



Notice of a public meeting of

Planning Committee

- To:** Councillors Ayre (Chair), Derbyshire (Vice-Chair), Reid, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Galvin, Looker, Pavlovic, Richardson, Shepherd and Warters
- Date:** Wednesday, 18 October 2017
- Time:** 4.30 pm
- Venue:** The Snow Room - Ground Floor, West Offices (G035)

AGENDA

Would Members please note that the mini-bus for the site visits for this meeting will depart from Memorial Gardens at **10:00am on Tuesday 17 October 2017**

1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare:

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

which they may have in respect of business on this agenda.

2. **Minutes**

To approve and sign the minutes of the meeting of the Planning Committee held on 14 September 2017 (*to follow*).

3. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5pm on Tuesday 17 October 2017**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

Filming or Recording Meetings

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4. Plans List

This item invites Members to determine the following planning applications:

- a) **The Carlton Tavern, 140 Acomb Road, York (17/00476/FULM)** (Pages 3 - 56)

Erection of three-four storey 74no. bedroom care home with associated parking, cycle racks and landscaping following demolition of existing public house. [Site Visit] [Holgate Ward]

- b) **Burnholme Community Hub, Bad Bargain Lane, York, YO31 0GW (17/01925/FULM)** (Pages 57 - 72)

Erection of 80 bedroom care home with associated landscaping, infrastructure and car parking. [Site Visit] [Heworth Ward]

- c) **Cemetery, New Lane, Huntington, York (17/01250/FUL)** (Pages 73 - 90)
Change of use of part of OS Field 0042 from agricultural land to extension to existing cemetery. [Site Visit] [Huntington/New Earswick Ward]
- d) **Yorvale Ltd, Fossfield Farm, Foss Field Lane, Acaster Malbis, York (17/01790/FUL)** (Pages 91 - 110)
Erection of a single storey production building. [SiteVisit] [Bishopthorpe Ward]

5. Appeals Performance and Decision Summaries (Pages 111 - 126)

This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 April and 30 June 2017, and provides a summary of the salient points from appeals determined in that period.

6. Urgent Business

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

Democracy Officer:

Name: Angela Bielby

Contact Details:

- Telephone – 01904 552599
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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 جا سکتی ہیں۔ (Urdu)

 (01904) 551550

PLANNING COMMITTEE**SITE VISITS****Tuesday 17 October 2017**

TIME (Approx)	SITE	ITEM
10:00	Minibus leaves Memorial Gardens	
10:20	Fossfield Farm, Acaster Malbis	4d
10:55	Carlton Tavern, 140 Acomb Road	4a
11:55	Cemetery, New Lane, Huntington	4c
12:25	Burnholme Community Hub, Bad Bargain Lane	4b

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COMMITTEE REPORT

Date: 14 September 2017 **Ward:** Holgate
Team: Major and **Parish:** Holgate Planning Panel
Commercial Team

Reference: 17/00476/FULM
Application at: The Carlton Tavern 140 Acomb Road York YO24 4HA
For: Erection of three-four storey 74 no. bedroom care home with associated parking, cycle racks and landscaping following demolition of existing public house
By: Crown Care
Application Type: Major Full Application (13 weeks)
Target Date: 25 September 2017
Recommendation: Approve

1.0 PROPOSAL

APPLICATION SITE

1.1 The Carlton Tavern Public House, (still trading), together with a smaller building used for accommodation, is situated on the northern side of Acomb Road, approximately 2.5km to the west of York City Centre.

1.2 The site measures approximately 0.5 hectares and rises up from the road with the public house broadly in the centre of the site. There is an amenity and play area to the front, and parking to the rear. A number of trees within the site, and particularly along the site frontage, are protected by a tree Preservation Order (TPO number CYC131).

1.3 The site is bounded by Acomb Road to the south, with residential development on its southern side. The site narrows to the rear with residential flats at Heritage House forming the northern boundary with the Heritage Museum and Bunker, a Scheduled Monument to the north east. Along the western boundary is a police station with the curtilage to an unoccupied old peoples' home beyond. Further residential properties are located on the north-western boundary.

1.4 The building is not listed, nor in a conservation area, however it is locally recognised for its architectural and historical merit. The building is identified on the York Open Planning Forum Local List, however this list has no formal planning status. It was constructed as a villa in the late-Victorian period.

PROPOSAL

1.5 Permission is sought for the demolition of the existing Carlton Tavern Public House and associated six-bedroom building used for accommodation together with the construction of a care home over 3 and 4 floors. 22 car parking spaces will be provided together with 5 cycle racks and associated landscaping.

1.6 Highway access will remain as existing. Pedestrian access is provided adjacent to the existing driveway. This comprises an external platform lift adjacent to a small run of stairs. The parking will be provided along the eastern side of the building and at the northern extent. Access for a refuse vehicle will be provided, with bin storage to the north-west of the building.

1.7 The site rises up from the road, with a landscaped open area to the frontage. The layout includes the retention of most of the trees covered by the Tree Preservation Order to the front and sides of the site. However throughout the site some trees will be removed. Landscaped areas to the front of the building and along its western boundary will remain although re-modelled to take account of the larger building proposed and address the needs future residents.

1.8 The proposed care home will be set approximately 21m further forward on the site than the Carlton Tavern It is also approximately 6m forward of Shelley House which lies to the east, however it will broadly extend the same distance to the north as that building.

1.9 The Design and Access Statement states that it is intended that the building will have a more contemporary design than the apartments to the north and east of the site. Other key considerations stated are to retain the landscaped setting of the building, and utilise the existing entrance. The front of the building has a footprint of approximately 26m by 15m. The width of the site at this point is approximately 50m. The rear section is narrower varying between 17m and 14.5m. The total depth of the building is 15.75m. The ridge height at the frontage is approximately 12.4m.

1.10 It is centrally located within the site and retains much of the existing landscaping around it. However the open space to the front of the building will be reduced due to the position of the care home, forward of the location of the Carlton Tavern. The proposed building is set over four floors, under a mansard roof. The fourth floor is set within the roof space. The front of the building has a relatively contemporary design with a three bay central area, together with two gable elements to either side. Two contrasting bricks will be utilised to visually break up the mass of the building. The right hand element of the front elevation will have projecting brick detailing which has been introduced to make reference to traditional tile hanging. An external chimney is shown on the gable, and the front gables have an overhanging verge to them. The side elevations are also divided with some gables. Balconies are provided to the rooms set back, with angled windows on the projecting gables.

1.11 Discussions have been on-going with the applicant and they were advised of responses from consultees and objectors, together with concerns from officers in respect to aspects of the design. In the light of this, revised plans and documents were submitted. Of particular importance is that the size of the building was reduced from 79 bedrooms to 76. The changes to the layout included a reduction in the height of the northern end of the building where it is adjacent to some of the properties on Baildon Close. Further changes were submitted throughout the application process. The changes culminated in a final set of revised plans received. The main changes include:-

- Room numbers reduced to 74 (originally 76)A reduction in the height of the north western part of the building to single storey where it abuts the northern block on Baildon Close.
- A reduction in the ridge height of the rear of the building
- The green buffer between the care home and Shelley House widened to include planting.
- Angled windows to some rooms.
- Deletion of balcony's where they face Baildon Close and Shelley House.
- A reduction in the level of fenestration on the eastern elevation towards the north of the building by reducing the width of the windows.
- A greater offset distance between the care home and neighbouring properties. The distance is now a minimum of 22m from Shelley House and 21m from Baildon Close.

1.12 The bedrooms are grouped together with lounge and dining areas and will be located on the ground, first and second floors. The third floor is within the roof and includes laundries, staff room, cinema, gym, activity room, therapy room, hairdressers and nail bar. The building will be constructed from a palette of bricks under a slate roof.

2.0 POLICY AND LEGISLATIVE CONTEXT

2.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no adopted plan in York. In the absence of a formally adopted local plan, the most up-to date representation of key policy is the NPPF, and it is against this Framework that the application should principally be addressed.

2.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990
National Planning Policy Framework (NPPF)

2.3 See body of the report for relevant sections.

OTHER MATERIAL CONSIDERATIONS

Development Control Draft Local Plan 2005 (DCLP)

2.4 Although there is no formally adopted local plan, the 'City of York Draft Local Plan Incorporating the Fourth Set of Changes' was approved for development control purposes in April 2005. Whilst it does not form part of the Statutory development plan for the purposes of S38, its policies are considered to be capable of being material in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. Such policies carry limited weight. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are:

- GP1 Design
- C3 Change of use of community facilities
- GP3 Crime Prevention
- GP4A Sustainability
- GP6 Contaminated land
- GP9 Landscaping
- GP11 Accessibility
- GP15A Development and Flood Risk
- L1c Provision of new open space in developments
- T4 Cycle parking standards
- T5 Traffic and Pedestrian safety
- T13a Travel Plans and contributions
- NE1 Trees Woodlands and Hedgerows
- NE6 Species protected by law
- HE10 Archaeology
- H17 Residential Institutions
- SP6 Locational Strategy
- SP8 Reducing dependence on the car

Emerging Local Plan

2.5 The Pre - Publication Draft Local Plan is currently being consulted on until October 30th 2017. It is considered that the draft Local Plan policies carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of planning applications.

2.6 The up to date evidence considered relevant to this application includes:

- Strategic Housing Market Assessment (SHMA) 2016

Application Reference Number: 17/00476/FULM

Item No:

Page 4 of 51

- Strategic Housing Market Assessment Addendum (SHMA) 2016
- City of York Heritage Topic Paper update September 2014
- The Local Plan (2012) preferred options supporting documents - Biodiversity Action plan.
- The Local Plan (2012) Preferred Options supporting document -local Heritage List for York SPD

2.7 The Application has been screened against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. This application will fall to be considered under Schedule 2 (10)(b) Infrastructure projects. This application does not meet the thresholds set out in Column 2 of that Schedule and is not considered likely to have significant environmental effects when assessed against Schedule 3 of the Regulations.

3.0 CONSULTATIONS

INTERNAL

Planning and Environmental Management (Forward Planning)

3.1 Initial comments concluded:-

"The provision of additional care home bed space supports the Local Plan's emerging approach, and reflects evidence from the Strategic Housing Market Assessment regarding likely demand due to demographic changes over the period to 2032 and beyond. The involvement of the private sector in delivering such further accommodation is further stated in the Council's Older Persons Accommodation Programme and Older Persons Housing Strategy. As such, we have no objection to the principle of the development."

3.2 In order to address concerns in relation to the loss of the Community Facility the applicant submitted a document entitled Community Use Assessment. In view of this document, the comments of Planning and Environmental Management conclude that on balance they concur that the pub, whilst valued by a sector of the community, is not in wider community use to such a degree that its closure would cause demonstrable harm to community cohesion and well-being, and its loss would not reduce the community's ability to meet its day to day needs. The site's proposed new use as a care home would provide significant community benefit. In the context of NPPF and draft Local Plan policy we would therefore not object to loss of the site's use as a pub.

Planning and Environmental Management (Design and Sustainability)

3.3 Original Comments;- The existing buildings can be considered as a non-designated Heritage Asset. Key to determining a suitable change must be that the balance of benefits of the change when compared with the existing should be positive. The proposed complete demolition of Carlton Tavern is the loss of non-designated heritage assets. This makes it necessary to provide a replacement of sufficiently high quality to counter this loss.

3.4 Due to the value of the existing building, intensification of use should first consider less harmful options, but no evidence of this.

3.5 Because the proposed building is much further forward it will undermine the landscape setting.

3.6 The proposal does not relate to the topography of the site. The site rises up from Acomb road and then tapers down to the rear. The proposal occupies approximately 70% of the plot length and takes the high spot at the peak creating distinctive plinths and unnecessarily raising the building up.

3.7 The height and massing are out of character with the area and the building is too close to Baildon close in places. Suggest exploring the retention and adaptation of existing building as part of a larger scheme with further development to the rear. The building should be articulated as a series of smaller buildings in a landscape setting. Varying component form heights should be considered, i.e. number of floors. Would support the need for interior alterations.

3.8 Further comments:- In relation to the additional information, the previous observations still stand. If no other design comes forward the officer should be satisfied that there are sufficient merits for the overall proposal to balance these comments.

Landscape Architect

3.9 Original comments: Consider that the building is too large for the site; the protected trees are threatened by construction operations and the proximity of the canopies to the building; and the outdoor amenity space for residents and visitors is unsatisfactory.

3.10 Revised comments following a meeting between the Landscape Architect, and the Arboriculturist acting for the applicant.

3.11 In summary the revised comments conclude that the risk to the trees posed by the development, in theory could be reduced to an acceptable minimum with a suitably detailed AMS and supervision on site, with the exception of the proposed steps and wheelchair lift at the entrance Oak tree T8 should be retained by reinstating the 'as existing' kerb line on the drawings.

3.18 For information tree T8 has now been retained.3.19. There is still concern over the degree of shading to living quarters in the south west and south east portions of the building.

Network Management - Highways

3.12 The proposed development re-uses the existing vehicular access. It is considered to be suitable to serve the proposed development in terms of width and visibility. Car parking is in accordance with CYC maximum standards and is supported by the applicant's experience of operating other sites.

3.13 The site is in a sustainable location with bus stops and local facilities within recognised national walking/cycling distances.

3.14 The surrounding highway is protected by various traffic regulation orders and the applicant has indicated that they are willing to provide funding towards any traffic restrictions that may be necessary. Officers would therefore seek £3,000 for traffic restrictions (NB works or alternative arrangements including a contribution to works can be secured by condition). Recommend conditions.

Planning and Environmental Management (Ecology)

3.15 An initial bat survey of the building concluded that the public house currently supports small numbers of roosting Common Pipistrelle bats, which emerged from under the wooden fascia on the north eastern elevation. Six trees were identified as having potential to support roosting bats, these will all be retained as part of the proposals. In combination all of the trees provide suitable foraging habitat for bats and provide connectivity into the wider area.

3.16 The vegetation on site, and the buildings, provide suitable nesting habitat for birds. All nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended).

3.17 In the light of the survey, there is no objection to the development subject to conditions to secure bat mitigation, and the submission of a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or a statement in writing from the relevant licensing body to the effect that it does not consider that the

Planning and Environmental Management (Archaeology)

3.18 The site is of archaeological interest due to its historical, architectural and social significance from its use as a nursery and public house. The smaller building at the back is more recent. The adjacent villa, Shelley House, was demolished

several years ago leaving the Carlton Tavern as one of the last Victorian villas on Acomb Road. Therefore strongly recommend that the building is converted and extended instead of being demolished.

3.19 There has been no known archaeological intervention on this site. Whilst it is outside the Acomb Area of Archaeological Importance, the proposed development runs along a possible roman route way from York to Acomb following higher ground. Evidence of Roman activity in the area is attested by burials in the West Park area to the south west, and a Roman Mosaic pavement at Acomb House, Front Street. Later archaeological deposits relating to the medieval period onwards may also exist on the site, particularly within undisturbed area.

3.20 As recommended, archaeological evaluation by trial trenching has been carried out, the finding of the trenches concludes that it is unlikely that any remains survive to the south of the building. However it is possible that less damage has occurred to the rear of the building.

3.21 Having reviewed the results, recommended that any permission on the site is conditioned to require a Written Scheme of Investigation.

Adult Social Care

3.22 Support the proposed care home development because;

- It delivers good quality residential and nursing care provision, giving life to the CYC's Older Persons Accommodation Programme as agreed by Executive on 30th July 2015.
- Using national benchmarks, York is currently short of 657 residential and care beds and because of anticipated 50% increase in 75+ population in the city and the expected closure of care homes that are no longer fit for purpose that shortfall will have risen to 962 by 2020, if no new homes built and 1,644 by 2030. Even if the calculation takes into account sites that are subject to planning applications that are currently being considered, and in the knowledge that a further planning application may be forthcoming on land at Lowfield Green, York will still have a shortfall in care beds of 672 in 2020 and 1394 in 2030.
- The proposed residential care facility is in a good location of older residents as close to shops and other facilities.
- Particularly pleased with design and layout taking into account the needs of older people and particularly those with dementia. Especially the provision of a range of communal facilities that promote health and

being, socialisation, café area and options for sitting and meeting friends, accessible and safe external gardens and terraces which will allow easy walking which is very beneficial for those with dementia.

- The provision of care suites which are large enough to accommodate couples is in short supply. Care home of this quality should be available to all citizens, and urge the developer to work with the Council and make available some beds for local authority nominated clients, by negotiation and at a price that references the Actual Cost of Care rate paid by the Council.

Public Protection (Environmental Health)

3.23 Based on submitted noise levels, noise is not a limiting factor subject to a condition requiring a noise insulation scheme. Require condition in relation details of all machinery, plant and equipment to protect neighbour amenity.

3.24 Recommend condition regarding Construction Environmental Management Plan, together with lighting details, and a condition requiring details for treatment of cooking odours.

3.25 In relation to contamination, the report found low risk of contamination but a condition in respect of unexpected contamination is recommended.

3.26 Recommend one space for electric vehicle re-charging.

EXTERNAL

Holgate Planning Panel

Object on planning grounds:

- Loss of local amenity
- Loss of local community asset
- Loss of Heritage building important to the local area.

Yorkshire Water

3.27 No objection, however no evidence of positive drainage has been provided and the discharge rate is based on areas only assumed to drain to public sewer. Evidence of existing impermeable areas positively draining to the public sewer is required to prove rate of discharge. Recommend condition.

Ainsty internal Drainage Board

Application Reference Number: 17/00476/FULM

Item No:

3.28 The Board recommends that the applicant carries out soakaway testing to accommodate a 1:30 year storm event, plus a 20% allowance for climate change. If testing proves unsatisfactory, the applicant will have to re-consider their drainage strategy. Conditions recommended.

Victorian Society

3.29 Object:

- The development will entail the total and unjustified loss of a locally significant building, and harm to the quality and character of the local streetscape. The building is referred to in the Buildings of England as one of "two large 1880s gabled villas, tile-hung and half timbered". Inclusion within the book is evidence of the building's merit and interest.
- Its generous proportions, richness of elevation treatment, tall chimneys and notable detailing, make it an accomplished and highly impressive edifice. The historical and community associations derive not just from the building's use as a public house, but from its former guise as the Godfrey Walker Nursery, a use it served from 1946. In our view the building satisfies the selection criteria for inclusion on the Council's list.
- A core planning principle is that heritage assets are "conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations"
- Reference is made to the National Planning Policy Framework and the weight to be attached to the desirability of preserving or enhancing the significance of heritage assets, and account to be taken of the effect of applications (*relating to a heritage assets*)) on the significance of a non-designated heritage assets .
- National policy presumes in favour of sustainable development. The protection and sensitive management of the historic environment is a key part of the environmental aspect, the scheme neglects this by proposing the loss of a locally significant building.
- The NPPF asserts that good design is a key to sustainable development, new development should respond to local character and history and reflect the identity of local surroundings and materials, and should promote or reinforce local distinctiveness. The proposed building would fall short of the quality and

character the site, its surroundings and national policy demand. Therefore it is not sustainable development.

- states The Council should inscribe the building on its Local List and ensure its preservation, in the first place by refusing this inappropriate and harmful application.

Conservation Areas Advisory Panel

3.30 Whilst the existing building is not listed the Panel understand that it had been proposed for the Local List and recommended for an ACV (Asset of Community Value). The possible loss of this building, in the style of Penty, is regretted and it is felt that the replacement building would be a poor substitute.

York Civic Trust

3.31 Objects, stating:

- The Carlton Tavern is an important non designated heritage asset. Acknowledge the submission of a quality heritage statement as part of the revisions and agrees with the Heritage Statement's assessment of the significance of the Carlton Tavern to be considerable in regards to its;
- Well preserved example of a late Victorian villa set in its own grounds with many of the key features identified with the Domestic Revival style.
- Historic significance
- Aesthetic significance
- The Civic Trust agrees with the Heritage statements assessment that the impact of the demolition of the Carlton Tavern is 'considered to cause substantial harm to (this) non designated heritage asset' (p40)
- Applicant's argument that the Carlton Tavern would have to be demolished is not sufficiently compelling. Queries whether it is not possible through the positive use of constructive conservation and good design that the existing villa can be connected with a new development wing of care home bedrooms to the rear. Also whether some of these non-residential functions could be housed in the existing Victorian villa.

3.32 In conclusion, the Trust believes that the demolition of the Victorian villa is not justified due to its heritage associations, good condition and existing use. Therefore the objection is maintained. The Trust further believes that a solution can be found to incorporate the villa with new residential care provision and attached to the rear. Urge applicants to consider this.

Council for British Archaeology (CBA)

3.33 The CBA objects to the application for the demolition of The Carlton Tavern which is a locally listed building of clear heritage value. Demolition would result in significant harm to the heritage asset. The applicant has not provided a clear and convincing justification for demolition in accordance with paragraph 132 of the NPPF. The CBA advocates conversion.

SAVE Britain's Heritage

3.34 Strong objection; The Carlton tavern has considerable historic and architectural interest, which is evidenced in the local listing. Its demolition would substantially harm the character and quality of the local area. The applicant's own Heritage Statement concludes that the building has considerable evidential, historic and architectural value and demolition would cause substantial harm. There are significant local and national objections to this application. The building is being used currently and is clearly capable of being used for an alternative purpose. The onus is on the applicant to demonstrate why demolition is necessary but no case has been made.

