

COMMITTEE REPORT

Date: 6 December 2018 **Ward:** Micklegate
Team: Major and **Parish:** Micklegate Planning
Commercial Team Panel

Reference: 18/00848/FUL
Application at: The Mount Royale Hotel 117 - 119 The Mount York YO24 1GU
For: Erection of 2no. dwellings with associated parking following the demolition of existing dwelling, workshop and storage buildings (resubmission)
By: Mr Stuart Oxtoby
Application Type: Full Application
Target Date: 14 November 2018
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application seeks full planning permission to erect 2 no. single storey detached three-bedroom dwellinghouses within the grounds of The Mount Royale Hotel, located on the corner of The Mount and Albermarle Road. The hotel comprises two former dwellings – 117 and 119 The Mount, which is a Grade II listed building. The site also lies within the Central Historic Core Conservation Area and the City Centre Area of Archaeological Importance. The hotel has a parking area to the front and gardens to the rear. There is a rear vehicular and separate pedestrian access to the gardens from Albermarle Road, leading to a parking area, single storey detached dwelling and various outbuildings serving the hotel. There is a refuse storage area within the parking area.

1.2 The proposed dwellings would be accessed via an existing vehicular access from Albermarle Road, leading to a shared drive and two parking spaces per units. A gravelled area for refuse storage to serve the dwellings would be retained adjacent to the access and detached sheds would be provided within the gardens that would serve each dwelling. A contemporary design approach is proposed with each dwelling being similar in size and appearance with a flat roof, buff brick and timber clad walls and grey finish windows and doors.

1.3 Revised plans have been submitted during the life of the application. The main changes involve the reduction in the size of the dwellings and re-position further east towards Albermarle Road to move away from the large Sycamore tree in the south-west corner of the site.

1.4 Relevant planning history includes a previous scheme (ref. 16/02864/FUL and 16/02865/LBC) for the erection of 3 no. dwellings and garages that were withdrawn,

following concerns raised about the adverse impact on heritage assets, street scene and the large sycamore tree. Planning permissions relate to extensions and alterations to the hotel building.

1.5 The application has been called in to Committee by Ward Member, Councillor Hayes, on the basis that the development is a sympathetic development both to the Conservation Area and Grade 2 Listed Building Status. The development will not harm the Listed Building nor the Conservation Area. It meets all appropriate NPPF criteria and should be approved. The development represents an improvement to the conservation area. The present dwelling house and outbuildings are both taller and in a very poor state. The development seems to be wholly appropriate to the listed Status of the Mount Royale Hotel.

2.0 POLICY CONTEXT

2.1 National Planning Policy Framework (2018)

2.2 City of York Draft Local Plan 2005 – relevant policies:

- CYGP1 - Design
- CYGP4A - Sustainability
- CYGP10 - Subdivision of gardens and infill devt
- CGP15A - Development and Flood Risk
- CYNE1 - Trees, woodlands, hedgerows
- CYHE2 - Development in historic locations
- CYHE3 - Conservation Areas
- CYHE4 - Listed Buildings
- CYHE10 - Archaeology
- CYHE11 - Trees and landscape
- CYH4A - Housing Windfalls

2.3 City of York Publication Draft Local Plan 2018 – relevant policies:

- D1 – Placemaking
- D4 – Conservation Areas
- D5 – Listed Buildings
- D6 – Archaeology
- GI4 – Trees and Hedgerows
- ENV4 – Flood Risk
- ENV5 – Sustainable Drainage

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 No objections, subject to conditions.

Design Conservation and Sustainable Development (Conservation)

3.2 No.'s 117 and 119 were constructed as houses in 1833/4 and altered in the 20th century, two plots being combined to form the hotel seen today. The rear gardens were, and are today, very extensive, albeit that the southern end has now been cut off and is in a separate ownership (no. 2 Albemarle Road), and there has been further 20th extension to the side and rear of the original houses. Neighbouring plots to the east follow a similar format, large houses constructed towards the front of the site, with long garden plots behind. The extensive gardens confirm the higher social status of the intended occupiers of the houses built during a suburban expansion of York in the early-mid 19th century. No. 117-119 was listed grade II as a building of special architectural or historic interest in 1983, with an amendment in 1997. The neighbouring houses to the west, no.'s 121, 123, 127 are also grade II. The spacious garden plots contribute to the setting of the frontage buildings and the character and appearance of The Mount Character Area of the Central Historic Core conservation area.

