



**Notice of a public meeting of  
Area Planning Sub-Committee**

- To:** Councillors Galvin (Chair), Cannon, Craghill, Crawshaw, Dew, Fenton, Flinders, Gillies, Hunter, Mercer and 1 x vacancy
- Date:** Thursday, 6 September 2018
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

**AGENDA**

**Sub Committee Site Visit Schedule**

The mini-bus for Members of the sub-committee will leave from Memorial Gardens at 10:00am Wednesday 5 September 2018

**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**

(Pages 3 - 26)

To approve and sign the minutes of the last two meetings of the Area Planning Sub-Committee held on 5 July 2018 and 9 August 2018.

**3. Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Sub-Committee's remit can do so. Anyone

who wishes to register or requires further information is requested to contact the Democracy Officers on the contact details listed at the foot of this agenda. The deadline for registering is at **5.00pm on Wednesday 5 September 2018**.

### **Filming, Recording or Webcasting Meetings**

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. The broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if sound recorded, this will be uploaded onto the Council's website following the meeting.

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

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at [http://www.york.gov.uk/download/downloads/id/11406/protocol\\_for\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings\\_20160809.pdf](http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf)

#### **4. Plans List**

To determine the following planning applications:

- a) **Land To The West Of 1 Rose Avenue, (Pages 27 - 52)  
Nether Poppleton, York [18/00201/FULM]**

Erection of 3 buildings for light industrial, general industrial or storage and distribution uses on sites west of 1 Rose Avenue and north of Evans Business Centre, Rose Avenue [Rural West York]

- b) **Resource and Day Care Centre, 126 Acomb Road, York, YO24 4EY [18/00967/FULM]** (Pages 53 - 66)  
Conversion of offices into 9 apartments to include replacement of rear two storey extension with four storey extension and roof conversion with dormers and erection 1 two bedroom dwelling to rear with associated parking and cycle storage (resubmission) [Holgate] **[Site Visit]**
- c) **115 Fulford Road, York, YO10 4ET [18/01381/FUL]** (Pages 67 - 80)  
Erection of dormer bungalow with cycle/refuse store and air source heat pump (resubmission) [Fishergate]
- d) **Jinah Balti, 18 The Village, Haxby, York, YO32 3HT [18/01395/ADV]** (Pages 81 - 88)  
Display of internally illuminated fascia sign (resubmission) [Haxby and Wigginton] **[Site Visit]**
- e) **Simons Auto Services, 17 Mansfield Street, York, YO31 7US [17/02991/FULM]** (Pages 89 - 110)  
Erection of five-storey residential block with 10 flats and associated parking following demolition of car repair garage. [Guildhall] **[Site Visit]**
5. **Planning Enforcement Cases - Quarterly Update** (Pages 111 - 114)  
Members will be presented with a quarterly update on planning enforcement cases.
6. **Appeals Report** (Pages 115 - 134)  
Members will be presented with a report outlining the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 April and 30 June 2018
7. **Urgent Business**  
Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Chris Elliott

Contact details:

- Telephone – (01904) 553631
- Email - Christopher.Elliott@york.gov.uk

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

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

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 **(01904) 551550**

**AREA PLANNING SUB COMMITTEE****SITE VISITS****Wednesday 5 September 2018**

**The mini-bus for Members of the sub-committee will leave from  
Memorial Gardens at 10.00**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
10:10	126 Acomb Road	
10:50	18 The Village, Haxby	
11:20	Simons Auto Services 17 Mansfield Street	

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City of York Council

Committee Minutes

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Meeting	Area Planning Sub-Committee
Date	5 July 2018
Present	Councillors Galvin (Chair), Shepherd (Vice-Chair), Cannon, Craghill, Crawshaw, Dew, Fenton, Flinders, Gillies, Hunter and Carr (Substitute)
Apologies	Councillors Mercer

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## **12. Declarations of Interest**

Members were invited to declare, at this point in the meeting, any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in the business on the agenda.

Councillor Gillies declared a personal, non-prejudicial interest in Agenda Item 4c (Gem Construction & Shopfitting Ltd, North Lodge, Clifton Park Avenue) as the managing director of Gem Construction was a fellow member of the Merchant Adventurers Guild.

## **13. Minutes**

Resolved: That the minutes of the Area Planning Sub-Committee meeting held on 7 June 2018 be approved and then signed by the Chair as a correct record.

## **14. Public Participation**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

## **15. Plans List**

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

**16. 5 Cherry Grove, Upper Poppleton, York, YO26 6HG  
[17/01968/FUL]**

Members considered a full application by Mrs R Wardle for the erection of a bungalow to the rear of 5 Cherry Grove (resubmission).

Mr Neil Iacopi, a local resident, spoke in objection to the application on the grounds of flooding and drainage. He stated that the current flood alleviation scheme did not work and that the drainage systems proposed by the engineers were flawed and not fit for purpose. Mr Iacopi went on to state that approval of these plans would only exacerbate the issue of flooding on and around Cherry Grove.

Jane Parker, a local resident, spoke in objection to the application. She stated that the application went against national planning guidelines, the neighbourhood plan and would adversely affect the character of Cherry Grove. Ms Parker claimed that the already cramped street scene would be worsened and the proposed fence would create a 'blind' corner for motorists and pedestrians, increasing road safety concerns on what is already a narrow street.

Mr Thompson, another local resident, spoke in objection to the application. He claimed the application was flawed and that due process had not been followed. He claimed that the official deadlines for submitting this application had expired in 2017. Mr Thompson was unhappy that the willow tree, that was supposed to remain on site, would now be removed as part of the development. He explained how important the tree was in relation to the water table and asked why it had to be removed.

Roger Brown advised Committee Members that he was speaking on behalf of the former resident of the property for whom he held power of attorney. He advised that due to high costs of care, she wished to retain the property while realising the property's financial benefits.

Gerry Taylor, the applicant's architect, spoke in support of the application. He informed Members that the applicants had decided to put in a full application after a pre-application enquiry with officers. Mr Taylor highlighted that whilst there was evidence of flooding at neighbouring properties, this application



would not make the issue worse. This is because the current neighbourhood relied on 'soak away' drainage, where as the new scheme would tap into the existing combined drainage system. He confirmed that all drainage plans had been approved by CYC Drainage Engineers, the Internal Drainage Board and Yorkshire Water.

Members requested some clarification from speakers/officers regarding the shared water storage facility and whether the tree in the garden of 5 Cherry Grove would remain as planned. It was confirmed that the water storage facility would be shared between the owners of 5 and 5a Cherry Grove and officers confirmed that there was a condition in the application to protect the tree and hedge from removal.

The Council's Flood Risk Engineer then spoke about the testing that he had carried out on site. He stated that the current soak away drainage system was not effective. He explained that the water storage facility would be an acceptable drainage solution for the property as long as the minimum discharge requirements (referred to in the officer recommendations) were met. He also confirmed that Yorkshire water and CYC would be supervising the installation of the system to ensure compliance.

Members requested clarification on the time it has taken to complete the application and whether it had missed deadlines, which was alluded to during public participation. Officers informed Members that the time it had taken was necessary in order to ensure that the decision was made on correct information.

A majority of members agreed that they were happy with the findings of the engineers and did not see any reason why the application should be refused.

**Resolved:** That the application be approved subject to the conditions listed in the report.

**Reason:** It is considered that the proposal will add to the housing supply in a sustainable location. It is not considered that the amenity value of the existing garden is such that would preclude the development of the site. It is further considered that the scale of the proposed dwelling is in keeping with the street scene and overall character of the area, and the

existing and proposed dwellings will have a garden area that is commensurate with their scale. It is considered that the proposed access and parking provision is acceptable. The site is situated within Flood zone 1, however Officers have taken account of the significant level of objection based on surface water problems in the area. Nevertheless, having taken account of the advice of both Yorkshire Water services and the Flood Risk Management Team it is considered that surface water can be disposed satisfactorily, in a manner that will not increase surface water problems in the locality.

**17. Proposed Apartment Block, Clock Tower Way, York [17/02874/FULM]**

Members considered a major full application by David Wilson Homes Yorkshire East for the erection of a four storey building comprising of 18 apartments.

Officers confirmed that the adopted Interim Affordable Housing Thresholds 2015 applied in respect of consideration of this proposal and explained how this impacted on the proposal. They also clarified some amendments to the report in relation to heights and distances from buildings surrounding the proposed development, these were as follows:

- 1) Paragraph 4.10 of the report should read “ 11.4 metres to parapet level..”
- 2) The relative heights of the proposed building would be 11.4 metres high to parapet level, 13.203 metres to the highest point of the roof and 24.78 metres AOD
- 3) The existing apartment block to the east was 11.265 metres to parapet level, 13.325 metres to the highest point of the roof and 27.4 metres AOD
- 4) The previously approved town house at the junction of Clock Tower Way and Campleshon Road is 9.345 metres to parapet level, 10.85 metres to the highest point of the roof and 25.45 metres AOD
- 5) The built footprint of the proposed scheme would cover 506 sq metres, the apartment block to the east covers 541 sq metres and the approved scheme for the site 467 sq metres.

They advised that the sunlight and daylight assessment for the scheme had been prepared by the Building Research Establishment (BRE) and it confirmed compliance with the standards laid out in their publication "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice". It confirmed that all windows on the second floor of Block A would receive light levels within guidelines for both day light and sunlight. Three windows on the first floor would be below guidelines in terms of daylight however two of those are also served by other windows which comply with the guidelines. Two windows fell below the guidelines in terms of sunlight, one of which is also served by a further window which complied with the guidelines, the second was a bed room where access to sunlight was less significant.

John Young, a local resident, addressed the committee in objection to the application. He stated that the lack of sufficient parking for the proposed blocks will exacerbate the already troublesome parking situation in the area. Mr Young pointed out that there had been two recent traffic accidents caused by the parking issues at this site and that road safety is decreasing around the major junction in this area.

Colin Spence, also a local resident, spoke in objection to the proposal stating that the discrepancies in building heights and distances have been misleading. Mr Spence also stated that one of the windows identified by officers as not meeting the daylight/sunlight guidelines was in fact a primary window on his property.

Janet Spence, spoke as a local resident, in objection to the proposal. Mrs Spence did not agree with officers that the new building was 'density appropriate'. She stated that the amended application did not allow for significant landscaping, had a detrimental impact on local amenities and was indicative of 'over-development'. Mrs Spence believed that a smaller build with a lower overall height was required on this site.

Eamon Keogh spoke in support of the application on behalf of O'Neill Associates. Mr Keogh stated that there is significant need for the development and that the style and proportion of the proposed build, matched the style of the area. Mr Keogh noted that the separation distances between buildings were deemed acceptable and that the height of the building was reduced following consultation with conservation officers. He

mentioned that this proposal was not a radical departure from the current scheme in the area.

Councillor J Hayes, Ward Councillor for Micklegate, then addressed the committee. He stated that he had a great deal of sympathy for the residents who had spoken in objection and that he agreed the development would have a detrimental impact on the community. He also stated that he felt this development had been shoehorned onto the site and urged the committee to refuse the application.

In response to a speakers' comments, officers provided clarification with regard to sunlight/daylight guidelines, deviations from previously agreed applications and also in relation to the level of importance of the previous masterplan.

Some members noted that there were significant changes from the original plan and that there was much sympathy for the residents in the area who were concerned with parking, the impact of the development on their community and the scale of the development.

Councillor Carr moved, and Councillor Crawshaw seconded, a motion to refuse the application on the grounds that it would be detrimental to visual amenity and the street scene, due to the scale and massing of the development, traffic generation, removal of parking spaces and potential increase in transient population which would lead to a less socially sustainable development. On being put to the vote, the motion fell.

Several Members did not think that there were adequate reasons to object to the proposal. Councillor Shepherd then moved, and Councillor Flinders seconded, a motion to approve the application as recommended by officers subject to the Section 106 agreement and conditions listed in the report. On being put to the vote, the motion was carried and it was:

Resolved: That on completion of a S106 legal agreement to secure the provision of three "affordable" housing units within the development, together with a financial contribution of £1,920 towards the operation of the City Car Club Scheme and its dedicated spaces at the development and a financial contribution towards cycle ownership/one (no) annual bus pass for each apartment owner on first

occupation, DELEGATED authority be given to the Assistant Director (Planning and Public Protection) to APPROVE the application subject to the conditions listed in the report.

Reason: The proposal has been amended since submission to allow for removal of the previously intended fifth storey. It is felt that the proposal as amended would not give rise to harm to the setting of the Terry's Clock Tower. The amended scheme would reflect the form of the adjacent apartment block and would not materially impact upon the visual amenity of the wider street scene. There would be some impact upon residential amenity of the apartment block to the east- however again it would reflect the pattern of development previously approved. Requirements for provision of affordable housing and the encouragement of sustainable transport modes are engaged and those would be secured by means of a Section 106 Agreement. Such requirements are in compliance with Regulations 122 and 123 of the 2014 CIL Regulations as fairly and reasonably relating to the permitted development.

**18. Gem Construction & Shopfitting Ltd North Lodge Clifton Park Avenue York YO30 5YX [17/01437/FULM]**

Members considered a major full application by Mr Mike Green for the erection of a three storey building forming 14 flats on Clifton Park Avenue.

Officers updated Member on further consultation responses which had been received and additional conditions to be recommended as a result of these. They advised that Waste Services had now provided comments and had advised that refuse lorries would be able to reverse up to the bin store. The road was just wide enough so if any vehicles were parked up on the road the access would be obstructed, so double yellow lines on the access road should be a consideration.

They advised that Highway Network Management had also responded to confirm they had no objections to the scheme but made the following comments:

- a similar proposed development had been accepted in this location. The cycle store did not allow the full complement of cycle stands to be provided to Appendix 21 standards; however circulation space within the flats could be utilised to allow parking for some of the ground floor apartments. This could be sought via condition.
- Car parking had been accepted to similar levels on previous submission, at one per unit with one space for visitor parking is available to the development. Envisaged a negligible amount of visitor parking on the highway, in the nearby street however did not believe there would be a detrimental effect on the highway. Would be more comfortable with a higher provision of visitor parking in this location but unable to defend a highway objection, based on CYC car parking standards.
- The development adjoined an adopted footpath and was liable to damage caused by working in this isolated site. Therefore a dilapidation survey of the footpath was requested via condition.
- Bin collection was not provided at 20m from the adopted highway. CYC's commercial services had suggested Yellow lines on the private access road within the blue boundary. Although this was something the applicant could arrange privately with the landowner and associated users of the shared access, it had not been proposed and CYC were unable to control this. Should there be issues with collection; bins could be stored on site within the car park and collected from Shipton Road if access to the pedestrian gate is allowed. Request HWAY 18, HWAY19, HWAY40

Officers advised that comments had also been received from Kyle and Upper Ouse Internal Drainage Board. They confirmed they had no objections but sought a condition for the submission of surface water drainage details.

Comments had also been received from the Landscape Architect who had no objections provided that a suitability detailed arboricultural method statement was submitted. This required an up to date version that tallied with the final scheme, including the location of garden boundaries and the means of implementation, to be requested through condition.

Mr Ben Pilgrim then spoke on behalf of the applicant in support of the application. He stated that the plans were approved

previously however the new plan with resolved issues around waste, cycle and vehicle parking and a slight building realignment have improved the scheme. He urged Members to accept officer recommendations and approve the application.

Members requested that the number of electric vehicle charging points be increased from one to two or three. The applicant's representative agreed to investigate if it this was possible.

Resolved: That DELEGATED authority be given to the Assistant Director (Planning and Public Protection) to APPROVE the application subject to the conditions listed in the report and the additional and amended conditions listed below:

Replacement Condition: Arboricultural Method Statement (to replace Condition 5)

Prior to the commencement of the development hereby approved, an Arboricultural Method Statement in accordance with BS5837:2012 regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement shall include a 'Tree Constraints Plan' and a 'Tree Protection Plan', details of protective fencing, ground protection, site rules and prohibitions, phasing of works, site access during construction, types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of site compound and marketing suite. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material and/or boundary treatments is proposed within the root protection area of existing trees. A copy of the document will be available for inspection on site at all times.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered

to make a significant contribution to the amenity of this area and/or development.

Amended Condition: Cycle parking provision  
(revision to Condition 17)

Prior to the first occupation of the development details of the cycle stands or fixings within the specified cycle parking area and elsewhere on the ground floor to create 14 cycle parking spaces shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the approved details have been provided, and the cycle parking areas shall not be used for any purpose other than the parking of cycles.

Detail of the visitor cycle stands shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the approved details have been provided, and this cycle parking area shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours. The specified cycle parking area on the plans is not large enough to accommodate 14 cycle parking spaces. Therefore further details are required to ensure the adequate level of cycle parking can be accommodated within the ground floor of the proposed development.

Additional condition HWAY40 (Dilapidation Survey)

Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety and good management of the public highway the details of which must be recorded prior to the access to the site by any construction vehicle.



Reason: The proposed building is considered to be acceptable within the greenbelt and would not result in undue harm to the residential amenity of the occupants of the nearby dwellings. The proposed would be in character with the surrounding development.

**19. Proposed Self Storage Facility, Water Lane, York [17/03004/FULM]**

Officers advised that since the committee report had been prepared, a request had been received from the applicant to further amend the scheme to address the identified harm arising to the residential amenity of neighbouring properties, and they were therefore recommending that consideration of the proposal be deferred.

Resolved: That the application be deferred for consideration at a future committee meeting.

Reason: To enable the amendment to be formally submitted and considered at a future meeting.

**20. Burton Stone Community Centre, Evelyn Crescent, York, YO30 6DR [18/00082/GRG3]**

Members considered a General Regulations (Reg3) application by City of York Council for the extension of an existing care facility to provide 29 apartments and 4 bungalows with associated communal facilities and a new multi use community facility following demolition of the existing community centre.