York Conservation Trust

3.35 Object to the demolition of the villa. The property has sufficient historic, architectural and communal significance to ensure that it should be saved if at all possible. The justification provided for demolition does not consider other possible uses.

PUBLICITY

3.36 A letter has been received from Councillor Keith Myers (Acomb Ward) who objects to the proposed demolition of 'this unique building in Acomb' and would like to encourage the developers to keep the building intact and incorporate it into a new scheme so that future generations can admire this wonderful mansion.'

3.37 Concillor Sonia Crisp – Holgate Councillor, objects for the following reasons:

- Loss of community facility as it was a viable public house.

- Destruction the street scene. A beautifully designed house set back in lovely grounds. To demolish it would be a crime.
- Over saturation of care homes. Oak Haven is to be re-developed almost next door.
- We must preserve much loved houses outside the city centre. Everyone knows this building in Holgate and Acomb. To demolish it would be a crime.

The consultation was poor and not conducted in an appropriate place.

3.38 A letter from Councillor Andrew Waller, states that whilst the application is outside the Westfield Ward he has received concerns about the loss of a historic building. There has been considerable interest in other parts of the city to retain buildings which have character and retain links to the heritage of a place. The Carlton Tavern does fall into this category as it is close to the historic Front street Core of Acomb. New life was brought to the former Acomb school building to retain its distinctive appearance to local community and I hope that the same can be done with the plans for the Carlton Tavern building.

3.39 The application was advertised by consultation with immediate neighbours and the erection of a site notice. To date 107 letters of objection have been received which raise the following points;

- The building is of great historic, architectural, community and historic value. This is recognised by the Heritage Statement submitted by the applicant. It is also recognised by the inclusion of the building in the York Open Forum Local List. The importance of local lists has also been recognised by Historic England who recently issued a Local Heritage Listing Advice note.
- The building fulfils all the criteria of a non designated heritage asset. The building has many interesting features including mullioned windows, tile hanging, half timbering and superb brickwork on the chimneys. Its position behind trees and lawns is a pleasant contrast to the more mundane buildings that surround it. Once destroyed it can never be recreated.
- There are significant local and national objections to the development. The loss of the building would harm the character of the area. The main contribution being the local townscape as a landmark building, its historical significance and contribution to our understanding of the development of York's suburbs, as a children's care home, and for its social and communal significance as a public house. According to the Local Heritage List for York, Supplementary Planning Document (Consultation Draft 2013), 'the City of York Council values York's local heritage.

- The application runs counter to national planning policy in the NPPF by resulting in the loss of an existing heritage asset.
- The building is an example of how architects used to value the aesthetics of the outside of the building whilst combining it with the practicalities on the inside. Residents of a care home will appreciate the older style of building rather than monotonous boxes. Revised plans should be submitted by a conservation accredited architect.
- A 'Sense of Place' is identified by CYC as key objective of forthcoming regeneration vision for Acomb. A beautiful building like this can only help with the drive to make Acomb one of the affluent areas of York. The building forms part of the wider destruction of Victorian and Edwardian early 20th century in the suburbs immediately outside York City Centre.
- No clear case for demolition. Re-development alongside existing should not be a financial objection, with living quarters in the new build. Other business options should be explored including intergenerational community needs including hotels and pubs. We should be preserving our history, i.e. the cold war bunker and Holgate windmill. Visitors to the windmill and bunker are welcome to use the car parking facilities. The only building of age left in the Acomb area. To lose this handsome building and replace it with a bland edifice would be a disaster. It wouldn't be demolished if it was within the city walls.
- Agree in providing care facilities and recognise they are needed in the community, but object to the demolition of an architecturally significant building- an Edwardian Villa on a key thoroughfare that is part of the architectural character of Acomb.
- The proposed building aesthetically detracts from its surroundings due to lack of architectural and historic merit, whereas the current building enhances them.
- As a 16 year old I did my Duke of Edinburgh and had to visit the Godfrey walker children's home every Saturday to help with the children . I now live in Hobgate opposite the building and visit it regularly for a meal.
- Already too many buildings of this period have been demolished to make use of their space for commercial gain. Two organisations, neither from York, are combining to rob our locality of an important building.
- The building could be readily modified to house residents, either as a home or apartments, and there are already too few green spaces along this stretch

of streetscape. The Old Rectory on the corner of the Green in Acomb was developed and preserved with buildings erected around it rather than knocked down which was a good compromise and retained a beautiful building whilst recognising the inevitable economics.

- The existing building could be used for a community hub for projects for the local community if the pub is to close?
- if retained, the front of the building could be used for a car park with the existing rear car park used for an extension.
- loss of healthy trees outside which will result in looking into windows.
- . The building is a comforting relic of an age of 'dignity and high standards.' It is an excellent example of a type of building that was once common in Acomb. . The negative impacts of the loss of a largely original arts and crafts building and grounds and replacement of a building of questionable quality are not balanced by any local public benefit.
- Despite strong objections, Oak Haven was closed by the council in 2016. There is an empty care home next door but one, and should also consider Low Field Green, and the Old Manor School.
- Should ensure that all the trees shown on the plans are kept as part of the development, they are a pleasing aspect of the area.
- Despite some of the noise from the public house, , it is a lovely building architecturally.
- Huge loss to community, and negative impact on Acomb. It is one of the largest pubs in the area, and has the biggest garden, car parking area and one of the few pubs that provides food on a daily basis. Asset of Community Value should be a material consideration. Accessible to those without a car..
- Dispute Marston's claim that it is not a profitable pub. No evidence that different owners would not be able to make the business viable.
- do Question the location for the care home given the loss of amenity that will result. Likely to be a number of potential sites in York suitable for a new care home, but once the Carlton tavern has gone, they will have lost an asset for ever.
- It is a waste of resources and not environmentally friendly to destroy a building and rebuild on the same site.

- Not a good idea to have so many similar premises in the same area. Oak Haven is virtually next door. Uphill access not appropriate for a care home.
- The care home will increase traffic congestion. Insufficient parking spaces provided. Opposed to the plans for a pedestrian access which is directly adjacent to neighbouring property
- Does appear to be a master plan for care provision covering this site, the neighbouring Police and Oak Haven sites together with others in Acomb including Low Field Green.
- Bat roosting- A European protected species licence will need to be secured to lawfully protect bats.
- Four storey building, as it will allow no light to an adjacent property . Which only gets natural daylight during the afternoons and evenings. The solar study is not a true representation of the impact of natural light and should be re-calculated. The building is unsightly and overbearing and will take away light and outlook of sky and trees. Lounge/dining will look overlook into adjacent property. Loss of daylight, will require electric lighting at a cost to me. Residents and visitors can look over balcony to my property.
- It might appear the revised plans are better but that is only because it was so enormous originally
- The original notification of the care home plan not include the fact that it was to be four storeys high? Issues with notification letters arriving later.
- Concern that those with dementia will be on the top floor and rarely get out. They need fresh air, sunshine and daylight.

In relation to the objection to the pedestrian access, this has now been deleted from its location adjacent to Baildon Close.

4.0 APPRAISAL

Key Considerations:

- Principle of use Sustainability of location
- Loss of public house
- Community benefits of the proposal
- Demolition of The Carlton Tavern.
- Design

- Sustainability
- Impact on neighbouring occupiers
- Landscape assessment summing up required.
- Open space
- Ecology
- Access
- Drainage
- Air quality, noise and emissions

PRINCIPLE OF PROPOSED USE.

4.1 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development. In terms of decision taking, the NPPF advises that this means in those cases where there are no up-to-date Local Plan Policies (such as in York), granting permission unless, either:-

- (a) The any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Policies in the Framework as a whole, or
- (b) There are specific Policies within the Framework which would indicate that development should be restricted. In terms of this second element, the footnote to Paragraph 14 details the types of considerations which would it considers would fall within this category. There are no elements of this application which fall within the examples given in this Footnote.

Paragraph 17 sets out the Core Planning Principles. These include a number or relevance to this Application. They are that planning should:-

- proactively drive and support sustainable economic development to deliver the homes that the country needs
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- support the transition to a low carbon future in a changing climate and encourage the reuse of existing resources, including conversion of existing buildings
- contribute to conserving and enhancing the natural environment and reducing pollution.
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);

- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

4.2 One of the core principles within the NPPF (para.17) states that in decision making, planning should "proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Section 6 of the NPPF seeks to ensure the delivery of a wide choice of high quality homes. Para 57 references the need to boost significantly the supply of housing.

4.3 The National Planning Practice Guidance (NPPG) (Revision date 01.04.2016) includes a specific reference to housing for older people. and states:

"The need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households (Department for Communities and Local Government Household Projections 2013)".

4.4 The Council does not have an up to date adopted plan, and therefore the NPPF and supporting guidance in the NPPG carries most weight. However some weight can be afforded to the evidence base that underpins the emerging plan. The Council's Forward Planning team has advised that the provision of additional care home bed space supports the Local Plan's emerging approach, and reflects evidence from the strategic Housing Market Assessment regarding likely demand due to demographic changes over the period to 2032 and beyond. The involvement of the private sector in delivering such accommodation is further stated in the Council's Older Person's Accommodation Programme and Older Persons Housing Strategy.

4.5 This position is backed up by the response from the Council's Adult and Social Care officer which states that York has a significant under-supply of good quality residential and nursing care accommodation which will continue to rise if no new care homes are built. This would have a profound and negative impact on the care and health "system" in York, leading to potential delays in people leaving hospital beds, people continuing to live in inadequate accommodation and diminished support for informal carers. It is noted that planning applications have been

submitted for care provision at Fordlands Lane, Fulford, and Burneholme, with a further planning application likely to be submitted at Lowfield Green. Notwithstanding these applications, the shortfall of residential and nursing care beds is still projected to be 672 by 2020.

4.6 Policy CYH17 of the Draft Local Plan states that planning permission will only be granted for residential institutions where the development, together with existing residential institutions of unimplemented planning permission would not give rise to a concentration likely to have an adverse impact on residential amenity and where it is positively located relative to local facilities and public transport. It is considered that this policy carries little weight; nevertheless the proposed development does not conflict with it. The nearby care home has closed, and even if re-developed for a similar purpose, it is not considered that the two sites would have an adverse impact on the area. It is considered however that access to facilities is of particular importance to the acceptability of the siting of a care home in this location. In this case, there are a number of local amenities within walking distance of the site including shops, post office, bank, doctors surgery, pharmacy, church and library.

4.7 In principle therefore, the proposed use accords with the NPPF, and emerging Local Plan policy.

LOSS OF PUBLIC HOUSE AND RESTAURANT

4.7 Policy C3 (Change of use of Community Facilities) of the Draft Local Plan states:-

“Planning permission will only be granted for the redevelopment or change of use of social, health care homes, community and religious facilities where;

A) the proposal is of a scale and design appropriate to the character and appearance of the locality; and

b) it can be demonstrated that the existing land of buildings are surplus to, or no longer capable of meeting the existing or future needs of the local community, or

c) it can be demonstrated that alternative sites for the existing use can be provided.”

Because the Plan is not up to date, or adopted, the weight given to this policy is limited. Nevertheless, it is considered that it broadly accords with the value that the NPPF gives to community facilities.

4.8 Section 8 of the NPPF relates to promoting healthy communities. Paragraph 70 is particularly relevant to the loss of a public house and includes the following;

“ To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- *Guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the communities abilities to meet its day-to-day needs.*
- *Ensure an integrated approach to considering the location f housing, economic uses and community facilities and services”.*

4.9 Letters from objectors demonstrate that the public house is valued locally and provides a community place for different members of society, including families, groups and individuals. This value is heightened by the history and architectural value associated with the building.

4.10 The support in the community for the Carlton Tavern is emphasised by its nomination and listing as an Asset of Community Value (ACV). This means that a six month moratorium on sale may occur, giving a qualifying community group the opportunity to bid to acquire the ACV. Crucially however, the owner is under no obligation to sell to them. As such, the owner of the asset may still choose to sell on the open market at the end of the six month moratorium. The application by The Friends of The Carlton Tavern (The Friends), to list the public house as an ACV was received on 21st March 2017, and the Friends confirmed that they wished to bid on April 28th 2017. The moratorium on the owner selling to anyone else expires on October 10th 2017. The Council has not been advised that any bid has been received. Members will be updated at their meeting.

4.11 The applicant has provided information to demonstrate that the groups nominated in the ACV make relatively limited use of the Carlton Tavern. Nevertheless whether that is the case or not does not in itself demonstrate that the public house does not play an important role as a community asset. It is considered however that an appropriate test is to ascertain whether the development would result in the 'unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs' (Paragraph 70 NPPF).

4.12 The proposed demolition has arisen as a result of Marston's decision to sell the site. However the application has also arisen due to the significant need for care provision in the City of York. It has been stated earlier in the report that using national benchmarks, York is currently short of 657 residential and nursing care beds and that this shortfall is likely to rise to 672 by 2020 even with planned provision elsewhere. It is also considered that there are some challenges to finding suitable sites, because, much of York is constrained by Green Belt, and the scale of the building required can be such that locations within conservation areas, or the setting of listed buildings are not acceptable on heritage grounds. The need for the accommodation weighs heavily in the planning balance.

4.13 In terms of The Carlton Tavern, it is noted that the facilities are such that they may appeal to a wide range of customers. Food and drink is served, and the outside

space includes attractive grounds and a play area. The applicant has also provided information to demonstrate that whilst the development would result in the loss of a community asset, the day to day needs of the community can in fact be met by other facilities. They state that there are nine pubs within 1 mile of the Carlton Tavern. These include The Inn on the Green, The Fox Inn, The Marcia Grey, The Clockhouse, The Sun Inn, The Puss 'N' Boots, The Ainsty , The Beagle and The Green Tree. It is acknowledged that such facilities do not necessarily provide all the facilities that are available at The Carlton Tavern. The facilities include drinking establishments, and those that provide food. Other facilities such as the play area and outdoor seating can be provided by parks and other open space in the locality, with community buildings providing meeting rooms. It is also of importance that the care home itself as proposed can be considered to provide community facilities that can be used by local people and not just residents.

4.14 The NPPF advises, in Paragraph 69, that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities To help deliver the social, recreational and cultural facilities and services the community needs, Paragraph 70 advises that planning decisions should plan positively for the provision and use of shared space, community and other local services to enhance the sustainability of communities and residential environments;

4.15 The site is located within close proximity to many facilities as detailed above and also residential development. This will provide benefits of integration between the care home and the local community. Furthermore, the submitted documents (Community use assessment, Design and Access Statement, and Addendum A to the Design and Access Statement), state that the care home will ' incorporate space which is accessible and available to the local community both to provide a facility (e.g. a meeting room) and to facilitate inclusion and interaction within the care home'.

4.16 The care home contains an activity room on the third floor which will be available for the wider community to use for meetings and other activities. This can be booked through the on site management team. The applicant has confirmed that they will guarantee the availability of this room for a specified number of hours per week. In addition, the care home has a café/dining facility at ground floor which will be open to the wider community during visitor opening hours. At the third floor level there is a cinema, gym and therapy room which will be open to the over 55's who live in the area. The applicant has advised that they are willing to enter into a section 106 agreement to commit to ensure that there are opportunities for the wider community in particular the wider older population to utilise the facilities.

4.17 It is concluded therefore that the public house is valued by a sector of the community, however given the level of other public houses, open space, cafes restaurants, and places for people to meet, it is not considered that the closure of

the Carlton Tavern would harm the well-being of the community, or indeed reduce its ability to meet day to day needs. Furthermore, the use of the site as a care home would also provide community uses, in particular for older people. As such it is considered that the benefits of the development in providing much need care for the elderly and the community facilities to be provided, outweigh the limited weight afforded to policy C3 of the Draft local Plan, and accords with the relevant parts of Paragraph 70 of the NPPF.

DEMOLITION OF THE CARLTON TAVERN

4.18 One of the Government's Core Planning principles as set out in the NPPF is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. In determining planning applications, Paragraph 131 of the NPPF states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Para 135 of the NPPF specifically relates to non-designated heritage assets and states;

“135. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.

4.19 Historic England reported on September 2017 that they received a request to assess the Carlton Tavern for listing in the national List as a building of special or architectural interest. They concluded that although the Carlton Tavern does not meet the criteria for listing in the national context it undoubtedly adds to the historic character of the neighbourhood and clearly illustrates the middle-class suburban development associated with certain areas of York. As such it is a good example of a particular type of locally listed building which is increasingly coming under threat of demolition. Nevertheless, in a national context, the building does not have the necessary level of interest to be added to the List. Whilst The Carlton Tavern is not included on the statutory list of buildings of special or architectural interest, it is considered that it meets many of the criteria of non- designated heritage assets. It has community value; it has unquestionable architectural value and a high aesthetic design. The site is not within a conservation area, but is roughly equidistant between Acomb Conservation Area, which lies 0.7km to the west, and the St Paul's Square/Holgate Road Conservation Area, 0.8km to the east. Originally called West Garth, the house was built in the early 1880s, and is an example of a late Victorian villa built in the Domestic Revival Style. It formed part of the initial phase of suburban expansion along Acomb Road, and that West Garth was originally on of two villa properties in this area; the second being Shelley House to the west. Shelley

House has since been demolished and has been replaced by a large building accommodating flats.

4.20 The house was originally occupied as a private residence, however in 1946 was occupied as a nursery by the Godfrey Walker Home for girls. In 1976, the nursery closed and the building became a children's' care home. The building was purchased by Marston's Brewery in 1993 and converted for use as a public house.

4.21 City of York Council does not have an adopted Local List, however the building is locally valued and is identified on the York Open Planning Forum. The forum states that a Local List is a community created register of buildings and structures that are of importance and interest to local communities because of their historic or architectural interest. It is clearly considered to have some significance therefore. The application is accompanied by a robust Heritage Statement that includes an assessment of significance, and justification of harm and proposed mitigation strategy. Whilst the asset is non designated, the report has followed the criteria as set out in the document Conservation principles, Policies and Guidance for the Sustainable Management of the Historic Environment (English Heritage,2008).

4.22 The report ascribes considerable evidential value to the house. This is on the basis that the building is a well preserved example of a late Victorian villa set in its own grounds and including many of the key features identified with the domestic revival style. In terms of historic values, considerable value is placed on the contribution of the building to an understanding of the late Victorian villa development. Neutral value has been placed on the use of the building as The Godfrey Walker Nursery, because 134 Acomb Road was the original property associated with the foundation of the home. Considerable aesthetic value has also been ascribed to the building as a good example of the late Victorian domestic revival. However it states that it is not a specifically regional style, but is found nationally. Considerable value is also ascribed to the visual interest of the building with the 'eye drawn upwards by the chimneys oversized gables and mock jetties. A neutral is attributed to the communal value of the building which it states is related to its amenity value as a public house. Marginal value in terms of bringing together those who lived or worked at the Godfrey Walker Home and later children's care home has been ascribed.

4.23 Of particular importance is that the Heritage Statement states that whilst the building has had a varied history, the exterior of the building remains largely unaltered except for the addition of a single storey extension to the west side and the replacement of conservatory.

4.24 The value of the building has been highlighted by the objections from National bodies, The Victorian Society , Council for British Archaeology and SAVE, with concerns regarding the loss of the building from the Conservation Advisory Pane. The Victorian Society states that the fact that the building is mentioned in Pevsner's

'The Buildings of England' is evidence enough of the building's merit and interest, and with its generous proportions, richness of elevational treatment, tall chimneys and notable detailing, considers that it is an accomplished and highly impressive edifice and, as a result, consider that the building satisfies the selection criteria for inclusion of the Council's Local List. They have pointed out that historical and community associations derive not just from the building's use as a public house. In a similar vein, SAVE Britain's Heritage argue that the building has considerable historic and architectural interest. Consequently, both these bodies consider that the loss of this building would result in substantial harm to the significance of this building and, as a result, this application should be refused.

4.25 York Civic Trust and The Council for British Archaeology also make reference to the rich history of the building which relates to the urban development of western York and social care provision in the City. They further state that The Carlton Tavern is the last of the four grand Victorian/Edwardian villas that were once seen along Acomb Road. The Trust suggests a revision of the proposed scheme to use constructive conservation and incorporate the existing Carlton Tavern building onto the nursing home scheme.

4.26 In determining applications affecting non-designated heritage assets such as this building the NPPF advises, in Paragraph 135 as mentioned above , that "a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".

4.27 Clearly, the demolition of the Carlton Tavern will constitute substantial harm to an asset which is of local importance. In determining whether this loss is acceptable, consideration needs to be taken of whether the benefits provided by the nursing home outweigh the loss of this non-designated asset. Whilst it is accepted that the building itself is too small to accommodate a building of the size required, in line with paragraph 131 of the NPPF, the applicants were asked to demonstrate whether the building could be converted and extended to provide the accommodation required.

4.28. The Addendum to the Design and Access statement which accompanied the application states that, the applicant had evaluated whether it was possible to reuse the existing building as part of the development. Additional information has also been provided in relation to the justification for demolition. This concluded that:

- The square shape of the existing building proves problematic to a re-design for a care home as the partition layout would create a number of oversized or cramped rooms, and also split windows between bedrooms. The footprint is too small, would not represent good economies of scale which requires 68-75 bedrooms and would limit the provision of communal space.

