

## COMMITTEE REPORT

**Committee:** East Area  
**Date:** 17 May 2007

**Ward:** Heworth  
**Parish:** Heworth Planning Panel

**Reference:** 07/00516/FULM  
**Application at:** Site Of Garages 1 To 6 Fifth Avenue York  
**For:** Erection of two and three storey housing development comprising 6no. two bedroomed flats, 2no. three bedroomed houses and 3no. two bedroomed houses  
**By:** Yorkshire Housing  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 6 June 2007

### 1.0 PROPOSAL

1.1 The application is for the erection of three 2-bedroom houses, two 3-bedroom houses and six 2-bedroom flats. The dwellings would be arranged linearly in three adjacent blocks. All the units would be affordable. The development would broadly follow the existing urban pattern with frontages facing the street. The flats would be three storeys high and arranged towards the centre of the layout. The houses would be located at each end of the development with private gardens to the rear. One parking space per unit and planting would be provided to the front of the development. Each flat would have one secure cycle space within the building and secure cycle storage would be provided to the rear of each house.

1.2 The site area is 0.15ha and the density of the development would be 73dph. The application has been amended since submission. The scheme as initially submitted comprised a total of 12 units, which officers considered to be overdevelopment of the site.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

Floodzone 2 Flood Zone 2 CONF

Floodzone 3 Flood Zone 3

2.2 Policies:

CYGP1  
Design

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYGP9  
Landscaping

CGP15A  
Development and Flood Risk

CYGP4A  
Sustainability

CYT4  
Cycle parking standards

CYL1C  
Provision of New Open Space in Development

### **3.0 CONSULTATIONS**

#### **3.1 Internal**

Housing and Adult Services - Support the scheme.

Highway Network Management - No objections to the principle of development. The southernmost strip of the site lies within the highway boundary and would need to be formally stopped up. The highway authority has no objections to the principle of the stopping up but would require the public footpath to be widened from 1.5m to 2m along the entire site frontage.

Environmental Protection - No objections. A substantial desk study has already been undertaken which has identified several potentially contaminative uses, requiring that a site investigation is carried out before any development takes place. Two closed landfill sites are within 250m of the site. The site itself may have had clay pits supplying the brickworks previously occupying the site, and these in turn may have been infilled. Therefore gas monitoring will have to be undertaken to establish if landfill gases are present.

Environment, Conservation, Sustainable Development - A mature line of poplar trees that currently affords an amenity to the streetscape will be lost. The scheme would only be acceptable if reasonable replanting along the front of the scheme is possible to soften the development's aspect in the landscape. The density of the scheme and the car parking spaces preclude planting to the front of the site and the street lighting precludes significant planting in the highway verge. One of the dropped kerbs would lead to the early demise of a lime tree in the highway verge.

City Development - In support of the scheme as it proposes 11 affordable dwellings on a brownfield site offering good access to shops and services. A BREEAM assessment to 'very good' standard will be required.

#### **3.2 External**

Parish Council - No objections.

Environment Agency - The adjacent watercourse, Tang Hall Beck and the Foss are part of a pumped system and are considered to be at capacity with existing flooding problems. Therefore it is unacceptable to discharge to these watercourses any increase in volume or rate of discharge, whether this discharge is via sewer or direct. The submitted Flood Risk Assessment (FRA) is acceptable, showing that the site has limited risk, due to the natural topography. No objection in principle, subject to standard drainage condition.

Public Consultation - The public consultation period expired on 4 May. One objection has been received from the engineering business immediately to the rear of the site: Housing is a noise sensitive use that would be inappropriate in this wholly industrial area, which includes B2 uses. The outlook, amenity space and living environment for the incoming residents would be unacceptable. Residential use would impinge on the efficiency of the industrial businesses and could lead to objections from the new residential occupiers against the noise generated by the industrial uses.