Officers provided clarification as part of their update to Members, on relevant policy issues, namely Policies HW1 (Protecting Existing Facilities) and HW3 (Built Sport Facilities) and the effect of these when considering the proposals.

They reported on further consultation responses received, advising that Design, Conservation and Sustainable Development(Ecology) had confirmed they had no objections to the proposal. Highway Network Management had also raised no objections to the proposal subject to a condition being included in relation to highway works.

Officers updated members on the outcome of the bat survey, which confirmed that there were no bats on site. Officers also informed members that there had been objections raised due to the loss of the gymnasium associated with the pre-WWII movement to improve physical health. Highways and Network management had suggested a traffic regulation order for the opposite street.

Alistair Mitchell, spoke on behalf of SPA Architects in support of the application. He explained that there was a lack of extra care services in the north of the city and that the extension was part of a wider CYC strategy to delay or even prevent elderly residents from entering the nursing / care home system. He explained that investigations had been made into keeping the gymnasium however the building was not fit for purpose and was expensive to run.

Members expressed concern at the loss of the historic gymnasium and questioned whether sufficient efforts had been made to retain the gymnasium. It was agreed that, subject to approval, a condition be added to ensure that the gymnasium building and its history were properly recorded. Members acknowledged, however, the need for extra care facilities in York which this proposal would provide.

Resolved: That the application be approved subject to the conditions listed in the report, the additional condition detailed below in relation to highway works and a condition to ensure that a historic record of the gymnasium building was kept:

Additional Condition

The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same

Heavy duty dropped crossovers to car park areas,  
removal and reinstatement for redundant crossings

installation of 2 new pairs of tactile crossing shown indicatively on site plan. Resurfacing of footway to full frontage of development to avoid patched appearance.

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

Reason: Concerns have previously been expressed in terms of the design and drainage layout of the scheme together with the loss of the existing gymnasium building. The design and drainage layout of the scheme has subsequently been amended and on balance are felt to be acceptable. At the same time a justification for removal of the gymnasium building outlining the substantial technical implications for the scheme of designing around the basement have been submitted. This is again felt on balance to be acceptable.

Councillor J Galvin, Chair

[The meeting started at 4.30 pm and finished at 7.00 pm].

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Meeting	Area Planning Sub-Committee
Date	9 August 2018
Present	Councillors Galvin (Chair), Cannon, Crawshaw, Dew, Flinders, Hunter, Mercer, Looker, Richardson (Substitute), Reid (Substitute) and D Taylor (Substitute)
Apologies	Councillors Shepherd, Craghill, Fenton and Gillies

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## **21. Declarations of Interest**

Members were invited to declare, at this point in the meeting, any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in the business on the agenda.

Cllr Richardson declared a prejudicial interest in agenda item 3b (Quickslide Windows Direct) as a close friend is an employee of Quickslide Windows.

Cllr Flinders declared a prejudicial interest in agenda item 3d (Land to the West of 1 Rose Avenue) due to his employment by Network Rail and the potential future use of this site for railway purposes.

## **22. Public Participation**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

## **23. Plans List**

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

**2a) Proposed Self Storage Facility, Water Lane, York  
[17/03027/FULM]**

Members considered a full application from MJ McCarthy Holdings Ltd for the erection of a self storage facility, with associated access and landscaping.

Officers updated the committee with additional representations from residents and one of the local Ward Councillors on the following issues:

- Height of the building
- Design
- Scale and massing
- Appropriateness of the building in surrounding area
- Loss of light to residential houses
- Traffic and Noise concerns

It was also noted that there had been a petition submitted with 104 signatures.

Darryl Smalley, on behalf of the Rawcliffe and Clifton Without Liberal Democrats, spoke in objection to the proposal. He highlighted to the committee that the Liberal Democrats had received a number of objections to the proposal. Mr Smalley stated that residents believed this proposal had an unacceptable impact on the community. It was pointed out that there was no compelling evidence for why a self storage facility was needed in this area of York.

Catherine Allan, a local resident, also spoke in objection to the application. Ms Allen stated that the proposed building was unusually large and undermined the principles of the DCLP and Government Planning Policy. It was also noted that the proposed landscaping could not hide the size and impact of this building on the neighbouring residential properties.

Andrew Stanley, a local resident, then spoke in objection to the application. Mr Stanley highlighted to the committee that the building was the definition of 'overbearing' at almost twice the height of the supermarket and housing surrounding it. It was noted that the local residents had no objection to the site being developed for commercial use, but that this particular development would reduce privacy and exacerbate already

existing noise and traffic concerns and would fundamentally change the area.

Bryony Jepson, a local resident, spoke against the application. Ms Jepson informed the committee that there were a number of sites in York that would be better suited to such a development and that it was at an entirely disproportionate scale to its surroundings.

Cllr Stuart Rawlings, ward Councillor for Rawcliffe and Clifton Without, then spoke in objection to the application. Cllr Rawlings highlighted three main planning concerns on which this application should be refused:

- 1) Loss of amenity due to size and proximity of housing
- 2) Traffic congestion
- 3) Impact on the street scene

Cllr Rawlings concluded that there was a strong sense of feeling against the application in the local community and that the amendments made by the applicant had not gone far enough.

Matthew Turnbull, agent for the applicant, spoke in support of the application. Mr Turnbull gave an overview of the application and stated that the applicant had not received any objections from statutory consultees. He stated that there would be minimal noise implications and that the parking provided on site was enough to ensure no worsening of the local traffic and parking issues.

Mr Joe Nassan, project manager for the applicant, also spoke in support of the application. Mr Nassan pointed out that all the changes that had been made to the proposed development were as a result of consultation with the Council. He stated that there would be very minimal traffic or noise implications due to the typical behaviour of self storage users. Mr Nassan also pointed out that the purchase of the site had only progressed due to positive conversations held with Council officers.

Mike McCarthy, the applicant, also spoke in support of the application. Mr McCarthy stated that his company ran a number of sites similar to this including in Leeds and Harrogate. At these sites, Mr McCarthy informed the committee that the company had positive relationships with their neighbours and once operational, disruption to the local community would be minimal

as a majority of self storage users, accessed their units less than once a month.

It was also highlighted to the committee that the proposed development would employ six members of staff and hold approximately 450-500 'units' for storage.

During the debate members questioned whether residents' houses would be overshadowed and whether residents in these houses would experience a loss of light. It was confirmed by officers that houses would potentially have some overshadowing of their gardens as a result of the development.

Members highlighted their concerns with the application, encompassing all of the arguments made by residents but in particular, the buildings size and overbearing nature on its immediate residential neighbours.

Therefore, it was:

Resolved: That the application be refused

Reason: The development by virtue of creating a large, high visually undifferentiated building mass in close proximity to the boundary with residential development would create conditions seriously prejudicial to the residential amenity of the neighbouring properties contrary to the requirements of paragraph 127 f) of the NPPF "Core Planning Principles , Policy GP1 of the York Development Control Local Plan (2005) and Policy D1 of the Publication Draft City of York Local Plan (2018) (as amended).

**24. Quickslide Windows Direct,1 Redeness Street, York, YO31 7UU [17/03027/FULM]**

Cllr Richardson left the room, following the declaration of a prejudicial interest in the item.

Members considered a full application for the erection of 32 apartments with associated car parking, landscaping, cycle and bin storage.

Janet O'Neill, a resident, spoke in objection to the proposal. This was based on the grounds that the site was important for the location of local businesses. Ms O'Neill stated that small retail properties are becoming harder to come by and that small



business cannot compete with residential prices. Ms O'Neill also noted that if this application was successful, it would have a domino effect on the area.

David Ramsden, architect for the applicant, spoke in support of the proposal. Mr Ramsden outlined the scheme and pre-application discussions with officers before taking questions from members.

Members were interested in whether the applicant would be amenable to increasing the number of electric car charging points and visitor cycle storage stands, the applicant was very open to this.

During the debate, members discussed the significance of this application's failure to meet the 20% affordable housing quota. It was noted by more than one member that if the Council was serious about providing affordable housing in new developments, then developers must be challenged to meet the target. Members highlighted that it had been too easy in this scenario for the applicant to bypass the affordable housing scheme by increasing their costs.

Therefore, it was:

Resolved: That the application be approved subject to:

- i) the listed conditions in the report
- ii) prior completion of S106 agreement to provide a contribution of £11,928 towards off-site sports provision in the city (index-linked) and the provision of affordable housing. Delegated authority to be given to the Assistant Director (Planning and Public Protection) to negotiate a commuted sum in lieu of the on site provision of affordable housing, calculated as open market value minus transfer price.
- iii) Additional provision of visitor cycle storage and the maximised number of electric vehicle charging points to be negotiated and agreed by the Chair and officers.

Reason: The site is previously developed land and the loss of the retail use is unlikely to adversely impact on the vitality and viability of the city centre. The development of the site would support housing growth within proximity to a range of facilities

and jobs, together with the supply of affordable housing. It is not considered that the element of harm to existing amenities of neighbouring occupiers is so great as to outweigh the benefits of the development. The development is in a sustainable location which will enable those living there to walk to work, shops and other facilities. There are regular local and regional bus services in close proximity. It is not considered that the objections raised outweigh the benefits of the delivery of housing on previously developed land in a sustainable location.

**25. Grove House, 40-48 Penleys Grove Street, York, YO31 7PN  
[18/00337/FULM]**

Members considered a full application from Mr Rufus Salter for the variation of condition 2 of a permitted application (conversion part demolition and alteration of former care home to provide 32 apartments) from November 2017.

In the officer update, an amendment to the report was noted – should have read York Rugby Football Club (RFC) not Heworth RFC.

Janet O'Neill, agent for the applicant, spoke in support of the scheme. Ms O'Neill outlined the scheme, clarified distances to nearby properties and the reason for external paths.

During the debate, members expressed concern at the omission of a lift from the plans and due to the site's proximity to a conservation area, an additional condition to maintain the landscaping in perpetuity was discussed and agreed.

Therefore, it was:

Resolved: That approval be granted prior to the conditions listed in the report and;

- i) The additional condition to maintain the landscape in perpetuity

Reason: It is considered that the proposed scheme represents only minor amendments beyond the approved scheme and that the increase in height will not result in any significant impact on the neighbouring residential amenity. Great weight has been given to conservation of the designated heritage asset in accordance with paragraph 193 of the NPPF. The harm

identified is less than substantial and is not materially different to that identified in the approved scheme, and it is considered that the public benefits of the delivery of residential development, in a sustainable location, outweigh that harm.

**26. Land to The West Of 1 Rose Avenue, Nether Poppleton, York [18/00201/FULM]**

Cllr Flinders left the debate at this point, after having declared a prejudicial interest in the item.

Members were presented with a full application for the erection of 3 buildings for light industrial, general industrial or storage and distribution uses on sites west of 1 Rose Avenue and north of Evans Business Centre, Rose Avenue.

During the debate, members discussed the lands potential use as a rail 'halt'. Members felt as though using this land for industrial purposes without further discussion regarding the potential for a rail halt would be an error.

It was therefore:

Resolved: That the item be deferred

Reason: Members suggested that this item be deferred so that a conversation could take place with the applicant to discuss the potential removal of the land reserved for a rail 'halt' from the proposed plans.

**27. St Joseph's Convent Of Poor Clare Collentines, Lawrence Street, York, YO10 3EB [18/00638/FULM]**

Members considered a full application for the conversion, alteration and part demolition of existing buildings (the lodge and extern house) to provide 10 apartments and erection of 4 dwellings.

Officers updated the committee on a change in recommendation. Officers noted that the scheme was now recommended for approval subject to Section 106 agreement and extra conditions relating to a dilapidation survey and highways works.

Some members used this point in the meeting to make a more global point around maximising electric vehicle charging points and cycle storage. It was noted that this is asked for by members in almost every application and could be dealt with earlier by a change in approach.

Katherine Jukes, agent for the applicant, spoke in support of the application. Ms Jukes explained the history of applications on this site and mentioned her client's strong background in converting historical buildings for modern use.

Members expressed disappointment with the loss of the Lodge and Extern House but were pleased to see this site used for a new purpose. The reputation and quality of projects delivered by this developer were also noted.

Members questioned why the potential S106 money outlined for open space was not taken up. Officers explained the reasoning and it was recommended that further discussion take place with regard to consultation responses for open space.

Therefore, it was:

Resolved: That approval be granted subject to conditions listed in the report.

Reason: Whilst the alterations to listed buildings have been identified as causing a low level of harm ('less than substantial' in NPPF terms) the public benefits of bringing the buildings back into viable use, which is in principle consistent with the conservation, outweighs this harm. The scheme would have no further impact on the visual amenity and subject to conditions there would be no undue harm considering amenity, impact on heritage assets and highway safety. Approval is therefore recommended.

**28. St Joseph's Convent Of Poor Clare Collentines, Lawrence Street, York, YO10 3EB [18/00639/LBC]**

Members considered an application for Listed Building Consent for St. Joseph's Convent of Poor Clare Collentines.

Therefore it was:

Resolved: That consent be granted.

Reason: The buildings subject to this application have been vacant since 2013 and are in need of new use. Although less than substantial harm has been identified as a consequence of the internal changes to the plan form and addition of roof lights, this harm is justified to enable bringing the buildings back into use. As such to grant consent for the works would be consistent with guidance in the NPPF. Special regard to the desirability of preserving the building and features of special architectural or historical interest which it possesses has been undertaken as required by the Act. The harm is justified on the basis that the changes are required to enable re-use of the building. In addition a sympathetic approach has been utilised which leaves evidence where required of the historic layout.

**29. Wall To Wall Ltd, 71 East Parade, York, YO31 7YB  
[18/00933/FUL]**

Members considered a full application for the conversion and extension of existing single storey building to 1 dwelling with associated parking, cycle and refuse storage. The recommendation asked for Delegated Authority to Approve as the consultation would finish one day after the meeting.

Members asked officers for an update on an objection from a neighbouring property. Officers stated that the plans had been amended and whilst the objection hadn't been removed, the overhanging guttering has been changed and a resolution had been found.

It was therefore

Resolved: That Delegated Authority to Approve be granted

Reason: It is considered that the application accords with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, national planning guidance in the NPPF, policies D4 and D11 of the City of York Publication Draft Local Plan 2018 and policies GP4a, H4a and HE2 of the Draft Local Plan 2005.

**30. Orchard Cottage, 21 Water Lane, Dunnington, York, YO19  
5NP [18/00934/FUL]**

Members considered a full application for a single storey side extension, front porch and 2 ground floor bay windows to front.

This application was brought to committee as the applicant is the husband of a City of York Councillor.

Officers updated the committee on some revised heights for the plans.

During the debate, members discussed surface water disposal and the regularity of this as a potential issue. Members were also interested to whether this item had been brought to committee for any reason other than the applicant being related to a Councillor.

It was therefore

Resolved: That approval be granted.

Reason: for the reasons stated in the report, the development is considered acceptable, would preserve the character and appearance of the conservation area. With regards to neighbour amenity the development would not create any significant harm in terms of proximity, light or overlooking. For this reason, the proposal is considered to comply with the NPPF, Policy D11 and D4 of the Publication Draft Local Plan 2018, Policies GP1, HE3 and H7 of the 2005 City of York Draft Local Plan, the Dunnington Village design Statement and the Council's Supplementary Planning Document (December 2012).

, Chair

[The meeting started at 16.30 and finished at 19.20].

**COMMITTEE REPORT**

**Date:** 06 September 2018      **Ward:** Rural West York  
**Team:** Major and                      **Parish:** Nether Poppleton Parish  
Commercial Team                      Council

**Reference:** 18/00201/FULM  
**Application at:** Land To The West Of 1 Rose Avenue Nether Poppleton York  
**For:** Erection of 3no. buildings for light industrial, general industrial or storage and distribution uses (class B1c, B2 and B8) on sites west of 1 Rose Avenue and north of Evans Business Centre, Rose Avenue  
**By:** Mr Bottomley  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 15 May 2018  
**Recommendation:** Delegated Authority to Approve

**1.0 PROPOSAL**

1.1 This application was reported to sub-committee on 09 August 2018. Members voted to defer the application to request that Unit 1 be removed from the application in order to retain the potential site for a rail halt. Officers put this request to the agent and they confirmed that they would not remove Unit 1 from the application. As such the application remains as reported to sub-committee on 9 August.

1.2 Planning permission is sought for 4 no. industrial units within 3 buildings on two separate sites within the York Business Park.

1.3 Unit 1 would be sited to the south east of Rose Avenue. To the west of the site is a housing estate constructed in the 1980s/90s. A public footpath runs from the housing estate which halts at the boundary with this site. The footpath was constructed as there has been a long standing intention to provide a rail halt on the application site. The boundary with the housing estate is marked by fencing and a brick retaining wall. The railway borders the site to the south, whilst to the north and east of the site is the established York Business Park.

1.4 Units 2, 3, and 4 would be sited to the south of Great North Way. The 3 units would be provided within 2 no. buildings. The site is currently grassed with an earth bund around the site. As part of the development the land levels of this site would be reduced so they are level with Great North Way, from where access would be taken.

1.5 During the application process revised drawings have been submitted together with accurate topographic information. In addition, Counsel's opinion has been submitted on behalf of the applicant indicating that a legal agreement requiring

that part of the application site which was to be safeguarded to provide a rail halt has expired due to the lapse of time.