- The existing building does not meet the requirements of Part M of the Building Regulations due to internal level changes. It would not lend itself to a lift being incorporated, and the staircase does not provide adequate provision to satisfy part B of the building regulations in providing refuge zones.
- It does not provide the required level of fire and acoustic separation.
- High standards of acoustic thermal and fire attenuation need to be provided, and the building needs to be constructed of brick and block walls with concrete floor details to ensure fire, sound and heat attenuation.
- Window openings are not an appropriate height for a care home to enable anyone in bed to be able to see out. Views out of a window and natural light are identified as important design considerations.
- New build would be more energy-efficient than upgrading the existing public house.

4.29 Further details refer to the shape of the building and why it would not provide the correct level and layout of building. They advise that utilising the existing building for the communal space with a new wing of accommodation to the rear has been fully explored and is not feasible because it would not provide sufficient bedrooms. In terms of a care home, the ground floor must incorporate a secure medical store and nurse station, manager's office, accessible WC, administration office lounge and dining space equivalent to 70sq metres. These have to have the correct relationship with each other and proximity to lifts etc. Retention and re-use of the existing building would require the entrance to be at the front of the building. This does not provide level access and would require increased walking from the car park. It is also clear that because the proposed building will be set significantly forward of the existing building that achieving the same level of accommodation is unlikely to be achieved.

4.30 It is considered therefore that sufficient information has been provided to demonstrate why the level of care proposed cannot be accommodated in the existing building with an extension to the rear. It is considered that weight must be given to the experience of the applicant in operating care homes elsewhere and the required working model. As such the decision is required to be made in relation to the submitted application for the demolition of the existing building.

4.31 The consultation response from Adult Social Care states that York has a significant under supply of good residential and nursing care accommodation caused by historic under investment and the strong competition that care home providers face to acquire land. It further states that the shortfall will remain even if planned accommodation comes forward. Members will be aware that other potential sites in the area include nearby Oak Haven. However officers have been advised that for the type of accommodation proposed, the site is not large enough, and

furthermore the site is being considered for the provision of 'extra care' accommodation.

4.32 In relation to the balancing exercise, the loss of the building will harm the character of the street scene and remove a tangible link to the history of the area. In view of the comments by three national conservation bodies, and the analysis in the submitted Heritage Statement, The Carlton Tavern is considered to be a non-designated heritage asset. Whilst considering the balanced judgment required in paragraph 135 of the NPPF it has to be born in mind that it is still not a building of sufficient significance to warrant inclusion on the National List for England, and it is not within a conservation area. In addition, City of York Council does not have an adopted local list. Therefore, the weight that needs to be given to retaining this building is considerably less than if it was a designated heritage asset. Accordingly, a "balanced judgement" has to be reached weighing up the benefits of this application as a whole against the dis-benefits that would result from the loss of this locally important building.

4.32 II reaching a balanced judgement, it is considered that the delivery of accommodation for 74 residents outweighs the loss of this non designated heritage asset. It is recommended however that if permission is granted, the proposed mitigation in the Heritage Statement should be subject to conditions. This includes:

- The comprehensive archaeological buildings record of the house and grounds in accordance with Historic England's levels 2/3 providing a descriptive and analytical record of the building comprising a written, drawn and photographic survey.
- Archaeological evaluation
- Careful demolition and salvage of historic fabric to be used in the proposed building or in the conservation of other buildings in the city
- The retention of the boundary walls and;
- Consider preserving the historic value of the former house in ways such as naming the care home to reflect its history and the preparation of publication material on the history of the site to be kept in the building for both residents and members of the public.

OTHER HERITAGE CONSIDERATIONS

4.33 The Heritage statement identifies that the new development will not be readily visible from Acomb Conservation Area, or St Paul's Square/Holgate Road Conservation Area. Given the distance of the site from these conservation areas, and the context of the site, it is not considered that the proposed development will harm the setting of either conservation area.

SETTING OF COLD WAR BUNKER

4.34 York Cold War Bunker lies to the rear of the Shelley House to the north east of the application site. A small area of its curtilage shares a common boundary. It is a monument scheduled under the Ancient Monuments and Archaeological Areas Act 1979. The monument includes a semi-sunken earth covered headquarters, together with its internal and external fixtures and fittings. The monument was opened on 16th December 1961, replacing a World War II surface building near to York race course. Next to this office building is a small store for radioactive isotopes and the footings for a timber hut which was used as a cinema for staff training purposes. Although these structures are not included within the area of the monument, the listing advises that they should be regarded as contributors to its setting. The scheduled monument itself is partly underground, and its historic associations are considered to be associated with its interior and history rather than its wider setting. It is therefore considered that the proposal would preserve the significance of the heritage asset.

ARCHAEOLOGY

4.35. There are no recorded archaeological sites within the application site. However there have been a number of features identified in the wider area. In view of this pre-determination evaluation was requested. The evaluation has just been completed, and comprised two 2m by 10m trial trenches in the lawned area to the front of The Carlton Tavern, in order to determine the presence or absence of significant archaeological deposits. The findings confirm that there are little archaeological remains surviving to the south of the building. However there is potential that less damage has been suffered to the north, and therefore it is recommended that any approval on the site is conditioned to require a Written Scheme of Investigation.

DESIGN

4.36 The government attaches great importance to the design of the built environment. Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

4.37 Paragraph 60 states that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. Paragraph 61 continues that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

4.38 However, Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.39 Policy GP1 of the Draft Local Plan carries little weight, however it broadly reflects the thrust of the NPPF in seek good design that reinforces local distinctiveness, and is of a density, layout, scale, amass and design that is compatible with neighbouring buildings , spaces and the character of the area using appropriate materials.

Para 131 states that:

“ In determining planning applications, local planning authorities should take account of:

- *The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation*
- *The positive contribution that conservation of heritage assets an make to sustainable communities including their economic viability; and*
- *The desirability of new development making a positive contribution to local character and distinctiveness”.*

4.40 The applicants have responded to the comments by the Planning and Environmental Management and advised that their design team has amended the proposals to ensure a high quality design solution which compensates for the loss of the villa, with an 'equally aesthetically and architecturally appropriate form of development. They have further stated that the building will be set back 20m from the site boundary which is sufficient to ensure an appropriate landscaped setting to the building. In relation to topography, they state that the need for level access throughout the building dictates finished floor levels. The finished floor level has been set at the existing level at the main entrance, in order to minimise any level changes to the access road which may impact on the root protection areas. In terms of the scale of the building, there is a critical mass and number of bed spaces for a viable care home, and it is not possible to step the building down at the north due to the need for level access.

4.41 Detailed negotiations have been carried out with the applicant throughout the application process, and revisions have been made to the original design, including a reduction in the height of part of the rear portion of the building. The front elevation has also been revised to respond to more traditional detailing in the area. The architects have assessed characteristics of the area and advice that:

'A dramatic roof form, strongly expressed gables, decorative gable chimney, bay windows, and a responsive palette of materials which make historic references to the former building have been incorporated into the design'.

4.42 In terms of scale, there are a number of buildings in the locality of significant scale. This does not just relate to Shelley House, but to the terrace housing that lies to the east and fronts Acomb Road. They are over four storey in height. Indeed whilst set slightly further forward, the ridge height of the proposed building is slightly lower than that of Shelley House. The buildings to the west are of a significantly smaller scale, however the set back of the building, and the mature setting of significant trees, softens the transition between the buildings. It is not considered on balance therefore that the height of the building in itself is unacceptable in the streetscene.

4.43 It is also considered that some of the design elements proposed relate to detailing of buildings in the area. The proportions of the windows set in deep reveals make reference to the windows in the terrace houses to the east of the site. The use of overhanging eaves and the detail of the gable, and brickwork makes reference to some design features on The Carlton Tavern and older houses in the vicinity. It is considered that subject to the use of a high quality palette of materials the building will be of a higher quality than the existing development to the west of the site. Furthermore the choice of materials and the robust detailing of the design are likely to stand the test of time better than inferior quality buildings that have poor quality.

4.44 The Carlton Tavern itself has significant aesthetic interest and architectural detailing, and is also enhanced by its location set back from the road in a well landscaped spacious setting. The buildings that lie immediately to the west of the site do not have a strong aesthetic, and do not in themselves re-enforce local distinctiveness. The police station, former nursing home and Baildon Close are of limited quality. Indeed this is true of much of the development on this side of the road, westwards along Acomb Road. Shelley House makes some reference to elements of surrounding buildings, but again is not truly reflective of the area. It is recognised that by its very nature, a care home is inevitably a large building and inevitably will be designed in a manner where form follows function. This has been demonstrated further in the need for providing level access throughout the building. It is also recognised that in order to provide the level of accommodation required in a building of perhaps two storeys would take a far greater site area that could be unviable. It is regrettable that a viable scheme could not be delivered that retains the original building to the front, with for example a contemporary extension to the rear. This suggestion has been considered in more detail in the Heritage Section.

4.45 The loss of the Carlton Tavern will be a significant loss to the character of the area, both from an architectural viewpoint, of a high quality building in a landscaped setting, but also because of the history of the building which is important to local people. Given the loss of a building of such architectural merit, it is not considered that the development will result in an enhancement to the character of the area. The proposed building has however picked up on some elements of local distinctiveness in terms of the quality of the materials, the deep eaves, bay window jettied out, strong chimney and the proportions of the windows and depth of the reveals.

Furthermore, it is not considered that the new build would be out of keeping with the general character of development on this part of the northern side of Acomb Road. The integration of the building and use in the locality, and the provision that it will itself provide accords with that part of Paragraph 64 that relates to improving the way it functions.

4.46 The acceptability of the building in design terms is finely balanced and is inter related with the demolition of a building of local significance. However, it is considered that subject to a high specification for all materials, the scale of the building is acceptable, and the design references to characteristics of local vernacular are on balance acceptable.

SUSTAINABILITY

4.47 Policy GP4a of the Draft Local Plan states that all development should have regard to the principles of sustainable development. This requires that development demonstrates the accessibility of the site by methods other than the car, and to be within 400m of a frequent public transport route. Section 10 of the NPPF relates to meeting the challenge of climate change, flooding and coastal change, and within Paragraph 95 states that local planning authorities should plan for new development in locations and ways which reduce greenhouse gases.

4.48 The application site is within close proximity to public transport routes. The Design and Access statement identifies that the closest bus stop to the site is less than 300m. This provides access to a number of destinations including York City Centre, Wiggington, Chapelfields, Tadcaster, and other parts of Acomb. There are also many facilities within 400m of the site including shops, a church, and dentist.

4.49 There are also significant facilities within 900m of the site, including more shops, cash points, post office, school, library and working men's club. The site is also within a residential area which will support the potential for those working at the care home to access the site by walking, cycling or the bus. As such it is considered that the development accords with Policy GP4a a) of the Draft Local Plan.

4.50 In terms of the building, the Design and Access Statement advises that the scheme will achieve a level of energy efficiency equivalent to the former Code for Sustainable Homes Level 4, and will incorporate energy-efficiency into the building fabric as per Part L of the building Regulations. Low water-use sanitary ware will be installed. It is also proposed to re-use some of the materials from the existing building where possible. The Design and Access Statement further states that measures to maximise solar gain will be implemented but that overheating of the building is also avoided through passive measures in order to reduce the need for mechanical cooling. Lower water-use sanitary ware and appliances will also be specified. The revised plans show that a green roof will be provided over part of the building, to reduce surface water run-off in addition to benefiting ecology and visual

impact. The updated energy statement also advises that photovoltaic panels will be incorporated on the roof. To ensure full compliance with policy GP4a of the Draft Development Plan and section 10 of the NPPF, it is recommended that any permission should be conditioned to require specific details to deliver energy efficiency throughout the building and site.

NEIGHBOUR IMPACT ASSESSMENT

4.51 In terms of the impact of the development on neighbouring occupiers, Policy GP1 i) states that development will be expected to ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. This is re-affirmed in one of the core planning principles of the NPPF which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.52 The site is surrounded by existing residential development, with flats to the north, west and east of the site, and two storey dwellings to the south across Acomb Road. It is considered that the separation distance between the proposed building and those dwellings to the south is well in excess of distances commonly considered acceptable. It is also considered that the distance of at least 26m from Heritage House to the north is acceptable. Officers however raised significant concerns regarding the proximity of the proposed development to Baildon Close, to the west, and Shelley House to the east. This was in relation to the potential for overlooking, and the overbearing impact. A detailed letter of objection has been received from an occupant on the ground floor of Shelley House. In relation to neighbour amenity the main objections relate to the overbearing impact of the building, loss of outlook, overlooking and appearance of the building. The resident further states the flat gets very little light due to its location at a lower ground level, and overshadowing from a boundary wall. Consequently the only time of day that the flat receives light will be affected by the new care home. In view of this, the plans have been revised on a number of occasions as detailed in the proposal section of the report.

4.53 Of particular importance is the increase in the separation distances between the Care Home and both Baildon Close and Shelley House. The two and three storey element of the building is now a minimum of 21m Baildon Close. The rear section closest to that property has been reduced to single storey. This element has a separation of 16m. Whilst this would otherwise particularly given the change in levels, at present the site is screened by a broad area of existing planting which includes some evergreen species. In view of this, those properties have for many years been affected by the overshadowing of the trees. Accordingly if this landscaping is retained, the additional impact on their existing amenities will be less significant than would otherwise be. The proposed landscape management plan has been revised to include a wider section of planting in this area, to include an instant Laurel hedge at approximately 2.5m to 3m high. In addition some of the existing

trees in this area will be retained. Overshadowing will occur at certain times of the day, but it is not considered that this in itself will have a significant adverse impact on their existing amenities. This is in particular as the existing planting on the boundary already causes some overshadowing. On balance, it is considered that the proposal is acceptable in relation to the occupiers of Baildon Close.

4.54 It is not considered that the proposed development will have a significant adverse impact on the existing amenities of those flats within the more central part of Shelley House. This is because they are already affected by The Carlton Tavern itself. The side windows on the southern part of Shelley House lie to the front of The Carlton Tavern, and the proposed building will be within 16m of Shelley House at its closest. However whilst this will have some impact on residents' amenity, this area is currently overshadowed by a large group of mature trees. The plans also show that windows on the end of the care home at this point will be obscure glazed. It is also considered that the relationship between buildings that front a main street is characteristic of an urban area. As such it is not considered that the development will have a significant adverse impact on their existing amenities.

4.55 Significant concerns were initially also raised by officers in relation to the impact of the development on that part of Shelley House that lies beyond the rear wall of The Carlton Tavern. The separation distance has now been increased to a minimum of 22m on this part of the building. Of particular importance is a reduction in a significant part of the building to a height of 9.3m as opposed to 12m that was originally proposed. The width of the windows has been reduced, and the balconies removed. The revised layout also provides for the planting of trees between the building and the parking spaces. It is considered that these revisions are a significant improvement on the previous plans.

4.56. Whilst loss of a view carries very little weight as a material planning consideration, the impact of a building by virtue of its overbearing presence and loss of outlook carries more weight. The reduction in the height of the building, will improve the outlook from Shelley House, and also reduce overbearing impact. Removal of the proposed balconies will reduce the perception of being overlooked. The impact of the neighbour on the ground floor in terms of loss of light will also be mitigated by the reduction in the height of the building. A final amendment to the solar report has been submitted. This demonstrates that in March, the hedge will cast a shadow over some parts of the curtilage to the rear part of Shelley House at 3pm, but that it will not impact on the building until 4pm. In June the impact on the building is from 6pm. In September, overshadowing occurs from 5pm. In December, the impact is from 2pm when the sun is lowest in the sky. Officers have taken account of the concern by the neighbouring occupier that this is the only time that the flat receives light. It is for this reason that so many changes have been sought. However it is not considered that the overshadowing will be so great as to warrant refusing the application. The reduction in the height of the building will be of greatest benefit in terms of reducing the impact of over shadowing. Nevertheless it is also

noted that much of the impact on the lower parts of Shelly House are a consequence of the location of Shelley House at only 6-7m from the common boundary. And furthermore the ground floor flats are at a low level with little natural light due to their orientation on the western side of Shelley House and location in close proximity to a boundary wall. In contrast, the proposed building is set further away at approximately 13m to 16m from the shared boundary at this part of the site. It is further noted that there is a large coniferous tree close to the boundary with Shelley House which adds to the loss of light to some of the properties, and given its low value, is proposed be removed. This will certainly provide benefits to some of the flats. Whilst the neighbour concurs that the tree does overshadow, she expresses concern that its removal will increase the view of the proposed building.. Additional hedge planting is proposed adjacent to the boundary wall, with tree planting to the rear of the parking spaces. This will provide some 'softening' of the view of the building. The reduction in the size of the windows that look towards Shelley House, and the deletion of the balconies will reduce the perception of overlooking.

4.57 There is potential for an increase in vehicular movements along the driveway at certain times of the day and night. However it is considered that this is balanced by a reduction in the existing noise levels that can occur with those arriving and leaving the public house.

4.58 Taking into account the site situation, and its relationship with neighbouring properties, it is considered that the revised plans have reduced the potential for the development to have a significant adverse impact on existing amenities of neighbouring occupiers. Accordingly it is considered that the development accords with a core principle in the NPPF, and policy GP1 (i)

OPEN SPACE.

4.58 Chapter 8- (Promoting healthy communities) of the NPPF at Paragraph 73 refers to access to high quality open space. Paragraph 74 relates protecting existing open space. The Carlton Tavern currently has outside amenity areas associated with it. These include a children's play area. The play area will be lost as part of the development, and the open space reduced. The Council's Landscape architect has expressed concerns regarding the limited amount of open space associated with the development. The supporting information states however that 0.26 hectares of external amenity space will be retained, and will be tailored to the needs of the residents. It will form a series of functional spaces suitable for elderly residents. The main terrace to the south will provide a multi-purpose external space associated with the main lounge area allowing for activities, eating and socialising. This will be partly enclosed by a long border of herbaceous planting provided seasonal interest, colour and texture. There will be a sensory garden at the end of the terrace, in a series of raised planters. Footpath routes to the south of this area and through the trees will be formed, and these will run along the western side of the building. Around the

woodland walk will be informal seating areas, sculpture, bird feeding stations and botanical labelling of plants. In addition to these more natural areas will be outdoor space directly adjacent to the building. Some of the areas will include semi private enclosures through the use of decorative screens and climbing plants. There will also be a continuous pathway directly adjacent to the building. Additional tree planting will also be planting alongside the eastern elevation of the building, together with a hedge along the boundary with Shelley House.

4.59 Accordingly it is considered that the amenity area proposed will be well designed to reflect the needs of the occupants, and the benefits of a garden designed for the elderly outweighs the loss of the existing amenity area associated with the Carlton Tavern.

LANDSCAPING

4.60 The application was accompanied by an Arboricultural Impact Assessment. However, as set out in section 3 above, the Council's Landscape Architect concluded that the building is too large for the site; and protected trees would be threatened by construction operations and the proximity of the canopies to the building. In response to this, the applicants submitted a revised landscape plan. This included revising the kerb line on the access to allow the retention of an Oak and Sycamore. The Grasscrete to the north of the site will be retained to avoid potential damage to root tissue. The woodland walks to the west of the building will be no-dig construction. Further information in relation to the construction methodology was also provided, together with more details of the steps and lift to the front of the site.

4.61 The Council's Landscape Architect revised her comments in the light of the revised information and after a meeting was held with the applicant's arboriculturalist on site.

4.62 She remains concerned that the tightness of the scheme poses a risk of damage to the perimeter trees. However she confirms that with professional supervision and adherence to a detailed method statement, it would be possible to construct the proposed building with an acceptable degree of risk. This however is with the exception of the steps and wheelchair lift to provide pedestrian access. She advises that: the excavations would be considerably deep and close to the oak tree (whose rooting zone is already limited by the existing access road) and remains unconvinced that this submitted detail to address the issue is acceptable in itself.

4.63 The architect responded to these concerns by stating that any building would require an acceptable level access. They have considered alternative options, but other possibilities also impact on the trees. The position of the lift and stairs has been optimised to lessen the impact to the trees affected by as much as possible. Whilst loss of root tissue is likely to occur during excavations to install the lift their

arboriculturalist is of the opinion the trees would not be significantly affected either structurally or physiologically. They also state that the excavations will be undertaken under supervision of an arboriculturalist to document the actual impact and ensure that it is kept as minimal as possible. It is proposed that the stairs are created in situ with concrete poured into a form that matches the profile of the existing bank as far as possible in order to reduce further excavations within the RPA. The trees have good vitality and are likely to respond to any loss of roots with regeneration of new root tissue. Soil improvement works could also be undertaken, such as de-compaction and mulching, to further encourage root growth.

4.64 It is considered that the trees subject to a Tree preservation Order have significant amenity value. Whilst concern has been raised in relation to the impact of the development on trees elsewhere on the site, on balance the Council's Landscape Architect considers that any potential harm can be mitigated by a management plan. Concern remains in relation to the impact of the development as a result of the pedestrian ramp/lift. However it is not considered that the impact is so great to the three trees concerned, that it would stand as a reason for the refusal of the application on its own. Accordingly, it is considered that subject to the requirement for a detailed method statement, to include an on-site arboriculturalist, the impact on trees is acceptable.

ECOLOGY

4.65 The NPPF makes it clear that the planning system should contribute to and enhance the natural and local environment by:-

- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible,;
- When determining planning applications, Paragraph 118 states that local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- opportunities to incorporate biodiversity in and around developments should be encouraged;

4.66 To proceed with any development that may affect a bat roost, there is a legal requirement under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 for a European Protected Species Licence granted by Natural England.

