

**Notice of public meeting of
Decision Session - Leader (incorporating Finance and
Performance)**

To: Councillor Steward

Date: Tuesday, 20 October 2015

Time: 4.45 pm

Venue: The King Richard III Room (GO49) - West Offices

AGENDA

Notice to Members – Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services within seven days of the item being added to the Forward Plan under the pre-decision scrutiny arrangements or by **4.00pm on Thursday 22 October 2015** if an item is called in after a decision has been taken.

*With the exception of matters that have been subject of a previous call in, require Full Council approval or are urgent which are not subject to the call in provisions.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00pm on Friday 16 October 2015**.

1. Declarations of Interest

At this point in the meeting, the Leader is asked to declare:

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

which he might have in respect of business on this agenda.

2. **Minutes** (Pages 1 - 2)
To approve and sign the minutes of the Decision Session held on 22 July 2015.

3. **Public Participation**
At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Leader's remit can do so. The deadline for registering is **5:00 pm on Monday 19 October 2015**.

Filming, Recording or Webcasting Meetings

Please note this meeting may be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

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

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at [https://www.york.gov.uk/downloads/file/6453/protocol for webcasting filming and recording council meetingspdf](https://www.york.gov.uk/downloads/file/6453/protocol%20for%20webcasting%20filming%20and%20recording%20council%20meetingspdf)

4. **Applications for Community Right to Bid** (Pages 3 - 32)
under the Localism Act

This report presents applications to list the following assets as Assets of Community Value (ACV):

- The Derwent Arms Public House, 39 Osbaldwick Village, Osbaldwick, York
- The Swan Public House, 16 Bishopgate Street, York

5. **Aviator Court, Units A and E - Application** (Pages 33 - 40)
to remove restrictive covenant

This report sets out details of an application to lift the restrictive covenant of an office site on Aviator Court at Clifton Moor for low-cost residential development.

6. Land at Piccadilly and Bouthwaite Drive (Pages 41 - 52)

The Executive Leader is requested to agree the purchase of an area of land immediately adjoining the former Reynard's Garage site at 17-21 Piccadilly and the disposal of an area of land at Bouthwaite Drive, Holgate.

7. Any Other Business

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

Democracy Officer:

Name: Jayne Carr

Contact Details:

Telephone – (01904) 552030

Email – jayne.carr@york.gov.uk

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

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 **(01904) 551550**

City of York Council

Committee Minutes

Meeting	Decision Session - Leader (incorporating Finance and Performance)
Date	22 July 2015
Present	Councillor Steward

6. **Declarations of Interest**

The Executive Leader was asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that he may have in the business on the agenda. None were declared.

7. **Minutes**

Resolved: That the minutes of the Decision Session held on 29 June 2015 be approved and signed as a correct record.

8. **Public Participation**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

9. **Application for Community Right to Bid under Localism Act 2011 - The Punch Bowl**

The Executive Leader considered a report which presented an application from the Friends of the Punch Bowl to list the Punch Bowl, 134 Lowther Street, York as an Asset of Community Value (ACV).

The Executive Leader stated that, having considered the report, he was pleased to approve the application as a very compelling case had been put forward to demonstrate that the criteria had been met.

Resolved: That the application to list The Punch Bowl Public House, Lowther Street, York as an Asset of Community Value be approved, as the criteria had been met for the reasons set out in the report.

Reason: To ensure the Council meets its legislative requirements of the Localism Act 2011 and promotes community access to community facilities.

Councillor Steward – Executive Leader (incorporating Finance and Performance)

[The meeting started at 5.00 pm and finished at 5.02 pm].



20 October 2015

Leader (incorporating Finance and Performance) Decision Session

Report of the Assistant Director of Finance, Asset Management and Procurement

Applications for Community Right to Bid under the Localism Act 2011

Summary

1. This report presents applications to list the following assets as Assets of Community Value (ACV), for consideration by the Council.
 - a. The Derwent Arms Public House, 39 Osbaldwick Village, Osbaldwick, York, YO10 3NP.
 - b. The Swan Public House, 16 Bishopgate Street, York, YO23 1JH.

Background

2. On 6th March 2014 Cabinet Member approved the proposals for the implementation of a process for the Community Right to Bid legislation to ensure the Council has a process in place for dealing with any applications and the establishment and maintenance of a list of Assets of Community Value. Three applications have recently been received under this legislation, for a decision by the Executive Member.
3. The purpose behind these provisions is to ensure that property (land and building) assets which are currently used to the benefit of the local communities are not disposed of without the local community being given a fair opportunity to bid for these assets when they are put on the open market. This right is not simply to accommodate 'public assets' but also private assets, the test is whether such assets are viewed as 'assets of community value'. These assets therefore could be currently owned by the public, private or voluntary sector.
4. The definition of 'community value' is set out in the regulations and can be summarised as

- The actual current use of the building/land furthers social well being or the social interests of the local community
 - Realistically this use can continue for the next 5 years
 - There was a time in the recent past where actual use furthered these aims.
5. There is no exhaustive list of what is considered to be an asset of community value but cultural, recreational and sporting interests are included. Excluded specifically are residential type properties (such as hotels, housing in multiple occupation and residential caravan sites) and operational land of statutory undertakers.

The process

6. The regulations set out how potential assets can be listed which in brief is as follows:
- **Nomination** – this can be by a voluntary or community body with a local connection. Includes parish councils, neighbourhood forums, charities, community interest groups but excludes public or local authorities (except parish councils).
 - **Consideration** – the local authority have 8 weeks to make the decision which is decided by an ‘appropriate group’. The process adopted for CYC is an initial consideration by the Capital and Asset Board (CAB) which has cross-Council representation at a senior level (the Board is chaired by the Director of CBSS). A report is then written to the Executive Member for Finance Performance and Customer Service who will then formally take the decision. If the nomination is successful the asset details are entered onto the ‘Community Value list’ – see below – and also the local land charges register. If unsuccessful then the details are entered onto an ‘unsuccessful nominations’ list for a period of 5 years to prevent repeat nominations. The owner can request a review of the decision which must be completed within 8 weeks and the owner can further appeal within 28 days of the review outcome to a Tribunal.
 - **The ‘Assets of Community Value’ List** – this needs to be published and reviewed regularly and must be accessible in electronic and paper format.
 - **Disposal of assets on the list** – if a building or piece of land which is on the list is going to be sold with vacant possession then the owner of

the asset needs to give notice to the local authority. There is then a 6 week moratorium period for any community group to express interest in writing and if they do then a 6 month period for that group to prepare it's bid. After that period the owner can market the property and any bid from the community group will be considered with bids from other interested parties. There is no guarantee that the offer from the community group will be successful as the owner of the asset will dispose of the property in accordance with its own criteria for disposal. There are a number of exceptions contained within the legislation that mean that this moratorium period does not apply and the owner does not need to give notice of its intention to sell. This includes when there is a legally enforceable requirement, which pre-dates the listing, to sell to a specific party.