3.3 The existing buildings within the plot are all of recent date and do not contribute to the special interest of the listed building or its setting, or the character of the conservation area. They are not prominent in the public domain and within the site appear as ancillary structures to the principal building. The representation of these structures in the existing view, drawing 150 P03, is difficult to reconcile with views in the street scene as none of the existing structures are as prominent as illustrated therein. The loss of these buildings would not harm the setting of the listed buildings or the character of the conservation area.

3.4 The proposed single storey replacement dwellings are of contemporary design, constructed from buff brick with a limited use of stained timber cladding. The applicants indicate that a parapet wall design will conceal the roof structure from view; this could be controlled by attaching appropriate conditions. Whilst the applicant indicates that the footprint of the dwellings is less than that of the existing structures, plot 2 would be constructed on a part of the site not currently developed and of strong garden character, closer to the principal building than any of the existing structures within the site. The dwellings would be enclosed by additions to existing boundary fences and walls, with hard standing for vehicles, resulting in a greater area of development than suggested by the applicants. The new dwellings and the development around them would be of overtly domestic, residential character and enclosed by boundary structures which would overtly subdivide the garden plot. By introducing new dwellings very clearly distinct and separated from the principal listed building, the development would diminish the garden setting of

the principle listed buildings, and the contribution the spacious garden setting makes to the character of the listed buildings themselves, and the character and appearance of the conservation area.

3.5 The proposed development fails to preserve the setting of the listed buildings, and fails to preserve the character and appearance of the conservation area. The degree of harm to both is less than substantial. Bearing in mind the great weight to be given to the preservation of designated heritage assets set out in the NPPF, the proposed development of two dwellings would not in my opinion outweigh the harm. The applicant also indicates on page 6 of their design and access statement that the development itself would amount to a public benefit by rationalising the development on the site and lowering the footprint of the buildings. It is contended that the total footprint of the development is greater than that of the disparate structures currently seen on the site, and that for the reasons set out above, that development harms the character of the listed building and the conservation area and therefore cannot be a public benefit to be balanced against the harm.

3.6 Further to the submission of the revised plans and Heritage Statement, concludes that the application site is part of the whole of the garden plot to the rear of the listed building. Allowing the development will harm the illustrative historical value of the garden and its contribution to the significance of the listed building as set out in response to paras. 7.4, repeated elsewhere. Allowing the development would result in harm, which would be less than substantial. Paragraph 193 of the NPPF states unequivocally that great weight should be given to the asset's conservation...irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Design Conservation and Sustainable Development (Landscape Architect)

3.7 In summary, the large Sycamore tree that borders the southwest corner of the site is a sizeable specimen that makes a positive contribution to the public amenity and character of the conservation area. There is currently a conflict between the tree and the two existing dwellings - one on site and one off site, (though the tree existed before either was erected) due to concerns about safety (real and perceived), and shade, and seasonal fall.

3.8 The proposed development will not result in a greater conflict between dwelling and tree than the existing situation, nor would it remove that conflict; it would simply be of a slightly different nature.

EXTERNAL

Historic England

3.8 Do not wish to offer any comments and suggest seek specialist conservation and archaeological advice.

Yorkshire Water

3.9 Request condition to cover waste water including surface water discharge.

Ainsty (2008) Internal Drainage Board

3.10 Board has no comment to make as the site is outside the Board's drainage district and there are no Board maintained watercourses in the vicinity.

PUBLICITY AND NEIGHBOUR NOTIFICATION

3.11 Letters of support from 8 no. residents of York and Scarborough have been received, which are summarised as follows:

- Existing site does not enhance the area nor offer little in terms of heritage of the listed building;
- The proposed dwellings would provide variety and much needed bungalows and single storey housing, which there is a shortage of in this area;
- The proposed dwellings appearance is of a suitable scale and size for the location;
- Would not impact on street scene as not visible behind wall on Albemarle Road;
- Modern pair of properties of high quality would fit in with context and would respect and enhance the surrounding area.