4.67 The Preliminary Ecological Appraisal (PEA) undertaken in January 2017 found an accumulation of approximately 150-200 bat droppings in the roof void of the public house, subsequent DNA analysis confirmed these to be from Common Pipistrelle bat. The private dwelling has features that could support roosting bats such as gaps leading beneath roof and ridge tiles.

4.68 Dusk and dawn activity surveys were undertaken in June and July 2017. This concluded that the public house currently supports small numbers of roosting Common Pipistrelle bats, which emerged from under the wooden fascia on the north eastern elevation. Due to the number of old droppings found within the roof space a maternity roost may have been previously present (and therefore could be again in future years). No bats were recorded roosting in the separate private dwelling.

4.69 All of the trees were assessed from the ground and six trees were identified as having potential to support roosting bats, these will all be retained as part of the proposals. In combination all of the trees provide suitable foraging habitat for bats and provide connectivity into the wider area.

4.70 The vegetation on site, and the buildings, provide suitable nesting habitat for birds. All nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs. The proposed development requires the total demolition of the building, and works to trees and shrubs. Accordingly it is not considered that there is an alternative that would have less harm.

4.71 The Council's Ecologist has taken account of the survey results together with the mitigation, and has not objected to the application subject to the imposition of conditions in relation to mitigation, and the requirements for a Natural England Licence. She further recommends a condition requiring the erection of bat boxes to be erected on adjacent trees in advance of development commencing. One bat box should be suitable for a maternity roost.

ACCESS

4.72 Paragraph 32 of the NPPF advises that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

4.73 The access is retained in the same position as the existing driveway that serves the public house. 19 parking spaces together with 3 disabled spaces will be provided. The levels on the site are such that it has proved more challenging to provide suitable pedestrian access to the building from Acomb Road. This will be provided from the vehicular access point, with an external platform-lift which will be sited alongside a set of steps. Both of these will connect into a path which will form a route to the entrance. A covered cycle store is provided for staff, visitors and residents to the north western part of the site. Highway Network Management have not objected to the development and state that proposed parking is in accordance with City of York Council's maximum parking standards, and is supported by experience of the operator on other sites. The surrounding highway is protected by various traffic regulation orders, and the applicant has indicated that they are willing to provide funding towards any traffic restriction that may be necessary. Officers would suggest a condition requiring 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) to be carried out.

DRAINAGE

4.74 Paragraph 99 of the NPPF states that new development should be planned to avoid increased vulnerability to the range of impacts arising as a result of climate change. The initial plans and details submitted with the application stated that it was proposed to discharge both foul and surface water into the existing combined sewer on Acomb Road. Surface water would discharge at a restricted rate of 27.01 litres per second. This incorporates a 30% reduction for climate change. The surface water would be restricted using a hydro brake optimum flow control unit. A storage tank would be utilised to the front of the proposed building. Yorkshire Water Services do not object to the proposed development; however they have advised that the submitted information is not acceptable because no evidence of positive drainage has been provided and the discharge rate is based upon areas only assumed to drain to public sewer. Evidence of existing impermeable areas positively draining to the public sewer is required to prove rate of discharge. Draining surface water to the main sewer should be the last resort. In the light of these comments, the applicant commissioned a utility survey to ascertain of-site connections together with a soil infiltration test. The test results have not however been accepted by the Senior Flood Engineer who advises that the soakaway test does not comply with BRE Digest 365 (2016). It is therefore recommended that ground condition be re-assessed if the use of SuDS is to be discounted. However the Flood Risk Management Team has raised no objection to the proposed development subject to conditions.

NOISE, AIR QUALITY AND CONTAMINATION

4.75 One of the principles of the NPPF requires that planning should provide a good standard of amenity for all existing and future occupants of land and buildings. The submitted noise assessment found that noise levels to the front of the development site were acceptable, and therefore noise would not be a limiting factor to the development. However suitable glazing and ventilation would be necessary to ensure that internal noise levels in the residential rooms would meet the requirements of BS8233:2014. An appropriate specification is provided within the report. In terms of the impact of noise from the proposed development on the nearby residential properties the primary issue of concern would be noise associated with any plant or equipment provided as part of the scheme. Provided suitable plant is selected then Public Protection would not have any objections recommend conditions to require details of any mechanical extraction etc. It is also recommend that due to the proximity of residential properties, a construction management plan should be required, together with a restriction on deliveries once the home is in use.

4.76 In relation to air quality and emissions, Paragraph 35 of the NPPF states that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people.

4.77 The application site is situated in a particularly sustainable location. However it is still considered that opportunities for low emission vehicles should be provided. In relation to this application 22 car parking spaces are proposed. It is therefore recommended that the provision of one electric charging point be provided.

4.78 In terms of land contamination, the NPPF states at paragraph 121 that planning decisions should ensure that the site is suitable for the proposed use taking account of ground conditions. The submitted phase 1 assessment for the site found that the was a very low risk to the proposed end users due to contamination but still recommended that a Phase 2 ground investigations assessment was carried out. It is the view of Public Protection that such ground investigations are unnecessary give the very low risk, but it is recommended that a condition in respect of unexpected contamination be attached to any approval granted.

OTHER MATERIAL CONSIDERATIONS

4.79. The applicant carried out a consultation event in advance of the submission of the planning application. Members of the public were invited by a leaflet drop of 200 households and businesses in the vicinity of the site. Ward Councillors were also invited to attend. The event was held at The Memorial Hall on Poppleton Road. The report states that 10 people attended. Some criticism has been received that the venue chosen was not close enough, and also that insufficient publicity was carried out. Nevertheless, the applicant has taken account of objections made in relation to

the application itself, and also concerns raised by officers, and has submitted a significant amount of additional information, together with revised plans to try and address concerns raised.

5.0 CONCLUSION

5.1 Paragraph 14 of the NPPF makes it clear that, at the heart of the planning system is a presumption in favour of sustainable development. For decision taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless;

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted.

Given that the latter does not apply in this case, the main issue is whether, having regard to material planning considerations, any adverse impacts of the development proposed would significantly and demonstrably outweigh any benefits, when assessed against the policies of the Framework as a whole.

5.2 Paragraph 6 of that document explains that there are three dimensions to sustainable development - economic, social and environmental.

5.3 In terms of the economic dimension, this proposal will result in the loss of the jobs associated with the existing public house. However, these will be more than compensated for by those created through this development (i.e. the 30 FTE employed in the Care Home itself, in its supply chain, and in construction of the facility). Whilst the development will result in the loss of the Business Rates generated from the Public House, this loss will be offset by the Council Tax receipts it will generate. Therefore, this application is considered to be sustainable in terms of the economic dimension of sustainable development.

5.4 In the case of the social dimension, the balance of factors is in favour of the scheme. Whilst the demolition of the Public House will result in the loss of a local community facility and the function rooms and outdoor play area that it currently provides, the Carlton Tavern is not the only Public House serving this community (there are, in fact over 10 others within a mile of this site) and the development will include a publically-available meeting room, hairdressers, at the third level is a cinema, gym and therapy room that will be open to over 55's who live in the area. The provision of Class C2 facilities including traditional residential care facilities will help to meet a pressing need within York for this type of accommodation. Therefore, this application will make a considerable contribution to the meeting an element of the housing needs of the City that is currently underprovided for. The revised plans have reduced the impact of the development on the existing amenities of neighbouring occupiers to a level that is considered to be on balance, acceptable.

5.5 With regard to the environmental role, again the position is balanced. In terms of its location this development could not be more sustainable - it is well-served by existing public transport; it is within easy walking distance of existing shops, doctors and other community facilities; it is in a low flood-risk area. The design of the building, itself, is also very sustainable - the development will be very energy-efficient (equivalent to Level 4 of the Code for Sustainable Homes); it is proposed to be built using sustainably-sourced timber from managed forests, with sedum on the roof, and photovoltaic panels. In addition, the use would generate less movements than those of the current building. However, this has to be weighed against the fact that this application would involve the demolition of a building which, although not listed, is undoubtedly of architectural and historic interest in a local context and which makes a valued contribution to the character of the locality. Moreover, the development has raised some concerns over the longevity of the trees along the site's frontage, trees whose importance to the streetscene are recognised by virtue of the fact that they are protected by a TPO.

5.6 The loss of the community facilities provided by the Carlton Tavern are considered to be considerably outweighed by the benefits to the community of York, as a whole, which would derive from the provision of a form of accommodation for which there is a pressing need in the City and for which there are few suitable alternative sites in the authority's area.

5.7 In conclusion, therefore, the overall judgement is balanced. Nevertheless it is considered that the significant benefits which the Care home would provide would be sufficient to outweigh loss of a non –designated heritage asset, even one of the undoubted local importance of the Carlton Tavern, and furthermore would outweigh the loss of a listed Asset of Community Value. It is considered that the possible harm to part of the root zone of the nearest tree to create the lift platform is not sufficient to weigh in favour of refusal in its own.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

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

To be updated

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

3 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.

Verge and eaves details

rainwater goods

window details including depth of reveal, materials and method of opening, reveals, and a profile of any glazing bars.

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

4 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

5 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification approved by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an area of archaeological interest and the development may affect important archaeological deposits which must be recorded during the construction programme.

6 Detailed Arboricultural Management Plan

Application Reference Number: 17/00476/FULM

Item No:

Page 41 of 51

7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the windows identified on dwg. PLO9 REV E to be obscure glazed, shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

8 The development hereby permitted shall be implemented in accordance with the scheme of mitigation set out in Section H.2 Avoidance and Mitigation Strategy of the Bat Survey report by E3 Ecology Ltd dated August 2017, including in advance of works five Schwegler bat boxes to be erected on adjacent trees under guidance from a Suitably Qualified Ecologist. One bat box should be suitable for a maternity roost.

Reason: To take account of and to enhance the habitat for a protected species. It should be noted that under National Planning Policy Framework the replacement/mitigation proposed should provide a net gain in wildlife value.

9 Works to the roof of to the Carlton Tavern Public House, including removal of fascia boards, roof stripping and/or maintenance work including internal work that would impact the roof void shall not in any circumstances commence unless the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorizing the specified activity/development to go ahead; or

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To prevent harm to a European Protected Species.

10 Unless details have first been submitted to, and approved in writing by the Local Planning Authority, the site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interests of satisfactory and sustainable drainage.

11 No work (demolition, alteration, removal of fabric) shall take place until the applicant has secured the implementation of an agreed programme of archaeological work written description and photographic recording of the standing building to Historic England Level of Recording 2 which has been agreed in writing

by the LPA and the applicant has submitted a report and copies of the survey and record to the LPA and these have been agreed in writing by the LPA.

Reason: The buildings on this site are of archaeological interest and must be recorded prior to alteration/removal of fabric.

12 Prior to the first use of the building, or such longer period as may be agreed in writing by the LPA, a management plan for the community use and access of a meeting room within the building, together with the use of the cinema, cinema, gym and therapy room for use by over 55's who live in the Ward. Thereafter the operation of the building shall be carried in accordance with the approved plan, unless an amendment has first been agreed in writing by the local planning authority.

Reason: In the interests of securing community benefits.

13 Highway requirements.

14 Prior to the demolition of the existing buildings on site, a strategy for the identification of those parts of the buildings to salvage and re-use within the proposed building shall be submitted to, and approved in writing by the LPA. Thereafter the development shall be carried out in accordance with the approved strategy.

Reason: In the interests of retaining elements of significance of the existing buildings on site.

15 Notwithstanding the submitted details, the construction of the building hereby approved shall not commence until a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs has been submitted and approved in writing by the Local Planning Authority. This scheme shall be implemented in full prior to the occupation of the building unless a longer period has first been agreed in writing by the LPA. 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 in the interests of the character and appearance of the area.

16 The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority within 3 months of occupation of the building. Should

the development fail to achieve a BREEAM standard of 'very good' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve a standard of 'very good'. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and paragraphs 2.1 to 2.4 of the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

17 Prior to the building being first brought into use, the applicant shall finance any Traffic Management Order deemed necessary as a result of the development, within the vicinity of the site.

Reason: In the interests of highway safety.

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

- Monday to Friday 08.00 to 18.00
- Saturday 09.00 to 13.00
- Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of local residents

19 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted shall be submitted to the local planning authority for approval. These details shall include maximum sound levels ($L_{Amax}(f)$) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 46dB(A) L90 1 hour during the hours of 07:00 to 23:00 or 38dB(A) L90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or Intermittent characteristics.

Reason: To safeguard the amenity of occupants of neighbouring premises

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

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m³/s throughout the extraction system.

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

21 One (1) electric vehicle recharge point, serving one dedicated car parking bay, should be installed prior to first occupation of the site. The bay should be marked out for the exclusive use of electric vehicles. The location and specification of the recharge points shall be agreed in writing with the Local Planning Authority prior to installation. Also, to prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the Local Planning Authority. Prior to first occupation of the site an Electric Vehicle Recharging Point Plan shall be submitted to and approved in writing by the local planning authority that will detail the maintenance, servicing, access and bay management arrangements for the electric vehicle recharging points for a period of 10 years.

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 35 of the National Planning Policy Framework.

22 No development shall take place until a detailed scheme of noise insulation measures for protecting the approved residential and hotel rooms from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with

the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

NOTE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and to ensure that the internal LAFMax level during the night (23:00-07:00 hours) does not exceed 50dB(A) on any occasion or 45dB(A) on more than 10 occasions in any night time period. These noise levels shall be observed with all windows open in the habitable rooms or with windows shut and other means of ventilation provided

REASON: To protect the amenity of people living in the new property from externally generated noise and in accordance with the National Planning Policy Framework.

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

NOTE: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required. For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

For dust details should be provided on measures the developer will use to minimise dust blow off from site. Such measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. In addition I would anticipate that details

would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any). Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>

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

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses public.protection@york.gov.uk and planning.enforcement@york.gov.uk.

Reason: To protect the amenity of neighbouring occupiers and the area.

24 Upon completion of the development, delivery vehicles to the development shall be confined to the following hours:

- Monday to Saturday 07:00 to 18:00
- Sundays and Bank Holidays 09:00 to 17:00

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

25 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land

Application Reference Number: 17/00476/FULM

Item No:

and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

26 No removal of any existing landscaping on the boundary of the site with Baildon Close shall take place until the applicant has submitted a timescale for its removal and replacement in accordance with the details submitted to discharge condition 15. Thereafter the work shall be carried out in accordance with the agreed timescale.

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

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

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

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

Surface water design considerations.

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest

Application Reference Number: 17/00476/FULM

Item No:

365 test.

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

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha or if shall be used for the above. For the smaller developments where the Greenfield run-off rate is less than 1.4 l/sec/ha and becomes impractical and unsustainable then a lowest rate of 2 l/sec shall be used.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Foul water design considerations

Foul water from kitchens and/or food preparation areas of any restaurants and/or canteens etc. must pass through a fat and grease trap of adequate design before any discharge to the public sewer network. Under the provisions of section 111 of the Water Industry Act 1991 it is unlawful to pass into any public sewer (or into any drain or private sewer communicating with the public sewer network) any items likely to cause damage to the public sewer network interfere with the free flow of its contents or affect the treatment and disposal of its contents. Amongst other things this includes fat, oil, nappies, bandages, syringes, medicines, sanitary towels and incontinence pants. Contravention of the provisions of section 111 is a criminal offence.

29 The development hereby permitted shall not come into use until 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.

Reason: In the interests of highway safety.

7.0 INFORMATIVES: Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Sought detailed information relating to and including:

- Justification for demolition
- Loss of a Asset of Community Value
- Heritage statement
- Archaeological evaluation
- Drainage strategy
- Landscape details
- Detailed revisions to the design of the building
- Revisions to mitigate impact on amenity of neighbouring occupiers.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are

not present

3. i) The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.

ii) The applicant is advised that the Internal Drainage Board's prior consent is required for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.

Contact details:

Author: Rachel Smith Development Management Officer

Tel No: 01904 553343

7.0 INFORMATIVES:

Contact details:

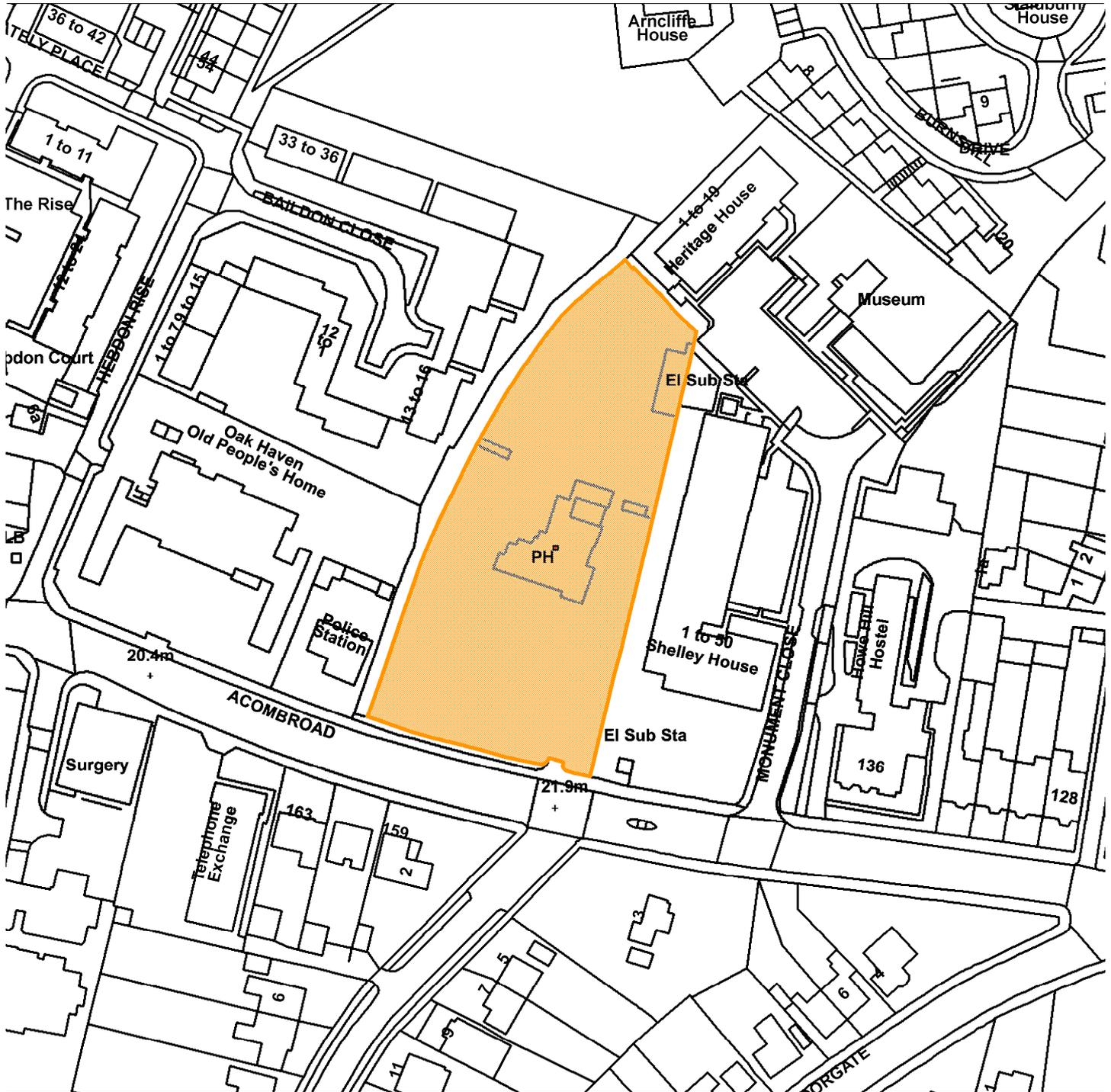
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17/00476/FULM

The Carlton Tavern, 140 Acomb Road, York YO24 4HA



Scale : 1:1321

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Organisation	City of York Council
Department	Economy and Place
Comments	Site Location Plan
Date	09 October 2017
SLA Number	

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COMMITTEE REPORT

Date: 18 October 2017 **Ward:** Heworth
Team: Major and **Parish:** Heworth Planning Panel
Commercial Team

Reference: 17/01925/FULM
Application at: Burnholme Community Hub Bad Bargain Lane York
YO31 0GW
For: Erection of 80 bedroom care home with associated
landscaping, infrastructure and car parking
By: Ashley House Plc
Application Type: Major Full Application (13 weeks)
Target Date: 8 November 2017
Recommendation: Approve

1.0 PROPOSAL

1.1 The proposal is for an 80 bed care home on the Burnholme Community College site. The building is roughly square with an open courtyard garden at the centre. The tallest element, at three storeys in height, is at the front facing on to the access road and the building steps down to the rear. The rear of the building is single storey and is set approximately 5.0m from the rear boundary. The building is flat roofed to the rear with pitched roofs on the frontage. External space is provided within the courtyard and on roof terraces. Materials proposed are a buff/ grey variegated brick and a dark coloured tile.

1.2 The site was most recently occupied by Burnholme Community College. A recently approved application (16/02023/GRG3) for a community hub on the site is currently being implemented and many of the existing school buildings have been demolished to facilitate this. The area is predominantly residential in nature and the care home site abuts a residential street, Burnholme Grove, to the West. Access to the care home will be via a new internal road approved under 16/02023/GRG3.

2.0 POLICY CONTEXT

2.1 Draft Development Plan Allocation: Residential Use

City Boundary GMS Constraints: York City Boundary 0001

Schools GMS Constraints: Burnholme Community College 0244

3.0 CONSULTATIONS

INTERNAL

Archaeology

3.1 The site is one of archaeological interest. Discussions have taken place regarding the site with the city archaeologist. A condition is recommended.