## RELEVANT PLANNING HISTORY

- 17/00830/FUL - Use of land for storage of up to 60 cars for a period of 5 years and erection of 2.1m boundary fence - Approved (Temporary Planning Permission) (Officer Note location of Unit 1)
- 06/01036/FUL - Non-compliance with condition (i) of the planning permission T/APP/C2741/A/99/1023645 (LPA Ref: 05/ 2181/FUL) for extension of time period for submission of reserved matters for development of York Business Park until 31.10.2013 - Approved
- 06/00518/FUL - Variation of condition 1 of planning permission 99/01777/OUT (for proposed mixed use development comprising cycle and car park to proposed rail halt, office/light industry/research and developments (B1), general industrial (B2) and storage or distribution (B8) uses) extend the time to the period for the submission of reserved matters application until 01.04.2013 - Approved
- 05/02181/FUL - Non-compliance with condition (i) of the planning permission T/APP/C2741/A/99/1023645 (LPA Ref: 02/02533/FUL) for extension of time period for submission of reserved matters - Approved
- 05/02148/REMM - Reserved matters application to which planning application 99/01777/OUT relates for proposed mixed use development comprising (B1), general industrial (B2) and storage or distribution (B8) uses at Plot 13 - Approved
- 02/02533/FUL - Non-compliance with condition (i) of the planning permission T/APP/C2741/A/99/1023645 (LPA Ref: 99/00238/OUT) for extension of time period for submission of reserved matters - Approved
- 99/01777/OUT - Proposed mixed use development comprising cycle and car park to proposed rail halt, business (B1), general industrial (B2) and storage or distribution (B8) uses - Approved
- 99/00238/OUT - Renewal of planning permission 6/116/164Q/OUT for a mixed business, commercial and industrial employment park - Approved
- 6/116/164Q/OUT (1996) - Outline application for mixed business, commercial and industrial employment park, land at Grid Ref. 457000/453900 Millfield Lane - Approved



- 6/116/164/OUT (1987) - Outline application for Business Park including new buildings for high technology use including industrial office warehousing and ancillary uses, land at Millfield Lane - Approved

## **2.0 POLICY CONTEXT**

2.1 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005:

- CYGP1 Design
- CYGP3 Planning against crime
- CYGP4A Sustainability
- CYGP6 Contaminated land
- CYGP9 Landscaping
- CGP15A Development and Flood Risk
- CYT4 Cycle parking standards
- CYT7C Access to Public Transport
- CYT8 Promotion of passenger rail services
- CYE3B Existing and Proposed Employment Sites

2.2 The Publication Draft York Local Plan 2018:

- DP2 Sustainable Development
- DP3 Sustainable Communities
- DP4 Approach to Development Management
- SS1 Delivering Sustainable Growth for York
- D1 Placemaking
- D2 Landscape and Setting
- ENV1 Air Quality
- ENV2 Managing Environmental Quality
- ENV3 Land Contamination
- ENV4 Flood Risk
- ENV5 Sustainable Drainage
- T1 Sustainable Access
- T2 Strategic Public Transport Improvements
- T6 Development at or Near Public Transport Corridors, Interchanges and Facilities
- T8 Demand Management

2.3 Please see the Appraisal Section (4.0) for national and local policy context.

## **3.0 CONSULTATIONS**

### **INTERNAL CONSULTATIONS/REPRESENTATIONS**

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### Highway Network Management

3.1 No objections. A segregated cycle path leading to this development from Severn Green would now be permanently redundant and misleading. HNM require the applicant to fund and complete highway works for the removal of the segregated cycle lanes, markings, and signs within Severn Green. *(Officer note - Officers have sought the agreement of a the applicant, as yet no response as been received)*

3.2 Seek conditions HWAY14 (details of accesses required), HWAY 36 (servicing of site).

### Design, Conservation and Sustainable Development (Landscape Architect)

3.3 No comments received

### Design, Conservation and Sustainable Development (Ecology Officer)

3.4 No objection, Units 2, 3 and 4 are planned on a raised area of managed amenity grassland which is considered to have very low ecological value. Unit 1 is planned on an unmanaged area of grassland, trees and scrub (bramble, willow species and silver birch) adjacent to the railway line and comments are focused on this area.

3.5 None of the trees on site are suitable for roosting bats although the trees and scrub as a whole group would provide suitable foraging habitat, likely to be of low value. The vegetation is suitable for nesting birds. A nearby pond (on Great North Way) is known to support a population of great crested newts however there is little habitat connectivity between the site and the pond and therefore it is considered that they will not be impacted. It is indicated in the proposals that trees along the boundary of Unit 1 will be retained and additional tree planting undertaken. An appropriate planning condition should be used to secure a landscaping scheme.

3.6 Overall the scheme is unlikely to result in a significant impact on biodiversity.

### Flood Risk Management Team

3.7 Object to the proposed surface water discharge rate of 5 l/sec, would remove objection if as per CYC Flood Risk and Drainage Design Requirements the surface water discharge rate was no greater than 2 l/sec.

3.8 The submitted Flood Risk Assessment and Drainage Report does not provide evidence that soakaways do not work in this location therefore infiltration testing should be carried out to discount their use.

### Public Protection

3.9 Unit 1 is directly adjacent to residential dwellings on Severn Green and request the following conditions in order to protect the amenity of these nearby residential dwellings:

- Details of machinery and extraction equipment;
- Restriction of hours of work;
- Restriction of hours of deliveries and despatch;
- Restriction of the hours of waste removal;
- Details of illumination;
- Noise management plan if outside area is to be used for storage

3.10 Unit 2 is further away from the residents at Severn Green (approximately 40 metres), therefore request following conditions:

- Details of machinery and extraction equipment;
- Hours of work

3.11 Units 3 and 4 are further still from Severn Green, which are protected by other buildings that would act as natural barriers. There are, however, a number of offices in the area and request the following conditions in order to protect the amenity of the office users:

- Details of machinery and extraction equipment.

3.12 Request standard demolition and construction informative be attached.

### Planning and Environmental Management

3.13 This application is for class B1c, B2 and B8 uses and therefore this application would not result in the loss of employment land at York Business Park.

3.14 The application site in relation to Unit 1 on Rose Avenue is on land shown as Land Safeguarded for Potential Future Transport Schemes in the Local Plan Publication (draft) February 2018 (Regulation 19 Consultation), Policies Map (North). This safeguarding is in accord with Policy T2: Strategic Public Transport Improvements criterion (vi) and the council's aspirations for a potential new rail halt.

3.15 The background to emerging Local Plan Policy T2 iv) and the evidence base (i.e. the Policies Map (North)) dating back to when reports investigating the potential for a station in this location were commissioned over 20 years ago indicating where a new station (rail halt) could be located and that there was a commercial case for a new station at York Business Park, provided that a developer contributes 50% to the capital costs of the new station. The Council has not yet been able to secure developer funding for the station and is, therefore, not included in the Local Plan Infrastructure Delivery Plan, as there is, currently, no reasonable prospect of funding being secured for its delivery, but it does still remain an aspiration for the Council to

provide more sustainable access to York Business Park and the proposed residential allocations (Site ST1 and Site ST2). A recent report entitled 'New Railway Stations in North and West Yorkshire, Feasibility Study Final Report, 2014 (ARUP) commissioned by the West Yorkshire Combined Authority offers some optimism for this aspiration to be realised, in that although it states that 'The assessment suggests that based upon the current situation[...][it][...]would [not] generate enough trip demand to make it sustainable' it also states that ' It is recommended that a new station at Acomb [York Business Park on York-Harrogate line] is linked to development and potential upgrade of Harrogate line.' This anticipates the nearby British Sugar site (ST1) as potential location for over 1,200 dwellings creating a larger catchment for passengers, but does not take account of the additional catchment created by site ST2 (Civil Service Sports Ground) and any existing/additional office to residential conversions within York Business Park. The study concludes that it is recommended that these sites should be kept under review and considered in the future should any opportunities arise which might boost the trip demand potential.

3.16 The location of the station as indicated in the Polices Map (North) by that area shown hatched as 'Land Safeguarded for Potential Future Transport Schemes' is the optimal position for the station and there is minimal flexibility for the potential new station to be located elsewhere.

3.17 Allowing the development of Unit 1 would significantly reduce the opportunity of being able to serve York Business Park by rail and thus realise the Council's long term ambition to provide more sustainable access to York Business Park. However, this must be considered as part of the wider planning benefits of the proposal. The provision of a rail halt in this location is not considered to be commercially viable at this current time and on this basis it is not considered that a policy objection can be sustained.

#### Public Rights of Way

3.18 No comments

#### EXTERNAL CONSULTATIONS/REPRESENTATIONS

##### Nether Poppleton Parish Council

3.19 Object, would prevent the proposed railway halt. This proposed railway halt is set out in the transport policies of the 2005 Local Plan and in the emerging Local Plan (2018) as being an important for future transport needs. The construction of Unit 1 would prevent the proposed railway halt for the future.

#### Network Rail

3.20 No objection. Request method statements, lighting and landscaping through a condition. Request a condition to require that method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works shall be submitted to the Network Rail Asset Protection Project Manager. The conditions are requested on the grounds of safety, operational needs and integrity of the railway. For the other matters request the applicant is advised by informative.

#### Yorkshire Water

3.21 No objections

#### Ainsty Internal Drainage Board

3.22 Request drainage scheme details via condition

#### Publicity and Neighbour Notification

3.23 Two representations of objection

The quantity of the proposed parking spaces is very low and will result in the same issues seen elsewhere within the business park. Concerns for highway safety

No objection to the principle of the units

Proposed Unit 1 would be too close to the objectors dwelling and garden, resulting in loss of privacy

## **4.0 APPRAISAL**

### KEY ISSUES

- Planning policy
- Allocation for Future Transport infrastructure
- Design and landscape considerations
- Drainage
- Highways
- Impact to residential amenity
- Impact to neighbouring businesses

### PLANNING POLICY

4.1 The National Planning Policy Framework (NPPF) indicates a presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own

needs. Achieving sustainable development means that the planning system has three overarching objectives (economic, social, and environmental), which are interdependent and need to be pursued in mutually supportive ways. The NPPF sets out that they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

4.2 Paragraph 127 of the NPPF states that decisions should aim to ensure that development, amongst other things, will function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, be sympathetic to local character and history, including the surrounding built environment and landscape setting, and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks.

4.3 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 the site comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt (the application is not within the Green Belt) and the Upper Poppleton and Nether Poppleton Neighbourhood Plan, which came into effect from 19 July 2017.

#### DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.4 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 as revised in July 2018, although the weight that can be afforded to them is very limited.

4.5 The application site is allocated as employment in the Proposals Maps.

#### PUBLICATION DRAFT YORK LOCAL PLAN (2018)

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

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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 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

4.8 The site of Unit 1 is allocated as Land Safeguarded for Potential Future Transport Scheme in the Proposals Maps.

#### POPPLETON NEIGHBOURHOOD PLAN (2017)

4.9 Policy PNP7 of the Neighbourhood Plans states proposals for new business development on established business parks in the Plan Area will be supported where they provide car parking for staff and customers to City of York Council standards at the time of the determination of the applications.

4.10 The supporting text of the plans sets out the following: The experience of York Business Park trading estate, has shown that business and houses may not always be a good mix. It creates traffic congestion, road side parking and difficult egress onto the A1237 Ring Road at peak times (8.4). York Business Park is adjacent to a housing development Poppleton Park which has 200 houses. There is the potential to expand sections of this site either for further business premises or housing. The change of use to C2 residential land would be supported by the Parish Council if a suitable proposal came forward and was supported by the City of York Planning(8.8). As employment is the key function of this area, it should be noted that there exists at the present time a critical shortage of parking facilities for cars. There is no bus route round the Business Park so most employees of the 70 businesses arrive by car. Parking currently occurs on a daily basis parking on the cycle paths, pavements and fire roads and makes it difficult for traffic to enter and exit the site. Evidence would suggest that at the present time there is a shortage of around 100 car parking spaces (8.11). There is no reference in the Neighbourhood Plan to a rail halt in the business park.

#### POPPLETON VILLAGE DESIGN STATEMENT (2003)

4.11 The Poppleton Village Design Statement has a number of policies relevant to this application: Guidelines 11, 14, 16, 29.

#### ALLOCATION FOR FUTURE TRANSPORT INFRASTRUCTURE

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4.12 The application site was allocated as employment in the Proposals Maps of the Draft Local Plan (2005).

4.13 The site of unit 1 is allocated Land Safeguarded for Potential Future Transport Scheme in the Proposals Maps of the Publication Draft Local Plan 2018. This site has been allocated as a rail halt through the various stages of the Local Plan up until the publication draft where it has been revised to its current allocation. The site is the optimal position for the station and there is minimal flexibility for the potential new station to be located elsewhere.

4.14 Policy T2 'Strategic Public Transport Improvements' of the Publication Draft Local Plan 2018 states improvement of rail access and connectivity, including but not limited to new railway stations / halts for heavy or light rail services, and capacity improvements and other enhancements on rail lines running into or through York will be supported

4.15 The NPPF states that planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan: (a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, de-allocate a site which is undeveloped); and (b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

4.16 The Planning Policy team advise that the background to the allocation and emerging Local Plan Policy T2 dates back to reports investigating, over 20 years ago, where a new station (rail halt) could be located and that there was a commercial case for a new station at York Business Park, provided that a developer contributes 50% to the capital costs of the new station. Officers understand that the Council has not yet been able to secure developer funding for the rail halt and it is, therefore, not included in the Local Plan Infrastructure Delivery Plan, as there is currently no reasonable prospect of funding being secured for its delivery. However it does still remain an aspiration for the Council to provide more sustainable access to York Business Park and the proposed residential allocations (Site ST1 and Site ST2).

4.17 A recent report entitled 'New Railway Stations in North and West Yorkshire, Feasibility Study Final Report, (2014) commissioned by the West Yorkshire Combined Authority states that there would be both construction and operational issues with a station at York Business Park. It states that the York Business Park site *"would [not] generate enough trip demand to make it sustainable. Given the*



*business park location, the catchment has a low resident population which accounts for the low trip forecasts. However, a desktop assessment of the site and its use suggests that rail mode share would be expected to be low for the types of businesses at the business park and so trips attracted to the site (rather than originating from the site) would also be low."*

4.18 The report then goes onto say:

*"Although the current catchment population is low, the City of York SHLAA identifies the nearby British Sugar site as potential location for over 1,200 dwellings. This would boost catchment population within 800m of the station site by almost 3,000. If the Harrogate line was to benefit from enhanced levels of service (2tph to York), then the case for a station at Acomb [York Business Park] would be considerably stronger. It is recommended that a new station at Acomb [York Business Park] is linked to development and potential upgrade of Harrogate line."*

4.19 The study concludes that it is recommended that these sites should be kept under review and considered in the future should any opportunities arise which might boost the trip demand potential.

4.20 If permitted, the siting of Unit 1 would remove the opportunity of being able to serve York Business Park by rail and would also prevent the Council's long term ambition to provide more sustainable access to York Business Park. However the provision of a rail halt in this location is not considered to be commercially viable at this time and is considered to be aspirational rather than a realistic proposition, certainly in the short to medium term. There is also the additional issue of whether sufficient developer funding could be secured in order guarantee its delivery. The proposals for residential development at the British Sugar site, which if carried out have the potential to increase the viability of a future rail halt, do not make any provision for a financial contribution towards a future rail halt. Thus the deliverability of such a facility, in financial terms, is by no means secure.

## DESIGN AND LANDSCAPE CONSIDERATIONS

4.21 In order to accommodate Unit 1 the earth bund to the front of the site would be removed together with a number of trees. For the site of Units 2, 3, and 4 the levels would be reduced to a similar level as Great North Way which is adjacent to the site. The removal of bunds and the reduction in land levels are not considered to result in harm to the character of the area, as replacement landscaping would be sought by condition.

4.22 The design of the proposed buildings is considered to be in keeping with the surrounding business units. The proposed fencing has been moved further into both into the site to allow for sufficient landscaping to be provided. The soft landscaping boundaries are typical of this business park. Further details were also requested

regarding the type of fencing. The agent has been advised that palisade fencing would not be appropriate. Whilst there are some examples of this fencing within the business park, it is not considered to be successful. As yet there appears to be little justification for this type of fencing when there are other means of enclosure which are visually more appropriate and still provide security. It is considered necessary to condition a landscaping plan to ensure sufficient soft landscaping boundaries are secured.

4.23 It is considered that further details of the cladding could be sought via condition to ensure that it co-ordinates with the current muted colour palette of the surrounding units. In addition the details of any proposed external lighting should also be conditioned.

4.24 There is an existing mixture of unit sizes within the business park. The units are relatively small and would add to the variety of accommodation within the business park and the wider York Area.

## RESIDENTIAL AMENITY

4.25 The NPPF states planning policies and decisions should ensure that new development is appropriate for its location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts including noise, and limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

4.26 Unit 1 would be constructed close to the dwellings on Severn Green to the east. The proposed unit would be 8.4 metres in height and would be 4.4 metres from boundary and 15.6 metres from the rear elevation of 64 Severn Green. The proposed building by being to the southeast of 64 Severn Green would result in some overshadowing during the late morning hours to the garden area however it is not considered to be so severe as to warrant refusal. The overshadowing of the garden areas 62 and 60 Severn Green would be slight, much of the light in the early morning hours already being blocked by the existing neighbouring industrial buildings.

4.27 The relationship of Unit 1 to the neighbouring gardens and dwellings is not considered to be unduly overbearing. Whilst it will result in a slight change in the outlook from the dwellings in Severn Green it does not change the nature of the outlook, which is already characterised by industrial buildings.

4.28 However given the close proximity of Unit 1 to the adjacent dwellings it is considered necessary to condition details of machinery and extraction equipment,

hours of work, hours of deliveries and despatch, waste removal and external illumination. It is also considered prudent to control the outside storage of materials by condition, as this could otherwise take place adjacent to the boundary with the neighbouring dwellings resulting in harm to residential amenity.

4.29 Units 2, 3, and 4 are set further away from the residential dwellings as such would not result in loss of light and overshadowing. However Unit 2 is still relatively close to the dwellings (approx 38 metres) and as such it is considered necessary to condition the hours of work and details of machinery in order to protect residential amenity. Public Protection considers that Units 3 and 4 would require fewer restrictions as they are further away from the residential dwellings.