4.0 APPRAISAL

4.1 Key issues:

- principle of development
- heritage assets
- character and appearance
- residential amenity
- biodiversity
- highway safety
- drainage and flood risk

LEGISLATIVE FRAMEWORK

4.2 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('1990 Act') requires a local planning authority when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its

setting or any features of special architectural or historic interests which it possesses.

4.3 Section 72(1) of the 1990 Act requires special attention to be paid to the desirability of preserving or enhancing the character and appearance of a conservation area.

POLICY CONTEXT

Development Plan

4.4 Section 38(6) of the Planning and Compensation Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York consists of the retained policies YH9(C) and Y1(C1 and C2) in the Yorkshire and Humber Regional Spatial Strategy ("RSS"), saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013 and the Poppleton Neighbourhood Plan. These are not relevant to the determination of this application.

Draft Local Plan

4.5 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, such policies can be afforded very limited weight. Relevant policies are listed in section 2. The site is allocated within the main urban-area of the City on the Proposals Map accompanying the 2005 Draft Plan.

Emerging Local Plan

4.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

4.7 Relevant policies are set out in section 2. The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The site lies within the main urban area of York on the Proposals Map that accompanies the 2018 Draft Plan.

National Planning Policy Framework

4.8 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", March 2018) places emphasis on achieving sustainable development. The relevant chapters of the Framework include 5 'Delivering a sufficient supply of homes', 12 'Achieving well-designed places' and 16 'Conserving and enhancing the historic environment'.

PRINCIPLE OF DEVELOPMENT

4.9 The site is located within the main built-up area of the City and in a sustainable and accessible location. It relates to the designated heritage assets of the Grade II listed hotel building and Central Historic Core Conservation Area. Therefore, in accordance with paragraph 11 of the NPPF and in the absence of relevant development plan policies, the proposal needs to be considered against the more restrictive policies in the chapter 16 of the NPPF. If the application of these policies does not provide a clear reason for refusing the proposed development, planning permission should be granted unless any identified adverse impacts would significantly and demonstrably outweigh the benefits of the proposed scheme.

HERITAGE ASSETS

4.10 The site lies within the Central Historic Core Conservation Area and City Centre Area of Archaeological Importance. The frontage properties 117 and 119 The Mount and the gate piers, walls and railings to their north west are grade II listed.

4.11 The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on local planning authorities to have special regard to preserving a listed building and its setting under section 66(1) and to preserve or enhance the character or appearance of conservation areas under section 72(1).

4.12 In addition to the legislative framework, chapter 16 of the NPPF sets out the national policy for considering the impact of a proposed development on the significance of designated heritage assets and on non-designated heritage assets. The aim of the NPPF is to conserve and enhance the historic environment for future generations to enjoy. The finding of harm to a designated heritage asset gives rise to a strong presumption against planning permission being granted and in these

circumstances the presumption in favour of sustainable development set out in paragraph 11 of the NPPF would not apply. Policies HE2, HE3 and HE10 of the 2005 Draft Local Plan and D4, D5 and D6 of the 2018 Publication Draft Local Plan reflect the advice in the NPPF.

4.13 The application is supported by a Heritage Design and Access Statement dated 7.12.2016, which focuses on the impact on the conservation area, and a further Heritage Statement dated 15.10.2018, which covers the listed building as well as the conservation area. These documents conclude that the proposed development will conserve those elements of the site that genuinely contribute to the significance of the relevant heritage assets - namely views of mature trees, provision of suburban garden areas and a sense of openness due to the low nature of development within it. Further, it considers that the low level of harm to the significance of the listed building will be offset by proposed mitigation measures and public benefits that will ensue. These proffered mitigation measures and public benefits are described as: the replacement of low grade, poor quality structures and planting with high quality contemporary buildings; a lower built footprint; the excavation of the plot and flat roofed design to ensure the buildings are not visible from Albemarle Road; the removal of buildings from under the tree's canopy; building positions that are not affected by overshadowing and benefit from a southern aspect; and, the provision of accessible, single storey accommodation in the city centre.

