- overdevelopment of the site
- already sufficient retail provision for the area
- detrimental to appearance of surrounding environment
- refuse facilities should be covered and enclosed
- frontage block too large and overpowering
- unacceptable impact on this important gateway to the city
- no room on frontage for disabled motorised chairs
- SPAR is half the size but has 12 parking spaces
- nature of retail business is unknown
- parking restrictions and conditions will not be enforced
- noise from plant will disturb residents
- too many apartments

- design not of adequate quality for the area
- will increase on street parking in the area - especially outside restricted hours
- will destroy village atmosphere
- existing shops adequate

4.0 APPRAISAL

4.1 The site is in an area of archaeological interest and a watching brief and approval of foundation design can be secured by condition. The site is not at risk of flooding and approval of drainage details can be secured by condition.

4.2 Key Issues

- A) Housing policy
- B) Retail/Employment policy
- C) Effect on character and appearance of area
- D) Effect on amenity of dwellings
- E) Traffic and parking
- F) Open space and education provision
- G) Sustainability

ISSUE A: Housing policy

4.3 The application site is an unallocated brownfield site and lies within the built up area of the city. As such, in accordance with draft Local Plan policies H4 and GP10, there is no objection in principle to the redevelopment of the site for residential use subject to compliance with other local plan policies. Notwithstanding the fact that the proposals incorporate a retail unit the proposals would result in a residential density of 70 dwellings per hectare. Policy H5a of the Draft City of York Local Plan seeks to secure residential densities of not less than 40 dwellings per hectare. The proposals are below the threshold for which an affordable housing offer would be sought.

ISSUE B: Retail/employment policy.

4.4 The proposed retail unit would measure 360 square metres (3873 sq ft) net floor space and would occupy the ground floor of the frontage block. The unit would have a frontage onto Clifton and would stand in a run of existing retail units. There is no objection in principle to the development of additional retail units in this location. Policy E3b of the draft City of York Local Plan seeks to protect employment land. Given the employment created by the retail unit the proposals are not considered to be contrary to the aims of Policy E3b.

ISSUE C: Effect on character and appearance of area

4.5 The comments of the Conservation Architect (section 3.14) and Conservation Areas Advisory Panel (3.43) are noted. The scheme has been amended from previous submissions to build up the blocks from more traditionally proportioned and styled elements. The proposals are considered to be

sympathetic to the character and appearance of this part of the Conservation Area and to provide an improvement to the existing buildings. As such the proposals are considered to comply with policies HE2 and HE3 of the Draft Local Plan and the aims of PPG15. Details of the design of important building elements, such as windows and doors, and external materials are recommended to be secured to be approved by conditions 3-5.

ISSUE D: Effect on amenity of dwellings

- 4.6 The distance of separation between the proposed buildings and adjoining residential properties is considered adequate to prevent any overbearing impact or loss of light. The proposed development is arranged in such a way as that no window of a habitable room in the proposed development opposes a clear glazed window of a habitable room in an existing dwelling with a separation distance of 20 metres or less. As such it is considered that adequate levels of in building privacy will be provided for the proposed and existing dwellings in accordance with the aims of policy GP1 of the draft Local Plan.
- 4.7 The proposals would result in the existing car showroom and B2 general industrial uses. These lawful B2 uses have considerable potential to impact detrimentally on the living conditions of adjacent residential dwellings and the removal of these potentially harmful uses from the site is a material consideration in determining this application.
- 4.8 The proposals incorporate access from Clifton to residential parking and also parking and servicing for the retail unit at the rear of dwellings on Avenue Terrace. The movement of vehicles to the residential units is not considered likely to generate noise and nuisance beyond that which residential areas could reasonably expect to experience. The servicing and accessing of the retail unit is however considered to have the potential to cause nuisance principally through noise at unsociable hours. It is however considered that by limiting hours of store opening and delivery times that this nuisance can be controlled to an acceptable level both for occupiers of existing dwellings and the proposed new dwellings. Noise from plant and machinery can also be controlled through appropriate conditions.
- 4.9 Given the controls over the operation of the retail use particularly hours of operation and delivery times it is considered that the proposals will not result in an unacceptable detriment to the living conditions of occupiers of dwellings adjoining the site.

ISSUE E: Traffic and parking.

- 4.10 The proposals are considered to incorporate adequate street parking for the proposed residential and retail uses in accordance with Local Plan Policy and the aims of PPG13. Turning facilities are provided within the site for HGV deliveries. Cycle parking is provided for the residential units in covered secure cycle stores and the opportunity exists for staff cycle parking for the retail unit to be provided within the yard. Visitors cycle parking is provided adjacent to the

store entrance. Details of cycle parking including stands and means of enclosure can be conditioned to be approved and implemented.

ISSUE F: Open space and education provision.