## **4.0 APPRAISAL**

### **4.1 Key Issues**

Housing provision

Housing density

Sustainability

Design and visual appearance

Occupier amenity

Neighbour amenity

Trees and landscaping

Parking and highway issues

Public open space

### **4.2 The Application Site**

The site is a narrow, brownfield site which has been cleared except for a block of six lock-up garages at the western end. The site has a long street frontage along which are approximately 20 mature Lombardy Poplar trees. Fifth Avenue is predominantly residential although large industrial premises occupy sites to the west and south. At the eastern end is a well-used ginnell connecting Fifth Avenue with open space alongside Tang Hall Beck to the rear. The site is flat and lies at the top of an embankment approximately 3m above the industrial premises to the rear.

### **4.3 Housing Provision**

The proposal has been developed in partnership with City of York Council and the Housing Corporation as part of the 2006-2008 Approved Development Programme (ADP). It would regenerate a largely-vacant site into 2 and 3-bedroom homes, all for social rent. The proposals would be funded with Social Housing Grant (SHG) from the Housing Corporation.

The properties would be built by Yorkshire Housing with City of York Council benefiting from 100% nomination rights on first lets, with 75% nomination rights on subsequent re-lets. These homes would help to meet the demand for housing identified by the existing Housing Needs Survey (HNS) and the interim Housing Market Assessment (HMA).

#### 4.4 Housing Density

The density would be 73dph. Whilst the density is high, it is compatible with the character of the surrounding area and easily satisfies policy H5a which seeks to achieve a minimum density of 40dph.

#### 4.5 Sustainability

The site is in a sustainable location with good access to shops and public transport. As part of the requirement of receiving SHG the homes would be built to Scheme Development Standards (SDS) and Eco-Homes Very Good, which has influenced the design and aesthetics of the scheme.

#### 4.6 Visual Appearance

The long, narrow shape of the site and the industrial uses to the rear present design difficulties. Nevertheless, despite the houses having a stepped front elevation to maximise rear amenity space, the dwellings follow the linear pattern of the existing residential area. The dwellings would have a contemporary look whilst respecting the scale and character of the area. Main materials would be brick and render with some Trespa (or equivalent) panels. Scale, design and appearance are in keeping with the character of the street scene and are acceptable subject to satisfactory materials and colours being used.

#### 4.7 Occupier Amenity

The proposed dwellings would all be of reasonable size. Moreover all of the houses would have private gardens and the flats would have shared amenity space. All of the units would be separated from the public footway/carriageway to the front by a buffer of planting and hard landscaping. Off-street parking spaces would, as far as possible, be located away from the windows of ground-floor habitable rooms.

The buildings would be single-aspect (towards the street) to minimise the impact of the industrial premises to the rear. Possible impact of the industrial uses to the rear on the occupiers of the dwellings is a material consideration. However, in a comparable case concerning a site nearby (Unit 1, Fifth Avenue) in 2005 the appeal inspector disagreed with the council the environmental concerns of juxtaposing housing and industry. He considered that as residential areas already bordered nearby industrial sites, albeit separated by roads, the relationship between the site and the adjacent industrial uses would not be made significantly worse and would not materially affect the living conditions of future residents (He also disagreed with the council about whether the Environmental Protection Unit might have to take action to curtail the operations of adjoining businesses if future residents of the flats made a complaint. He found that the proximity of the proposed housing would not materially affect the operation of the businesses).

Therefore the proximity of the dwellings to the adjacent industrial uses is not considered to be a sufficient reason to refuse the application, especially bearing in mind the dwellings' single-aspect design and the lower level of the industrial units. Moreover, the industrial activities closest to the site are, in the main, enclosed by buildings, which would go some way to shielding future occupiers of the dwellings from nuisance.

#### 4.8 Neighbour Amenity

The site is over 20m from the houses on the opposite side of Fifth Avenue and at least 10m from the nearest houses to the side. No part of the development would materially affect the amenities of nearby residents.

#### 4.9 Trees and Landscaping

The poplar trees currently on the site are not of high amenity value but add to the landscape character of the street. Whilst a buffer of low planting would be provided along much of the site frontage the high density of the scheme would preclude the provision of many replacement trees. Nevertheless the applicant has agreed to discuss, with officers, opportunities for replacement planting within the site and along the public verge.