- **Compensation** – the presence of the land or building asset on the community value list may result in additional expenditure or a loss to the owner and therefore the owner can apply for compensation from the local authority. The figure is limited to costs or losses incurred only whilst the asset is on the list and could include such items as legal expenses for appeals, costs relating to the delay in the sale (such as maintenance, security, utility costs, loss of value). This compensation is determined by the local authority (the adopted policy states that this is carried out by the Capital Asset Board) and the owner can have the compensation reviewed within 8 weeks and appeal to a Tribunal if still not satisfied. It should be noted that compensation can only be claimed by private owners (no compensation for public authorities) and the government has not provided any funding for this compensation (or for any costs associated with any of these provisions). However this should not be a factor in determining any application for listing of a pub as an Asset of Community Value.

7. For nominated property to be included on the Council's ACV register the Council must consider that the property falls within the statutory definition of 'land of community value' which is that either:

- (i) A current principal use of the property furthers the social well-being or social interests of the local community and there is a realistic prospect of such use continuing

OR

- (ii) A principal use of the property in the recent past has furthered the social well-being or social interests of the local community and

there is a realistic prospect of such use commencing again within the next 5 years

If the nominated property falls within either (i) or (ii) and the nominators are a group entitled to submit the nomination then the local authority must list the asset as an ACV.

8. It should also be noted that changes to the General Permitted Development Order have been made with effect from the 6th April 2015, which means that where a pub is listed as an asset of community value a planning application is required for a change of use or demolition of the pub building. However this should not be a factor in determining any application for listing of a pub as an Asset of Community Value

Derwent Arms Public House, 39 Osbaldwick Village, Osbaldwick, York.

9. The freehold of The Derwent Arms is owned by Punch Partnerships Ltd. The nomination is being made by Osbaldwick Parish Council on the basis that The Derwent Arms and attached field are an integral and important part of Osbaldwick Conservation Area as recognised in 2004. It is a meeting point for community groups and sports teams, and offers a wealth of activities for a wide range of age groups. The Parish Council considers that The Derwent Arms boosts the social wellbeing of the community, and as such, is valued as an asset to this particular area of the city.
10. The field was used in the distant past for cricket and football as well as allotment plots. The field hosts the Village Gala once a year and has hosted an annual bonfire on 5th November organised by the pub, although there hasn't been one for the last two years. The Caravan Club use the field four times a year for related events.
11. There is significant precedent set elsewhere in the country from other authorities who have accepted pubs onto the list even where they are currently run as commercial businesses.
12. If the decision is taken to include this application on the list of assets of community value, the owner has the right to request the Council to review its decision. The deadline is eight weeks from the date written

notice of listing was given, or a longer period allowed by the authority in writing. The property will remain listed while the review is carried out.

The Swan Public House, 16 Bishopgate Street, York

13. The freehold of The Swan is owned by Punch Partnerships Ltd. The nomination is being made by Bishopthorpe Road Traders Association (BRTA) on the basis that The Swan is the epitome of a thriving community pub and is highly valued by a comprehensive cross-section of the local community. It provides a safe and inclusive meeting place for people of all ages and from all demographic groups. The building is grade 2 listed and the business has been recognised in regional awards from the Campaign for Real Ale and The Press. The pub raises funds for various charities, has darts team, hosts a popular weekly quiz and holds regular festival events. The Swan supports local businesses and the lessee was a fully supportive founder member of the BRTA.
14. There is significant precedent set elsewhere in the country from other authorities who have accepted pubs onto the list even where they are currently run as commercial businesses.
15. If the decision is taken to include this application on the list of assets of community value, the owner has the right to request the Council to review its decision. The deadline is eight weeks from the date written notice of listing was given, or a longer period allowed by the authority in writing. The property will remain listed while the review is carried out.

Implications.

16. **Financial** – Compensation may be payable by the Council to the owner of any property which is listed. The figure is limited to costs or losses incurred only whilst the asset is on the list and could include such items as legal expenses for appeals, costs relating to the delay in the sale (such as maintenance, security, utility costs, loss of value).

Human Resources (HR) – none

Equalities, Crime and Disorder and IT - none

Legal – Organisations falling within any of the following categories are eligible to submit an ACV nomination relating to property within their local area:

- (i) a parish council
- (ii) a charity, non-profit making company or community interest company with a local connection to the nominated property
- (iii) an unincorporated association which has at least 21 members registered to vote in the local area

The organisations who have submitted the nominations covered by this report fall within the above criteria and are therefore entitled to submit their ACV nominations.

Paragraph 7 of the report contains the statutory definition of 'land of community value'. If the listing authority considers that a nominated property falls within that definition then it must include the property on its ACV register.

Property – All property issues included in the report

Other – none

Risk Management

17. There are no significant risks to this application.

Recommendations

18. The Executive Member is asked to.

- a. Agree to the application to list the Derwent Arms Public House as an Asset of Community Value (ACV) as the criteria have been met for the reasons set out above. With regard to the adjacent field included within this application, the Executive Member is asked to consider the amount of usage specified in the application and decide on whether this constitutes a principal use. If it does, then the field will come under the statutory definition of 'land of community value' and should be listed as an ACV.
- b. Agree to the application to list The Swan Public House as an Asset of Community Value as the criteria have been met for the reasons set out above.

Reason: To ensure the Council meets its legislative requirements of the Localism Act 2011 and promotes community access to community facilities.

Contact Details

Author:

Tim Bradley
Asset Manager
Asset and Property Management
Tel No.553355

Chief Officer Responsible for the report:

Tracey Carter
Title - AD Finance Property
Procurement

Report
Approved



Date 7 October
2015

Specialist Implications Officer(s)

Implication Legal
Name Andy Docherty
AD Governance and ICT
Tel No. 551004

All

Wards Affected: Osbaldwick and Micklegate

For further information please contact the author of the report

Annexes

Annex 1 – The Derwent Arms Public House – Application to add to the List of community assets

Annex 2 – The Swan Public House - Application to add to the List of community assets

Annex 3 – Current list of assets of community value

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ASSETS OF COMMUNITY VALUE NOMINATION FORM

If you need assistance completing this form, then please refer to the guidance document which can be downloaded from the website shown below or alternatively call 01904 553360

www.york.gov.uk/assetsofcommunityvalue

Section 1

About the property to be nominated

Name of Property:	DEWENT ARMS
Address of Property:	39 OSBANDWICK VILLAGE, OSBANDWICK, YORK
Postcode:	YO10 3NP

Property Owner's Name:	PUNCH PARTNERSHIPS (PTL) LTD
Address:	JUBILEE HOUSE, SECOND AVENUE, BETON UPON TRENT, STAFFORDSHIRE
Postcode:	DE14 2UF
Telephone Number:	
Current Occupier's Name:	

Section 2

About your community organisation

Name of Organisation:	OSBANDWICK PARISH COUNCIL
Title:	MES
First Name:	LOUISE
Surname:	PINE
Position in Organisation:	CLERK
Email Address:	osbandwickparishcouncil@york.gov.uk
Address:	1 SEACRO COURT, FOSSUMY, YORK
Postcode:	YO31 8FC
Telephone Number:	01904 615552

Organisation type:

Click in field for options

Organisation size

How many members do you have?

Section 3**Supporting information for nomination**

Any information entered in this section only may be copied and passed onto the owner of the property you are nominating. Definition of an asset of community value can be found in the guidance document.

Why do you feel the property is an asset of community value? Please give as much information as possible.