4.11 Informal amenity space is provided on the site in accordance with locally adopted standards as set out in policy L1c of the draft Local Plan. Three flats benefit from private open spaces. The applicant has undertaken to enter into a legal agreement to provide financial contributions in lieu of on site children's play space and sport pitches, as the site is considered too small for the on site provision of play and sports areas, and towards the provision of 2 places at Canon Lee School.

ISSUE G: Sustainability.

4.12 The site lies within easy travel by modes other than the private car and is close to local services. As such the site is considered to be in a sustainable location. The applicant has also agreed to achieve a BREEAM rating of 'very good' or 'excellent' and this can be secured by suggested condition 34.

5.0 CONCLUSION

5.1 It is considered that the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the living conditions enjoyed by occupiers of neighbouring dwellings, highway safety, the character and appearance of the Clifton Conservation Area and the long term health of trees on the site. As such the proposal complies with Policies SP8, SP10, GP1, GP3, GP4a, GP9, GP11, HE2, HE3, HE5, L1, T4 and T13 of the City of York Local Plan Deposit Draft and the aims of PPS1, PPS3, PPG6, PPG13 and PPG15. The application is therefore recommended to be approved.

6.0 RECOMMENDATION: Approve

1 TIME2

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

Drawing Number 05:50:51 Revision C received 2 March 2007

Drawing Number 05:50:52 Revision C received 2 March 2007

Drawing Number 05:50:55 Revision A received 2 March 2007

Drawing Number 05:50:56 Revision B received 2 March 2007

Drawing Number 05:50:60 Revision A received 2 March 2007

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.

3 VISQ8

4 VISQ7

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

Shop-front

Front Entrance (door and surround) of flats from Clifton

Guard Rails

Door canopy

Eaves and Verge details including "tumbling"

Dormer details

Windows and doors (both to be set-back from the face of the building)

Rain water goods (to be cast iron or aluminium)

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

6 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs, boundary walls, gates and lighting. 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 ARCH1

8 ARCH2

9 ARCH3

10 Before development commences on site full details of bat conservation and habitat mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be implemented on site before the building to which they relate is first occupied.

The measures shall include:

- i) If commencement of any works (including demolition) is to be carried out between 1st April and 30th September a further survey of the buildings shall be carried out no more than 1 month prior to the commencement of any work and the results submitted to the Local Planning Authority 2 weeks before commencement.
- ii) a plan of how demolition works will be carried out to accommodate bats
- iii) details of what provision is to be made within the new building to replace the features lost through the demolition of the original structure. Features suitable for inclusion for bats include special tiles, bricks, soffit boards, bat boxes, bat lofts and should provide for a net gain in wildlife value on the site.
- iv) a programme of works

The works shall be implemented in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of a protected species in accordance with the aims of PPS9.

- 11 A desk study should be undertaken in order to identify any potentially contaminative uses which have or are currently occurring on site, including the potential for the migration of landfill gas. This shall include a site description and a site walkover and shall be submitted to and approved by the local planning authority prior to development of the site.

Reason: To protect the health & safety of workers and future occupants of the site.

- 12 A site investigation shall be undertaken based upon the findings of the desk study. The investigation shall be carried out in accordance with BS10175: Investigation of potentially contaminated land: code of practice. The results of the investigation shall be submitted to and approved by the local planning authority in writing prior to any development commencing on site.

Reason: To protect the health and safety of workers on site, occupiers of the site and the integrity of structural components and any proposed underground services.

- 13 A risk based remedial strategy shall be developed based upon the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing on site. The remedial strategy shall have due regard for UK adopted policy on risk assessment.

Reason: To protect the health and safety of workers on site, occupiers of the site and the integrity of structural components and any proposed underground services.

- 14 A validation report shall be submitted to and approved by the local planning authority, detailing sample locations and contaminant concentrations prior to any development commencing on site.

Reason: To protect the health and safety of workers on site, occupiers of the site and the integrity of structural components and any proposed underground services.

- 15 Any contamination detected during site works that has not been considered within the remedial strategy 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 on site.

Reason: To protect the health and safety of workers on site, future occupiers of the site and the integrity of structural components and any proposed underground services.

- 16 A timetable of proposed remedial works shall be submitted to the local planning authority prior to any works being undertaken on site.

Reason: To protect the health and safety of workers on site, occupiers of the site and the integrity of structural components and any proposed underground services.

- 17 Any fuel tanks and any associated pipe work shall be removed from site in accordance with the Health and Safety Guidance Note 41 - Petrol filling stations: Construction and Operation and in full consultation with City of York Council petroleum officers. A method statement and remedial strategy shall be submitted to and approved by the local planning authority prior to the commencement of this work.

Reason: To protect human health and the wider environment

- 18 The building envelope of all residential buildings with a facade fronting onto Clifton Road, shall be constructed so as to achieve internal noise levels of 30 dB LAeq 1 hour and 45 dB LAMax (23:00 - 07:00) in bedrooms and 35 dB LAeq 1 hour (07:00 - 23:00) in all other habitable rooms. These noise levels are with windows shut and other means of acoustic ventilation provided. The detailed scheme shall be approved in writing by the local planning authority and fully implemented before the use hereby approved is occupied.