## IMPACT TO NEIGHBOURING BUSINESSES

4.30 The NPPF states that planning decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life. Policy GP1 of the Development Control Local Plan (2005) and ENV2 of the Publication Draft Local Plan (2018) require that there should be no undue adverse impact from noise disturbance.

4.31 Paragraph 182 of the NPPF is relevant. It states that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

4.32 A landscaped boundary has been retained together with some retaining walls between units 2, 3, and 4 and the units to the south. The neighbouring units all form part of the business park and within this area most of the units are within Class B uses. The proposed units are not considered to negatively impact on the neighbouring business uses and their operation.

## HIGHWAYS

4.33 The NPPF advises significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative

impacts on the road network would be severe

4.34 Planning decisions should ensure:

- appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

4.35 The business park is not served by public transport, the nearest bus route (no. 10) operating approximately every 30 minutes. The nearest bus stop is approximately 900 metres from the proposed development. However the wider area has already been developed as a business park without the provision and benefit of public transport. It is not considered that the refusal of the units on the grounds of lack of access to public transport would be defended at appeal given the surrounding development.

4.36 It is considered sufficient cycle parking and vehicle parking provision has been provided.

4.37 As a result of the proposed development a segregated cycle path leading to the site of proposed Unit 1 from Severn Green would now be permanently redundant. Highway Network Management have requested that the applicant fund and complete highway works for the removal of the segregated cycle lanes, markings, and signs within Severn Green. At the time of writing the report Officers were waiting for the agreement of the applicant to fund and complete highway works.

## AIR QUALITY

4.37 No facilities for the re-charging of electric vehicles have been incorporated. The requirement for electric vehicle recharging facilities is in line with guidance contained within the NPPF and the Councils low emission strategy. It is considered that they can be sought by condition.

## DRAINAGE

4.38 The NPPF requires that suitable drainage strategies are developed for sites so there is no increase in flood risk elsewhere. Policy GP15a of the Development Control Local Plan (2005) and Policy ENV5 of the Publication Draft Local Plan (2018) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced.

4.39 The proposed surface water runoff rate (5 l/sec), which would far exceed the CYC Flood Risk and Drainage Design Requirements of 2 l/sec. At the time of writing the applicant had been requested to revise their drainage design however no confirmation has been received. If the applicant agrees to 2 l/sec then a suitable drainage scheme can be sought via condition. Members will be updated on this issue at the committee meeting.

## 5.0 CONCLUSION

5.1 The proposed units are considered to be acceptable in this business park location and would not result in undue harm to the residential amenity of the occupants of the nearby dwellings subject to conditions. The proposed would be in character with the surrounding development. It is considered that there is no reasonable prospect of the rail halt coming forward on the site of Unit 1 in the short to medium term. Therefore, it is considered that subject to resolution of the outstanding issues that the proposed development can be recommended for approval.

5.2 It is recommended that the decision is delegated to officers to approve the following:

- the agreement of an acceptable surface water drainage disposal rate.
- the agreement of the applicant to fund and complete highway works for the removal of the segregated cycle lanes, markings, and signs within Severn Green
- any associated conditions required in respect of the aforementioned issues.

5.3 If these matters cannot be overcome in a positive manner the application will be returned to Committee for further consideration.

**6.0 RECOMMENDATION:** Delegated Authority to Approve to be given to the Assistant Director (Planning and Public Protection) to approve the proposal subject to agreement being reached in respect of surface water drainage, highway matters and any associated conditions that may be required in respect of these issues.

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:-

Drawing Number 1001 Revision B Proposed Levels' received 20 August 2018;  
Drawing Number 1001 Revision C 'Site Plan' received 20 August 2018;  
Drawing Number 1002 Revision A 'Unit 1 Plan & Elevations' received 20 August 2018;  
Drawing Number 1003 Revision A 'Unit 2 Plan & Elevations' received 20 August

2018;

Drawing Number 1004 Revision A 'Unit 3 & 4 Plan & Elevations' received 20 August 2018;

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 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation and shall be provided in accordance with the approved details before the development is occupied.

INFORMATIVE: Palisade fencing is unlikely to be acceptable

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties. Some of the proposed siting of fencing and gates shown on the plans are not acceptable, therefore further details and revisions to the siting are required to ensure acceptable development.

5 The development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of the area.

6 Details of all machinery, plant and equipment to be installed in or located on Units hereby permitted, which is audible outside of the site boundary when in use, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include maximum (L<sub>Amax</sub> (f)) and average sound levels (L<sub>Aeq</sub>), 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 agreement of the Local Planning Authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To Protect the amenity of nearby residents.

7 Details of any extraction plant or machinery and any filtration system required shall be submitted to and agreed in writing by the Local Planning Authority. This should also include details of the location in relation to the building, the make, model and its suitability for removing odours caused by any proposed use.

Reason: To Protect the amenity of nearby residents.

8 The hours of operation for Units 1 and 2 shall be restricted to the following hours:

Monday - Friday 08.00 hours to 18.00 hours

Saturday 09.00 hours to 13.00 hours

Sunday and Bank holidays - no work at all

Reason: To Protect the amenity of nearby residents.

9 Details of any scheme for illumination of all external areas of the site shall be submitted to and approved in writing by the Local Planning Authority prior to its installation and operation on the site.

Reason: To protect the amenity of the nearby residential properties and to prevent light pollution.

10 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.

11 HWAY18 Cycle parking details to be agreed

12 HWAY19 Car and cycle parking laid out

13 Prior to the commencement of the development hereby approved, details of surface water drainage including discharge rates shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in complete accordance with these approved details.

Reason: Further information is required so the Local Planning Authority may be satisfied with these details for the proper drainage of the site. The information is sought prior to commencement to ensure that drainage details are approved in advance of the carrying out of any groundworks on the site, which may compromise

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the implementation of an acceptable drainage solution for the development.

Informative: 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. 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 except 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 365 test.

If SuDs methods are proven to be unsuitable then in accordance with City of York Councils Strategic Flood Risk Assessment, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha connected impermeable areas). Storage volume calculations, 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 shall 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 shall be used for the above.

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

14 One electric vehicle recharge point shall be provided with the parking area for each unit (a total 4 no. electric vehicle recharge points). The recharge point should be installed prior to first occupation of the unit to which it relates. The location and specification of the recharge point shall be approved in writing with the Local Planning Authority prior to installation.

INFORMATIVE: The installation of a freestanding PAYG solution is recommended. Optionally, a suitable 'IEC 62196' electrical socket (minimum rated output of 3.7kw /16A) can be provided in addition to a standard 13A 3 pin socket to allow 'Mode 3' charging of an electric vehicle. Mode 3 charging, using a suitable cable and charging point, allows faster charging of electric vehicles. Further advice can be provided by City of York Council's Public Protection team on request. All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015)."

Reason: To promote the use of low emission vehicles on the site in accordance with

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the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 110 of the National Planning Policy Framework.

15 All deliveries and dispatch other than waste removal from the site for Unit 1 shall be restricted to the following hours:

Monday - Saturday 07.00hours to 19.00hours

No deliveries or dispatch on Sundays and Bank holidays

Reason: To Protect the amenity of nearby residents.

16. HWAY14 Accesses to be approved, details reqd

17. HWAY36 Servicing within sites, details reqd

## **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 additional information
- Request revised plans and drainage information
- Use of conditions

#### **2. YORKSHIRE WATER INFORMATIVE**

If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact Yorkshire Water Developer Services Team (tel 0345 120 84 82, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.

#### **3. INFORMATIVE: NESTING BIRDS**

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.

#### 4. DEMOLITION AND CONSTRUCTION INFORMATIVE

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

(i) 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.

(ii) 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".

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

(iv) 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.

(v) There shall be no bonfires on the site.

(vi) In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken and where remediation (clean-up) 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. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under

Part 2A of the Environmental Protection Act 1990.

## 5. NETWORK RAIL INFORMATIVE

**Drainage** - All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure.

**Fail Safe Use of Crane and Plant** - All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

**Excavations/Earthworks** - All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

**Security of Mutual Boundary** - Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

**Method Statements/Fail Safe/Possessions** - Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice

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period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

OPE - Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Vibro-impact Machinery - Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

Scaffolding - Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

ENCROACHMENT - The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Trees/Shrubs/Landscaping - Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. A comprehensive list of permitted tree species is available upon request.

Lighting - Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

Access to Railway - All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. In particular, the railway access point off Great North Way should remain clear and unobstructed at all times during the construction and subsequent operation of units 2-4 of the site north of Evans Business Centre.

The method statement will need to be agreed with:

Asset Protection Project Manager  
Network Rail (London North Eastern)  
Floor 3B  
George Stephenson House  
Toft Green  
York  
Y01 6JT

Email: [assetprotectionlneem@networkrail.co.uk](mailto:assetprotectionlneem@networkrail.co.uk)

#### 6. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Streetworks Special Permission - Steve Parry - [streetworks@york.gov.uk](mailto:streetworks@york.gov.uk)

#### 7. 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

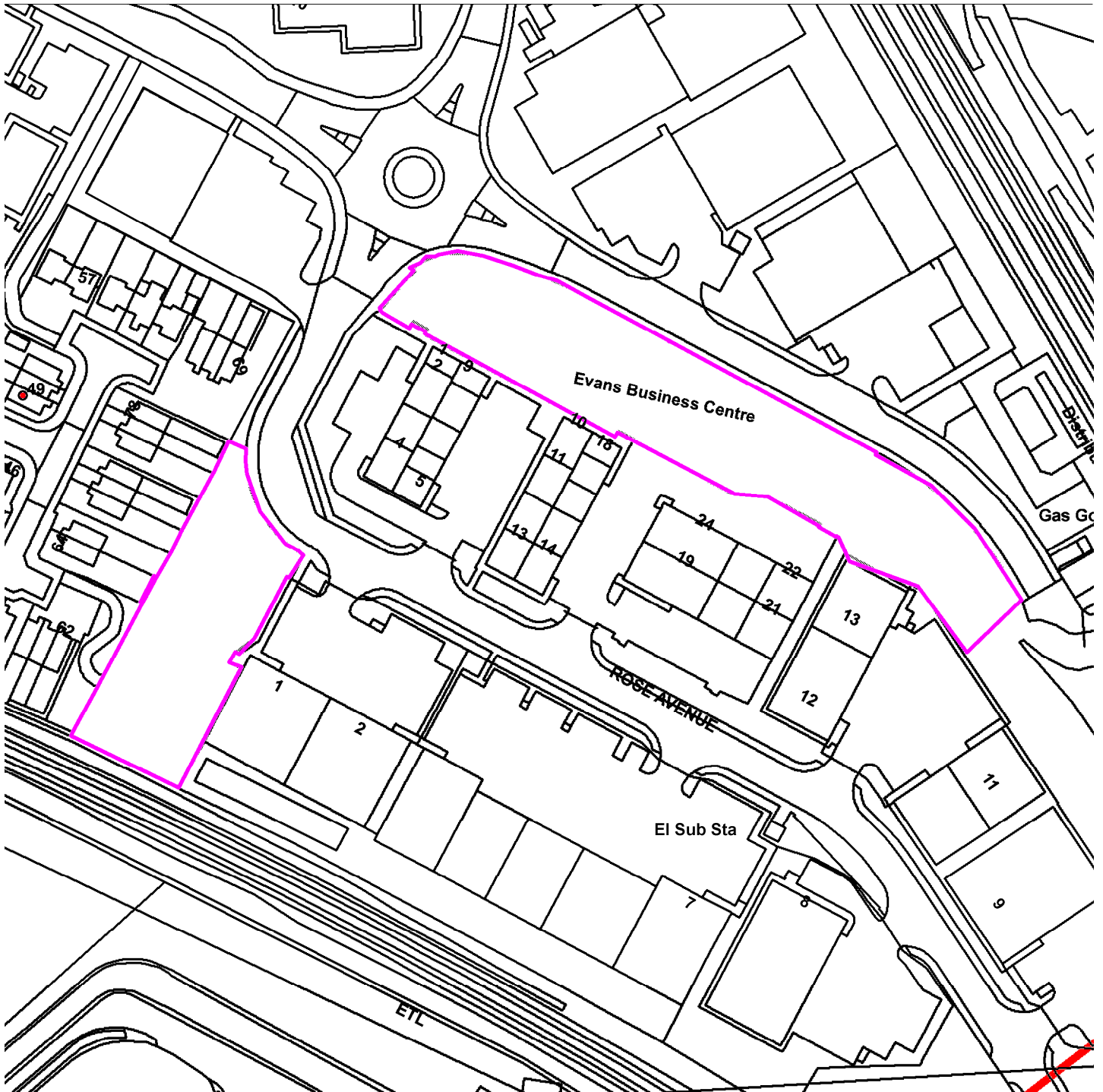
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# Land To The West Of 1 Rose Avenue Nether

Dunblaton  
18/00201/FULM



GIS by ESRI (UK)



Scale : 1:1392

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	28 August 2018
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 September 2018      **Ward:** Holgate  
**Team:** Major and                      **Parish:** Holgate Planning Panel  
Commercial Team

**Reference:** 18/00967/FULM  
**Application at:** Resource And Day Care Centre  
126 Acomb Road York YO24 4EY  
**For:** Conversion of offices into 9no. apartments (6no. 1 bedroom,  
3no. studios) to include replacement of rear two storey  
extension with four storey extension and roof conversion with  
dormers and erection 1no. two bedroom dwelling to rear with  
associated parking and cycle storage (resubmission)  
**By:** Mr Matt Newton  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 11 September 2018  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The proposal is for conversion of the existing offices in to a residential scheme over 5 floors including conversion of the basement and roof space. Two new dormers are proposed to the rear as well as a single dormer on the front. A four storey extension is to be constructed to the rear replacing the existing two storey extension. A new detached two storey dwelling is to be constructed to the rear of the site.

**SITE AND SURROUNDINGS**

1.2 The property was most recently in use as offices. It is a Victorian end terraced property but is not listed nor within a Conservation Area. The terraces are prominent buildings as a result of their scale and detailing. The side road leads to a cul-de-sac of more modern and modest dwellings from the 1950s. An access lane to the rear leads to the back of the terraces where a variety of ancillary buildings are visible.

**PLANNING HISTORY**

1.3 17/02872/ORC - Change of use of offices to 8 residential units - Withdrawn  
18/00048/FULM - Change of use to 9 flats including 4 storey rear extension, roof conversion and new two storey building to rear containing 2 flats.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams West Area 0004

### 2.2 Policies:

City of York Draft Local Plan Incorporating the 4th Set of Changes Development Control Local Plan (Approved April 2005)

GP1 Design

GP10 Subdivision of gardens and infill devt

T4 Cycle parking standards

H4A Housing Windfalls

Emerging Local Plan

D1 Placemaking

D11 Extensions and alterations to existing buildings

T1 Sustainable access

EC2 Loss of employment land

## **3.0 CONSULTATIONS**

### INTERNAL

#### Public protection

3.1 No objections subject to planning conditions.

#### Flood risk management

3.2 No response to the current application however no objections were received to the drainage strategy for the previous scheme on the basis that there was no increase in impermeable area. The same is true of the current application and the drainage strategy is the same as previously submitted.

#### Schools Contracts Officer

3.3 No S106 Education contribution required as development is below the minimum threshold.

Housing Strategy and Development

3.4 No affordable housing requirements. As the application was received prior to the Local Plan being submitted to the Secretary of State, the application is below the 15 unit threshold applicable at that time for urban sites.

Public Realm (Strategy and Contracts)

3.5 No open space contribution required.

Highways Network Management

3.6 No objections raised although lack of parking is noted. The development does not contravene CYC maximum parking standards or minimum parking standards. It is anticipated that parking demand will increase but CYC parking standards do not require a minimum number of off-street parking spaces. There are no parking restrictions beyond junction restrictions and residents will park on a first come first served basis. The NPPF states 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'. Although this scheme has the potential to impact on the existing parking to a certain extent, it is not considered that the impact of this development could be considered severe. Good quality cycle parking is proposed and the site is close to a wide range of facilities within walking distance and so the development has the potential to attract residents who will not require a car. Conditions recommended.

EXTERNAL

Ainsty Internal Drainage Board

3.7 No objection in principle, conditions are suggested.

Holgate Planning Panel

3.8 No objections to the proposal.

Neighbour notification and publicity

3.9 A local resident has made representations objecting to the proposal. The issues raised are:

Parking issues

Disruption during construction

**4.0 APPRAISAL**

KEY ISSUES:

4.1 Principle of the use

Loss of employment use

Design

Neighbour amenity

Highways considerations

## PLANNING POLICY

### Development Plan

4.2 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.

### Local Plan

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 as revised in July 2018, although the weight that can be afforded to them is very limited.

4.4 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).

The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

4.5 The revised National Planning Policy Framework was published on 24 July 2018 (NPPF) and its planning policies are material to the determination of planning applications. It is against the NPPF (as revised) that this proposal should principally be assessed.

## APPRAISAL

### Principle of the development

4.6 The proposed development is for a change of use from offices to residential with external alterations and extensions and the erection of a new two storey dwelling.

The site is within an area which is predominantly residential in character and which is in close proximity to Acomb town centre.

4.7 The NPPF requires that decisions should apply a presumption in favour of sustainable development unless (where there are no relevant development plan policies) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this instance, the proposal is considered to represent sustainable development in that it makes use of an existing building returning it to a use appropriate to the character of the area. The site lies in proximity to a good range of services and with good public transport links. For these reasons, it is considered to represent sustainable development.

#### Loss of employment use

4.8 The most recent use of the site was as offices and consulting rooms for the NHS. It has now been empty for a number of months. Policy EC2 of the emerging Local Plan seeks to prevent loss of land or buildings in current, or last in use, for employment uses. The loss of such use should be justified by demonstrating that the existing buildings are not viable and that the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period.