Public Protection

3.2 The proposed care home is located on the site of a former school and adjacent to a number of existing residential properties. As a result noise is not considered to be an issue which would prevent the granting of planning permission or cause loss of amenity. Conditions are recommended to protect neighbouring amenity and to remediate the site.

Highway Network Management

3.3 No objection. Conditions are recommended.

Flood risk management

3.4 No objection. A condition is recommended.

Design and Sustainability

3.5 The design of the proposal is supported. Concerns raised during the pre-application regarding the siting of the bin store have been resolved.

Ecology

3.6 No objection to the proposals. The landscape scheme includes specific elements to promote biodiversity which should be conditioned.

EXTERNAL

Yorkshire Water

3.7 A condition is recommended.

Foss Internal Drainage Board

3.8 The Board have no comments to make as the site sits outside of their district.

Heworth Planning Parish

3.9 No objection.

Neighbour notification and publicity

3.10 No representations received. A public consultation was undertaken in June 2017 prior to submission.

4.0 APPRAISAL

4.1 MAIN ISSUES

- Policy background
- Principle of the development
- Design and character
- Amenity considerations
- Highways issues
- Other considerations

POLICY BACKGROUND

4.2 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development. In terms of decision taking, the NPPF advises that this means in those cases where there are no up-to-date Local Plan Policies (such as in York), granting permission unless, either:-

- (a) The any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Policies in the Framework as a whole, or
- (b) There are specific Policies within the Framework which would indicate that development should be restricted. In terms of this second element, the footnote to Paragraph 14 details the types of considerations which would it considers would fall within this category. There are no elements of this application which fall within the examples given in this Footnote.

4.3 Paragraph 17 sets out the Core Planning Principles. The following are relevant to this application:

- proactively drive and support sustainable economic development to deliver the homes that the country needs;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

- support the transition to a low carbon future in a changing climate and encourage the reuse of existing resources, including conversion of existing buildings;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made;
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

4.4 The National Planning Practice Guidance (NPPG) (Revision date 01.04.2016) includes a specific reference to housing for older people and states:

“The need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households” (Department for Communities and Local Government Household Projections 2013).

Development Control Local Plan (DCLP) 2005

4.5 City of York Council does not have a formally adopted Local Plan. Nevertheless The City of York Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) was approved for Development Management purposes (the DCLP).

4.6 The 2005 Draft Local Plan does not form part of the statutory development plan for the purposes of S38 of the 1990 Act. Its policies are however considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF although it is considered that their weight is limited.

4.7 DCLP policies relevant to the development are:-

- Policy GP1 'Design' includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass

and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

- Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development and sets out those issues to consider as part of a sustainably designed development.

- Policy GP9 requires where appropriate developments to incorporate a suitable landscaping scheme.

- Policy H17 states that planning permission will only be granted for residential institutions where the development, together with existing residential institutions of unimplemented planning permission would not give rise to a concentration likely to have an adverse impact on residential amenity and where it is positively located relative to local facilities and public transport.

Emerging Local Plan

4.8 A new pre-publication draft local plan and revised evidence base is currently at consultation until 30th October 2017.

4.9 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. The evidence base that underpins the proposed emerging policies is also a material consideration in the determination of the planning application.

4.10 The following policies from the emerging Local Plan are relevant:-

- Policy D2 'Placemaking' development proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused.

- Policy H9 'Older persons' specialist housing' states that developments specifically designed to meet the accommodation needs of older people will be supported where they contribute to meeting an identified need;

are well designed to meet the particular requirements of residents; and are in an accessible location by public transport or within walking distance to a range of community facilities or these are provided on-site.

- Policy H1 'Housing allocations'

4.11 The Council's Forward Planning team has advised that the provision of additional care home bed space supports the Local Plan's emerging approach, and reflects evidence from the strategic Housing Market Assessment regarding likely demand due to demographic changes over the period to 2032 and beyond. The involvement of the private sector in delivering such accommodation is further stated in the Council's Older Person's Accommodation Programme and Older Persons Housing Strategy.

4.12 This position is backed up by information from the Council's Adult Social Care team who state that York has a significant under-supply of good quality residential and nursing care accommodation which will continue to rise if no new care homes are built. This would have a profound and negative impact on the care and health "system" in York, leading to potential delays in people leaving hospital beds, people continuing to live in inadequate accommodation and diminished support for informal carers. It is noted that planning applications have been submitted for care provision at Carlton Tavern, Fordlands Lane, and Abbeyfields, with a further planning application likely to be submitted at Lowfield Green. Notwithstanding these applications, the shortfall of residential and nursing care beds is still projected to be 672 by 2020.

PRINCIPLE OF THE DEVELOPMENT

4.13 The site is within the grounds of a recently demolished school. Part of the site is already in construction to form a new community hub and library (planning permission 16/02023/GRG3). Within the emerging Local Plan the Burnholme College site is allocated as general housing (reference H3) in the Pre-publication Draft dated September 2017. This allocation relates to the rear section of the site with the front of the site closest to Bad Bargain Lane being reserved for the community hub, a care home (to which this application pertains) and a health care centre. Sport England have made comment on the proposed allocation in relation to retention of a playing field on the site. This application does not impact on this playing field. Given the brownfield nature of the site and proposed allocation, the proposal is considered acceptable in principle subject to other material planning considerations.

DESIGN AND CHARACTER

4.14 The building is three storeys in height adjacent to the new internal road reducing down to single storey on the rear boundary adjacent to the existing

residential properties. The front elevation features pitched roofs with the individual elements being slightly offset to give the impression of a terrace of properties along the frontage. The entrance to the building is on the front corner as are the communal spaces. These are indicated by the use of large glazed areas and a canopy. While a substantial building, the structure has been carefully designed to give a residential but non-institutional character.

4.15 The choice of materials further emphasises the residential nature of the building. The choice of buff bricks, as opposed to the red brick of the community hub and nearby dwellings, is considered to reduce the impact of the scale of the building ensuring it is not overly imposing. Large bay windows are provided to rooms with communal areas having larger windows. Windows will be grey finished to match the other buildings on the site and roof tiles will be grey fibre cement. Flat roofs will have a green sedum roof.

4.16 Externally, a car park area is situated to the front with some landscaping to ensure that it is not the most prominent feature visible when entering the wider site from Bad Bargain Lane. Following pre-application discussions the bin store has been moved away from the site frontage to a position adjacent to the building where it will be less prominent.

4.17 Soft landscaping is provided around the external elevations of the site. This is particularly important on the frontage of the site where it provides defensible space for the ground floor residents facing on to the pavement. At the rear some of the existing trees will be retained with a grass strip and enhanced soft landscaping between the proposal and existing development. The central courtyard is landscaped to provide attractive space for residents use to include raised beds and seating areas. A small children's play area is proposed adjacent to the lounge area. Ground floor residents facing on to the courtyard have small seating areas within the courtyard and there are balconies to the lounge areas on the upper floors. There are small terraces on the flat roof areas off the first and second floors.

AMENITY CONSIDERATIONS

4.18 The proposal replaces a school building which has recently been demolished. This building was a large single storey pitched roof building sited approximately 10m from the rear boundaries of the dwellings on Burnholme Grove. The proposal is set a minimum of 5m from this boundary and is single storey for the range of buildings closest to the boundary stepping up as the distance from the boundary increases. Distances between the proposal and the original rear elevations of the dwellings on Burnholme Grove are a minimum of 12m although it is noted that many of the properties have been extended closer to the site. Officers recognize that the properties have small rear gardens and that distances between the proposal and existing dwellings are tight however it is considered that the impact on residential amenity will be acceptable. The new building is 3.8m in height closest to the

boundary and steps up to 8m in height at 9m from the boundary although because of the courtyard form of the development this is the end of the South and North ranges of the building and not a full elevation running along the boundary. The distance from the boundary of the West single storey range combined with its height is such that officers consider it will not have an overbearing impact on residents. As the building increases in height so does the distance from the boundary and these distances are such that little overbearing impact is anticipated.

4.19 Bedroom windows are proposed at ground floor facing the boundary. These can be adequately screened by a close boarded fence. At upper levels there are only lounge windows looking towards Burnholme Grove. These look on to external terraces on the flat roofs of the lower levels and will be screened by a pergola, climbing shrubs and secured by railings. West facing bedrooms in the Northern range of buildings are 43m from the boundary and look on to the internal courtyard.

4.20 The building is to the East of the properties on Burnholme Grove. As a result of this siting it is considered that there will be little overshadowing of neighbouring properties as a result of the proposal.

4.21 Amenity for future residents of the care home is considered good. All bedrooms are provided with a large bay window to provide good natural light. Residents have access to communal areas with access to good quality outside space which has been specifically designed to meet their needs while some of the rooms have been designed with private external terraces. Outlook from the ground floor rooms on the ground front and south elevations have a minimal outlook but planting provides defensible space and there are good quality communal areas available. The number of rooms affected is small with 5 bedrooms on the front elevation and 2 on the south elevation facing the car park which will serve the future health centre. Railings are proposed on the Southern boundary and these will provide security while ensuring that these South facing bedrooms retain some outlook.

HIGHWAYS ISSUES

4.22 The internal access road to the wider site was secured under planning permission 16/02023/GRG3 and is currently under construction. Highways officers have no objection to the use of this road which is suitable to serve the proposed development. The scheme provides adequate parking and appropriate turning within the site. The level of additional vehicles movements as a result of the scheme is not considered to result in any material impact on the adjacent highway network.

SUSTAINABILITY

4.23 The aim of the building is to minimise energy demand and this has been achieved through construction materials and passive solutions. A combined heating

and power plant is proposed as well as photovoltaic cells on some of the flat roof sections. The building is intended to achieve BREEAM 'Very Good'.

4.24 It is noted that the site is within a sustainable location with local facilities available. Within the new community hub a library and cafe are to be provided and a new health centre is intended and the site is on a bus route to the city centre.

OTHER CONSIDERATIONS

Verbal comments have been received from the landscape officer who noted that the development allowed for little landscaping around the boundaries of the building. However, the proposed landscaping as described at 4.17 is considered to be acceptable for the development.

5.0 CONCLUSION

5.1 The provision of a care home on this brownfield site complies with relevant local and national policy. It is considered that the proposal makes good use of the site which is in a sustainable location and will provide much needed older persons' accommodation for the city.

5.2 The proposal has been subject to public consultation and pre-application discussions and officers consider that the design will be a positive addition to the site and that impact on neighbouring residents will be minimal given that the site was previously in use as a school and therefore recommend the application for approval subject to planning conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Location plan

668721 mlm zz xx dr d 0001 Proposed drainage strategy

687 -g-305 Rendered elevation

687 -g-306 Courtyard view

687-pl-100a Extent of planning application

687-pl-101a Proposed site layout

687-pl-200a Ground floor

687-pl-201a First floor

687-pl-202a Second floor

Application Reference Number: 17/01925/FULM

Item No: 4b

687-pl-203a	Roof plan
687-pl-300	East elevation
687-pl-301a	North elevation
687-pl-302a	West elevation
687-pl-303a	South elevation
687-pl-304a	Street view
687-pl-307a	Aerial view
687-pl-401a	E/w site section
Cpw-17235-ex-101 p2	Proposed external lighting
Crm.1112.013.l.d.002	Landscape proposals
CRM.1112.001.TR.R.001	Travel plan
BA6281 AIA Issue 3	Impact assessment

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

3 VISQ8 Samples of exterior materials to be app

4 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation (3% sample trenching) and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an area of archaeological interest and the development may affect important archaeological deposits which must be recorded prior to destruction.

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of local residents

6 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted shall be submitted to the local planning authority for approval. These details shall include maximum sound levels (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.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 5dB below the background noise level at 1 meter from the nearest noise sensitive façade when assessed in accordance with BS4142: 1997 (or exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014) inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

Reason: To safeguard the amenity of occupants of neighbouring premises

7 Upon completion of the development, no deliveries shall be taken at or dispatched from the site outside the hours of:

Monday to Friday 07:00 to 23:00
Sundays and Bank Holidays 09:00 to 18:00

Reason: To protect the amenity of occupants of the new and nearby properties from noise.

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

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m³/s throughout the extraction system.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

9 LC2 Land contamination - remediation scheme

10 LC3 Land contamination - remedial works

11 LC4 Land contamination - unexpected contam

12 One (1) electric vehicle recharge point, serving one dedicated car parking bay, should be installed prior to first occupation of the site. The bay should be marked out for the exclusive use of electric vehicles. The location and specification of the recharge points shall be agreed in writing with the Local Planning Authority prior to installation. Also, to prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the Local Planning Authority. Prior to first occupation of the site an Electric Vehicle Recharging Point Plan shall be submitted to and approved in writing by the local planning authority that will detail the maintenance, servicing, access and bay management arrangements for the electric vehicle recharging points for a period of 10 years.

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 35 of the National Planning Policy Framework.

13 HWAY14 Access to be approved, details reqd

14 HWAY18 Cycle parking details to be agreed

15 HWAY35 Servicing within the site

16 The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority within 3 months of occupation of the building. Should the development fail to achieve a BREEAM standard of 'very good' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve a standard of 'very good'. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and paragraphs 2.1 to 2.4 of the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

17 LAND1 IN New Landscape details

18 Development shall not begin until details of the surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Details to include:

1. Surface water flow control device manhole limiting the discharge to a maximum 5 l/sec.
2. Surface water storage tank/facility to provide storage for up to the 1 in 100 year + 30% climate change event.
3. Future management and maintenance arrangements for the proposed drainage system.

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

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

Reason: In order to allow a consideration of the impact of any changes on amenity.

Contact details:

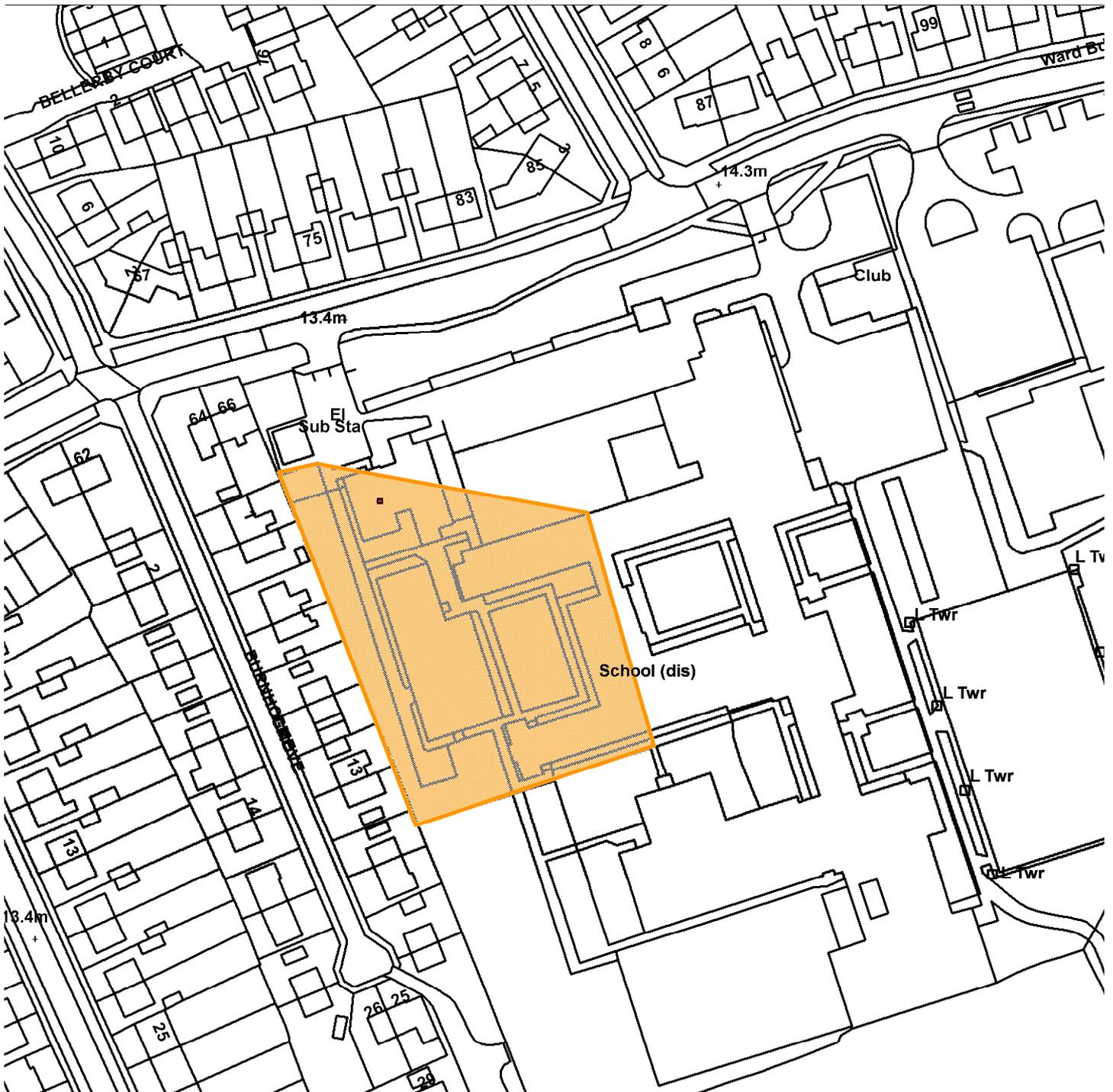
Author: Alison Stockdale Development Management Officer (Tues - Fri)

Tel No: 01904 555730

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17/01925/FULM

Burnholme Community Hub, Bad Bargain Lane, YO31 0GW



Scale : 1:1321

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Organisation	City of York Council
Department	Economy and Place
Comments	Site Location Plan
Date	09 October 2017
SLA Number	

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COMMITTEE REPORT

Date: 18 October 2017 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 17/01250/FUL
Application at: Cemetery New Lane Huntington York
For: Change of use of part of OS Field 0042 from agricultural land to extension to existing cemetery
By: Huntington Parish Council
Application Type: Full Application
Target Date: 30 September 2017
Recommendation: Approve

1.0 PROPOSAL

1.0 New Lane cemetery is situated on the eastern side of New Lane in Huntington. The Design and Access Statement states that the cemetery was created in 1986 when the church yard at Huntington was closed. It is operated by Huntington Burial Authority on behalf of the Parishes of Huntington, New Earswick and Earswick. The application site lies to the immediate east of the existing cemetery on New Lane, Huntington. The surrounding land is agricultural, with Monks Cross Park and Ride to the east, and residential development to the west. The southern boundary of the site is bounded by a cycle way which provides access to Monks Cross. Access will be through the existing site. The site is separated from the existing site by a mature hedge with some trees within it.

1.1 The operational development in respect of the application relates to the formation of access roads. Two site plans have been submitted as part of the application with two different options. Option 1 retains the existing drive as it is, and at the hammer head, a new drive is continued in each direction. This will create a central planting area in the line of the hedge, and then a single drive will continue through the centre of the site, to enable burial plots on each side of the driveway.

1.2 Option 2 retains the existing drive as it is, with a hammer head before the central hedge. At the hammer head, the driveway will split into two and run along each boundary of the site to create a circular driveway around the burial plots. A footpath will be provided in the centre.

1.3 The site lies in the general extent of the York Green Belt.

1.4 Permission was granted in 2004 for the change of use of part of OS Field 0042 from agricultural land to extension to existing cemetery (application 04/03228/FUL).

In 2005 permission was granted for the erection of a storage building for maintenance staff (Application 05/02146/FUL).

2.0 POLICY CONTEXT

2.2 Policies:

See section 4 (Appraisal).

CYHE10 -Archaeology

CYGB1 - Development within the Green Belt

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 Has no objections to the proposed extension of the cemetery. From a highways point of view, the development does not materially differ from the extension that had been already approved (ref 04/03228/FUL) but has now lapsed. The car park remains the same, as it reflects the number of cars required at burial times (weekdays) and peak visiting times (weekends). Whichever option is agreed, it would not affect the highway.

Planning and Environmental Management (Ecology)

3.2 Although no ecology information has been submitted to support this application the field is already recorded as a Site of Local Interest (48 Huntington Cemetery and Fields Area) for semi-improved neutral grassland, being moderately species rich. SLIs are sites that do not fulfil the criteria for designation as Sites of Importance for Nature Conservation (SINC) but on which there is some nature conservation interest that merits consideration as it is from these sites that further SINC's could more easily develop or be established, and they contribute to the network of biodiversity across York.

3.3 The proposed use could enable to the retention of this grassland and an opportunity to manage it sensitively for nature conservation; this will require some planning as there can be conflicting views on how a burial ground should look, but if the management is agreed and communicated from the outset then this can be avoided.

3.4 The boundary hedgerows are likely to provide local habitat corridors and will be valuable for nesting birds, small mammals and invertebrates, and in turn support other species such as foraging bats. The hedgerows should be retained - it is not clear what sections and what trees will be removed in the different options and this

should be clarified by the applicant. The use of sustainable drainage systems (SuDS) has been mentioned by the Internal Drainage Board; these could be designed to be beneficial for wildlife.

3.5 If this application is approved it is recommend that a condition requiring a Landscape and Ecological Management Plan be imposed.