Reason: To protect the amenity of future occupants

- 19 The retail unit hereby approved shall only be open for retail sales to the public between the hours of be confined to 0730 hours to 2230 hours.

Reason: To protect the amenity of future occupants

- 20 All deliveries to and despatch from the retail unit shall be confined to the following hours:

Monday to Friday 0800 hours to 1800 hours
Saturday, Sunday and Bank Holiday 0900 hours to 1300 hours

Reason: To protect the amenity of future occupants

- 21 Details of all machinery, plant and equipment to be installed in or located on the retail unit hereby permitted, which is audible outside of the site boundary when in use, shall be submitted to the local planning authority for approval. These details shall include maximum (LA_{max}(f)) and average sound levels (LA_{eq}), 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.

Reason: To protect the amenity of future occupants

- 22 Before the use hereby permitted commences the retail unit shall be insulated to control noise in accordance with a scheme to be approved in writing by the local planning authority.

Reason: To protect the amenity of future occupants

- 23 There shall be adequate facilities for the treatment and extraction of fumes so that there is no adverse impact on the amenities of local residents by reason of fumes, odour or noise. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for approval; once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of future occupants

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

| | |
|------------------|----------------|
| Monday to Friday | 08.00 to 18.00 |
| Saturday | 09.00 to 13.00 |

Not at all on Sundays and Bank Holidays

Reason: To protect the living conditions of nearby dwellings

- 25 HWAY1
26 HWAY7
27 HWAY13

- 28 The development shall not be brought into use until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerbs and highway to match adjacent levels.

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

29 HWAY19

30 HWAY21

31 HWAY31

- 32 The development hereby permitted shall not come into use until the build out on Clifton to prevent parking over the new access and improvements to Clifton no.9 PROW (including 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.

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

- 33 Prior to works starting on site a dilapidation survey of the highways adjoining the site (including the site frontage onto Clifton and adjacent PROW) shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the LPA.

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

- 34 No development shall take place until the applicant has provided to the Local Planning Authority for approval a BREEAM report that achieves 'Very Good' or 'Excellent' rating with certification. The approved scheme shall then be provided in accordance with these details. A certificated BREEAM Post Construction Review, or other verification process agreed with the Local Planning Authority, shall be provided, confirming that the agreed standards have been met, prior to the first occupation of the development.

- 35 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.

- 36 No development shall commence unless and until a scheme to ensure the provision of adequate additional foundation and secondary school places

within the local catchment area has been submitted to and approved by the local planning authority.

Reason: The education provision within the catchment area of the development has insufficient capacity to take more pupils, such that additional places are required in the interests of the sustainable development of the city in accordance with Policy C6 of the City of York Draft Local Plan and the Council's Supplementary Planning Guidance - Developer Contributions to Education Facilities dated January 2005.

- 37 Method of Works: Prior to the commencement of any works on site a detailed method statement identifying the programming and management of construction works shall be submitted and approved in writing by the LPA

Reason: In the interests of free flow of traffic and highway safety.

- 38 Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 3.0 metres of either side of the centre line of the sewer, which crosses the site.

Reason: In order to allow sufficient room for the maintenance and repair of the sewer.

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

Reason: In the interests of satisfactory and sustainable drainage.

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

Reason: To ensure that the development shall be properly drained.

- 41 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 the completion of the approved foul water drainage works.

Reason: To ensure that no discharge takes place until proper provision has been made for its disposal.

7.0 INFORMATIVES:

INF1. 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 living conditions enjoyed by occupiers of neighbouring dwellings, highway safety, the character and appearance of the Clifton Conservation Area and the long term health of trees on the site. As such the proposal complies with Policies SP8, SP10, GP1, GP3, GP4a, GP9, GP11, HE2, HE3, HE5, T4 and T13 of the City of York Local Plan Deposit Draft and the aims of PPS1, PPS3, PPG6, PPG13 and PPG15.

INF2. Demolition and Construction - Informative

The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval:

1. The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".
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.

INF3. 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 £10,363.00.

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.

INF4. The provisions 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, The obligation should provide for a financial contribution calculated at £31,062.00. The basis for this calculation is contained within the Council's Supplementary Planning Guidance on Developer Contributions to Education Facilities dated January 2005.

No development can take place on this site until the condition ahs been has been discharged and you are reminded of the Local Planning Authority's enforcement powers in this regard.

INF5. Informative:

The applicant is to be made aware of the route of the public right of way, known as Clifton Path 9. The route should not be damaged/alterd/hindered in any way without prior written consent from the authority's PROW unit

INF6. 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

INF7. INFORMATIVE:

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:

Author: Howard Smith Assistant Area Team Leader
Tel No: 01904 551352