PLEASE SEE SEPARATE SHEET

Section 4**Boundary of Property**

What do you consider to be the boundary of the property? Please give as much detail/be as descriptive as possible. Please include a plan.

PLEASE SEE ATTACHED MAP

FIELD DIRECTLY BEHIND THE DERWENT ARMS PUBLIC HOUSE

Section 5**Attachment checklist**

- Copy of group constitution (if you are a constituted group)
- Name and home address of 21 members registered to vote in nomination area (if group is not constituted)
- Site boundary plan (if possible)

✓ LIST OF PARISH COUNCIL MEMBERS

Section 6**Declaration**

I can confirm that to the best of my knowledge the information contained in this nomination form is complete and accurate.

Signed:

Dated:

[Signature]

24.01.15

Please e-mail your completed form to property.services@york.gov.uk or post to:

Asset and Property Management
City of York Council
West Offices
Station Rise
York
YO1 6GA

Section 3

The Derwent Arms and adjoining land is an integral and important part of Osbaldwick Conservation Area as recognised in 2004.

Aside from the value of the public house as a community hub and focal point of the village the pub field has a long history of community use and value.

Uses in the distant past were as a village cricket field and into the 1980's a successful pub football team were based there. In addition, the pub field had allotment plots which given recent housing development in the Parish with little garden space provided, would undoubtedly be in great demand again.

The field also supported village bonfires on the 5th November and currently hosts the Osbaldwick Village Gala.

Ancillary uses to the public house are as a safe children's play area and football area for customers and local residents.

The field is also used by the caravan club for events at various times of the year when the whole field is used for camping and caravanning, a use seen as complimentary to the village and its rural past which brings benefits to the pub and other local businesses.

The Derwent Arms pub field is undoubtedly an integral part of the Osbaldwick Village Conservation Area structure and form giving the plot a social and environmental value.

The building and land furthers the social well being of the local community and in the case of the Caravan Club a much wider community as well.

The land furthers the sporting and recreational well being of the local community and customers of the pub as well as being used as a community focal point with the Village Gala.



Imagery ©2015 Infoterra Ltd & Bluesky, Map data ©2015 Google 50 m

Osbaldwick Parish Council Members

Mr Mark Warters – **Chairman**

Mr Roger Bedford - **Vice Chairman**

Mrs Jan Starzynski

Mr Kevin Lamb

Mr Laurence Pye

Mrs Audrey Pye

Mr Robert Peel

Mrs Denise Peel

Mrs Suzanne Cambridge

Mrs Lynne Bennett

Mrs Helen Ripley

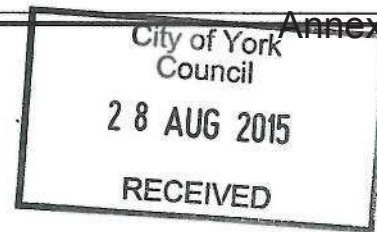
Mr Frank Wilson

Mr Terry Johnson

Mrs Janet Johnson

Mr Wally Beavers

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ASSETS OF COMMUNITY VALUE NOMINATION FORM

If you need assistance completing this form, then please refer to the guidance document which can be downloaded from the website shown below or alternatively call 01904 553360

www.york.gov.uk/assetsofcommunityvalue

Section 1

About the property to be nominated

Name of Property:	THE SWAN
Address of Property:	16 BISHOPGATE STREET YORK
Postcode:	YO23 1JH

Property Owner's Name:	PUNCH TAVERNS PLC
Address:	JUBILEE HOUSE, SECOND AVENUE BURTON UPON TRENT
Postcode:	DE14 2WF
Telephone Number:	01283 501600
Current Occupier's Name:	PAUL CROSSMAN

Section 2

About your community organisation

Name of Organisation:	BISHOPTHORPE ROAD TRADERS ASSOCIATION
Title:	MR
First Name:	JOHNNY
Surname:	HAYES
Position in Organisation:	CHAIRMAN
Email Address:	johnnyhayes@hotmail.co.uk
Address:	109 BISHOPTHORPE ROAD. YORK
Postcode:	YO23 1NA
Telephone Number:	01904640898

Organisation type:

Click in field for options

UNINCORPORATED COMMUNITY GROUP

Organisation size

How many members do you have?

80

Section 3**Supporting information for nomination**

Any information entered in this section only may be copied and passed onto the owner of the property you are nominating. Definition of an asset of community value can be found in the guidance document.

Why do you feel the property is an asset of community value? Please give as much information as possible.

The Swan is the epitome of a thriving community pub. Highly valued by a comprehensive cross-section of the local community, it provides a safe and inclusive meeting place for people of all ages and from all demographic groups. A Grade II listing reflects the historical importance of the building, and the business itself has been recognised in regional awards from both CAMRA and The Press.

The pub raises funds for various charities, has a darts team, hosts a popular weekly quiz and holds regular festival events.

The Swan supports local business and the lessee was a fully supportive founder member of the BRTA. Indeed the pub is a key focal point for the sense of community spirit which has fuelled the recent high profile success of the locality, as nationally recognised by DCLG among others.

Section 4**Boundary of Property**

What do you consider to be the boundary of the property? Please give as much detail/be as descriptive as possible. Please include a plan.

The Swan fronts directly onto Bishopgate Street and is adjoined on the southern side to the neighbouring terraced house. The northern side fronts directly onto Clementhorpe.

The rear of the property faces east and the beer garden on this side is bounded by gardens on Clementhorpe to the east, Bishopgate Street to the west (across an alleyway) and Darnborough Street to the South. Large gates from the garden open directly onto Clementhorpe to the north.

PLEASE SEE ATTACHED GOOGLE MAPS AND GOOGLE EARTH IMAGES.

Section 5**Attachment checklist**

- Copy of group constitution (if you are a constituted group)
- Name and home address of 21 members registered to vote in nomination area (if group is not constituted)
- Site boundary plan (if possible)

Section 6**Declaration**

I can confirm that to the best of my knowledge the information contained in this nomination form is complete and accurate.

Signed:



Dated:

25/8/2015.

Please e-mail your completed form to property.services@york.gov.uk or post to:

Asset and Property Management

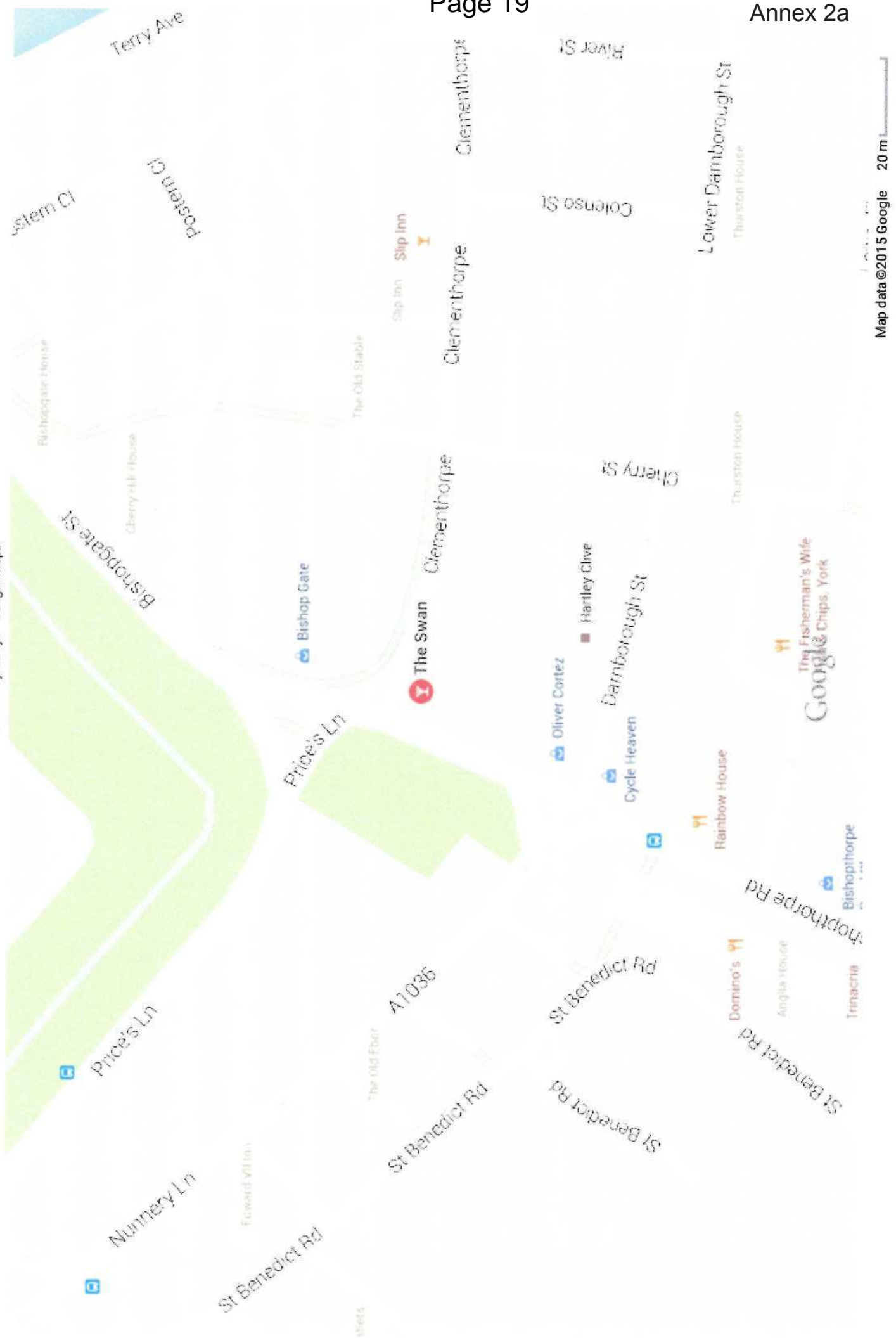
City of York Council

West Offices

Station Rise

York

YO1 6GA





Map data ©2015 Google 10 m



1. NAME

The name of the Organisation shall be the Bishopthorpe Road Traders Association (hereinafter called "the Organisation").

2. AIMS AND OBJECTIVES

- o The aims and objectives of the Organisation are to promote, enhance and support the interests of traders who operate businesses situated within the Bishopthorpe Road Area. The Organisation will liaise with statutory services, voluntary organisations and organisations supportive of general trading interests, for the benefit of its members.
- o The Organisation will endeavour to include all traders and interested parties within the Bishopthorpe Road geographical area, and will not favour particular political or religious organisations and will try to maintain an ethical approach to its work.

3. MEMBERSHIP

- o Membership shall be open to all businesses trading in the Bishopthorpe Road Area York.

- o Every member shall have one vote.
- o Members must actively seek to represent the various needs of the area, and must not discriminate on the grounds of their race, colour, ethnic or national origin or because of their gender, disability or health (including HIV & status), sensory or speech impairment, age, sexual orientation, religion, political party or marital status.

4. MEMBERSHIP FEE/SUBSCRIPTION

All members shall pay an annual fee of £20 or a sum agreed by the Annual General Meeting.

5. FINANCE

- o All financial business must be carried out constitutionally.
- o All money raised by or on behalf of the Organisation is to be used only to further the aims of the Organisation.
- o The Treasurer shall open a bank account in the name of the Organisation.
- o Cheque signatories will be nominated by the Committee (one to be the Treasurer).
- o All cheques and instructions to the Organisation bankers shall require two of the agreed signatures.
- o The Treasurer shall present annual financial reports at the AGM.
- o The Organisation will not lend money to members.

6. THE COMMITTEE

- All members will be members of the committee and have voting rights. Voting will be on the basis of one vote per member business attending at the meeting.
- All proposals shall be voted upon following open discussion. A show of hands or a secret ballot, indicating a majority, shall determine the outcome. The Chairman has a casting vote.
- The Committee shall be made up of a Chairman, Secretary, Membership Secretary, Treasurer, Publicity Co-ordinator and general members.
- The Committee shall be elected at the Annual General Meeting.
- At any committee meeting four members present shall represent a quorum. A majority vote will carry any motion, which is proposed and seconded. If required the Chairman will have a casting vote.
- The committee shall aim to meet on a two monthly basis but no less than 4 times a year.
- Minutes of the Committee meetings shall be available to all members.
- The Committee may introduce or appoint new members as required.

7. ANNUAL GENERAL MEETING

- There shall be an Annual General Meeting held every 12 months. At which the Committee reports on its work, presents a statement of accounts and then resigns.

- The AGM shall elect a new Committee, vote on recommendations and any amendments to the constitution.
- The Secretary will notify all members of the date of the meeting not less than fourteen days before the AGM.

8. OTHER GENERAL MEETINGS

- A special or extraordinary general meeting open to all members will be held if 5 or more members submit in writing a request for such a meeting to the Secretary. The Secretary shall arrange for the meeting to take place within 14 days.
- The Secretary will publicise all general meetings at least five days in advance.

9. QUORUM

This means the number of members required for the meeting to go ahead and make decisions.

- No general meeting or Annual General Meeting shall take place if less than 4 members are present.
- No Committee meeting shall take place if less than half of the Committee are present.

10. CHANGE TO THE CONSTITUTION

12. STANDING ORDER

Members shall, at all times conduct themselves in a reasonable manner at meetings or in the premises used by the Organisation, and be excluded if they contravene the objectives of the Organisation. This will be done by a majority of those present and voting at any Committee or general meeting.

- Any members may make a proposal. In order for it to be voted on by other members it must be seconded, (or supported) by someone else.
- Only members present at the meeting may vote.
- The only exception to the above rule will be that members whose disability or medical condition makes it impossible to attend a meeting. In these circumstances such members may empower the Chairman or Secretary to vote on their behalf.
- Before voting any member may propose an amendment, which must also be seconded.
- The Chairman shall have the casting vote when there is equal voting.