4.9 The Local Plan seeks to focus main town centre uses on the city centre. The existing mixed office/ clinic use of the site is considered to be a main town centre use however the site is outside the city centre and also outside the Acomb district centre. The building was clearly converted from a dwelling to its current use and as such is considered less likely to meet current requirements for office space. The accommodation is spread over 4 floors with level access only available to the ground floor. The size of the building further restricts the level of employment such that the employment loss would be minimal and is unlikely to impact on employment needs in the district.

4.10 A change of use from office to residential use can often be implemented under Class O of the GPDO. Although an application was submitted for this site seeking approval for such a change it was not possible because of the mixed use of the building. The change of use to housing is supported by the NPPF which requires that the supply of homes is significantly boosted(para.59). Taking this into account, and the restrictions on market attractiveness as a result of the size, layout and location of the building, it is considered that the proposal meets policy EC2 and the loss of the employment site is acceptable.

#### Design

4.11 The proposed four storey rear extension replaces an existing two storey extension. The projection of this proposed extension is approximately 5.5m which is

approximately 0.5m more than the existing extension. The roof of the existing building will extend down over the extension tying it to the host building. The design of this extension is similar to that on No.128 Acomb Road to the other side of Braeside Gardens.

4.12 The proposed dormer windows echo those on other properties on Acomb Road. They are small with pitched roofs and a set back from the eaves. As such the front dormer is unlikely to be prominent in the streetscene and does not over-dominate the existing roof form.

4.13 The new dwelling to the rear is in the form of an ancillary building. It is a two storey building but with the first floor sitting partly within the roof and a dormer window facing Braeside Gardens. An attractive gable faces towards the junction with Acomb Road. The scale of this gable end is relatively modest and will not dominate views down Braeside Gardens. The scale of the proposed dwelling also compares favourably with that of the property on the opposite side of Braeside Gardens. This unit faces up Braeside Garden with a gable facing the highway and is a more imposing building which sits across the full width of the garden.

4.14 The replacement of the high boundary wall helps to ensure that the proposed dwelling retains the character of an ancillary mews-type building. The lack of a street presence for the property and minimal windows facing on to Braeside Gardens helps to reinforce this character. Larger windows are situated in the gable ends of the building and will be less prominent in the streetscene.

4.14 The existing wall boundary treatment will be retained and extended further along Braeside Gardens giving additional screening to the new dwelling which is set back approximately 1.2m behind the boundary wall. While the new dwelling is relatively long, the feeling of space to the rear of the frontage dwellings will be retained and views across the rear gardens will not be significantly harmed. It is considered that the proposed new dwelling does therefore fit with the grain of development in this area and will not harm the visual amenity of the area.

4.15 Policy D11 of the emerging Local Plan relates to extension and alterations to existing buildings. This requires that proposals respond positively to immediate architectural context and local character and contribute positively to the setting and wider townscape. The proposal has been assessed against this and is considered to result in a positive addition to the streetscene which picks up on local character while introducing new and appropriate additions to the locality.

#### Neighbour amenity

4.16 Para.127 of the NPPF requires that development should create places which promote a high standard of amenity for existing and futures users. The proposal converts the existing four storey building in to 9 apartments (Six one bedroom flats

and 3 studios) with new accommodation within the roof space. The single flat within the roofspace is served by the proposed dormer windows while other floors are converted in to two flats each with windows predominantly to a single aspect. The flats within the lower ground floor are served by windows within large lightwells. The garden will be stepped back at the front to further expose the basement windows while to the rear basement windows look on to a small yard area. Windows are large and internal ceiling heights are good, as is typical with a Victorian property, and this adds to the feeling of space and light within the building.

4.17 The flats are relatively modest in size. The one bedroom flats vary between 42m<sup>2</sup> and 48m<sup>2</sup> in floor area while the studio flats are between 30m<sup>2</sup> and 34m<sup>2</sup>. While these floor areas are not large, the internal spaces are functional and will receive good levels of natural light helping to improve amenity for future residents. The Government has produced a National Space Standard indicating recommended floor areas but a Ministerial Statement (25<sup>th</sup> March 2015) states that decision takers should only require compliance with these national technical standards where there is a relevant current Local Plan policy. City of York Council has not proposed any locally determined standards in the emerging Local Plan.

4.18 An area of usable external space has been provided to improve amenity for residents. While the lower ground floor flats have private external space within the light wells, residents will also have access to a landscaped area to the rear of the property thereby improving amenity for all residents.

4.19 No significant overlooking is anticipated to neighbouring residents as a result of the proposed extension and dormer windows. The extension has windows looking to the rear and across Braeside Gardens. Distances from the windows looking on to Braeside Garden to the site boundary of No.128 are approximately 10m. This mimics the situation from No.128 towards the site. Distances are such that there is not considered to be any significant loss of amenity to neighbours through overlooking.

4.20 The new dwelling has windows in both gable ends and facing on to the highway. Windows in the South elevation of the new dwelling are between 11m and 13m from the windows in the North elevation of the host property. The ground floor patio windows will be screened by boundary treatments while other windows serve bedrooms and distances are considered to be acceptable.

4.21 The proposed extension has the potential to result in some loss of amenity to No.124 Acomb Road. This property is currently in office use. The extension projects approximately 5.5m at lower ground and ground floor levels but is cut back to approximately 4.0m at first and second floor. No.124 has a small projection of approximately 1.0m behind the main rear elevations of the properties further reducing the impact of the proposed extension. Within the rear elevation of the adjoining property are windows serving a bathroom and storage area and it is not

considered that the proposed extension will impact on amenity within these rooms. The orientation of the properties means that there will be some increase in overshadowing later in the day however rear gardens will already be overshadowed by the existing buildings and rear projection on the building.

4.22 The scale of the new detached dwelling is relatively modest. The rear elevation backing on to the neighbouring site is approximately 4.5m in height to the eaves with a ridge height of 8.5m. The rear of the neighbouring site is used as a parking area and it is not considered the new building will reduce amenity to the neighbouring site as a result of any over-bearing impact. Again, there will be some increase in overshadowing but this will be across the rear of the adjoining site which comprises of a parking area and outside space serving the office use within the building and is not considered to significantly impact on neighbouring amenity. Policy D1 of the emerging Local Plan requires that design considers residential amenity so that residents are not unduly affected by noise, overlooking or overshadowing. The proposal is considered to meet this policy.

#### Highways considerations

4.23 The proposal provides one off-road parking space for the new two bedroom dwelling. No parking is proposed for the 1 bed flats and studios within the main building. This provision is in line with that for the conversion of No.128 Acomb Road (16/00680/FULM). This provided 4no. 2 bed flats (each with a parking space) and 6no. 1 bed flats (with no parking provision). To achieve this parking provision the boundary wall along Braeside Gardens has been partially removed which has had an impact on the streetscene.

4.24 Unlike the application at No.128 Acomb Road there has not been significant local concern raised about parking on Braeside Gardens. Officers note that the site is in a sustainable location close to the district centre and with good public transport links to the city centre. The width of the carriageway on Braeside Gardens is approximately 4m which can result in cars parking on the footway. Double yellow lines at the junction with Acomb Road restrict parking to improve visibility at the junction while parking on Acomb Road is largely unrestricted. It is considered that the restricted width of Braeside Gardens and need to leave access to the parking area for No.128 will restrict on-street parking in this location. No issues are raised about additional on-street parking on Acomb Road where parking is not controlled.

4.25 It is noted that additional parking could be provided in exchange for the loss of the external amenity space. This would however result in the loss of the boundary wall, which is considered important for visual amenity, and the external space which has been provided to improve residents' amenity.

4.26 Cycle parking is to be provided within a secure lockable shelter in the yard where one space will be provided for each flat. Cycle parking is also provided for the



new dwelling along with adequate bin storage for all properties. The proposal is considered to meet the requirements of policy T1 in terms of cycle storage provision.

## 5.0 CONCLUSION

5.1 The proposal is recommended for approval as it represents sustainable development for which the NPPF (para.11) recommends that there should be a presumption in favour of approval unless adverse impacts would outweigh the benefits. While some harm has been identified as a result of a small loss of amenity to neighbouring properties through over-dominance and overshadowing; and the impact on residential amenity from the slightly restricted floorspace available; these issues are not considered sufficient to outweigh the policy presumption in favour of this application to provide additional housing within a sustainable location. The proposal complies with policies D1, D11, T1 and EC2 of the emerging Local Plan.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

- 1 TIME2 Development start within three years
- 2 Approved plans and other submitted details
- 3 VISQ7 Sample panel ext materials to be approv
- 4 Prior to occupation, each dedicated off street parking space shall incorporate a suitably rated electrical socket to allow 'Mode 2' charging of an electric vehicle using a standard 13A 3 pin socket and a 3m length cable.

Reason: To provide facilities for charging electric vehicles in line with the NPPF and CYC's Low Emission Strategy.

Notes: Optionally, a suitable 'IEC 62196' electrical socket (minimum<sup>2</sup> rated output of 3.7kw /16A) can be provided in addition to the standard 13A 3 pin socket to allow 'Mode 3' charging of an electric vehicle. Mode 3 charging, using a suitable cable and charging point, allows faster charging of electric vehicles. Further advice can be provided by City of York Council's Public Protection team on request.

All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015).

- 5 LC4 Land contamination - unexpected contam

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6 All construction and demolition 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

7 Prior to the commencement of construction, details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

8 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B and E of Schedule 2 Part 1 of that Order shall not be erected or constructed on the dwelling house hereby approved to the rear of 126 Acomb Road.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

9 VISQ4 - Boundary details to be supplied

10 HWAY17 - Removal of redundant crossing

## **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

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achieve a positive outcome:

Requested revisions to address concerns about residential amenity and design.

2. 1. 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".

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

3. All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

4. There shall be no bonfires on the site.

**Contact details:**

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

**Tel No:** 01904 555730

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# Resource And Day Care Centre 126 Acomb Road

18/00967/FULM



GIS by ESRI (UK)



Scale : 1:1127

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	28 August 2018
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 September 2018      **Ward:** Fishergate  
**Team:** Major and                      **Parish:** Fishergate Planning  
Commercial Team                      Panel

**Reference:** 18/01381/FUL  
**Application at:** 115 Fulford Road York YO10 4ET  
**For:** Erection of dormer bungalow with cycle/refuse store and air  
source heat pump (resubmission)  
**By:** Mr & Mrs Breene  
**Application Type:** Full Application  
**Target Date:** 11 September 2018  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application seeks permission for the erection of a three bedroom detached bungalow within the rear garden of 115 Fulford Road. The dwelling would sit to the rear of the site with it's main aspect facing the rear of 115 Fulford Road. The dwelling would provide living accommodation to the ground floor with a third bedroom located within the roof space. Access would be from a narrow drive off Kilburn Road.

1.2 The application is the resubmission of a previous scheme which was refused at Area Sub Committee on 7th June 2018 for the following reason:

'The proposal is considered to be an overdevelopment of a backland site which because of its plot coverage and massing would be out of character with the established pattern of development and would have an overbearing impact that would be harmful to the living conditions of neighbouring residential properties.

The proposal is considered to be contrary to policy D1 of the Publication Draft Local Plan 2018 which states that development proposals should demonstrate that the resultant density will be appropriate for its neighbouring context and that the proposal does not dominate other buildings. The proposal would also be contrary to the National Planning Policy Framework 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 (paragraph 17) and 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 (paragraph 64).'

1.3 The main alterations are as follows:

- Length reduced to the boundary with 113b Fulford Road from 15.2m to 11.9m with a small 2.5m flat roof cycle store proposed in place of the previously proposed garage
- Gable end retained at 5.2m
- Ridge reduced from 5.2m to 4m
- Inset from the boundary with 7 Kilburn Road by an additional 0.8m increasing the distance to 1.8m

## RELEVANT SITE HISTORY

00/02106/FUL Erection of detached bungalow with access from Kilburn Road  
Approved 09.10.2000

05/00500/FUL Renewal of planning permission 00/02106/FUL for erection of detached bungalow with access from Kilburn Road Approved 04.05.2005

10/00798/FUL Erection of dwelling (Application to extend time period for implementation of permission 05/00500/FUL) Approved 18.06.2010

## CALL-IN

1.4 The application has been brought to committee at the request of Cllr A D'Agorne on the grounds that the site is of an insufficient size, the dwelling would dominate the outlook from neighbouring properties and that there is uncertainty about the ownership of the access

## 2.0 POLICY CONTEXT

### 2.1 Publication Draft Local Plan (2018)

Policy D2	Landscape and setting
Policy D1	Placemaking
Policy ENV5	Sustainable drainage

### 2.2 City of York Draft Local Plan (2005)

CYGP1	Design
CYGP10	Subdivision of gardens and infill devt
CYH4A	Housing Windfalls



### 3.0 CONSULTATIONS

#### INTERNAL

##### Public Protection

3.1 No objections subject to conditions

##### Highway Network Management

3.2 The site has historic planning permission for a similar dwelling, with similar parking arrangements including turning space and a garage located at the end of the drive. The access is served by an existing dropped crossing. No significant changes have arisen since these previous approval and no objections are raised.

##### Design, Conservation and Sustainable Development (Heritage Project Officer)

3.3 The development site lies within an area of archaeological interest. Roman funerary, Anglian occupational and Medieval deposits exist in the wider vicinity particularly to the north-west. It is possible that this range of archaeological deposits extends along Fulford Road.

##### Flood Risk Management Team

3.4 The drainage report states that foul water will discharge to public combined water sewer. In terms of surface water disposal, our knowledge of the sub-soil conditions would not support the use of soakaways and a watercourse is remote from the site. As stated in the report, surface water will discharge to public sewer via storage with restricted discharge of 1.5 (one point five) litres/second. This will include dwellings, associated garages and driveways.

#### EXTERNAL

##### Fishergate Planning Panel

3.5 The size of the building is too big for the enclosed nature of the plot and is clearly an overdevelopment of the site. It will be detrimental to the neighbouring residential properties.

##### Neighbours Notification and Publicity

3.6 Ten responses raising the following objections

- Building too big for the site
- Due to raised land there will be overlooking, loss of light and loss of privacy

- Overdevelopment of the backland site
- Loss of green space and trees
- Dangerous precedent to set
- Large sites becoming available soon for development
- Parking is an issue in the area
- Vehicular access will be limited due to on street parking
- Access would cause a nuisance to residents
- Existing drainage system can not cope
- Construction vehicles will cause problems

One letter of support received

## **4.0 APPRAISAL**

### 4.1 Key Issues

- Principle of the development
- Design and character
- Amenity issues
- Highways considerations
- Flood risk

4.2 The National Planning Policy Framework (July 2018) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. For decision making this means approving development proposals that accord with an up-to-date development plan without delay or, where there are no relevant development plan policies, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

4.3 Paragraph 38 states that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. It goes on to say that they should seek to approve applications for sustainable development where possible. Paragraph 59 states the Government's objective of significantly boosting the supply of homes.

### Publication Draft Local Plan (2018)

4.4 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 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);

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- 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).

4.5 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The following policies are relevant to consideration of this application:

- Policy D1 Placemaking. This policy supports development proposals where they improve poor existing urban and natural environments; enhance York's special qualities and better reveal the significances of the historic environment. Detailed design issues should be addressed by development proposals.
- Policy D2 Landscape and setting. Development proposals will be supported where they demonstrate an understanding of the local landscape character and its contribution to the setting and context of the city and surrounding villages. This landscape quality and character should be conserved and enhanced.
- Policy ENV5 Sustainable drainage. This policy includes detailed drainage requirements for site drainage and a preference for SUDS. Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) (DCLP)

Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) (DCLP)

4.6 This plan is not adopted policy but was approved for Development Management purposes. Policies in the DCLP carry very little weight but are capable of being material considerations in the determination of planning applications where these are consistent with those in the NPPF. Policies GP1 Design, GP10 Subdivision of gardens and infill development and H4a Housing windfalls are all relevant

## PRINCIPLE OF DEVELOPMENT

4.7 The proposal is for a residential dwelling within the urban area. Paragraph 70 of the NPPF states that LPAs should consider setting out policies to resist inappropriate development of gardens, particularly where this would cause harm to the local area. The emerging Local Plan does not contain policy relating directly to this type of infill development, however D1 and D2 are of some relevance. Policy GP10 of the DCLP allowed for garden development where it would not be detrimental to the character

and amenity of the local environment. In this instance the proposal sits comfortably within a similarly sized plot to the host property. The density of the development is appropriate and the proposed use fits with the character of the area. The proposal is considered acceptable in principle subject to other material planning considerations.

## DESIGN AND CHARACTER

4.8 The application site forms the existing rear garden of 115 Fulford Road. It is bounded to the north by a 1.8m close boarded fence with mature hedges to the east and west boundaries. A long single storey extension also runs along part of the eastern boundary to a neighbouring property. An existing detached single storey dwelling lies immediately to the north which was erected within the rear garden of 113 Fulford Road which was erected in 2002. The area is a mixture of two storey and single storey dwellings.

4.9 Planning permission was originally granted for a detached dwelling on the site in 2000 and subsequently renewed. The last approval expired in June 2013. Permission was refused in June 2018 for the erection of a dwelling on site. The current scheme is smaller than the previously refused scheme. The dwelling would still lie between the north and south boundaries with the main aspect facing onto the rear elevation of 115 Fulford Road. The main bulk of the dwelling would lie immediately adjacent to the existing single storey dwelling at 113b Fulford Road and this would be constructed with a gable end facing 115 Fulford Road at the same height of 5.2m. However, the ridge height running from north to south, across the site, has been reduced from 5.2m to 4m. The rear section, along the northern boundary, has been reduced in length from 15.2m to 11.9m. The attached garage has been deleted from the scheme and 2.5m flat roof cycle store has been provided. The southern extent of the dwelling, adjacent to the garden with 7 Kilburn Road, would still be constructed with a flat roof with an eaves of 2.4m but would be at a distance of 1.8m as opposed to the previous scheme which sat 1m away.