Planning and Environmental Management (Archaeology)

3.6 A geophysical survey has now been undertaken across the accessible areas of the proposed cemetery site. The survey revealed a number of weak parallel linear anomalies that indicate past agricultural activity, namely ploughing, in the survey area. Amorphous spreads of natural variation in the soils and/or superficial geology were also detected along with a small number of anomalies probably indicating modern activity on the site. Given the known significant prehistoric and Romano-British features in the area and the buried field systems/land divisions, possible settlement activity and pit alignments to the north of this site identified through geophysical survey further evaluation will be required.

3.7 The results from the geophysical survey will be used to identify areas to investigate intrusively this will also include the part of the site which was not surveyed. Given the results of the survey and the seemingly low archaeological potential of the site, the trial trenching can be conditioned.

EXTERNAL

Huntington Parish Council

3.8 Do not object but the committee would like to see that all available plots within the existing cemetery have been occupied before the second phase of development is begun. The committee would also like to express their preference for 'option1'.

Earswick Parish Council

3.9 No objection

Environment Agency

3.10 No objections to the proposed cemetery extension, however a hydro-geological risk assessment must be undertaken to show that there are minimal risks to the environment either at time of burial, or in the future. Reference should be made to the Environment Agency document "Assessing the Groundwater Pollution Potential of Cemetery Developments". Relevant best practice guidance must be followed and the design should be appropriate for the local circumstances, and should be based on site investigation.

Foss (2008) Internal Drainage Board

3.11 No objection to the principle of the development, however where possible the risk of flooding should be reduced and that, as far as is practicable, surface water arising from a developed site should be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. This should be considered whether the surface water arrangements from the site are to connect to a public or private asset (watercourse or sewer) before out-falling into a watercourse or, to outfall directly into a watercourse in the Board area. The Board does have assets adjacent to the site in the form of New Lane Culvert; this watercourse is known to be subject to high flows during storm events. Recommend a condition requiring the submission of a scheme for surface water drainage works.

PUBLICITY AND NEIGHBOUR NOTIFICATION

3.12 The application was advertised on site, and neighbouring occupiers on Huntington Road notified by letter. No representations have been received.

4.0 APPRAISAL

Key Consideration

- Planning policy
- Green belt
- Design and landscape considerations
- Ecology
- Archaeological consideration
- Ground Water protection and surface water drainage.
- Highway considerations
- Neighbour impact.
- Consideration of very special circumstances

PLANNING POLICY

4.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

4.2 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (other than the saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed. The NPPF sets out the presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. This presumption does not apply in Green Belt locations.

DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.3 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. However their weight is limited.

4.4 Policy GB1 'Development in the Green Belt' of the DCLP sets out a number of criteria of considering new sites, whilst some of the specific criteria do not comply with the National Planning Policy Framework (NPPF) the general aim of the policy is considered to be in line with the NPPF.

4.5 Policy SP2 'The York Green Belt' states that the primary purpose of the green belt is to safeguard the setting and historic character of the city. Policy SP3 'Safeguarding the Historic Character and setting of York' states high priority will be given to the historic character and setting of York. The general aim of the policy is considered to be consistent with the NPPF.

4.6 The land is not currently located within an area identified as important to the historic character and setting of the City, (ref 'Approach to the Green Belt Appraisal, 2003 / Historic Character and Setting Technical Paper, 2011 / Historic Character and Setting Technical Paper Update, 2013), it is intended that a further update to this paper is produced alongside work towards a new Publication Draft Local Plan.

4.7 Policy NE5a 'Local Nature Conservation Sites' seeks to ensure that development likely to have an adverse effect on a local nature reserve or a non-statutory nature conservation site will only be permitted where the reasons for the development clearly outweigh the substantive nature conservation value of the site.

EMERGING LOCAL PLAN

4.8 The Pre-Publication Draft of the emerging plan is currently being consulted on. The consultation period expires on October 30th 2017. In accordance with

paragraph 216 of the NPPF, it can only be afforded very little weight at this stage of its preparation. However the evidence base underpinning the emerging plan is capable of being a material consideration in the determination of planning applications. Of relevance to this application is:

- Approach to the Green Belt Appraisal, 2003
- Historic Character and Setting Technical Paper, 2011
- Historic Character and Setting Technical Paper Update, 2013

GREENBELT STATUS OF THE SITE

4.9 The NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open and that, the essential characteristics of the Green Belt are its openness and permanence. The Green Belt serves 5 purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns;
- and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.10 The site is located within the general extent of the York Green Belt as described in the RSS. The DCLP (2005) and the emerging local plan designate the site as Green Belt.

4.11 The site was not identified in the City of York Local Plan - The Approach to the Green Belt Appraisal (2003) which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open. However, whilst this document identifies key important areas, which do not include this site, it leaves large areas of countryside as similarly not being of particular importance and it does not set out that all that remaining land within the extent of the Green Belt is necessarily suitable for development or that it has no Green Belt purpose.

4.12 Additionally, when the site is assessed on its merits it is concluded that it serves a number of Green Belt purposes, namely assisting in safeguarding the countryside from encroachment and helping to preserve the setting and special character of York. As such, the site should be treated as lying within the general extent of the York Green Belt and the proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF.

4.13 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless there are other considerations which

clearly outweigh the potential harm to the Green Belt and any other harm. The NPPF at Paragraph 89 states that the construction of new buildings is inappropriate in the Green Belt, save in the case of a list of exceptions, including:

- Provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purpose of including land within it.

4.14 Nevertheless the proposed development does not fall within the exceptions set out. Whilst the exceptions include 'appropriate facilities for cemeteries', para 98 refers to the construction of new buildings, and not the change of use of land. Therefore the proposed change of use is inappropriate development.

4.15 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF further states that local planning authorities should ensure that substantial weight is given to any harm to the green belt. Very special circumstances will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

HARM TO OPENNESS AND PURPOSES OF THE GREENBELT

4.16 The application site lies between the existing cemetery which fronts New Lane, and further agricultural land that separates the site from Monks Cross Park and Ride. The operational development relates to the creation of a road to through the site, together with the erection of grave stones as required. The fundamental purpose of Green Belt policy is to keep land permanently open. The concept of 'openness' in terms of the Green Belt means, being free from development, and the absence of buildings. And, furthermore, relates to the quantum and extent of development and the physical effect on the site. Accordingly, whilst the level of operational development is considered to be minor, it would nevertheless have some impact on openness. In addition, it is considered that the site serves one of the five purposes of the Green Belt as identified in paragraph 80 of the NPPF, by assisting in safeguarding the countryside from encroachment. The proposal therefore gives harm to the Green Belt by reason of inappropriateness and impact on openness and should not be approved except in very special circumstances.

DESIGN AND LANDSCAPE CONSIDERATIONS

4.17 The government attaches great weight to the importance of good design, and one of its core planning principles states that planning should 'contribute to conserving and enhancing the natural environment and reducing pollution.' Furthermore, Paragraph 58 of the NPPF includes the requirement that developments 'will function well and add to the overall quality of the area, not just for the short term but the lifetime of the development.' In this case, the level of

development is relatively minor, and would not be seen readily from outside the site. The existing cemetery is well landscaped on all sides by existing trees and hedges. The existing car park fronting New Lane is more urban in character, however from most public view points; the area the subject of this application will retain its landscaped setting. Indeed there would be an absence of 'visual intrusion' when viewed from outside the site.

4.18 The application includes two alternative layouts for the access driveway. Option 1 retains the existing access, with a new driveway created through the existing hedge in two places, and the driveway continuing through the middle of the site. Alternative 2 would provide a circular driveway around the perimeter of the extension to the cemetery. Huntington Parish Council has expressed a preference for option 1. It is considered that this option would result in a layout that would reduce the amount of road surfacing, and better respect the rural character of the site.

ECOLOGY

4.19. The NPPF states that the planning system should contribute to, and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils, recognising the wider benefits of ecosystems and minimising impacts on biodiversity. The site is recorded as a Site of Local Interest (48 Huntington Cemetery and Fields Area) for semi improved neutral grassland. The proposed development could enable the retention of areas of the grassland and provide an opportunity to manage sensitively for nature conservation. A condition requiring the submission of a habitat management plan was imposed on the approved in 2004. It is recommended that the condition be updated, in accordance with British Standard BS 42020:2013 Biodiversity — Code of practice for planning and development, to require the submission of a Landscape and Ecological Management Plan. It is also recommended that a condition be imposed requiring the erection of a new hedge on the eastern boundary of the site.

ARCHAEOLOGY

4.20 Paragraph 128 of the NPPF states that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

4.21 In the light of this, geophysical survey has been undertaken across the accessible areas of the proposed cemetery site. The survey revealed a number of weak parallel linear anomalies that indicate past agricultural activity, namely ploughing, in the survey area. Amorphous spreads of natural variation in the soils and/or superficial geology were also detected along with a small number of anomalies probably indicating modern activity on the site. Given the known significant prehistoric and Romano-British features in the area further evaluation will

be required. The results from the geophysical survey will be used to identify areas to investigate intrusively by trial trenching. This will also include the part of the site which was not surveyed.

4.22 Given the results of the survey and the seemingly low archaeological potential of the site, the Heritage officers have advised that the further trial trenching can be subject to a condition.

GROUNDWATER PROTECTION

4.23 The Environment Agency has advised that they have no objection to the application. However they state that owners of cemeteries should take appropriate measures to manage their sites to ensure that they do not cause an unacceptable risk to groundwater quality. In principle the guidelines state that any new cemetery or extension to an existing cemetery must:

- Be at least 250 metres from a well borehole or spring used to supply water that is used for human consumption, or for use in dairy farms;
- Be at least 30 metres from any other spring or watercourse and at least 10 metres from any field drain;
- Have at least one metre of subsoil below the bottom of the burial pit, allowing a hole deep enough for at least one metre of soil to cover the remains; and
- Have at least one metre of unsaturated zone below the base of any grave.

4.24 Public Protection officers have confirmed that the site satisfies the first two criteria. It is noted however that the application relates to the extension of an existing cemetery, and there are no known problems in relation to the depth of the water table on the existing site. The Environment Agency has recommended that sufficient information be provided to understand the ground conditions, and whether any mitigation measures are needed to ensure that the cemetery doesn't cause contamination of groundwater. The environment Agency has confirmed that the requirement is advisory, and as such it is considered that it can be conditioned.

4.25 In relation to the disposal of surface water drainage, discussions with the lead Flood Engineer have been carried out. It is considered that the most effective method would be for the driveway to have a slight camber to enable water to disperse into the ground. This would be in accordance with guidance in relation to sustainable drainage.

HIGHWAY CONSIDERATIONS

4.25 There are no objections to the proposed extension of the cemetery from a highways point of view; the development does not materially differ from the extension that had been already approved (ref 04/03228/FUL) but has now lapsed. There have been no material changes to the highway to affect the requirements already accepted in the previous submission. The car park remains the same, as it reflects the number of cars required at burial times (weekdays) and peak visiting times (weekends).

NEIGHBOUR IMPACT

4.26 The access to the site will be unchanged. Given the nature of the use, it is not considered that the proposed development will give rise to any significant increase in burials. Nor is it considered that the potential increase in those visiting the cemetery will give rise to a significant adverse impact on the existing amenity of neighbouring occupiers.

4.27 In relation to other neighbouring uses, cemeteries by their very nature require a tranquil setting. The extension will be sited closer to Monks Cross Park and Ride than the existing cemetery. Nevertheless, there is a separation buffer between the site and the Park and Ride, and it is not considered that the Park and Ride will cause an adverse impact on the tranquillity of the location. Accordingly it is considered that the two uses are compatible.

VERY SPECIAL CIRCUMSTANCES

4.28 The considerations in relation to the application to be weighed against the harms identified in this report are:

- The principle of the development of the site was approved in October 2004 (application 04/03228/FUL)
- On the basis of the previous approval, the application site was acquired.
- The location is required adjacent to the existing cemetery for operational reasons. Indeed a storage building is sited on the existing site for the storage of the necessary machinery.
- The cemetery primarily serves the three Parishes of Huntington, New Earswick and Earswick, and the location is therefore important.
- The location of the site adjacent to the existing site would be of benefit to local families who use it, and enable them to visit
- The cemetery is self financing, using the burial plots to finance the upkeep and running costs.
- Over the last two years, Huntington Burial Authority has undertaken several projects from their revenue reserves, including the erection of an equipment store, car parking, a service road, footpaths, new machinery and water stand

pipes. Such investment will be utilised for the existing site and the proposed extension.

- The application site is identified as a site of local interest for semi improved neutral grassland. The use would enable this to be managed in a manner of benefit to nature conservation.

ASSESSMENT OF VERY SPECIAL CIRCUMSTANCES

4.29 In relation to the above, it is considered that the operation of the extension to the cemetery would be integral to the operation of the existing site. The land was acquired as a result of the previous approval on the site, and the receipt from burial costs will go towards the running of the site as a whole. The work that has been carried out over recent years to improve facilities would benefit the proposed site, and reduce any pressure for buildings etc on the application site. The operations are relatively low key, and the machinery and equipment would serve the land as a whole. This would make it difficult to manage a site elsewhere.

4.30 The location of the site predominantly serves local people who can visit the cemetery, in a sustainable manner, which may not be possible if the extended land were located in a different part of the city.

4.31 The land is identified as a Site of Local Interest (48 Huntington Cemetery and Fields Area) for semi improved neutral grassland. The use of the site will enable it to be managed in a manner that benefits nature conservation.

4.32 It is unlikely that the development would set a precedent for other development because of the particular circumstances. It is not considered that the development would have an adverse impact on the amenity of the area, because it would not be visually intrusive. In addition, the principle of the development has been previously approved and could have been implemented if greater demand had occurred.

5.0 CONCLUSION

5.1 The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 87 of the NPPF which states that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy requires that substantial weight should be given to any harm to the Green Belt.

5.2 In addition to the harm by reason of inappropriateness, it is considered that the development would impact on openness, because openness is considered to be an 'absence of development'. However it is considered that the operational development would not be readily seen from outside the site, with an absence of

visual intrusion. As such it is considered that subject to a landscape/ecological management plan, to include the retention of existing trees and hedges, (except where access is required), the development will not impact on the amenity of the area.

5.3 The proposed development is required to enable the extension of the existing cemetery to accommodate future demand in the Parishes of Huntington, New Earswick and Earswick. The land has already been acquired, and will enable the continued operation of the cemetery in a manner that benefits local people. Works carried out on the existing site, will enable the implementation of additional land in a manner that is low key, and utilises existing employees, equipment and a storage building. Furthermore it can be managed in a manner that benefits nature conservation. Furthermore the principle of development has already been agreed.

5.4 As such, even when substantial weight is given to the harm to the Green Belt, it is considered that the cumulative weight of the considerations referred to in paragraph 4.28 are sufficient to clearly outweigh the harm to the Green Belt and any other harm and that the very special circumstances necessary to justify the development exist.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Site Location Plan: 1695-001-PO1

Proposed Site Plan: Option 1 1695-105-PO1

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 on the formation of the access road or the commencement of any burials shall take place until an archaeological evaluation of the site has been carried out in accordance with a detailed methodology (which will detail a trial trench, or strip, map and record, analysis, publication and archive deposition) which shall first be submitted to and approved in writing by the Local Planning Authority and a report submitted to and approved in writing by the Local Planning Authority. A report on the results of the evaluation shall be submitted to the Local Planning Authority within six weeks of the completion of the field investigation.

Reason: The site is located within an area identified as being of archaeological

interest. The investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

4 If the archaeological evaluation carried out in connection with condition 2 demonstrates a requirement, an archaeological excavation of the site shall be carried out prior to the commencement of any operational development on site. The excavation shall be carried out in accordance with a detailed methodology (to include trenches, community involvement, post-excavation analysis, publication and archive deposition), which shall first be submitted to and approved in writing by the local planning authority. Reasonable access shall be afforded to any Local Planning Authority nominated person who shall be allowed to observe the excavations. A report on the excavation results shall be submitted to the Local Planning Authority within twelve months of the completion of the field investigation.

Reason: The site is located within an area identified as being of archaeological interest. The investigation is required to ensure that archaeological features and deposits identified during the evaluation are recorded before development commences, and subsequently analysed, published and deposited in an archaeological archive.

5 A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP should include the following;

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.

Thereafter, the development shall be carried out in accordance with the approved plan.

Reason: To maintain the biodiversity value of the site and ensure no net loss in line with the National Planning Policy Framework and Section 40 of the Natural

Environment and Rural Communities Act 2006.

With the exception of that area required for the formation of the access drive, the existing trees

6 Unless otherwise agreed in writing by the local Planning Authority, the use of the site for burials shall not commence until all available plots within the extent of the existing cemetery are completed.

Reason: In the interests of the management the site which is identified as a site of local interest as semi-improved neutral grassland.

7 The use of the site for burials shall not commence until an assessment of the ground conditions together with any necessary mitigation has been submitted to and approved in writing by the local planning authority. The assessment shall include sufficient information to demonstrate that the cemetery will not result in the contamination of groundwater.

Reason: In the interests of ground water protection.

8 The development shall not be implemented until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme for the planting of a hedge on the eastern boundary of the site. The scheme shall be implemented within the first planting season following the commencement of the development, unless a longer period has first been agreed in writing by the local planning authority. 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 in the interests of the character and appearance of the area.

9 Prior to the development being first brought into use, details of the disposal of surface water drainage shall be submitted to, and approved in writing by the local planning authority.

Reason: In the interests of sustainable drainage.

7.0 INFORMATIVES:

Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Requested archaeological evaluation of the site, together with information on the Very Special Circumstances in relation to the location of the site within the extent of the York Green Belt.

Contact details:

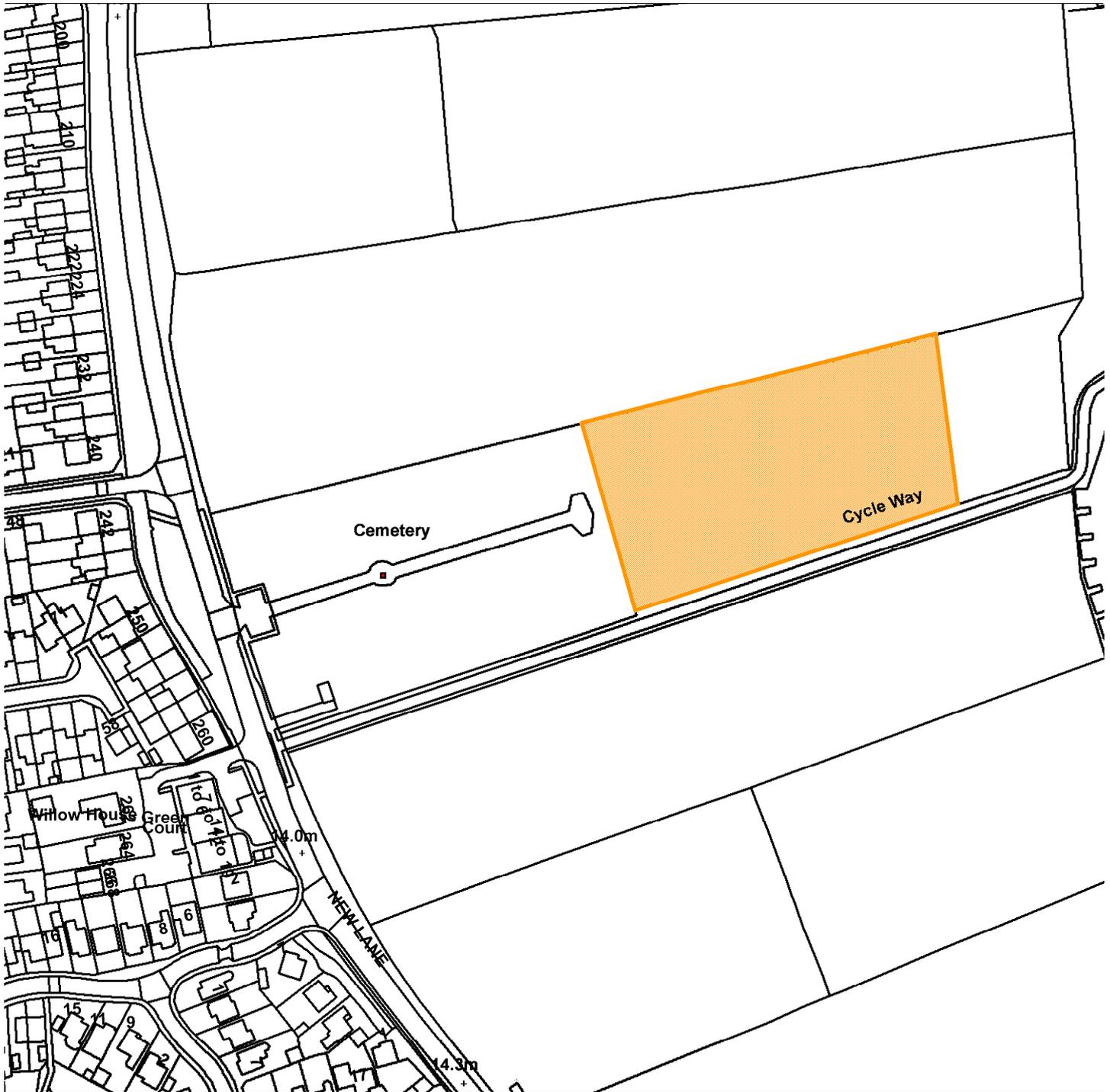
Author: Rachel Smith Development Management Officer

Tel No: 01904 551553

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17/01250/FUL

Cemetery, New Lane, Huntington, York



Scale : 1:2114

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Organisation	City of York Council
Department	Economy and Place
Comments	Site Location Plan
Date	09 October 2017
SLA Number	

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COMMITTEE REPORT

Date: 18 October 2017 **Ward:** Bishopthorpe
Team: Major and **Parish:** Acaster Malbis Parish
Commercial Team Council

Reference: 17/01790/FUL
Application at: Yorvale Ltd Fossfield Farm Foss Field Lane Acaster Malbis York
For: Erection of a single storey production building
By: Yorvale Icecream Ltd
Application Type: Full Application
Target Date: 27 October 2017
Recommendation: Delegated Authority to Approve/ Refuse

1.0 PROPOSAL

1.1 Planning permission is sought for a building to be used in association with the existing ice cream factory on site. The metal clad building would measure 1.8 metres by 22.2 metres, and would be 6 metres in height to the roof ridge. The green metal profile cladding would be similar to the ice cream factory buildings to the south. There would be a connecting element between the proposed building and one of the ice cream factory buildings to the south. To the south of the proposed site are the ice cream factory buildings, to the east is a metal clad farm shed, and to the north is a field which currently has 6 rows of ground mounted solar panels. To the west is the deciduous boundary hedge with fields beyond.