This constitution to be adopted by the Bishopthorpe Road Traders Association on 20

February 2012

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Submitted by
Member details

Name

1. Johnny Hayes
2. Frances Hayes
3. Hugh Bentley
4. ROEMARY BENTLEY
5. Helen Hodge
6. ~~Matthew Hodge~~
Lucy Hjort
7. Julie Gurnett
8. Karen Charlton
9. Awoy SHRIMPSON
10. PIERS WAFFETT
11. DARREN MICKLETHWAITE
12. Philip TAYLOR
13. Gordon Lees SURNESS
14. Maria Atkinson
15. Pippa Maynard
16. Beppe Lombardo

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Asset of Community V

nation - August 2015

Re: The Swan, 16 Bishopgate Street, York YO23 1JH

Submitted by Bishonthorne Road Traders Association
Member details - tr

Name

17. PAUL CROSSMAN 2
18. PHOEBE MORGAN 5
19. KLAINE SIMON 11
20. BEVERLY KIM DUN
21. GILLIAN SYMINGTON
22. PAUL WILSON
23. EMILY BEVIS
24. Jake Hodgson
25. CAROLE KAYSON
26. Julia Howard 8
27. Graham Meiklejohn
28. CAROLINE LEVINS
29. Eické Guinness (M) (Councillor)
30. Helen Ketchen
31. Chris Hamilton 33 ka
32. Tricia Shaw J

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Current list of Assets of Community Value

1. The Golden Ball Public House, 2 Cromwell Road, York - approved March 2014.
2. The Fox Inn, 166 Holgate Road, York – approved July 2014
3. The Mitre Public House, Shipton Road, York – approved July 2014
4. The Winning Post Public House, 127-129 Bishopthorpe Road, York – approved November 2014
5. New Earswick and District Bowls Club, Huntington Road, York – approved November 2014.
6. Melbourne Public House, 6 Cemetery Road, York – approved June 2015.
7. Holgate Allotments, Ashton Lane, Holgate – approved June 2015

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20 October 2015

Leader Decision Session

Report of the Assistant Director of Finance, Asset Management and Procurement

Aviator Court Units A and E – Application to remove restrictive covenant

Summary

1. This report sets out details of an application to lift the restrictive covenant of an office site on Aviator Court at Clifton Moor for low-cost residential development. The application is in accordance with the Asset Management Policy on lifting restrictive covenants on Clifton Moor and a capital receipt has been agreed in accordance with the policy.

Background

2. The Asset Management Policy on lifting restrictive covenants at Clifton Moor was approved at the Cabinet Member Decision Making Session on 7th July 2014 and a copy of this policy is attached at Annex A. Several approvals have been given at recent Cabinet and Executive Member Decision Making Sessions to lift restrictive covenants on sites at the nearby Pioneer Business Park in return for capital sums.
3. An application has been received by Duchy Properties Ltd to lift the restrictive covenant on Sites A and E at Aviator Court on Clifton Moor where the office buildings have been vacant for a considerable period of time and a scheme has been put together for a residential development on the site. A site plan is attached at Annex B.
4. The proposal is to create 20 small apartments, 14 one bed and 6 two-bed within the existing office building structure to be marketed as starter homes aimed at a price to attract first time buyers.

5. The adopted Council policy has the following requirements for such an application to be considered and these are set out below together with details of how these requirements are being met.
6. Appropriate communal open space for clothes drying, secure cycle storage and bin storage etc.

This will be provided by the developer. A standalone timber structure will be provided for bin and cycle storage.

Some play provision

There is a proposal to provide small terraces and gardens to some of the units together with a small communal play area

Suitable pedestrian access

A direct pedestrian only access is not possible onto Clifton Moorgate but footpaths will be created to link to the existing footpath network to allow access to leisure, retail and medical facilities.

Appropriate acoustic treatment to limit road noise etc.

As well as being covered through building regulations this has been included as there will be a need to make the specification attractive to successfully sell the apartments in a mixed use area. It is proposed to complement the existing low level dense hedge planting with new medium height trees and shrubs to improve screening and acoustic protection.

7. The proposals therefore meet the requirements of this policy. However although the apartments are proposed to be sold at a reasonable figure it is the view of Housing Services that these are not 'affordable' apartments within the relevant definition and therefore, in accordance with the policy, a capital sum has been negotiated to remove the restriction. The amount which has been agreed is £75,000 in total for both units and it is considered that this amount is an adequate figure to recommend for acceptance. It is directly comparable to the sum agreed for the release of the restrictive covenant on the other buildings approved by Cabinet Member

Options

8. If this proposal is not accepted then the applicant have indicated they will either:

- a. Decide not to proceed with the scheme which will mean the potential loss of 20 low cost apartments, or
 - b. Take the matter to the Lands Tribunal. Legal Services have previously indicated there is a reasonable chance of success although it will be costly and take a considerable length of time.
9. The option to accept the capital sum offered is therefore recommended, as it provides a capital receipt for the Council, and also potentially 20 apartments for first time buyers.

Council Plan

10. The proposed policy supports the Council policy of Get York Building, creating additional low cost housing on brownfield land.

Implications

Financial – The variation of the covenant realises a capital receipt which reflects the uplift in value of the site after the covenant has been lifted.

Human Resources (HR) – none

Equalities, Crime and Disorder and IT –Decent quality housing is fundamental to the creation of healthy, sustainable communities and due consideration needs to be given to avoid the indirect creation of sub standard housing.

Legal – The refusal to lift a covenant can be subject to further legal challenge if it can be proved that the grounds for the original covenant no longer apply.

It is noted that, in addition to receipt of the financial sum, the Council wishes to make the release of the covenant subject to the matters referred to in paragraph 6 above. This can be included in the formal deed releasing the covenant or, if this is objected to by the applicants, controlled through the planning process by way of conditions to any planning permission and/or the provisions of any s106 agreement which the developer would be required to enter into.

Property – Contained within the report

Other - none

Risk Management

11. There is still a risk of legal challenge if the Council refuses to lift restrictive covenants.

Recommendations

12. The Executive Member is asked to agree to the request to remove the restrictive covenant in return for the capital sum of £75,000.

Reason: To enable the provision of apartments at reasonable cost in an area of surplus office accommodation.

Contact Details

Author:

Philip Callow
Head of Asset and
Property Management

Chief Officer Responsible for the
report: Ian Floyd
Director Customers and Business
Support

Report
Approved



Date 7 October
2015

Specialist Implications Officer(s)

Implication Legal
Name Gerry Allen
Senior Solicitor - Property
Tel No. 552004

Wards Affected: *Clifton Without, Rawcliffe and Skelton*

All



For further information please contact the author of the report

Annexes

Annex A - Asset Management Policy on lifting of restrictive covenants at Clifton Moor.
Annex B – Site Plan.



June 2014

City of York Council

Asset Management Policy on lifting of restrictive covenants at

Clifton Moor

When York District Council sold parcels of land to create office developments at Clifton Moor in the 1980's, the authority added a number of restrictive covenants onto the sale deeds to limit the use to office only.