4.10 The previous scheme was refused on overdevelopment of the site due to its plot coverage and massing which was considered to be out of character with the established pattern of development. The massing of the dwelling has since been reduced, the height lowered and the footprint reduced. The immediate vicinity of the site is relatively built up, primarily due to the neighbouring backland development and properties facing onto Maida Grove, Fulford Road and Kilburn Road. To the east of site long undeveloped gardens are characteristic. The development of this site would not push the built form into this open area and would infill an area which is developed to three sides and further enclosed by a long single storey extension to the eastern boundary. As such the scheme would not appear to have any detrimental impact upon the character of the area. Amenity space is provided around the proposed dwelling and it sits comfortably within the site.

## RESIDENTIAL AMENITY

4.11 One of the core principles of the planning system outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants. In terms of neighbouring residential amenity objections have been raised in connection with the previous submission and its potential impact upon the amenities of the neighbouring residents at 113b Fulford Road and 7 Kilburn Road.

4.12 Number 7 Kilburn Road lies immediately to the south of the proposed dwelling. It comprises of a dormer bungalow located on lower lying land and has a rear garden of approximately 5.4m. The boundary with the application site comprises of a mature hedge adjacent to the development. The scheme proposes a flat roof element with a height of 2.4m set in from the boundary by approximately 1.8m. 7 Kilburn Avenue has a kitchen and dining room window present to the rear elevation which lies to the south of the development and as such there would be no loss of direct light. The previous scheme indicated a roof hipping away from 7 Kilburn Road at a height of 5.2m. The now reduced height of 4m would considerably reduce the bulk of the dwelling and reduce the impact further. Whilst the neighbouring site lies on lower lying ground the majority of the dwelling would be hidden from view by the existing hedge and any line of sight would be above the ridge of the dwelling. It is therefore considered that the development would not be over-dominant or overbearing.

4.13 The dwelling to the north lies on higher lying land. Again the scheme has been amended to reduce the length of the rear element which lies immediately adjacent to the neighbouring conservatory. The increase land level of the neighbouring site means that there would be limited impact upon the amenities of this property in terms of overshadowing or overdominance.

## HIGHWAY SAFETY

4.14 Access to the site would be off a private drive from Kilburn Road. The access is approximately 3m wide and runs between the boundaries of numbers 7 and 9 and is separated by a high fence. Concerns have been expressed that the land is not within the ownership of the applicant. Whilst Land Registry indicates that the access is unregistered the applicant has supplied information which indicates that they have a long standing right of way over the land as outlined in deeds dating back to 1931 dating back to the previous sites use as a post office.

4.15 The previous approvals also indicated access to the site along this route. The site indicates space for two vehicles on the drive along with space for cycles within the small cycle/refuse store. Adequate space is available to allow for vehicles to turn within the site and leave in a forward gear.

4.16 The NPPF encourages sustainable travel and the location of development in sustainable and accessible locations. The site lies within the urban area, close to an

existing public transport route and within short distance of York city centre. It is not envisaged that one additional three bedroom property would materially increase traffic generation or adversely impact safety on the highway network. As such, the proposal is considered to comply with the general thrust of the NPPF.

## FLOOD RISK

4.17 Paragraph 155 of the NPPF states that development should be directed to the areas of low flood risk with paragraph 163 stating that the local planning authority should ensure flood risk is not increased elsewhere. Policy GP15a of the Draft Local Plan supports this approach to flood risk.

4.18 The site lies within Flood Zone 1. A drainage statement has been submitted with the application. If soakaways are deemed to be acceptable due to ground conditions this is the preferred option with permeable paving for all hard surfaced areas. However, if ground conditions are unsuitable for infiltration, the surface water is proposed to connect to the combined public sewer. The proposal to discharge to the public sewer would be at a reduced rate of 1.5 l/s, using a hydrobrake, with geo-cellular surface water attenuation storage of 5.8m<sup>3</sup> under the driveway or garden. It is considered that details can be secured by condition

## 5.0 CONCLUSION

5.1 It is considered that the development of this site for a dwelling is acceptable. The impact on highway safety and the impact upon residential amenity are considered to be acceptable. The erection of a dwelling within this location would not have any detrimental impact upon the character and appearance of the area. As such the application accords with policies contained within the Draft 2005 Local Plan, Publication Draft Local Plan (May 2018) and policy contained within the NPPF

## 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:-

Drawing numbers F172.01.01 Rev C, F172.01.02 Rev F and F172.01.03 Rev B

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 HWAY19 Car and cycle parking laid out

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5 No groundwork shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological evaluation and, if necessary, excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the 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 including Roman funerary, Anglian occupational and Medieval deposits which must be recorded prior to destruction.

6 EPU1 Electricity socket for vehicles

7 LC4 Land contamination - unexpected contam

8 The site shall be developed with separate systems of drainage for foul and surface water on site

Reason: In the interest of satisfactory and sustainable drainage.

9 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. The information shall include site specific details of:

- i) the means by which the surface water discharge rate shall be restricted to a maximum rate of 1.5 (one point five) litres per second, and
- ii) the means by which the surface water attenuation up to the 1 in 100 year event with a 20% climate change allowance shall be achieved

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

10 VISQ4 Boundary details to be supplied

11 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes B and C of Schedule 2 Part 1 of that Order (alterations to the roof including dormer windows and roof lights) shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or

alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

12 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

13 The existing hedge to the southern boundary of the site shall be retained. If within a period of five years from the completion of the development the hedge dies, is removed or becomes seriously damaged or diseased it shall be replaced in the next planting season with one of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: In order to protect the amenities of the neighbouring residents and in the interests of the character and appearance of the area.

## **7.0 INFORMATIVES:**

### **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 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority attached appropriate conditions in order to achieve a positive outcome.

#### **2. AVOIDING DAMAGE TO THE HIGHWAY GRASS VERGE**

Applicants/Developers are reminded that great care should be taken to ensure that no damage to the surface or structure of the public highway is caused, by activities relating directly to the approved development (e.g. delivery of building materials via HGV's). The Council is particularly concerned at the increasing impacts and damage occurring to grass verges. This is detrimental to residential amenity, can present safety issues and places an unreasonable financial burden on the Council, if repairs are subsequently deemed necessary. Therefore, applicants/developers are strongly advised to work proactively with their appointed contractors and delivery companies to ensure that their vehicles avoid both parking and manoeuvring on areas of the public highway (grass verges) which are susceptible to damage. The council wishes

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to remind applicants that legislation (Highways Act 1980) is available to the authority to recover any costs (incurred in making good damage) from persons who can be shown to have damaged the highway, including verges. If the development is likely to require the temporary storage of building materials on the highway, then it is necessary to apply for a licence to do so. In the first instance please email [highway.regulation@york.gov.uk](mailto:highway.regulation@york.gov.uk), with details of the site location, planning application reference, anticipated materials, timelines and volume. Please refer to the Council website for further details, associated fees and the application form.

### 3. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

(c) 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.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

#### 4. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available at:

<https://www.gov.uk/party-wall-etc-act-1996-guidance>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

**Contact details:**

**Author:** Heather Fairy Development Management Officer

**Tel No:** 01904 552217

# 115 Fulford Road

18/01381/FUL



GIS by ESRI (UK)



Scale : 1:1127

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	28 August 2018
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 September 2018      **Ward:** Haxby And Wigginton  
**Team:** Householder and      **Parish:** Haxby Town Council  
Small Scale Team

**Reference:** 18/01395/ADV  
**Application at:** Jinah Balti 18 The Village Haxby York YO32 3HT  
**For:** Display of internally illuminated fascia sign (resubmission)  
**By:** Mr Matab Shamim  
**Application Type:** Advert Application  
**Target Date:** 12 September 2018  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1. The application site relates to an Indian takeaway located within the Haxby Conservation Area, situated within the main primary shopping area. This application seeks retrospective advertisement consent for an internally illuminated fascia sign fixed above the main entrance to the principal elevation.

1.2 This application is a resubmission for previously withdrawn retrospective advertisement consent (reference 18/00097/ADV) for a one internally illuminated fascia sign and one internally illuminated box shape hanging sign. This application was withdrawn following officer concerns relating to the appearance of the hanging sign and the lack of information regarding the illumination levels.

Site History:

1.3 Change of use from dwelling to retail shop with ancillary office accommodation (ref: 96/07951/FUL).

Sub-Committee Determination:

1.4 This application has been called to be determined at the September Sub - Planning Committee by Councillor Ian Cuthbertson if officer recommendation is to approve this application.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Haxby CONF

2.2 Policies:

Application Reference Number: 18/01395/ADV  
Page 1 of 5

Item No:

Development Control Local Plan 2005  
GP21 Advertisements  
HE8 Advertisements in historic locations

Emerging Local Plan  
D13 Advertisements

### **3.0 CONSULTATIONS**

#### Public Protection

##### 3.1 No objections

#### Haxby Town Council

3.2 Object. The application is within the conservation area. All similar applications in the past have been objected to by this Council and City of York Council has always supported Haxby Town Council with its decision.

#### Publicity

3.3 One objection on the grounds of the adverse effect on the conversation area, to allow this would be manifestly unfair to all those who have been prohibited in the past from so doing.

### **4.0 APPRAISAL**

#### 4.1 KEY ISSUES

- Impact to the Conservation area
- Impact on neighbour amenity
- Public safety

#### POLICY CONTEXT

4.2 The Town and Country Planning (Control of Advertisements) Regulations 2007 state that powers under these regulations can only be exercised in the interests of amenity and public safety.

4.3 Paragraph 132 of the National Planning Policy Framework states that the quality and character of places can suffer when advertisements are poorly sited and designed. Within Conservation areas, paragraph 193 considers that the impact of a proposed development on the significance of a designated heritage asset, advises that great weight should be given to the asset's conservation (and the more important

the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

4.4 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. The emerging Draft Local Plan policies can be afforded limited weight at this stage of preparation, and subject to their conformity with the NPPF. Policy D13 advises that permission will be granted for the display of advertisements where they: are of a scale, design, material, finish and position and number that will not cause harm to visual or residential amenity, or the to the character of the host building, and will respect the character and appearance of a building or the street scene; and positively reflect the of amenity and public safety. In addition box hanging signs will not be supported because they create an adverse impact on the significant and character of a conservation area.

4.5 The City of York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF. Policy GP21 Advertisements states that permission will only be granted for signs where: their size, design, materials, colouring and any form of illumination does not detract from the visual amenity of the areas in which they are displayed, particularly with regard to the character of listed buildings and conservation areas; where there is no adverse effect on public safety; and in residential areas and on sites clearly visible from roads, the advertisement is in keeping with the scale of surrounding buildings and public areas. Policy HE8 relating to advertisements in historic locations states that within conservation areas advertisements will be of a design and scale that respects the character and appearance of the area and consist of good quality materials.

#### Impact on the Conservation Area/ Visual amenity

4.6 This site is situated within the Haxby Conservation Area where s72 of the Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area. Where there is found to be harm to the character or appearance of the Conservation Area, the statutory duty means that such harm should be afforded substantial weight. The duty imposed by Planning (Listed Building and Conservation Area) Act 1990 means that when deciding whether harm to a conservation area is outweighed by the advantages of a proposed development the decision-maker should give particular weight to the desirability of avoiding such harm. The process is one of planning judgment but it must be informed by that need to give special weight to maintaining the conservation area.

4.7 The host building is located on the north side of The Village part of a row of former terraced houses which have been converted into commercial uses. This building is currently in use as an Indian food takeaway on the ground floor and residential above. The signage in place comprises of an internally illuminated composite aluminium "box tray" fascia sign positioned above the existing ground floor windows measuring approx 2.9 metre in width. The design has a black colour background supporting red and white lettering advertising "Spice Village Indian Take away". The sign is illuminated by florescent tubes and illuminated to a maximum of 300 candelas per square metre, only the lettering is illuminated. A box shape projecting sign and the heavy external wires to the principal elevation has been removed since the previous application. The use previously had an advertisement canopy which has been removed to reveal the architectural detailing of the door and window.

4.8 Objections have been raised regarding harm to the Conservation Area. The signage is positioned above the shop front and does not exceed 0.12mm in depth from the face building. It is of a similar size and scale to the ground floor attached shop units, albeit others are non- illuminated. These shop units are opposite a small shopping complex on the south side of the street constructed in the 1970s, separated by the public highway incorporating a local store with parking to the front. There are noticeable visible coloured advertisements to the front of these shops. Whilst the internal illumination of the signage is not ideal, in this instance it is read in association with the commercial context of the adjacent buildings. There is some justification for illumination given the use of the building as part of the evening economy. Because the building does not have a traditional shopfront, external illumination would involve the introduction of a trough-light which would add to the clutter on the front of the building. Furthermore, the illumination levels proposed would be relatively low. Therefore, on balance it is considered that the retention of this sign is acceptable in terms of its affect on visual amenity, taking account of the commercial location within the conservation area. The sign would result in less than substantial harm to the conservation area, appropriate weight has been given to avoiding this harm but it is considered that there are public benefits in providing advertising to an evening use within the shopping area.

### Public Safety

4.9 It is not considered that the sign would impact on public safety including the use of the pedestrian crossing.

## **5.0 CONCLUSION**

5.1 The advertisement is considered to be acceptable in the conservation area, whilst it would result in less than substantial harm to the designated heritage asset this would be outweighed by public benefits. The proposal would comply with the National Planning Policy Framework, the Publication Draft Local Plan policy D13



(Advertisements) and policies HE8 (Advertisements in Historic locations) and GP21 (Advertisements) of the Development Control Local Plan (2005).

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

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

Elevation plans drawing number 1801 revision B and supporting email which confirms the width of the internal florescent tubes will be reduced to 600mm and illuminated to a maximum of 300 candelas per square metre.

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

2 The signs hereby approved shall only be illuminated during the opening hours of the business.

Reason: In the interests of visual and neighbour amenity.

### **Contact details:**

**Author:** Sharon Jackson Development Management Assistant

**Tel No:** 01904 551359

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# Jinah Balti 18 The Village Haxby

18/01395/ADV



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	28 August 2018
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 September 2018      **Ward:** Guildhall  
**Team:** Major and                      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 17/02991/FULM  
**Application at:** Simons Auto Services 17 Mansfield Street York YO31 7US  
**For:** Erection of five-storey residential block with 10no. flats and associated parking following demolition of car repair garage  
**By:** Mr Mark Allen  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 1 August 2018  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site accommodates single storey garages formerly used for car repairs. A carpet/bed warehouse building is to the South West situated on the corner of Foss Islands Road and Layerthorpe and its car park is behind. There is a gym to the north east of the site. This application is for residential development of the site. A 4-storey block is proposed. The ground floor would be used for car and cycle parking.

1.2 This former industrial area of Layerthorpe is currently undergoing regeneration. The following schemes have all recently been considered or developed and the site on the corner of Layerthorpe and James Street / Hallfield Road is allocated for housing in the 2018 Draft Local Plan (site H55)

- A gym next door to the application site - approved under application 11/00433/FUL.
- 11 Mansfield Street - 4 storey block of student apartments - approved at committee March 2018 - application 17/02702/FULM.
- Quckslide Windows site on Hallfield Road - 5 storey apartment block determined at planning committee August 2018 - application - 17/03027/FULM.
- Brickworks student accommodation on James Street / Hallfield Road - 4 storey development approved under application 13/03522/FULM.

1.3 The application site is within the city centre as defined in the 2018 Draft Local Plan. It is also in Flood Zone 3 - an area of high flood risk and in the City Centre Area of Archaeological Importance.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area  
Contaminated Land GMS Constraints  
Floodzone 3 GMS Constraints: Floodzone 3

Relevant Policies of the 2018 Publication Draft Local Plan:

EC2	Loss of employment Land
H1	Housing Allocations
H2	Density of Residential Development
D1	Placemaking
D6	Archaeology
ENV1	Air Quality
ENV3	Land Contamination
ENV4	Flood Risk
ENV5	Sustainable Drainage
T1	Sustainable Access
CC2	Sustainable Design and Construction of New Development

Relevant Policies of the 2005 Local Plan:

GP1	Design
GP3	Planning Against Crime
GP4a	Sustainability
GP6	Contaminated Land
HE10	Archaeology
H4a	Housing Windfalls
E3b	Existing and Proposed Employment Sites

### **3.0 CONSULTATIONS**

#### INTERNAL

#### Design and Conservation and Sustainable Development

#### Archaeology

3.1 The proposed development site appears to lie partly across the site of the medieval church of St Mary Layerthorpe. The church is first mentioned in 1331 when it was annexed to St. Martin's, Coney Street. The precise location of St Mary Layerthorpe is not known. However, it is possible that development on this site will disturb part of the church and/or its associated graveyard.

3.2 Observations of test pits in 1986 ahead of the construction of Allied Carpets adjacent to this site revealed fragments of burials. The site had previously been disturbed but still contained remnants of the graveyard burials. The construction of

the buildings on this site in the late 19th century and then the extant single storey garages will have had some impact on any archaeological deposits particularly the creation of the garage inspection pit. However, the majority of the site has the potential to contain intact archaeological deposits and features.

3.3 As the proposed development will have a potentially serious impact on a significant heritage asset, the applicant must (a) carry out an archaeological evaluation of the site to determine the presence or absence of archaeological features and deposits, and in particular evidence for the church and churchyard of St Mary Layerthorpe (b) submit a report on the evaluation and (c) submit an assessment of the impact of the development on archaeological deposits on the site with a set of measures which will mitigate the impact of the development on any archaeological features and deposits identified.

### Education

3.4 No contribution sought as fewer than ten 2 bed sized dwellings are proposed (National Planning Guidance is that contributions should not be sought from developments of 10-units or less).