#### 4.10 Parking and Highway Issues

The proposals for car parking and cycle storage accord with council standards and are acceptable. Whilst some stopping up of the public highway is required the works would result in the public footway being widened from 1.5m to 2m, to the benefit of highway safety and amenity.

#### 4.11 Public Open Space.

A developer contribution of £9781 would be required for the provision of public open space in accordance with policy L1 of the local plan. This has been agreed by the applicant.

### 5.0 CONCLUSION

The application is acceptable with particular reference to housing provision, housing density, design, visual impact, sustainability, impact on residents' living conditions, parking, cycle storage, flood risk, open space, and highway issues. The application therefore complies with policies H4a, H5a, GP1, GP4a, T4, GP15a and L1 of the City of York Local Plan Deposit Draft. A developer contribution of £9781 would be required for the provision of public open space in accordance with policy L1 of the local plan.

### 6.0 RECOMMENDATION: Approve

1 TIME2

2 The development hereby permitted shall be carried out only in accordance with the approved plans numbered P05, P06, P08 and P09 received 2 March 2007 and P02B, P04A, P07A and P10B received 4 May 2007 or any plans or details subsequently agreed in writing by the Local Planning Authority as an amendment to the approved plans.

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

3 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 alternative arrangements agreed in writing by the local planning authority and thereafter implemented, prior to first occupation of the development.

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

**INFORMATIVE:**

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £9781.

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.

4 VISQ8

5 HWAY10

6 HWAY17

7 HWAY19

8 HWAY29

9 HWAY31

10 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same: The public footway along the site frontage to be widened and rebuilt to a standard width of 2m. The existing lamp column along the public footway along the site frontage to be re-sited in a location to be agreed by the local planning authority.

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

11 No works shall commence on site until that extent of public highway comprising a verge between the public footway and the existing site boundary has been stopped up or arrangements entered into which ensure the same.

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

- 12 Gas monitoring shall be carried out on the site over a period of at least six months to consider the effect of any landfill gas migration. The survey shall be undertaken and the results submitted to the local planning authority prior to any works being carried out on the site.

Reason: To determine if landfill gasses are being emitted from the site which may be detrimental to the health and safety of the occupants.

- 13 Based on the information from the gas survey, proposals for a gas protection regime shall be submitted to and approved by the local planning authority prior to the commencement of any development on site.

Reason: To protect the health and safety of the occupants.

- 14 A desk study identifying any potentially contaminative uses which have or are currently occurring on site shall be submitted to and approved by the local planning authority prior to development of the site.

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

- 15 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 and future occupants of the site.

- 16 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.

Informative: The remedial strategy shall have due regard for UK adopted policy on risk assessment and shall be developed in full consultation with the appropriate regulator(s).

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

- 17 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, future occupants of the site, and the integrity of any proposed underground services.

- 18 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 any proposed underground services.

- 19 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

- 20 The development shall not be commenced until a BREEAM assessment to 'very good' standard has been submitted to and approved in writing by the local planning authority and the environmental standards shall be implemented and maintained thereafter.

Reason: To ensure that the development is sustainable and accords with policy GP4a of the draft City of York Local Plan.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

1. 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

General power of improvement - Section 62 - Mr M Kitchen (01904) 551336

2. The site is in the flood plain (zone 3) and therefore may be at risk of flooding. The Environment Agency advises that domestic extensions should comply with the following guidance:

1. Floor levels within the proposed development should be set no lower than existing levels; and

2. Flood proofing of the proposed development should be considered by the applicant and incorporated where appropriate;

OR

3. Floor levels within the extension should be set at 300mm above the known or modelled 1 in 100 year annual probability (1%) chance river flood level.



3. 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 housing provision, housing density, design, visual impact, sustainability, impact on residents' living conditions, parking, cycle storage, flood risk, open space, and highway issues. The application therefore complies with policies H4a, H5a, GP1, GP4a, T4, GP15a and L1 of the City of York Local Plan Deposit Draft.

4. If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a scheme remediation to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

5. 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, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

1. 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.	

2. 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".

3. 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.

4. 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.

5. 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.

6. There shall be no bonfires on the site.

**Contact details:**

**Author:** Kevin O'Connell Development Control Officer  
**Tel No:** 01904 552830