1.2 The site is within the general extent of the York Green Belt. The site is within Flood Zone 2.

1.3 There is an existing ice cream factory on the site and the proposed building would be an extension of the element of the business. The ice cream factory is sited adjacent to the farm complex. The building would be used for the production of Kefir. Kefir is a fermented drink, made by adding kefir 'grains' to milk and allowing it to ferment.

1.4 During the application process a revised plan was submitted setting out which buildings are used in association with the ice cream business. In addition, a Flood Risk Assessment in line with the National Planning Policy Guidance criteria was also requested together with clarification of the drainage arrangements. At the time of writing, this information had not yet been submitted.

1.5 Planning Site History

- 14/01524/FUL - Installation of 6 rows of ground mounted solar panels - Approved

Application Reference Number: 17/01790/FUL

Item No: 4d

- 13/03423/FUL - Erection of dirty water storage tank - Approved
- 13/03328/FUL - External alterations and change of use of agricultural building to a cold store in connection with existing ice cream production business - Approved
- 07/02714/FUL - Extension of existing ice cream production building for use as storage - Refused, the decision was appealed and allowed
- 98/02011/FUL - Pitched roof two storey extension to rear and single storey extension to front - Approved
- 98/02010/FUL - Erection of single storey pitched roof ice cream production building - Approved
- 97/00251/FUL - Erection of milking parlour - Approved
- 8/81/70D/PA (1996) - Change of use of existing agricultural building to dry store for ice cream production - Approved
- 8/81/70C/PA (1994) - Erection of a livestock building. - Approved
- 8/81/70B/PA (1991) - Erection of a temporary mobile home for 2 years for a single cowman - Approved
- 8/81/70A/PA (1988) - Erection of a building for use for the manufacture and wholesale only of dairy ice cream - Approved
- 8/81/70/PA (1988) - Proposed erection of a building for the manufacture and sale of dairy ice cream and the construction of a car park - Refused

2.0 POLICY CONTEXT

2.1 Draft Development Plan Allocation:

- City Boundary GMS Constraints: York City Boundary 0001
- Floodzone 2 GMS Constraints: Floodzone 2

2.2 Policies: Please see the Appraisal Section (4.0) for national and local policy context.

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 No objection. Access to the farm is as existing. The increase in traffic generated from that of its current lawful use is negligible. Although residents have objected to the proposed development; citing the need for passing places, it would not be a reasonable request for the scale of the proposed development.

PLANNING AND ENVIRONMENTAL MANAGEMENT (ARCHAEOLOGY)

3.2 No objections

FLOOD RISK MANAGEMENT TEAM

3.3 No drainage information was submitted, can be sought via condition

PUBLIC PROTECTION

3.4 Request condition for the reporting of unexpected contamination, and INF11

EXTERNAL CONSULTATIONS/REPRESENTATIONS

ACASTER MALBIS PARISH COUNCIL

3.5 No objections

ENVIRONMENT AGENCY

3.6 Applicant has failed to submit any sequential test evidence with the application

3.7 Due to the proposed development's scale and the level of flood risk, the EA has no objections to this development

3.8 EA recommend that to reduce the potential impact of flooding by raising floor levels wherever possible and incorporating flood proofing and resilience measures. Physical barriers, raised electrical fittings and special construction materials should be considered

3.9 Consideration should be given to the production /update of a flood evacuation plan.

3.10 Non-mains foul drainage, should ensure that the proposal complies with the NPPG and the EA Pollution Guidance

YORKSHIRE WATER

3.11 Has no comments.

AINSTY INTERNAL DRAINAGE BOARD

3.12 The IDB has assets adjacent to the site in the form of Dimple Ditch; this watercourse is known to be subject to high flows during storm events.

3.13 The site is in an area where drainage problems could exist and development should not be allowed until the LPA is satisfied that surface water drainage has been satisfactorily provided for. Any approved development should not adversely affect the surface water drainage of the area and amenity of adjacent properties.

3.14 The expressed intention is to use an existing watercourse for the disposal of surface water however no further details appear to have been provided regarding the nature and location of the relevant watercourse. The IDB's preference would be to see the use of sustainable methods of surface water disposal, wherever possible, retaining the water on site. In these circumstances the IDB would be seeking that the applicant should demonstrate that there is currently positive drainage and a proven connection to the watercourse. Where this is the case, the IDB would want the rate of discharge constrained at the "greenfield" rate (1.4 l/s/ha) plus an allowance for any "brownfield" areas any of the site which are currently impermeable (at the rate of 140 l/s/ha) less 30%. With storage calculations to accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm event. All calculations should include a 20% allowance for climate change.

3.15 Foul Sewage from this site is to be treated in a package treatment plant but does not indicate what will happen to the discharge from that facility. The IDB would wish to make the applicant aware that it does not wish to see flow rates increase in its land drainage systems which can arise from cumulative small flows from multiple small discharges. In addition the disposal of treated sewage effluent is not the intended function of the land drainage network. The IDB would therefore wish it to be noted that if it is the applicant's intention to dispose of treated foul flows into the adjacent watercourse it is unlikely that the IDB would consent to this as a stand-alone flow. If however agreement can be reached regarding the discharge of surface water from the site (in line with the requirements and calculations shown above) the IDB may be prepared to accept the treated foul flow but only if the combined rate of discharge does not exceed the calculable rate for the surface water flow.

PUBLICITY AND NEIGHBOUR NOTIFICATION

3.16 One representation of comments

- Request provision of passing places. Fossfield Lane is a narrow single track road, as the business has developed a number of large vehicles using the lane has increased. Resulting in difficulties in passing one another. Request that the provision of passing places will be a condition of the planning permission.
- Request that the site is screening by trees and hedges to mitigates its impact.

3.17 One representation of objection

- Concerned would result in increased traffic on a single track road, including more HGVs delivering ingredients and removing finished products. Together with the increase in traffic from the increased staff numbers
- Request 2 passing places to prevent HGVs reversing on the lane particularly when 2 lorries are using the lane at the same time
- The increased number of industrial buildings is a concern. Evergreen trees would screen the development and would reduce the noise on a night from the compressors; concerns regarding the compressors have previously been raised.

3.18 Two representations of support

- Yorvale is very successful with a lot of the success coming down to the way the product is produced. There are a lot suppliers producing ice cream, but very few with the provenance that give Yorvale the unique point of difference over other mainstream producer. To lose the provenance aspect of the manufacturing process would have a detrimental effect on the business and damage customers' perception of Yorvale.
- Local sourcing from your Farm is a key selling point. It is important that production is kept to the Farm as it's such a big part of the product that is offered.

4.0 APPRAISAL

KEY ISSUES

- Planning policy
- Green Belt and consideration of very special circumstances
- Design and landscape considerations
- Flood Risk
- Drainage
- Impact to residential amenity

PLANNING POLICY

4.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

4.2 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed. The NPPF sets out the presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. The presumption in paragraph 14 does not apply in this case as the more restrictive policies apply concerning Green Belt and flooding.

DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.3 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.4 Policy GB1 'Development in the Green Belt' of the DCLP sets out a number of criteria of considering new sites, whilst some of the specific criteria do not comply with the National Planning Policy Framework (NPPF) the general aim of the policy is considered to be in line with the NPPF.

4.5 Policy SP2 'The York Green Belt' states that the primary purpose of the Green Belt is to safeguard the setting and historic character of the city. Policy SP3 'Safeguarding the Historic Character and setting of York' states high priority will be given to the historic character and setting of York. The general aim of the policy - take account of the different roles and character of different areas- is considered to be in line with the NPPF.

EMERGING LOCAL PLAN

4.6 The public consultation on the Pre-Publication draft Local Plan and evidence base started on Monday 18 September 2017 and runs until Monday 30 October 2017. The emerging Local Plan policies can only be afforded very limited weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF. However, the evidence base underpinning the emerging Plan is capable of being a material consideration in the determination of planning applications.

GREEN BELT STATUS OF THE SITE

4.7 The NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open and that, the essential characteristics of the Green Belt are its openness and permanence. The Green Belt serves 5 purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns;
- and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.8 The site is located within the general extent of the York Green Belt as described in the RSS. The DCLP (2005) and the emerging local plan designate the site as Green Belt.

4.9 The site was not identified in the City of York Local Plan - The Approach to the Green Belt Appraisal (2003) which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open. However, whilst this document identifies key important areas, which do not include this site, it leaves large areas of countryside as similarly not being of particular importance and it does not set out that all that remaining land within the extent of the Green Belt is necessarily suitable for development or that it has no Green Belt purpose.

4.10 Additionally, when the site is assessed on its merits it is concluded that it serves a number of Green Belt purposes, namely assisting in safeguarding the countryside from encroachment and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. It is considered that the site should be treated as lying within the general extent of the York Green Belt and the proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF.

4.11 The application site is sited on the edge of the factory/farm complex. To the south are the three buildings used for the ice cream business. To the east is the farm. To the north is a field and directly to the north are 6 rows of solar panels. To the west are a deciduous hedge and a field. Further west is the neighbouring farm - Park Farm. The application site is partly hardstanding however the majority is grass.

4.12 The fundamental purpose of Green Belt policy is keep land permanently open. The concept of 'openness' in this context means the state of being freed from development, the absence of buildings, and relates to the quantum and extent of development and its physical effect on the site. The proposed factory building would create in an increase in the solid form and visual harm within the Green Belt, and would result in the encroachment of development into the Green Belt contrary to one of the purposes of including land in the Green Belt. This would result in harm to the openness and permanence of the Green Belt and is therefore considered to be inappropriate development in the Green Belt. The proposal gives rise to harm to the Green Belt by reason of inappropriateness which should not be approved except in very special circumstances. The NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

4.13 NPPF paragraph 89 states that the construction of new buildings is inappropriate in the Green Belt save in the case of a list of exceptions. The proposed development does not fall within the exceptions set out in paragraphs 89 and 90 of the NPPF.

4.14 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Whether very special circumstances exist is assessed from paragraph 4.31 of this report.

DESIGN AND LANDSCAPE CONSIDERATIONS

4.15 The Government attaches great importance to the design of the built environment. The NPPF states that good design is a key aspect of sustainable development, and is indivisible from good planning, and should contribute positively to making places better for people. Development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of

uses and support local facilities and transport networks; respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and are visually attractive as a result of good architecture and appropriate landscaping. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

4.16 The design, height and proposed materials of the proposed building are similar to the existing farm and factory buildings. The proposed production shed would form part of the existing farm/factory complex. The surrounding landscape is flat and open. The proposed building would be visible from a distance by virtue of the siting on a slight rise. The building subject of the current application would be visible however it would be of similar appearance to the adjacent agricultural building and would be visible against the context to the existing farm complex. However, the proposal would increase the extent of development on the site, in terms of footprint, mass and height. This close proximity to the existing buildings, in conjunction with the additional mass, would increase the dominance and presence of the built form on the land. This would have a negative impact on the visual amenity of the area as the site is readily visible.

4.17 Comments have been received requested screening of the proposed building with evergreens; it is considered that this would make the site more visible as the use of evergreens such as leylandii would appear alien and atypical in this open location.

4.18 No further hardstanding is proposed.

4.19 The proposed land is classified as Grade 3 agricultural land by DEFRA. The NPPF states Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The proposed use would result in the loss of this agricultural land. Whilst it is considered that it is not a sufficient reason to refuse the application on these grounds alone, it is considered to result in additional harm to the Green Belt by reason of inappropriateness and the harm to the openness of the Green Belt as set out above.

FLOOD RISK

4.20 The NPPG advises that a site specific FRA must -

- Identify the flood risk
- Where appropriate, demonstrate how land uses most sensitive to flood damage have been placed in areas within the site that are at least risk of flooding
- Flood risk management measures to make the development safe
- Ensure no increased flood risk elsewhere and where possible reduce risk
- What flood-related risks will remain during the lifetime of development, and how will these risks be managed? (E.g. flood warning and evacuation procedures)

4.21 The site is within Flood Zone 2 as such a sequential test is required

4.22 The NPPG states that it is for LPAs, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere. The aim of the sequential test is to steer new development to areas at the lowest probability of flooding (Zone 1). This indicates that priority should be given to allocating sites for development in descending order to the 'Flood Zones' set out in the CYC Strategic Flood Risk Assessment.

4.23 The NPPG states that "When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere." The proposed development would extend the ice cream business (also within Flood Zone 2). The proposal building would fall within 'Less Vulnerable' in the flooding vulnerability categories'. The proposed building would be an extension to an existing business on site and it is considered reasonable to site an additional factory building adjacent to the existing factories buildings.

4.24 The NPPG states that ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere. Unfortunately the submitted Flood Risk Assessment (FRA) does not address any of the NPPG criteria set out in Para 4.20. The agent has been unable to demonstrate that the proposed development would be safe for its lifetime and would not cause flooding issues elsewhere. Therefore the development fails the sequential test. By virtue of the lack of an adequate FRA, officers can not currently accept the principle of the development or recommend

approval. Officers consider that the basic information can easily be provided and would likely prove that the development is acceptable in this location, however as yet no information has been submitted by the agent to demonstrate this. A revised FRA has been requested from the agent, the agent has expressed the intention of submitting a FRA but was unable to provide any timescale for when this would be submitted. It is hoped that the FRA will be submitted before the committee meeting, if so, it will be reported to committee and if there is sufficient information to demonstrate that the sequential test has been passed.

DRAINAGE

4.25 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan policy GP15a: Development and Flood Risk advises discharge from new development should not exceed the capacity of receptors and water run-off should, in relation to existing run-off rates, be reduced.

4.26 No details of the surface water drainage scheme were submitted as part of the application. In addition it is stated that the foul water would be disposed of to package treatment plant, no details have been submitted of where the trade waste would be disposed to. The Flood Risk Engineer is confident that a suitable drainage scheme can be achieved on the site, and that details can be sought via condition. However the agent has verbally requested that they do not want any pre-commencement conditions for the drainage. The agent has expressed the intention to submit drainage information during this application process that can demonstrate that the site can be suitably drained and thus negate the requirement for pre-commencement drainage condition. At the time of writing the drainage information had not yet been submitted. If any drainage information is submitted it will be reported to committee.

IMPACT TO RESIDENTIAL AMENITY

4.27 By virtue of the distance from the nearby dwellings it is not considered that the proposed development would result in disturbance or harm to residential amenity.

4.28 Concern has been raised regarding noise from machinery from the existing factory. Public Protection has confirmed they have not received any noise complaints regarding existing machinery on the site. However it is considered necessary given the quiet character of the area to add condition requiring details to be submitted of any machinery that would be audible from outside of the boundary to be submitted to the LPA.

HIGHWAYS

4.29 The milk used in the ice cream and yoghurt drinks comes from the cattle on the host farm. Double cream is brought to the site from a local creamy. Flavourings are also brought to the site. The increase in the size of the business will likely result in more ingredients being delivered to the factory. The refrigerated lorries which collect the produce for distribution are currently leaving the site with half their capacity filled. As such the additional produce, which would be generated, would unlikely result in any additional movements of from the site. There would be no alterations to the existing access to the farm or factory. The Highways Network Management team (HNM) consider that the increase in traffic generated would be negligible. Whilst concern has been raised regarding the lack of passing places the HNM Team consider it would be an unreasonable request for the scale of the proposed development.

4.30 The numbers of vehicle (20) and cycle parking (15) spaces would remain the same.

ASSESSMENT OF THE CONSIDERATIONS FORWARDED BY THE APPLICANT

4.31 Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development in the Green Belt unless other considerations exist that clearly outweigh the potential harm to the Green Belt (and any other harm so as to amount to very special circumstances. Substantial weight is to be given to any harm to the Green Belt.

4.32 The Applicant has forwarded the following factors to be considered as very special circumstances:

- It is an existing business that is operationally and functionally linked to the farm. This provenance and history of the ice cream business.
- There is a commercial and operational need for the development
- Benefit for the local economy and local employment

(i) It is an existing business that is operationally and functionally linked to the farm. This provenance and history of the ice cream business.

4.33 There has been a previous appeal (in 2008) on the site for a factory building. The Inspector considered that the site was greenbelt and that the proposed development was inappropriate. However they considered that the business was existing, and that there were very special circumstances to overcome this harm as follows: The functional link to the farm activity and the importance of the "provenance" issue to the future success of the business, there were no alternatives for on-site solutions for the storage building, and that there was an commercial and

operational need for the development, which would benefit to local economy and local employment

4.34 In 2012 the NPPF was published, setting out the revised greenbelt policy. The modest size of the farm and the current modest number of cattle currently limits the size of the business while its provenance (only using milk from the farm) continues to be its main selling point. Once milk from other sites is being transported onto the site the unique selling point is lost and so is the justification for the business being on this site. That is not to say that the extent of the farm may not extend at a later date.

4.35 The existing ice cream manufacturing business on the site dates from 1988 and the existing production/storage building dates from 1998, 2009, and 2013 (change of use). The business is established. As mentioned above the milk used in the ice cream comes from the cattle on the host farm, the 'provenance' of the ice cream is the selling/marketing grounds of the ice cream. There is a currently a functional link between the business and the farming activity. Relocation to another site would break the functional link and remove the farm-based marketing value. The "provenance" is an important marketing consideration in a competitive market.

(ii) There is a commercial and operational need for the proposed building

4.36 The NPPF states that planning policies should support economic growth in taking a positive approach to sustainable new development. Nevertheless, this policy does not outweigh green belt policy, as the presumption in favour of sustainable development does not apply to sites within the green belt.

4.37 The size of the building has been justified on the need for more space to provide the kefir drink and to providing staff facilities. From the supporting information the kefir is already made on site, however due to its popularity more space is required. The proposed building would be used for the housing of cold production line (bottling) with freezer standard walls and freezers and the production of kefir. The product has been successful as such the building is required to keep up with demand.

(iii) Benefit for the local economy and local employment

4.38 The NPPF states that planning policies should support economic growth in taking a positive approach to sustainable new development. Nevertheless, this policy does not outweigh green belt policy, as the presumption in favour of sustainable development does not apply to sites within the green belt.

4.39 From the application form it states that 3 full time positions would be created by the proposed development. This would be of direct benefit to the local economy and local employment. However the level of direct employment created is not considered

to be of a sufficient economic benefit to outweigh the harm to the Green Belt and is considered to have limited weight.

4.40 To conclude, it is an established successful business that currently exists on the site and whilst the proposed development would be a significant increase on the existing host building it would be sited on a partially enclosed site on the edge of the confines of the farm and factory complex. Relocation to another site would break the functional link and remove the farm-based marketing value. There is considered to be a functional link of the ice cream business to the farm activity and the importance of the "provenance" of the ice cream, frozen yoghurt, and kefir. As such it is considered that cumulatively factors (i) and (ii) are considered to clearly outweigh the harm to the Green Belt due to inappropriateness to the openness and permanence of the Green Belt.

5.0 CONCLUSION

5.1 The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 87 of the NPPF which states inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.

5.2 In addition to the harm to the Green Belt by reason of inappropriateness, it is considered that the proposal would have a harmful effect on the openness of the Green Belt when one of the most important attributes of Green Belts are their openness and that the proposal would undermine two of the five Green Belt purposes. Substantial weight is attached to the harm that the proposal would cause to the Green Belt. The harm to the Green Belt is added to by the harm to the visual character and amenity identified in this report.

5.3 It is an established successful business that currently exists on the site and whilst the proposed development would be a significant increase on the existing host building it would be sited on a partially enclosed site on the edge of the confines of the farm and factory complex. Relocation to another site would break the functional link and remove the farm-based marketing value. There is considered to be a functional link of the ice cream business to the farm activity and the importance of the "provenance" of the ice cream, frozen yoghurt, and kefir. As such it is considered that cumulatively factors (i) and (ii) referred to in paragraphs 4.32 to 4.37 of this report are considered to have sufficient weight to clearly outweigh the harms to the Green Belt and other harms identified in this report even when substantial weight is given to the harm to the Green Belt. Therefore the very special circumstances necessary to justify the development exist.