### Flood Risk Management

3.5 Technically the development can be made safe by design floor levels. With regards to dry access and egress the applicant has agreed this is not available in the extreme events but has provided information with regards to an emergency evacuation plan and route in the undefended scenario but has not ranked the level of danger when applying DEFRA R&D Technical Report FD2320/TR2 guidance/tool/calculation. Compared with 11 Mansfield Street this is for private housing and not student/hotel accommodation therefore an emergency evacuation plan will not be as robust and would rely on its individual property owners and not central management company and therefore harder to achieve. The wording in the NPPF states; 'NPPF advises us that in producing an FRA safe access and escape routes are included where appropriate, as part of an agreed emergency plan'. The Emergency Planning Team would be the best suited to agree this emergency plan, which could be sought by way of Condition.

3.6 With regards to foul and surface water disposal officers agree with the response from Yorkshire Water and would like to see their recommended conditions applied.

### Highway Network Management

3.7 Officers seek that the entrance gates to the car park to be electronically controlled to avoid drivers blocking the road whilst waiting to enter the site.

3.8 Amendments were requested to the layout so there would be adequate cycle parking and space to manoeuvre cars.

3.9 Officers sought for the balconies to be removed from the Mansfield Street given risk of vehicle collision.

### Public Protection

3.10 Officer advice is as follows –

- Land Contamination - Due to the former use a site investigation followed by preparation of remediation scheme is required. This can be secured through condition.
- Noise - officers require a condition to ensure adequate internal noise levels are achieved.
- Construction Management - a CEMP would be expected due to the size of development proposed and for construction to adhere to typical working hours.
- Air Quality - officers recommend an electric vehicle charging facility be provided.

### EXTERNAL

#### Environment Agency

3.11 No objections, provided the development be carried out in accordance with the submitted FRA. Officers add that in all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as they do not carry out these roles during a flood. The Technical Guide to the National Planning Policy Framework (paragraph 9) states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

#### Foss IDB

3.12 There are no Board maintained watercourses in the vicinity; as such it is not considered that the proposal will have a material effect on the Board's operations and therefore the Board has no comment to make.

#### Police - Designing out Crime Officer

3.13 Consideration needs to be given to issues around access control and the provision of secure cycle storage. Advised that based on local statistics and



considering the type of development proposed the most significant crime issues that could affect this development are criminal damage, burglary and theft of cycles. Modus Operandi for these types of crime committed in the area includes:

- Offenders enter apartment complex via insecure and broken electronic gate and then cause damage to communal hallway and lift
- Theft of cycles from communal cycle stores

### Yorkshire Water

3.14 Discharge of surface water to public sewer is proposed. However, sustainable development requires appropriate surface water disposal and Yorkshire Water promotes the surface water disposal hierarchy. The developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer. Only as a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer.

3.15 Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event. The developer will also be required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of YWS/the LPA by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.

### PUBLICITY

3.16 No public representations have been made.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Flood Risk
- Principle of the proposed use
- Visual Impact
- Archaeology
- Land Contamination
- Amenity
- Sustainability

### POLICY CONTEXT

4.2 The 2018 Draft Plan was submitted for examination on 25 May 2018. The 2018 Draft Plan policies can be afforded weight at this stage of preparation in accordance with paragraph 48 of the NPPF according to their degree of consistency with the NPPF (the closer the policies to the NPPF, the greater the weight that may be given), and extent of objections received as part of the plan consultation. The evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications.

## FLOOD RISK

4.3 The site is in flood zone 3 and the proposed residential use is classed as being 'more vulnerable'. As such NPPG guidance advises that the sequential and exception tests need to be applied.

### Sequential Test

4.4 As required by the NPPG the applicants have provided a sequential test which looks at allocated housing sites in the Local Plan with a comparable anticipated yield of dwellings. There are 3 such allocated sites. The allocated sites are at least 0.2ha in size; the application site is some 0.02ha and it is in the applicant's ownership.

4.5 NPPG guidance states that the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.

4.6 It goes on to state 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.

4.7 The applicant's sequential test reasonably concludes it would not be viable for the applicant to acquire and develop one of the allocated sites, which are significantly larger than the site in the applicant's ownership. This part of Layerthorpe is in the city centre based on the 2018 Local Plan proposals map. As such regeneration of the area is desirable and the city has demonstrable housing need. Overall officers are satisfied that the sequential test is passed.

## Exception Test

4.8 There are 2 parts to the Exception Test -

- Requirement to show that the proposed development will provide wider sustainability benefits to the community that outweigh flood risk
- Demonstrate that development will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

i Wider sustainability benefits

4.9 The application site is brownfield and within part of the Layerthorpe area which previously accommodated industrial uses. The area is undergoing regeneration and there have been multiple schemes recently for dwellings/student accommodation between Foss Islands Road and the James Street Link Road. In the 2018 Local Plan the city centre boundary has been extended to include this area.

4.10 The NPPG guidance advises that if a site is in an area requiring regeneration or re-development it is very likely that it will provide the wider sustainability benefits to pass the first part of the Exception Test. This is deemed to be the case in this part of Layerthorpe.

ii Flood risk

4.11 The development has a floodable void at ground floor level which accommodates parking and refuse storage. The dwellings are on the upper floor and will be safe from flooding.

4.12 The NPPF in paragraph 163 states safe access and escape routes are included where appropriate, as part of an agreed emergency plan. At Mansfield Street the only means of access/egress is via Foss Islands Road (which is adjacent the river). As such an emergency plan will be required to ensure there is adequate warning to allow residents to evacuate the building. The procedure has been detailed in the revised FRA and will be secured through planning condition.

4.13 The development will not increase flood risk elsewhere. This is because there will be no loss of floodwater storage on site and surface water run-off rates will be reduced, compared to the existing rates.

4.14 The proposals pass the exception test.

## PRINCIPLE OF THE PROPOSED USE

4.15 NPPF paragraph 68 states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes.

4.16 The proposed development makes more efficient use of the site, as advocated in section 11 of the NPPF – Making effective use of land. In particular paragraph 118 which states that planning decisions should “give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs” and “promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively”.

4.17 The background text to Local Plan policy H1 Housing allocations states that in meeting housing need housing delivery is reliant upon 169 dwellings per annum for windfalls

4.18 Local Plan policy EC2 seeks to avoid the loss of employment land and requires that in such cases developers are required to show -

- the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and
- the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period.

4.19 The car repair garage no longer trades, the former occupants have relocated to larger premises. It has not though been demonstrated that this site is unviable for alternative business uses.

4.20 Re-use of the site for dwellings is consistent with other similar regeneration schemes in this part of Layerthorpe and makes effective use of the site. In considering both national and local policies to deliver housing and the local plan policy to retain employment land overall, no objection is raised to residential redevelopment of the site, in particular given the NPPF requirement to give substantial weight to the value of using suitable brownfield land within settlements for homes.

## VISUAL IMPACT

4.21 NPPF Paragraph 127 states decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

4.22 The building has been designed bearing in mind flood risk which means that the ground floor area provides access and ancillary storage space. This provides limited activity at ground level and animation of the street, but is a functional necessity and is not out of character with the appearance of Mansfield Street.

4.23 The building envelope would be of brick with reveals accommodating recessed brick and a glazing system which would be in keeping with the vernacular used at other recent housing schemes in Layerthorpe. The building's maximum height would be about level with the gym next door, and around 1 m lower than the student scheme permitted at 11 Mansfield Street (under application 17/02702/FULM). The scheme is of acceptable design; in character with the emerging appearance of the area.

4.24 Car and cycle parking would be within the building and consequently secure. The bin storage in a discreet location at the rear.

## ARCHAEOLOGY

4.25 The site is in the City Centre Area of Archaeological Importance. The approach to dealing with archaeology is detailed in Local Plan policy D6.

4.26 The background text to policy D6 states that within the historic core, substantial harm is defined as greater than 5% disturbance to buried archaeological deposits through foundation design. Where harm to archaeological features and deposits is

unavoidable, development proposals will be expected to provide detail on appropriate mitigation measures. Where mitigation measures include physical excavation of deposits, provision must include adequate resources for excavation, analysis, publication, and archive deposition with the Yorkshire Museum.

4.27 NPPF paragraph 187 states that Local planning authorities should maintain or have access to a historic environment record. This should contain up-to-date evidence about the historic environment in their area and be used to:

- a) assess the significance of heritage assets and the contribution they make to their environment; and
- b) predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.

4.28 Paragraph 199 goes on to state that Local Planning Authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

4.29 Officers have recommended a condition to deal with archaeology which will require a methodology of investigation to be approved prior to groundworks. Excavation may be required, and if so would be undertaken in accordance with local policy. This is a similar approach to the conditions imposed at 11 Mansfield Street.

## LAND CONTAMINATION

4.30 To ensure that the site is fit for the proposed use, in accordance with paragraph 178 of the NPPF and Local Plan policy ENV3 conditions are proposed to require suitable remediation of the site.

## AMENITY

4.31 This would be the second residential development in Mansfield Street. There is also a children's day centre, gym and retail unit nearby and the development would be compatible with and would not affect the amenities of these surrounding businesses. There would be adequate amenity for future residents, considering outlook and as a condition is proposed to require suitable internal noise levels. It is not considered that a CEMP condition is required in this case given the scale of the development proposed and its surroundings.

## SUSTAINABILITY

4.32 The site is in a sustainable location with good pedestrian and cycle facilities in the local area. Local facilities and bus stops served by frequent public transport services are within very close walking distance of the site. The development would also benefit from covered and secure cycle parking. Electric car recharging facilities will be secured through condition.

4.33 In terms of building sustainability, Ministerial Guidance states that decision takers should only require compliance with the new national technical standards where there is a relevant current Local Plan policy. The scheme will be designed so to provide an energy efficient building, considering insulation and natural light, therefore with low energy demand.

## 5.0 CONCLUSION

5.1 An acceptable site specific flood risk assessment has been prepared for the development and the proposed use is acceptable in principle given the NPPF requirement to give substantial weight to the value of using suitable brownfield land within settlements for homes. The scheme is of a scale and design that relates to its setting, there would be adequate levels of amenity for future residents and no impact in this respect on the neighbouring land uses. The use of planning conditions can ensure policy compliance with regards residential amenity, visual amenity and flood risk.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 Time

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 Plans

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

Location Plan  
A242/098

Floor Plans

A242/120 Rev C

A242/121 Rev D

A242/122 Rev C

A242/123 Rev B

Elevations

A242/125 Rev B

A242/126 Rev B

A242/127 Rev B

A242/128 Rev B

Flood Risk Assessment

Surface flood risk assessment dated June 2018

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

3 Land Contamination site investigation

Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.



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.

#### 4 Land contamination remediation scheme

Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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.

#### 5 Verification of Remedial Works

Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and 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.

#### 6 Reporting of Unexpected Contamination

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 Archaeological Evaluation

Prior to groundworks associated with the development hereby approved the following archaeological evaluation shall be carried out and approved in writing by the Local Planning Authority.

A) No archaeological evaluation or development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The WSI shall conform to standards set by the Chartered Institute for Archaeologists.

B) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

### Excavation

If, following archaeological evaluation an excavation is required the following stages of work will need to be completed. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged.

A) No development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in

accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report (or publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site lies within an Area of Archaeological Importance. An 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, in accordance with Section 16 of NPPF.

## 8 Drainage

No construction shall take place until the following details of the proposed means of disposal of surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Details to include -

- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
- b) evidence of existing positive drainage to public sewer and the current points of connection;
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.

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.

Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.

## 9 Required internal noise levels

Application Reference Number: 17/02991/FULM

Item No:

No construction shall take place until a detailed scheme of noise insulation measures for protecting the approved residential from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details

INFORMATIVE: 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 LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed 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.

## 10 Materials

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.

A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: In the interests of the character and appearance of the area.

## 11 Large scale details

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 construction and the works shall be carried out in accordance with the approved details.

Application Reference Number: 17/02991/FULM

Item No:

- a) Entrance and steel access gate shown in context
- b) Typical sections to show the relationship between the external brickwork and recessed brickwork, windows and balconies
- c) Balconies at rear
- d) Parapet

Reason: In the interests of the character and appearance of the area.

## 12 Electric vehicle charging facilities

Prior to first use of the development a strategy for installation of electric vehicle charging facilities shall be submitted to and approved by the Local Planning Authority and the facilities installed in accordance with the approved details.

Reason: To provide facilities for charging electric vehicles in line with the NPPF and CYC's Low Emission Strategy and Air Quality Action Plan.

### INFORMATIVE:

The installation of the maximum amount of electric vehicle charging points is recommended. Charge points should be weatherproof, outdoor recharging units for electric vehicles with the capacity to charge at up to 7kw (32A). Groundworks and cabling should be sufficient to upgrade that unit and to provide for an additional recharging unit of the same specification in a nearby location. All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015)."

## 13 Flood Risk Management

The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment dated June 2018, in particular the following -

- No dwellings at ground floor level (finished floor levels to dwellings at 13.1 AOD)
- Provision of slatted metal gate to car parking area to prevent loss of floodwater storage

Prior to first occupation of the development an Evacuation Plan, following the draft plan in the approved FRA, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plan thereafter.

Reason: To ensure the development is safe from flood risk and that there would be no increase in flood risk elsewhere, in accordance with NPPF section 14 Meeting the challenge of climate change, flooding and coastal change.

#### 14 Cycle storage

The Sheffield type stands shown on the ground floor plan shall be installed prior to first use and the approved cycle parking, or equivalent, shall be provided for residents use for the lifetime of the development.

Reason: In the interests of promoting sustainable travel as required under section 9 of the NPPF.

### **7.0 INFORMATIVES:**

#### **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 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 revised plans and further information to make the scheme acceptable in respect of design and flood risk and through the use of planning conditions.

#### **2. Control of Pollution Act**

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

(c) 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.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

**Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

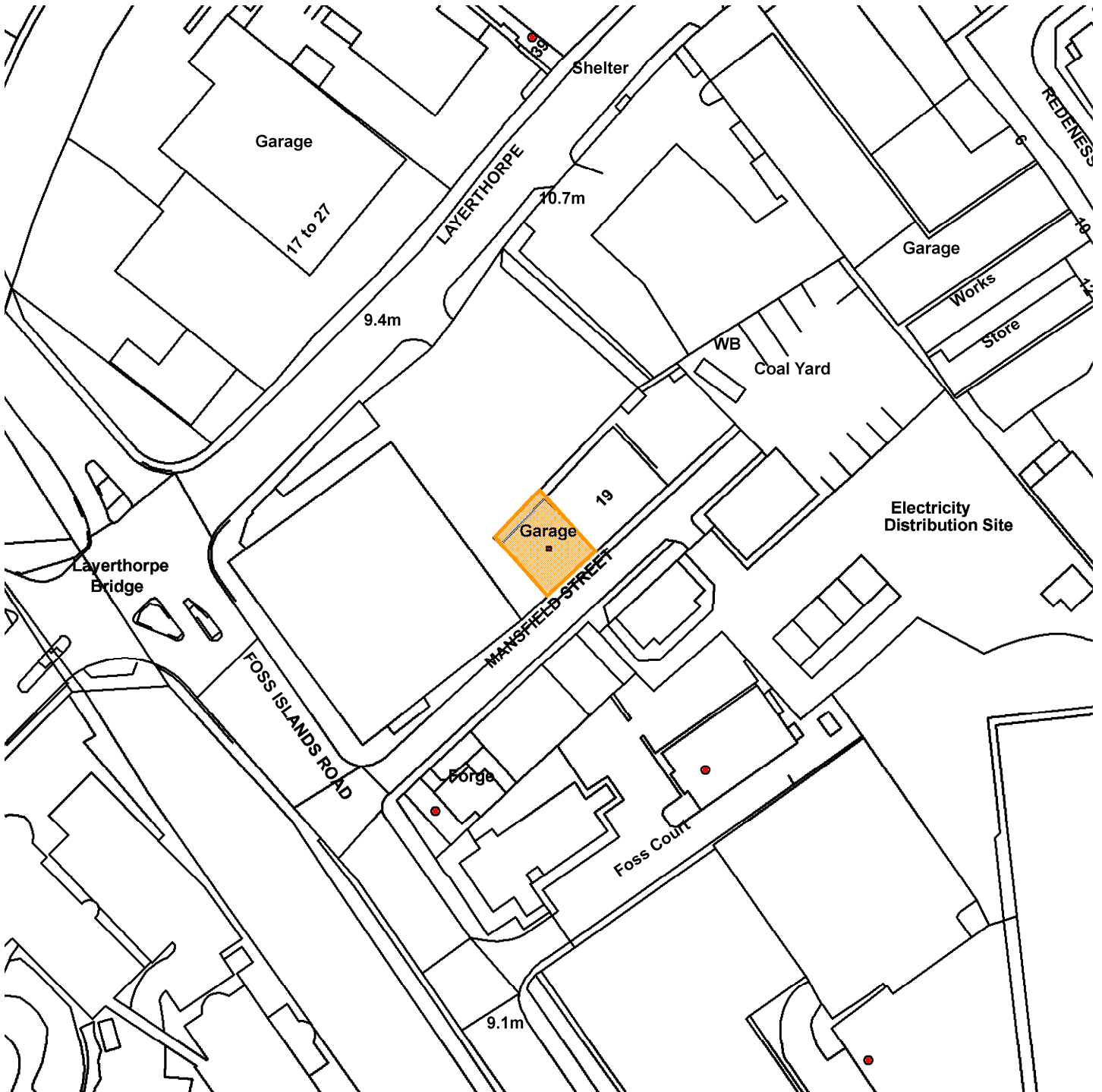
**Tel No:** 01904 551323

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# Simons Auto Services 47 Mansfield Street

17/02991/FULM



Scale : 1:1127

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	28 August 2018
<b>SLA Number</b>	Not Set

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## **Area Planning Sub-Committee**

**6 September 2018**

### **Planning Enforcement Cases - Update**

#### **Summary**

1. The purpose of this report is to provide Members with a continuing quarterly update on planning enforcement cases.

#### **Background**

2. Members have received reports on the number of outstanding enforcement cases within the Sub-Committee area, on a quarterly basis, since July 1998, this report continues this process for the period 1 April 2018 to 30 June 2018.
3. The lists of enforcement cases are no longer attached as an annexe to this report. The relevant cases for their Ward will be sent to each Councillor by email as agreed by the Chair of the Planning Committee.
4. Section 106 Agreements are monitored by the Enforcement team. A system has been set up to enable Officers to monitor payments required under the Agreement.