4.14 The frontage buildings, no.s 117 and 119, being mid 19th century houses, now a hotel, with extensive gardens confirm the higher social status of York in the early-mid 19th century. The gardens of the houses, now one garden serving the hotel makes a positive contribution to the host buildings, which is evidence of the historic plan form and linear plot in this part of The Mount that would be truncated by the development. The proposed dwellings would be unrelated to the host property in their design and layout and would further compromise and diminish the garden setting of the principle listed building, the contribution the spacious garden plots make to the character of the listed building and to the character and appearance of The Mount Character Area of the Central Historic Core Conservation Area.

4.15 The existing buildings and structures within the garden do not contribute to the special interest or setting of the listed building nor the character and appearance of the conservation area. Whilst the majority of these existing structures are not prominent in the public domain due to the high boundary wall, views are possible particularly if the solid roller gate is left open. However, these buildings are ancillary to the principal listed building and its use as a hotel. The existing dwelling is also positioned in such a way that any views into the site would only see a portion of its size.

4.16 Furthermore, there would be the potential for increased views into the site and of the proposed unrelated properties, due to the access from Albemarle Road.

Whilst the form of replacement gate could be conditioned, it could not be conditioned that such a gate be left closed at all times other than for entry and exit. The proposal would replace the disparate ancillary structures with two buildings of uniform design approach and consolidated bulk.

4.17 As such, the proposal would not preserve the setting of the listed building as a result of the truncation and further erosion of the historic garden and would not preserve or enhance the character and appearance of the conservation area. The degree of harm to both is less than substantial. In accordance with the NPPF, less than substantial harm needs to be weighed against the public benefits offered by the proposed scheme. The benefits put forward in the heritage statements are either not considered to be public benefits or are considered not to outweigh the identified harm. The application does not, therefore, comply with sections 66(1) and 72(1) of the 1990 Act nor national and local planning policy contained in the NPPF and 2005 and 2018 Draft Local Plans.

4.18 The Archaeological Evaluation submitted with the application confirms that there has been substantial levelling and alteration to the ground level within the gardens, but there is still potential for significant archaeological deposits beneath the lower garden. It concludes that the proposed development is unlikely to disturb significant archaeological deposits within 1m of the current ground level on the lower garden terrace. It is considered that any potential harm to archaeology could be mitigated through condition.

CHARACTER AND APPEARANCE

4.19 Section 12 of the NPPF requires good design with developments that add to the overall quality of the area and are sympathetic to the local character and history. At paragraph 130, it says that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions. Policies GP1 and GP10 of the 2005 Draft Local Plan and D1 of the 2018 Draft Local Plan reflect this guidance.

4.20 The proposed dwellings are modern in design and would present a solid built frontage with minimal space between the buildings, which is not characteristic of the prevailing pattern of development in the immediate area. Whilst there is denser development further south along Albemarle Road, at this point it is characterised by spacious plots. However, the visual impact of this needs to be balanced against the set back from the road and the high boundary wall along it. Therefore, aside from heritage considerations, the proposal would not detract from the street scene or general character of the area and, therefore, complies with national and local planning policy regarding design and visual amenity. External materials would have to be carefully considered, but could be dealt with via condition.

RESIDENTIAL AMENITY

4.21 Paragraph 127(f) of the NPPF seeks a high standard of amenity for existing and future users. This advice is reflected in policies GP1 of the 2005 Draft Local Plan and D1 of the 2018 Draft Local Plan.

4.22 Sufficient space is available internally and externally to serve the proposed dwellings, without compromising the amenity of neighbouring occupants. They would be set away from the boundary with 121 The Mount and 2 Albemarle Road and as they are only single storey, would not result in undue dominance, overshadowing or overlooking. Public Protection request conditions to restrict hours of construction and require electric vehicle charge points. The proposal, therefore, complies with the aims of national and local planning policy relating to residential amenity.

BIODIVERSITY

4.23 The NPPF seeks to protect and enhance biodiversity. Paragraph 175 directs local planning authorities to refuse development that causes significant harm to biodiversity that cannot be adequately mitigated or compensated. The protection of trees with a landscape and amenity value is reflected in Policy NE1 of the 2005 Draft Local Plan and GI4 of the 2018 Publication Draft Local Plan.