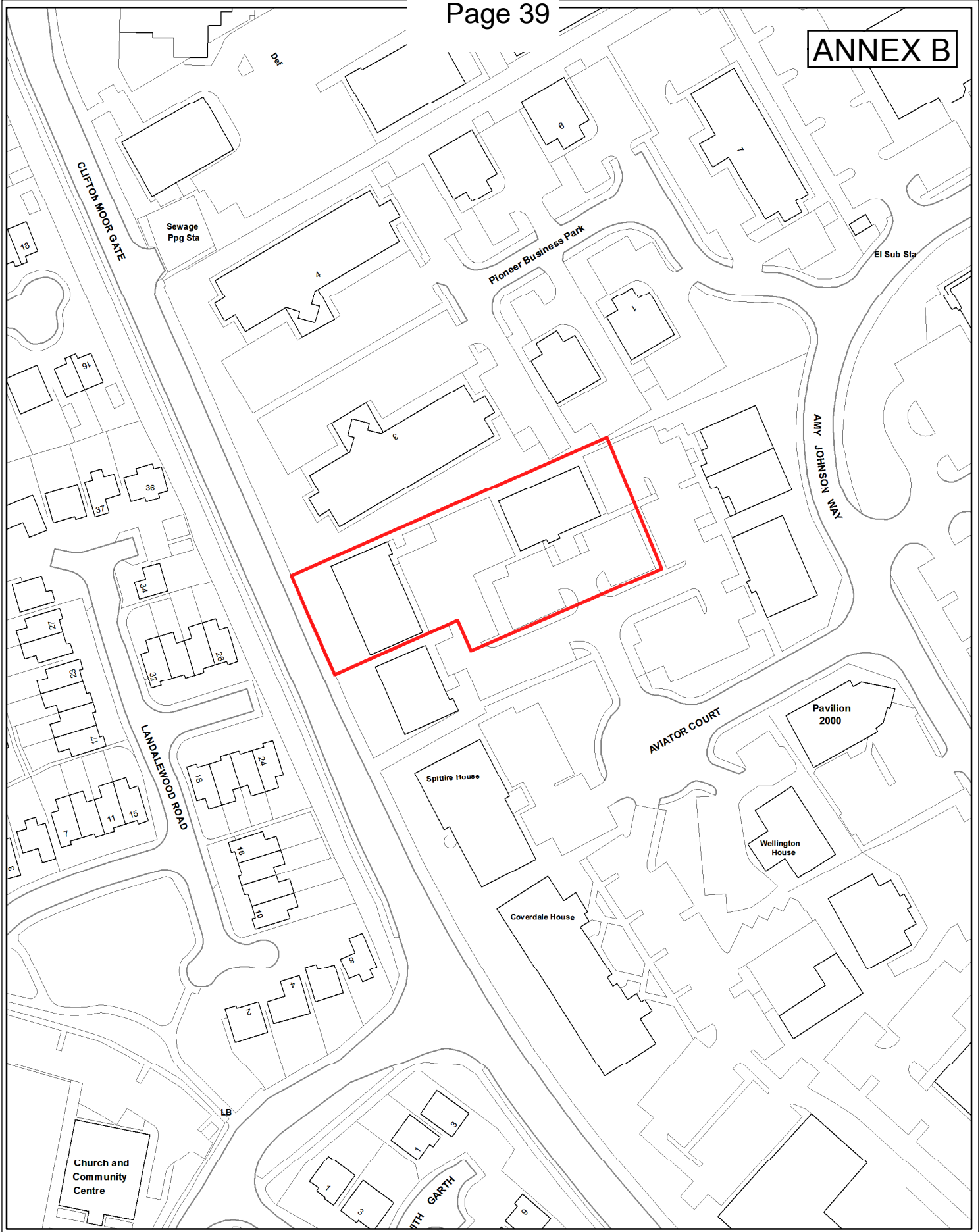
In more recent years a number of these offices have had only partial tenancies and are considered by their owners to be difficult if not impossible to let. The market for office accommodation in York is oversupplied with the quality of office accommodation that exists at Clifton Moor which is by and large moderate to poor. We are experiencing increasing demand for city centre high quality office accommodation which is currently in short supply. With regard to Clifton Moor the market has voted with its feet and there are a number of sites where CYC is being asked to vary or lift the covenants to convert them into residential schemes. CYC has now developed a policy to set out the principles that we will apply to these requests when we receive them.

Other restrictive covenants will still exist on land sales made in the past in different parts of the city. As the circumstances and the drivers around these will all be very different these should be treated on a case by case basis but the volume of these at Clifton Moor requires a specific policy framework.

Individual decisions will be made by the Cabinet Member for Finance and Performance. The following principles will be applied to those decisions:-

1. CYC will agree to lift restrictive covenants on Clifton Moor which restricted future use to office accommodation, to enable them to be used for residential accommodation, but we will only do so when there is a package of facilities to support reasonable quality of housing.

2. Future housing schemes must include
 - a. appropriate communal open space for clothes drying, secure cycle storage and bin storage etc,
 - b. Some play provision
 - c. Suitable pedestrian access,
 - d. Appropriate acoustic treatment to limit road noise etc
3. We will consider lifting the covenant without a charge for schemes that deliver affordable housing as defined in the affordable housing policy in place at the time of the request.
4. If schemes do not deliver affordable housing in accordance with our policy, we will consider the suitability of the development for housing and if we believe that it will provide accommodation units that are a reasonable standard then we will make a charge for removing the restrictive covenant and will seek to work with developers to ensure that developments consider the requirements set out above eg. acoustic treatment, proper pedestrian access, sound proofing, links through to other residential areas.
5. Overage clauses may be considered as part of any negotiations regarding the sum to be paid to lift a restrictive covenant. Where we decide to lift the covenant for free we will seek an overage clause to ensure CYC gains a share of the uplifted market value should affordable housing be sold on.
6. We will not support the lifting of the restrictive covenants where we believe that the accommodation being provided is of low or substandard quality or where the scheme creates a single isolated block of housing in an otherwise commercial or industrial setting.
7. Consideration will be given to the prevailing economic conditions and the state of the market for office accommodation across the city and specifically in Clifton Moor.
8. Developers should make a formal request to the Head of Asset Management, setting out the details of their scheme and how it meets the criteria set out above, along with a proposed financial value where appropriate.



CBSS
*Asset & Property
Management*

Units A & E, Aviator Court

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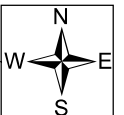
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DATE: 06/10/2015

Originating Group:

Asset & Property Management

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20 October 2015

Executive Leader (incorporating Finance and Performance) Decision Session

Report of the Assistant Director of Finance, Property and Procurement

Land at Piccadilly and Bouthwaite Drive

Summary

1. The Executive Leader is requested to agree the purchase of an area of land immediately adjoining the former Reynard's Garage site at 17-21 Piccadilly and the disposal of an area of land at Bouthwaite Drive, Holgate.
2. The land in Piccadilly comprises approximately 113 sq m formerly used for parking and is owned by Yorkshire Housing Ltd who have been marketing the sale of the freehold. They were asking for offers above £30,000 and received several bids. The Council has a special interest in the land in view of its adjacent Reynard's Garage site and rather than allow another commercial interest to acquire it, strategically it is important for the council to acquire it to incorporate into the larger development site.

Yorkshire Housing are planning to develop affordable housing on a site in Holgate and require to purchase approximately 23.5 sq m of council Housing Revenue Account land which is part of the grass verge at Bouthwaite Drive to create an improved vehicle access into the site.

A deal has been provisionally agreed, Yorkshire Housing have agreed to sell it to the council for £38,000. The council in return would sell the land at Bouthwaite Drive for the same amount.

Recommendations

- 3 The Executive Leader is asked to consider purchasing the land at Piccadilly for £38,000 and disposing of the land at Bouthwaite Drive for £38,000.