5.4 It is recommended that the decision is delegated to officers to approve following the submission of an adequate Flood Risk Assessment and an acceptable drainage scheme and subject to any further conditions required to secure a successful development. It is also recommended that delegated authority be granted to refuse the application if the outstanding information is not submitted and found acceptable within 3 months application, due to lack of information and/ or unacceptable arrangements for drainage.

COMMITTEE TO VISIT

6.0 RECOMMENDATION:

- i) Delegated Authority to Approve on the receipt of adequate flood risk information that would result in a positive sequential test, and receipt of satisfactory drainage information.
- ii) Delegated Authority to refuse the application if adequate flood risk information that would result in a positive sequential test and receipt of satisfactory drainage information has not been submitted within 3 months of the date of this resolution.

1 TIME2 Development start within three years

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

Drawing Number 00 'Floor Plan' received 21 July 2017;

Drawing Number 01 Revision A 'Elevations' received 11 September 2017;

Drawing Number 02 Revision A 'Site Plan' received 11 September 2017;

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

3 The materials to be used externally shall match those of the existing ice cream factory in colour, size, shape and texture.

Reason: To achieve a visually acceptable form of development.

4 No raw materials, finished or unfinished products or parts, crates, materials, waste, or any other item shall be stacked or stored outside any building on the site without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of visual amenity of the area and the openness of the green belt.

5 Prior to the first occupation of the building, full details of the method and design (including illumination levels) and siting of any external illumination shall be submitted to and approved in writing by the Local Planning Authority and shall be completed in accordance with the approved details. Any subsequent new or replacement illumination shall also be agreed in writing by the Local Planning Authority prior to its provision.

Reason: In order to protect the character and appearance of the green belt and countryside from excessive illumination

6 Unless otherwise agreed in writing with the local planning authority, the building hereby approved shall be used for ice cream and kefir production only, using milk produced at Fossfield Farm, and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order.

Reason: The proposed development is considered to be inappropriate development in the greenbelt. There is currently considered to be a functional link of the ice cream business to the farm activity and the importance of the "provenance" of the ice cream, frozen yoghurt, and kefir. The change of use of the building to any other use would potentially remove the very special circumstances and justification for the development, and the use may further impact on the openness of the greenbelt. The characteristics of other uses in class B2 (or B1 or B8) may make this use unacceptable in terms of highway impacts and the impact to the surrounding road network. Other uses may potential impact on the residential amenity the occupants of nearby dwellings. This condition is therefore required to enable the Local Planning Authority to re-assess alternative uses which, without this condition, may have been carried on without planning permission by virtue of Article 3 of the Town and Country Planning (Use Classes) Order 1987.

7 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval prior to their installation. The details shall include maximum sound levels (L_{Amax}(f)) and average sound levels (L_{Aeq}), 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: In the interests of the living and working conditions of nearby properties

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

8 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7.0 INFORMATIVES:

Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Request revised plans
- Request flood risk information
- Use of conditions

2. The applicant should be advised that the Ainsty Internal Drainage Board's prior consent is required for any proposals to culvert, bridge, fill in or make a discharge to the watercourse

3. PUBLIC PROTECTION INFORMATIVE

The developer's attention should also be drawn to the following which should be attached to any planning approval as an informative.

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

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 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

3. Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions.

4. 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.

5. There shall be no bonfires on the site.

4. 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: Victoria Bell Development Management Officer

Tel No: 01904 551347

17/01790/FUL

Yorvale Ltd, Fossfield Farm, Acaster Malbis YO23 2XA



Scale : 1:1321

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Organisation	City of York Council
Department	Economy and Place
Comments	Site Location Plan
Date	09 October 2017
SLA Number	

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Planning Committee

18 October 2017

Area Planning Sub Committee

5 October 2017

Appeals Performance and Decision Summaries

Summary

- 1 This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 April and 30 June 2017, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals at date of writing is also included.

Background

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. The Government propose to use the quarterly statistical returns as one of a number of measures to assess the performance of local planning authorities. To assess the quality of decisions, this will be based on the number of decisions that are subsequently overturned at appeal. The threshold whereby a Local Planning Authority is eligible for designation as under-performing is 10% of the Authority's total number of decisions on applications made during the assessment period being overturned at appeal.
- 3 The tables below include all types of appeals such as those against refusal of planning permission, against conditions of approval, listed building applications and lawful development certificates. Table 1 shows results of appeals decided by the Planning Inspectorate, for the quarter 1 April to 30 June 2017 and the corresponding quarter for 2016, Table 2 shows performance for the 12 months 1 July 2016 to 30 June 2017 and the corresponding period 2015-2016.

Table 1: CYC Planning Appeals Last Quarter Performance

	01/04/17 to 30/06/17 (Last Quarter)	01/04/16 to 30/06/16 (Corresponding Quarter)
Allowed	2	0
Part Allowed	1	0
Dismissed	5	7
Total Decided	8	7
% Allowed	25%	0%
% Part Allowed	12.5%	-

Table 2: CYC Planning Appeals 12 month Performance

	01/07/16 to 30/06/17 (Last 12 months)	01/07/15 to 30/06/16 (Corresponding 12 month period)
Allowed	9	4
Part Allowed	4	0
Dismissed	31	27
Total Decided	44	31
% Allowed	20%	13%
% Part Allowed	9%	-

Analysis

- 4 Table 1 shows that between 1 April and 30 June 2017, a total of 8 appeals were determined by the Planning Inspectorate. Of those, 2 were allowed. One appeal related to a “major” development (erection of 109 dwellings at land north of Avon Drive, Huntington – appeal dismissed). By comparison, for the same period last year, out of 7 appeals 0 were allowed (0%), 0 were part allowed (0%). Using the assessment criteria set out in paragraph 2 above, 0.5% of the total decisions made in the quarter were overturned at appeal.
- 5 For the 12 months between 1 July 2016 and 30 June 2017, 20% of appeals decided were allowed, which is below the national percentage figure of 33% of appeals allowed, but up on the previous 12 month figure. Using the assessment criteria set out in paragraph 2 above, 0.6% of the total decisions made in the 12 month period were overturned at appeal.
- 6 The summaries of appeals determined between 1 April and 30 June 2017 are included at Annex A. Details as to of whether the application was dealt with under delegated powers or by committee are included

with each summary. In the period covered three appeals were determined following a decision at sub-committee/committee.

Table 3: Appeals Decided 01/04/2017 to 30/06/2017 following Refusal by Committee / Sub-Committee

Ref No	Site	Proposal	Officer Recom.	Appeal Outcome
16/00701 /FUL	Hilary House, St Saviours Place	Roof extension	Approve	Allowed
15/00798 /OUTM	Land north of Avon Drive, Huntington	Erection of 109 dwellings	Refuse	Dismissed

- 7 The list of current appeals is attached at Annex B. There are 12 planning appeals lodged with the Planning Inspectorate (excluding tree related appeals but including appeals against enforcement notices).
- 8 We continue to employ the following measures to ensure performance levels are maintained at around the national average or better:
- i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with Paragraph 56 of the NPPF and draft Development Control Local Plan Policy.
 - ii) Where significant planning issues are identified early with applications, revisions are sought to ensure that they can be recommended for approval, even where some applications then take more than the 8 weeks target timescale to determine. This approach is reflected in the reduction in the number appeals overall. This approach has improved customer satisfaction and speeded up the development process and, CYC planning application performance still remains above the national performance indicators for Major, Minor and Other application categories.
 - iii) Additional scrutiny is being afforded to appeal evidence to ensure arguments are well documented, researched and argued.

Consultation

- 9 This is an information report for Members and therefore no consultation has taken place regarding its content.

Council Plan

- 10 The report is most relevant to the “Building Stronger Communities” and “Protecting the Environment” strands of the Council Plan.

Implications

- 11 Financial – There are no financial implications directly arising from the report.
- 12 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.
- 13 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 14 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

Risk Management

- 15 In compliance with the Council’s risk management strategy, there are no known risks associated with the recommendations of this report.

Recommendation

- 16 That Members note the content of this report.

Reason: To inform Members of the current position in relation to planning appeals against the Council’s decisions as determined by the Planning Inspectorate.

Contact Details

Author:

Gareth Arnold
Development Manager,
Directorate of Economy
and Place

**Chief Officer Responsible for the
report:**

Mike Slater
Assistant Director (Planning and Public
Protection)

**Report
Approved**



Date 26
September
2017

Specialist Implications Officer(s) None.

Wards Affected: All



For further information please contact the author of the report.

Annexes

Annex A – Summaries of Appeals Determined between 1 April and 30
June 2017

Annex B – Outstanding Appeals at 25 September 2017

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Appeal Summaries for Cases Determined 01/04/2017 to 30/06/2017

Application No: 15/00798/OUTM
Appeal by: Pilcher Homes Ltd
Proposal: Erection of 109no. dwellings
Site: Land To The North Of Avon Drive Huntingdon York
Decision Level: CMV
Outcome: DISMIS

The application was for the erection of 109 houses on a greenfield site in the Green Belt as shown in the 2005 local plan. The site was not allocated for housing in the emerging local plan. The application was refused mainly due to impact on the Green Belt. The Secretary of State found that: the 2005 local plan carries very limited weight because it has not been adopted; the emerging plan carries very limited weight because it is at such an early stage; the site lies within the general extent of the Green Belt; the site should be treated as being within the Green Belt until an adopted local plan defines the Green Belt boundary; the development conflicts with all purposes of the Green Belt except the second, which is to prevent neighbouring towns merging into one another; there are no very special circumstances of such weight that they outweigh harm to the Green Belt. The appeal was dismissed.

Application No: 16/00310/FUL
Appeal by: Mr Paul Raine
Proposal: Dormers to front and rear (resubmission)
Site: 31 White Cross Road York YO31 8JR
Decision Level: DEL
Outcome: PAD

The application proposed front and rear dormers to this terraced house, however the LPA's refusal related only to the front dormer. The Inspector noted that the roofs of White Cross Road (on both sides of the street) are 'largely unaltered' this gives the roofscape to the front of the terraces a 'simple, uncluttered appearance'. The Inspector considered the front dormer would be a prominent and incongruous feature that would dominate the front elevation of the property and would detract from the uniform and uncluttered appearance of the roofscape. The Inspector noted that the grounds for appeal included previous approvals for 'similar' dormers at No's 10 and 19 White Cross Road. However he gave weight to the fact that these dormers were approved prior to the approval of the SPD and were 'not assessed under the provisions of current advice'.

Application No: 16/00701/FUL
Appeal by: St Catherine's Developments
Proposal: Roof extension to provide additional apartment
Site: Hilary House St Saviours Place York YO1 7PJ
Decision Level: CMV
Outcome: ALLOW

Hilary House is a 5-storey office building dating from the 1960's, which was converted from offices into apartments under PD rights. The site is within the Central Historic Core. It is identified as a detractor in the conservation area appraisal, due to its over-dominant height and uncharacteristic form; surrounding buildings are predominantly domestic in character and scale and generally in residential use. In particular the building looks out of place in views from the City Walls, from where it is highly apparent above the historic roofscape. The proposals were to add a storey to the roof of the building. The existing roof is flat, penetrated by a small over-run to the service core. The extension proposed was described by the applicants as having a whale-back form. The extension had support from Historic England and was recommended for approval. Members refused the application because they considered the host building to be harmful to the appearance of the area already. The proposed extension would amplify the harm. The inspector allowed the appeal. He agreed with the applicant's view that the extension proposed would improve the roof form of the building. The inspector stated that the proposed rooftop extension would have a recessive presence at roof level, the walls and roof being inset from the currently unbroken and incongruously horizontal parapet wall that is so jarringly at odds with the surrounding roofscape. It would add extra height to the existing structure but it would not, in the inspectors judgement, be a disproportionate addition to the building, rather it would introduce articulation to the roof and the form would reference the historic setting. The inspector therefore concluded that the extension would not harm the conservation area.

Application No: 16/01212/FUL
Appeal by: Mr Simon Hamilton
Proposal: Erection of 1no. dwelling
Site: 20 Cornlands Road York YO24 3DU
Decision Level: DEL
Outcome: DISMIS

The application was for a detached dwelling. The Cornlands Road streetscene is very ordered in terms of building style, materials, and spacing between homes. The immediate area of the estate contains no detached dwellings, either as originally built or as later in-fills. The application was refused on visual amenity grounds. The scale, design, and the loss of an important gap between buildings was considered to result in an incongruous and prominent form of development that would sit uncomfortably with its surroundings, and appear cramped and over developed, and as such be out of keeping and harmful to the character and appearance of the streetscene and surrounding area. The Planning Inspector agreed with the LPA stating that the proposed development would not reflect the predominant ridge line and substantial appearance of the dwellings extending along the northern streetscape of Cornlands Road. Furthermore, whilst the dwelling would be served by amenity areas to the front and rear, its location in close proximity to the extant dwelling and the side boundary would result in a dwelling of a cramped and constrained appearance. The asymmetric siting of the dwelling in the gap between 20 and 22 Cornlands Road would also be at odds with the prevailing well-spaced layout of this residential area.

Application No: 16/01863/FUL
Appeal by: Miss And Mr Ness
Proposal: Erection of 1 no. dwelling following demolition of existing garage (resubmission)
Site: 2 Norfolk Street York YO23 1JY
Decision Level: DEL
Outcome: DISMIS

The application was for a detached dwelling within the rear yard to 2 Norfolk Street. The site was small and backed onto the rear yard and single storey extensions of the neighbouring property along Bishopthorpe Road. The Inspector agreed that whilst the proposed dwelling would be within an established residential area, its design and scale would appear incongruous and out of keeping with the streetscene which is predominantly one of Edwardian terraces with houses of similar appearance and scale. Whilst it would be similar in height to the rear off shoot of 2 Norfolk Street number 4 would dominate the proposed dwelling and result in an appearance visually at odds with the surrounding area. Furthermore, the position of the dwelling in the gap between Bishopthorpe Road and Norfolk Street terrace would have an unbalancing effect on the streetscene. The property to the rear at 114 Bishopthorpe Road has been extended and has a single storey element with windows facing the application site. A single storey garage is present to the application site. The Inspector noted that the proposed dwelling would be off set from the windows but the extent towards the windows would be greater than the existing garage. The facing elevation of the proposed dwelling would be two storey's high and would present a largely blank brick wall to No 114. Whilst the dwelling would lie to the north the combined effect of the increase in scale, closer position and proximity of the proposal to the relevant windows and door compared to the existing garage would result in a limited material impact on daylight. In addition the height of the proposed dwelling, its largely blank rear elevation, position and proximity to the rear extension of No 114, would have an overbearing effect on the occupiers of No 114 and would reduce outlook having a significant adverse impact on the occupiers living conditions.

Application No: 16/02368/FUL
Appeal by: Mr Craig Hopwood
Proposal: Variation of condition 2 of permitted application
14/01573/FUL (approved plans) to install balcony to rear
(retrospective)
Site: GreensleevesLords Moor LaneStrensallYorkYO32
5XF
Decision Level: DEL
Outcome: DISMIS

The above retrospective application related to a large raised platform 1.6m x 5.7m that was erected outside a first floor rear bedroom of an extended dormer bungalow. The approved scheme showed a Juliette balcony. It was refused permission because the platform would provide an unduly high level of external overlooking and general intrusion into a large part of the rear garden of the neighbouring property. The properties on Lords Moor Lane have long rear gardens which back on to fields and have relatively high levels of privacy. The Inspector dismissed the appeal making reference to the difference between the impact of the structure and the approved Juliette balcony. He did not feel that a privacy screen restricting overlooking of the neighbouring home and section of garden immediately adjacent to the property was sufficient to overcome concerns regarding the negative impact on the overall enjoyment of the neighbours large garden.

Application No: 16/02571/FUL
Appeal by: Mr Wayne Dixon
Proposal: Dormer window to rear and 2no. rooflights to front
Site: 2 Hawthorne Mews Strensall York YO32 5RR
Decision Level: DEL
Outcome: DISMIS

The appeal site is a semi-detached dwelling located within the Strensall Conservation area and forms part of a development of five dwellings comprising two pairs of semi-detached houses and a detached bungalow on a backland site which is based on a former orchard situated between 5 and 7 The Village and the wash land of the Foss. Planning permission was sought for the construction of a pitched roof rear dormer window and two roof lights to the principal elevation. The Council refused the application on the grounds that rear dormer would be disproportionately large resulting in a dominant, top heavy and unbalanced appearance which is not compatible with the existing simple character and appearance of this group of buildings, designed to reflect the site's former agricultural context. It was considered that the development would cause less than substantial harm to the conservation area and its wider setting which is characterised by a simple, uncluttered roofscape. The Council did not consider that neighbour amenity would be compromised. The Inspector agreed with The Council on the grounds of scale, design and location would harm the character and appearance of the host dwelling and the group of dwellings of Hawthorn Mews. The Inspector concluded that the harm to the significance of the CA would be less than substantial, there are no public benefits that would outweigh that harm.

Application No: 16/02708/FUL
Appeal by: Dr G Dykes
Proposal: Single storey rear extension
Site: 28 Heworth York YO31 1AF
Decision Level: DEL
Outcome: ALLOW

The proposal was for a single storey rear extension projecting approx 6.0m along the shared boundary with No.30 Heworth, at a height of approx 2.5m. Permission was refused because the extension was considered to be an overdominant structure which would harm the living conditions of 30 Heworth. The Inspector ascribed considerable weight to the SPD but considered that the additional impact of the extension would not cause any material increase in overshadowing or sense of enclosure. Given its rear location, it was considered the extension would have a neutral impact on the Heworth Conservation Area.

Decision Level:

DEL = Delegated Decision

COMM = Sub-Committee Decision

COMP = Main Committee Decision

Outcome:

ALLOW = Appeal Allowed

DISMIS = Appeal Dismissed

PAD = Appeal part dismissed/part allowed

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Outstanding appeals

Officer: Carolyn Howarth						Total number of appeals:	2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
20/04/2017	17/00012/REF	APP/C2741/D/17/3172865	H	211 Hamilton Drive West York YO24 4PL	Single storey side extension		
17/05/2017	17/00018/REF	APP/C2741/D/17/3173686	H	Glen Cottage Stripe Lane Skelton York YO30 1YJ	First floor side extension including dormers to front and rear		
Officer: Erik Matthews						Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
22/08/2016	16/00040/NON	APP/C2741/W/16/3158773	W	Country Park Pottery Lane Strensall York YO32 5TJ	Replacement managers lodge and laundry building (retrospective)		
Officer: Esther Priestley						Total number of appeals:	3
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
29/09/2016	16/00041/TPO	APP/TPO/C2741/5453	W	Two Oaks 39 York Road Strensall York YO32 5UB	Fell Oak tree (T1) protected by Tree Preservation Order No.: 1975/1		
12/05/2014	14/00017/TPO	APP/TPO/C2741/3909	W	14 Sails Drive York YO10 3LR	Fell Silver Brch (T3,T11), Mountain Ash (T5), Oak (T8), Trees protected by Tree Preservation Order CYC15		
09/05/2014	14/00015/TPO	APP/TPO/C2741/3907	W	7 Quant Mews York YO10 3LT	Crown Reduce Silver Birch (T1,T2), Trees protected by Tree Preservation Order CYC 15		
Officer: Elizabeth Potter						Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
07/06/2017	17/00022/REF	APP/C2741/D/17/3172097	H	Chelsea Cottage York Road Deighton York YO19	Two storey side extension, single storey side and front extensions following demolition of existing detached garage and domestic outbuilding.		
Officer: Heather Fairy						Total number of appeals:	2
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
16/05/2017	17/00019/REF	APP/C2741/W/17/3171888	W	Site Lying To The Rear Of 1 To 9 Beckfield Lane York	Erection of 11no. dwellings with associated access road and parking		
02/06/2017	17/00020/REF	APP/C2741/W/17/3174277	W	Knapton Grange Main Street Knapton York YO26	Erection of replacement garage with accommodation in the roof		

Officer: Matthew Parkinson						Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
17/06/2011	11/00026/EN	APP/C2741/C/11/2154734	P	North Selby Mine New Road To North Selby Mine	Appeal against Enforcement Notice		
Officer: Paul Edwards						Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
06/06/2017	17/00021/REF	APP/C2741/D/17/3175678	H	2 Minster View Wigginton York YO32 2GN	Single storey side extension		
Officer: Sandra Duffill						Total number of appeals:	3
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
05/05/2017	17/00015/REF	APP/C2741/W/17/3170543	W	The Greyhound Inn 5 York Street Dunnington York	Variation of condition 2 of permitted application 14/02990/FUL to alter approved bow windows to bay windows and change window material from timber to UPVC		
05/05/2017	17/00017/REF	APP/C2741/Y/17/3171348	W	110 Holgate Road York YO24 4BB	Internal and external alterations including two storey rear extension and dormer to rear following demolition of existing single storey rear extension and associated internal alterations including alterations to internal layout.		
05/05/2017	17/00016/REF	APP/C2741/D/17/3171324	W	110 Holgate Road York YO24 4BB	Two storey rear extension and dormer to rear		
Officer: Sharon Jackson						Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
26/04/2017	17/00014/REF	APP/C2741/D/17/3171171	H	4 Minster Close Wigginton York YO32 2GP	First floor rear extensions including an increase in the size of existing dormer window		
Officer: Victoria Bell						Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:		
19/06/2017	17/00023/REF	APP/C2741/W/17/3176560	W	Holly Tree Farm Murton Way York YO19 5UN	The erection of single storey 2 bedroom dwelling to be used as a holiday let following the partial demolition of the stable building (retrospective)		
Total number of appeals:						16	