4.24 The site as part of the historic garden of 117-119 The Mount is landscaped. There is one large Sycamore tree that lies within the garden of 121 The Mount, but overhangs the site. This is a sizeable specimen that is in reasonable health and makes a positive contribution to the public amenity and character of the conservation area and landscape setting of the gardens. The tree is not protected but its public amenity value renders it worthy of one.

4.25 The scheme has been revised to move the closest property further away from the Sycamore. The proposal now removes any built form from directly under the canopy, though the nearest dwelling would be just within the root protection area and canopy spread. Whilst there is still has some concern about the conflict between the tree and its proximity to the proposed dwellings in terms of pressure to reduce or remove the tree from safety and private amenity concerns, it is noted that the proposed situation is no worse than the existing situation as the existing dwelling sits under the tree and its canopy. As such, it is considered that the proximity of the development to the tree is grounds for refusal of the scheme.

HIGHWAY SAFETY

4.26 The site is in a sustainable and accessible location, within walking and cycling distance of the City Centre. The existing access from Albemarle Road would be re-used and parking for two vehicles off-street would be provided. The creation of the proposed parking area would potentially displace parking related to the hotel use

and it is noted that the front parking area is heavily used. It is noted that on-street parking is not restricted on Albermarle Road next to the site, though is usually heavily parked. Deliveries currently occur from the front of the site, with vehicles often parking on the footpath close to the junction of The Mount/Dalton Terrace/Albermarle Road – this is an existing situation that the proposal would not make worse. A pathway from the rear pedestrian gate to the hotel would be retained, which could be used for some deliveries and for refuse bins, though there would be no off-street space for bins to be stored awaiting collection. However, a large refuse area is shown within the development, which could be retained in part through condition for use by the hotel.

DRAINAGE AND FLOOD RISK

4.27 Paragraph 155 of the NPPF states that development should be directed to the areas of low flood risk and that development should not result in an increase of flood risk within the site or elsewhere. Local planning policies support this approach. A Flood Risk Assessment and Drainage Assessment have been submitted in support of the application. This confirms that the site lies within Flood Zone 1 and should not therefore suffer from river flooding. Foul and surface water drainage from the development is proposed to be disposed of to the main sewer. The Drainage Assessment concludes that surface water calculations demonstrate that the proposals would enhance the surface water run-off situation. No objections are raised by Yorkshire Water subject to drainage conditions, which would mitigate potential harm. It is therefore considered that the proposal, subject to condition, would comply with national and local planning policy with regards flood risk.

5.0 CONCLUSION

5.1 The site lies within a sustainable and accessible location. It relates to the rear garden of a hotel, which is Grade II listed and falls within the Central Historic Core Conservation Area. The proposal would diminish the historic garden setting of the Grade II listed building and replace existing ancillary structures with two unrelated dwellings. Views of the proposed dwellings would be available from Albemarle Road, particularly through the access to the site. As such, the proposed development would fail to preserve the setting of the listed building and the character and appearance of the conservation area. The finding of harm to a designated heritage asset gives rise to a strong presumption against planning permission being granted. The benefits of the scheme put forward by the applicant are either not considered to be public benefits or do not outweigh the identified less than substantial harm to designated heritage assets.

5.2 In accordance with paragraph 11 of the NPPF, the proposal is recommended for refusal as a result of the harm to designated heritage assets.

COMMITTEE TO VISIT

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6.0 RECOMMENDATION: Refuse

1. The proposed development would introduce new dwellings that would be unrelated and distinct from the principal listed building and would diminish the garden setting of the listed building and the contribution the spacious garden setting makes to the character of the listed building and the character and appearance of the Central Historic Core Conservation Area. As such, the proposal would not preserve the setting of the listed building as a result of the truncation and further erosion of the historic garden and would not preserve or enhance the character and appearance of the conservation area. The degree of harm to both is less than substantial. The mitigation measures and public benefits put forward by the applicant do not outweigh the identified harm. The application does not, therefore, comply with sections 66(1) and 72(1) of the 1990 Act, guidance in the National Planning Policy Framework 2018 and policies HE2, HE3 and HE4 of the City of York Draft Local Plan (2005) and policies D4 and D5 of the City of York Publication Draft Local Plan (2018).

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