Reason: To consolidate its interest strategically at 17-21 Piccadilly as a development site to facilitate improvement of the area as part of the Southern Gateway Project. Also in the Holgate area to promote the provision by a Housing Association of affordable homes in the city in support of the council's housing policy.

Background

- 4 Yorkshire Housing owns the land which immediately adjoins the north eastern end of 17-21 Piccadilly and is also adjacent to the Red Lion PH in Merchantgate. They have been marketing the site through an agent and have received several offers in excess of £30,000.
- 5 Yorkshire Housing approached the council to seek the acquisition of land in Bouthwaite Drive, Holgate to provide an improved access into the 4 acre Severus Hill site which it is in the process of purchasing from Yorkshire Water.
- 6 The land at Bouthwaite Drive is key to their proposals to develop 50 dwellings on the site which are all to be affordable housing. The scheme is subject to planning consent, however to proceed with this they need to secure the access land from the Council.
- 7 The Council's Housing Development team are supportive of the Housing Association's proposal to provide 100% affordable housing on site particularly when under planning policy they would be obliged to provide only 20% affordable housing or 10 homes.
- 8 The land at Bouthwaite Drive is grass verge and therefore of minimal value however as an access into the site its value increases significantly. The provisionally agreed purchase price of £38,000 equates to £1,617 per sq m. A higher figure could be sought however this would result in the housing scheme being put in jeopardy and either not proceeding at all, or with the 100% affordable housing element being reduced down to meet the basic planning policy requirement of 20%

- 9 The Piccadilly land comprises approximately 113 sq m. The price agreed of £38,000 has been subject to market testing with other similar bids being received by Yorkshire Housing. It equates to some £336 per sq m.
- 10 In view of the Council's interest in acquiring the Piccadilly land from Yorkshire Housing and their interest in acquiring the Bouthwaite Drive land, provisional agreement has been reached on the sale and purchase deal.

Consultation

- 11 The proposal to dispose of the HRA land has been discussed with the Council's Housing Development team who are supportive of the sale at the price provisionally agreed. Although a higher figure may be achievable they consider that the 100% element of affordable homes with associated nomination rights to the council is of greater benefit than increasing the capital receipt to the Housing Revenue Account. The increased receipt would not be able to deliver a similar amount of new affordable homes. They remain committed to working with Housing Associations to help facilitate such schemes on private housing sites.

Options and Analysis

12

Option 1- Purchase of land adjoining 17-21 Piccadilly

Advantages

- It enhances and completes the development site to the full extent of the frontage block between Merchantgate and Dennis Street.
- Prevents the acquisition by another commercial interest who may act in a way which is not in the best interests of the council
- It will be easier to develop an attractive facade to 17-21 Piccadilly which can be seen from the top of Piccadilly and will draw footfall along Piccadilly thus contributing to the uplift of the overall area.
- It will increase the value of 17-21 Piccadilly

Disadvantages

- City of York Council will incur a capital outlay, although the effect will be neutral if the sale of land at Bouthwaite Drive is approved.

Option 2 – Decline to purchase the land adjoining 17-21 Piccadilly

Advantages

- City of York Council would avoid the capital outlay.

Disadvantages

- The land would be sold to a potentially competing commercial interest.

Option 3 – Sell the land at Bouthwaite Drive at the agreed price

Advantages

- City of York Council Housing Revenue Account would benefit from a capital receipt for a small area of low value grass verge.
- City of York Council would be helping facilitate a scheme to provide 100% affordable Housing by a Housing Association on a private site.

Disadvantages

- A higher capital receipt may be obtainable by negotiation for a “ransom” value.

Option 4 – Pursue a higher capital receipt for the land at Bouthwaite Drive.

Advantages

- Negotiations may result in a higher receipt to the Housing Revenue Account

Disadvantages

- The demand for a higher receipt may jeopardise the viability of the scheme and mean that either it does not proceed at all, or the amount of affordable housing is reduced from 100% to 20%.

Council Plan

13 Under the draft Council Plan this proposal will assist in supporting;

- A prosperous city for all
 - Promoting affordable housing for residents in the Holgate area.
 - Consolidating land for redevelopment in the Castle Piccadilly area in line with the area improvement envisaged by the Southern Gateway Project.

Implications

14

- **Financial** – The proposed land deal will have a net neutral financial impact on the authority. However it will require use of £38K General Fund capital from the capital contingency which will be recouped from the eventual capital receipt from the sale of the Piccadilly development site. The HRA will benefit from the £38K capital receipt to support the delivery of the HRA business plan.
- **Human Resources (HR)** - none
- **Equalities** - none
- **Legal** –
- Under S.123 of the Local Government Act 1972:
- (i) “The sale of HRA land is regulated by Section 32 of the Housing Act 1985 which requires that consent of the Secretary of State is obtained. Under the General Consent for Disposal of Land held for Housing Purposes Order the Secretary of State has given consent to the disposal of vacant

land (for any or nil consideration) and to the disposal of land with houses on it for market value.”

- (ii) before disposing (including granting a lease) of ‘open space’ the Council must advertise the proposed disposal in two consecutive editions of a local newspaper and give due consideration to any objections or other comments received in response to the advertisement. S.20 of the Open Spaces Act 1906 defines open space as any land (whether or not fenced/enclosed) on which there are no buildings or of which not more than 5% is covered with buildings and the whole or remainder of which is used for recreational purposes or which lies waste and unoccupied. Based upon information which Property Services have supplied about the land at Bouthwaite Drive, including photographs of the land, it is not considered that the land is open space. Accordingly the Council does not propose to advertise the proposed disposal in a local newspaper.
- The Council may wish to consider reserving nomination rights for itself over the completed affordable housing development to be constructed on Yorkshire Housing’s adjoining land at Bouthwaite Drive under a formal nomination rights agreement. The Council should also consider imposing a restrictive covenant over the land being sold to Yorkshire Housing prohibiting it from being used for any purpose other as an accessway serving a 100% affordable housing development constructed on Yorkshire Housing’s adjoining land.
- **Crime and Disorder** – none
- **Information Technology (IT)** - none
- **Property** – contained in the report
- **Public Health** – None
- **Other**

Risk Management

- 15 There are no particular risks associated with the recommendation.

Contact Details

Author:

Philip Callow
Head of Asset and
Property Management
Property Services
01904 553360

**Chief Officer Responsible for the
report:**

Tracey Carter
Assistant Director – Finance, Property
and Procurement

Report Approved ✓

Date: 12 October 2015

Wards Affected: Guildhall and Holgate

For further information please contact the author of the report

Annexes

Plans

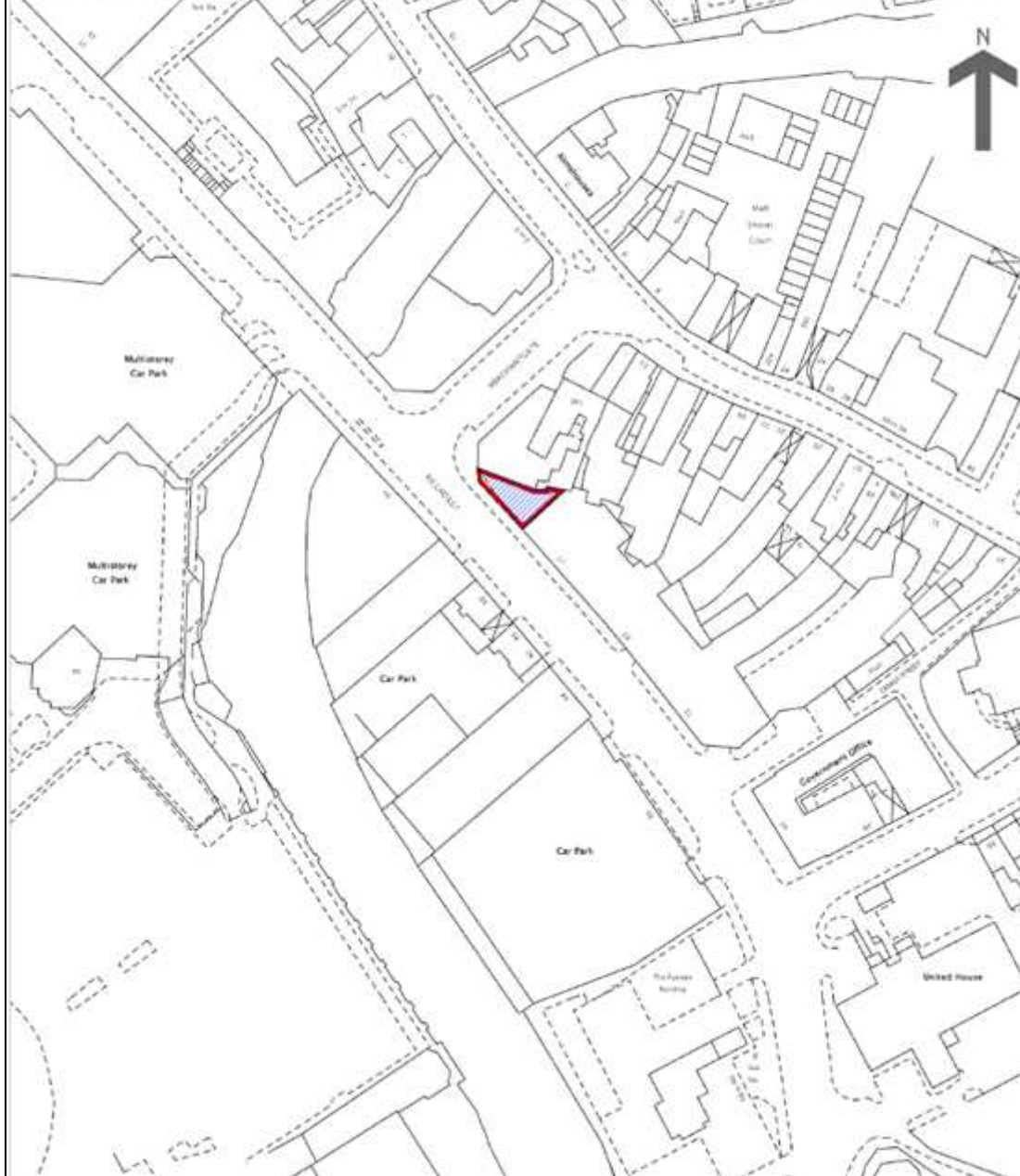
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Land Registry
Official copy of
title plan

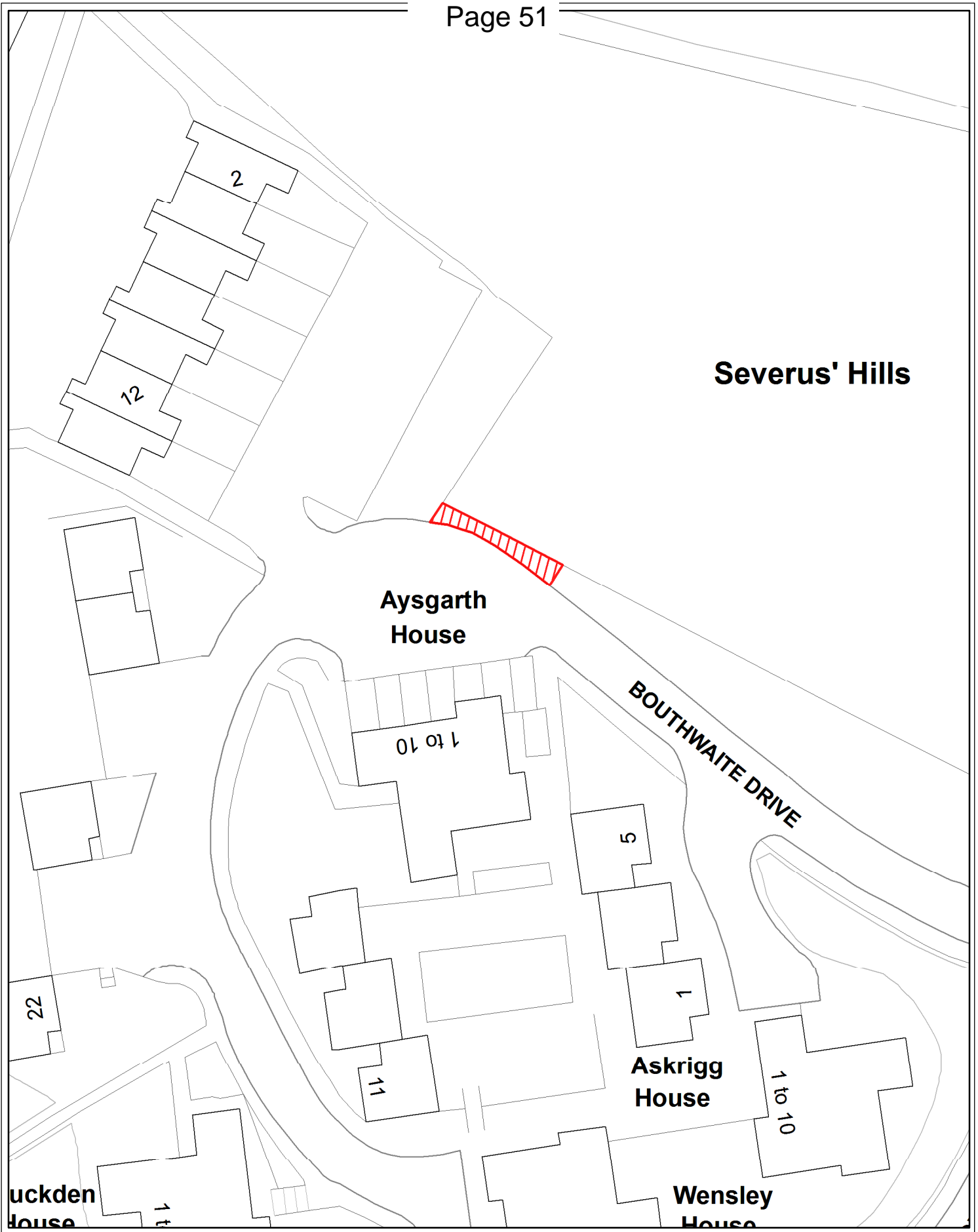
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Scale **1:1250**
Administrative area **York**



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Land North of Bouthwaite Drive



SCALE 1:500

DRAWN BY: DH

DATE: 05/10/2015

Originating Group:

Asset & Property Management

Drawing No.

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