#### **Current Position**

5. Across the Council area 194 new enforcement investigation cases were received and 179 cases were closed. A total of 601 investigations remain open.
6. During the quarter one Enforcement Notice was served. The Notice related to an unauthorised rear dormer window on a property on Church Lane, Huntingdon. One 215 Notice was served on an untidy property on Lister Way in York.
7. A total of 91 Section 106 cases remain open.
8. A figure of £540,108 has been received from Section 106 payments. These were received in respect of 25 developments

across the City in respect of contributions towards affordable housing, education, open space and transport.

### **Consultation**

9. This is an information report for Members and therefore no consultation has taken place regarding the contents of the report.

### **Options**

10. This is an information report for Members and therefore no specific options are provided to Members regarding the content of the report.

### **The Council Plan**

11. The Council priorities for Building strong Communities and Protecting the Environment are relevant to the Planning Enforcement function. In particular enhancing the public realm by helping to maintain and improve the quality of York's streets and public spaces is an important part of the overall Development Management function, of which planning enforcement is part of.

### **Implications**

- Financial - *None*
- Human Resources (HR) - *None*
- Equalities - *None*
- Legal - *None*
- Crime and Disorder - *None*
- Information Technology (IT) - *None*
- Property - *None*
- Other - *None*

### **Risk Management**

12. There are no known risks.

**Recommendations**

13. That members note the content of the report.

The individual case reports are updated as necessary but it is not always possible to do this straight away. Therefore if members have any additional queries or questions about cases on the emailed list of cases then please e-mail or telephone the relevant planning enforcement officer.

Reason: To update Members on the number of outstanding planning enforcement cases and level of financial contributions received through Section 106 agreements.

**Contact Details****Author:**

Author's name  
Robert Harrison  
Principal Development  
Control Officer.

Tel. No: 553775

Directorate: **Economy  
and Place**

**Chief Officer Responsible for the report:**

Chief Officer's name  
Michael Slater

Assistant Director (Planning and Public  
Protection)

**Report  
Approved**



**Date** 24 August  
2018

**Specialist Implications Officer(s)** *List information for all*

*Implications:*

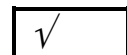
*Financial*

*Patrick Looker*

*Legal:*

*Andrew Docherty*

**Wards Affected:** *All Wards*



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**Planning Committee**

**13 September 2018**

**Area Planning Sub Committee**

**6 September 2018**

**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 2018, 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 2018 and the corresponding quarter for 2017, Table 2 shows performance for the 12 months 1 July 2017 to 30 June 2018 and the corresponding period 2016/17.

**Table 1: CYC Planning Appeals Last Quarter Performance**

	<b>01/04/18 to 30/06/18(Last Quarter)</b>	<b>01/04/17 to 30/06/17 (Corresponding Quarter)</b>
Allowed	4	2
Part Allowed	0	1
Dismissed	11	5
Total Decided	15	8
<b>% Allowed</b>	<b>27%</b>	<b>25%</b>
% Part Allowed	-	12.5%

**Table 2: CYC Planning Appeals 12 month Performance**

	<b>01/07/17 to 30/06/18 (Last 12 months)</b>	<b>01/07/16 to 30/06/17 (Corresponding 12 month period)</b>
Allowed	13	9
Part Allowed	0	4
Dismissed	44	31
Total Decided	57	44
<b>% Allowed</b>	<b>23%</b>	<b>20%</b>
% Part Allowed	-	9%

**Analysis**

- 5 Table 1 shows that between 1 April and 30 June 2018, a total of 15 appeals were determined by the Planning Inspectorate. Of those, 4 were allowed (27%). There were no appeals relating to “major” developments during this reporting period. By comparison, for the same period 2017, out of 8 appeals 2 were allowed (25%) and 1 part allowed/part dismissed. Using the assessment criteria set out in paragraph 2 above, 0.86% of the total decisions made in the quarter were overturned at appeal.
- 6 For the 12 months between 1 July 2017 and 30 June 2018, 23% of appeals decided were allowed, which is below to the national percentage figure of 31% of appeals allowed, but marginally up on the previous 12 month figure. Using the assessment criteria set out in paragraph 2 above, 0.74% of the total decisions made in the 12 month period were overturned at appeal.
- 8 The summaries of appeals determined between 1 April and 30 June 2018 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 to refuse permission made by the sub-committee/committee.

**Table 3: Appeals Decided 01/04/2018 to 30/06/2018 following Refusal by Committee / Sub-Committee**

Ref No	Site	Proposal	Officer Recom.	Appeal Outcome
17/00954/ OUTM	Land Adjacent Hopgrove Roundabout	Hotel, restaurant and petrol filling station	Refuse	Dismiss
17/01507/ FUL	Cherry Tree Cottage Millfield Lane Nether Poppleton	1 no. dwelling	Refuse	Dismiss
17/02380/ FUL	Deighton Lodge Ltd Rush Farm York Road, Deighton	Variation of conditions to increase number of weddings from 15 to 25 per annum	Approve	Dismiss

- 9 The list of current appeals is attached at Annex B. There are 16 planning appeals lodged with the Planning Inspectorate (excluding tree related appeals but including appeals against enforcement notices).
- 10 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**

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

### **Council Plan**

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

### **Implications**

- 13 Financial – There are no financial implications directly arising from the report.
- 14 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.
- 15 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 16 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

### **Risk Management**

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

### **Recommendation**

- 18 That Members note the content of this report.

### **Reason**

- 19 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** 28.08.2018

**Specialist Implications Officer(s)** None.

**Wards Affected:**

**All**  Y

**For further information please contact the author of the report.**

**Annexes**

**Annex A – Summaries of Appeals Determined between 1 April and  
30 June 2018**

**Annex B – Outstanding Appeals at 28 August 2018**

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## Appeal Summaries for Cases Determined 01/04/2018 to 30/06/2018

**Application No:** 17/00251/CLU  
**Appeal by:** Mr Steven Davis  
**Proposal:** Certificate of lawfulness for use as a House in Multiple Occupation within Use Class C4.  
**Site:** 54 Barstow Avenue York YO10 3HE  
**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal was refused ostensibly, because an original CLU had been refused on the grounds that there had not been 3.no unrelated persons occupying the property. Even if the applicants evidence was considered to be credible, the application would have been refused. In terms of that appeal. The applicant re-submitted and introduced an additional tenant, previously not mentioned. The inspector noted contradictions in the appellants statements and changes in the spelling of the name of the newly mentioned tenant. The spelling of this 'tenant's' family name, on the tenancy agreement submitted by the applicant' is different to that on on her affidavit and ID card. Given the Inspector gave little weight to the evidence relating to the previously unmentioned tennant; he refered back to the circumstances at the critical date of 20th April 2012. He considered it more than likely that the property was occupied by the applicant, his wife and 2.no unrelated tenants. Therefore it did not fall into Use Class C4.

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**Application No:** 17/00954/OUTM  
**Appeal by:** Enita Europe Limited  
**Proposal:** Outline planning application with all matters reserved for erection of petrol filling station, restaurant and 50-bedroom hotel with associated access, car parking and landscaping (resubmission)  
**Site:** Land Adjacent Hopgrove  
RoundaboutBeechwoodHopgroveYork  
**Decision Level:** CMV  
**Outcome:** DISMIS

The proposal relates to an application for Outline Planning Permission for the erection of a 50 bed hotel, petrol station, restaurant and petrol station comprising a signed Trunk Road MSA on land adjacent to but not accessed from the A64 at Hopgrove. The site lies within Green Belt and the applicant contended that the proposal constituted local transport infrastructure and was therefore appropriate development within the Green Belt. It was felt that it would give rise to significant harm to the openness of the Green Belt and was clearly not local transport infrastructure within any accepted definition and therefore inappropriate. The applicant contended that the proposal was required in order to secure compliance with the DTR Circular in respect of roadside services on Trunk Roads and that there was a clear need in the locality. Notwithstanding that planning permission was refused on Green Belt and residential amenity grounds. The Inspector agreed that the proposal was not local transport infrastructure and therefore inappropriate development within the Green Belt with further significant harm to openness and encroachment into the open countryside. He concurred with the view that the development would further harm the residential amenity of two neighbouring properties and whilst he agreed that such a facility would be desirable in terms of catering for traffic travelling east bound on the A64 he felt that the need for Green Belt location had not been demonstrated. The appeal was therefore dismissed.

---

**Application No:** 17/01259/FUL  
**Appeal by:** Mr G Wilkinson and Mrs J Sunderla  
**Proposal:** Two storey side and rear extension, single storey rear extension and alterations to existing single storey front projection (revised scheme)  
**Site:** Orchard Cottage Moor Lane Bishopthorpe York YO23 2UF  
**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal relates to a two storey side and rear extension, single storey rear extension and alterations to the existing front porch belonging to Orchard Cottage, a semi-detached property situated in the green belt. The scheme was refused due to its scale, mass and design which was considered disproportionate to the main house (36% increase in footprint over two floors) resulting in inappropriate development in the green belt that would also harm its openness. In addition the design and appearance of the extension failed to relate to the existing building, specifically the first floor feature glazing to the front gable which would have resulted in an incongruous form of development. The Inspector agreed that the extension would represent a significant increase in footprint resulting in a disproportionate addition, and that the use of the 25% increase threshold in policy GB4, whilst having limited weight, serves as a reasonable benchmark to assess the proportionality of a proposed extension. In addition the extension would be positioned in a prominent and visible location and the scale and massing would have a significant visual impact on the surrounding green belt. Furthermore it was also reasoned that the extension would fail to reflect the simple character of the rural cottage appearing prominent and non-subservient. The appeal was dismissed.

---

**Application No:** 17/01336/OUT  
**Appeal by:** Mr Robert Worthington  
**Proposal:** Outline application for the erection of a single storey dwelling to the rear of 69 The Avenue following demolition of existing garage  
**Site:** 69 The Avenue Haxby York YO32 3EJ  
**Decision Level:**  
**Outcome:** ALLOW

The application was to demolish a domestic garage and erect a two bedroom bungalow. The appeal was against non-determination of the application, which the applicant had been told was to be refused. The main issue was the effect of the proposal upon the character and appearance of the area. The inspector concluded that due to the dwellings single storey height and considerable set back, along with the existing built form of the garage, the principle of a dwelling at the site would have a neutral effect upon the street scene and the character and appearance of the area. The application was allowed.

---

**Application No:** 17/01372/FUL  
**Appeal by:** Mr Peter James  
**Proposal:** Replacement of mobile home with dwelling  
**Site:** The Homestead Murton Lane Murton York  
**Decision Level:** DEL  
**Outcome:** DISMIS

The application was to replace an authorised mobile home - occupied by a Gypsy family - with a detached dwelling. The site is in the Green Belt. In 2010 personal planning permission for the mobile home had been granted on appeal due to the very special circumstances of the family. The family now wanted to replace the mobile home with a permanent dwelling. The inspector concluded that the dwelling would be inappropriate development in the Green Belt, would reduce openness to a small degree and harm the purposes of the Green Belt. She concluded that the considerations in support of the application carried very limited weight and did not amount to the very special circumstances necessary to justify the development in Green Belt. The appeal was dismissed.

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**Application No:** 17/01413/FUL  
**Appeal by:** Mr & Mrs Bruce Bettison De Bethun  
**Proposal:** Conversion of workshop and erection of three storey extension to create 1 no. dwelling (revised scheme)  
**Site:** Land Adjacent To 15 Monk Bar Court York  
**Decision Level:** DEL  
**Outcome:** DISMIS

Full planning permission was sought for the conversion of a workshop and the erection of a three storey extension to create 1 no. dwelling on land adjacent to 15 Monk Bar Court. The site is located within the Central Historic Core conservation area close to Monk Bar. The area is a quiet residential enclave and most of the buildings off the court are listed at Grade II. Permission was refused on the grounds that the development, due to its design, failed to respect the significance of the Central Historic Core Conservation Area. The design did not reference the details, scale, proportion and character of the surrounding area such that rather than reflecting the modest, unassuming character of the immediate vicinity, the design was over elaborate and too grand for its context. The proposed development, therefore, would not preserve or enhance the character and appearance of the designated heritage asset. The Inspector agreed that for reasons relating to design (for example the roof pitch, fenestration, dormer window, and arch detail on the gable), the proposal would not reinforce local distinctiveness as required by the NPPF nor take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. The development would therefore not preserve or enhance the character or appearance of the Conservation Area or preserve the setting of the listed buildings within Monk Bar Court. The Inspector forwarded that the provision of 1 dwelling and the re-use of a vacant plot did not amount to public benefits which outweigh the less than substantial harm to the heritage assets, particularly given there was no good reason to believe that this could not be achieved in a more sympathetic manner without resulting in such harm.

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**Application No:** 17/01507/FUL  
**Appeal by:** Mr & Mrs Reynolds  
**Proposal:** Erection of 1 no. dwelling  
**Site:** Cherry Tree Cottage Millfield Lane Nether  
Poppleton York YO26 6NX  
**Decision Level:** CMV  
**Outcome:** DISMIS

The application was for the erection of a new dwelling within the green belt on land between applicants existing dwelling and caravan site. A number of temporary and permanent buildings were present on the site. the proposed dwelling was a two storey detached dwelling of considerable size. the applicant argued it was previously developed land but the council did not hold this view as the site did not form part of the curtilage of the adjacent dwelling and as such was not part of the garden. The Inspector dismissed the appeal on the harm to the openness of the green belt. They did not make a decision as to whether the land was classed as previously developed or not. The Inspector stated 'I conclude that given my findings on openness and the purposes of including land within the Green Belt, the proposal would be inappropriate development in any event, even if I were to consider it previously developed land.'

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**Application No:** 17/01732/FUL  
**Appeal by:** Mr And Mrs Gibbons  
**Proposal:** Three storey side extension, single storey rear extension and dormer to rear  
**Site:** 56 Nunthorpe Crescent York YO23 1DU  
**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal relates to the refusal of a three storey side extension, single storey rear extension and rear dormer to 56 Nunthorpe Crescent, a traditional two storey semi-detached dwelling situated on an incline. The application was refused due to the excessive height and raised location of the side extension in relation to the neighbouring dwelling as well as impact on neighbour amenity. The basement level garage and its projection were also not considered subservient and would have appeared dominant and overbearing and would have introduced development at a level where there previously isn't any. In addition the design height and scale of the rear extension and dormer were also not considered subservient. The inspector agreed that the three storey side extension, by virtue of its height, level difference, and basement garage, would look unattractive and at odds with the surrounding two storey development. The extension would also fill the width of the plot which in combination with the basement garage would appear incongruous and dominant within the street scene. The inspector did not however agree that the proposals to the rear would appear dominant or have a detrimental impact on the amenity of the adjacent neighbours. The appeal was dismissed on the grounds of harm to the character and appearance of the area only.

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**Application No:** 17/01841/FUL  
**Appeal by:** Mr Richard Lofthouse  
**Proposal:** Erection of dormer bungalow with parking and external alterations to outbuilding  
**Site:** 40 Main Street Wheldrake York YO19 6AE  
**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal application sought planning permission for the erection of a dormer bungalow and works to an existing outbuilding to provide parking on a grassed area of land to the rear of 40-42 Main Street in the centre of Wheldrake Village. The site lies within the the Wheldrake Conservation Area. It was part of the historic curtilage of 40-42 and was proposed to be accessed between the joint vehicular driveway through an archway between 40-42 and 44-46 Main Street. There were four reasons for refusal: failure to preserve or enhance the character and appearance of the conservation area; harm to general visual amenity; and, detrimental impact on living conditions of 40 and 42 Main Street from turning vehicles immediately behind the properties and on 9 Kitty Garth from overlooking. There had been a lengthy planning history including previous attempts spanning 18 years for one dwelling on the land. In dismissing the appeal, the Inspector concurred with the reasons for refusal with the exception of the harm to 9 Kitty Garth from overlooking from first floor windows. He concluded that the proposed dwelling would fail to preserve or enhance the character and appearance of the Conservation Area (whilst the harm would be less than substantial, he attributed it significant importance and weight), would seriously harm the character and appearance of the area from an unduly assertive and dissonant feature out of keeping with the form and pattern of surrounding development, and would materially harm the living conditions of nearby occupiers caused by passing vehicles and loss of available amenity space.

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**Application No:** 17/01971/FUL  
**Appeal by:** Mr And Mrs Balding  
**Proposal:** Erection of 2no. semi detached dwellings following demolition of motor vehicle repair workshop  
**Site:** Rear Of RedthorneMurton WayYorkYO19 5UJ  
**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal application sought full planning permission to build a semi-detached pair of two storey dwellings on land to the rear of Redthorn and accessed from Murton Garth. Redthorn is a bungalow on a corner plot facing Murton Way with access from Murton Garth, with a commercial workshop in the same ownership to the rear accessed from Murton Way. The site lies within the general extent of green belt and close to the boundary of the Murton Conservation Area. Permission was refused on the grounds that the proposal would detract from the character and appearance due to the resulting cramped appearance on site and impact on the occupants of Redthorn from the close proximity to its rear elevation and loss of amenity space. The Inspector considered the appropriateness of the development in Green Belt and concluded that it was infill development and as such was not inappropriate. The Inspector agreed that the proposal would harm character and appearance, including that of the adjacent conservation area and would adversely impact living conditions of residents of Redthorn. The benefits of additional housing in a sustainable location was acknowledged, but this was not considered to outweigh harm. Appeal dismissed.

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**Application No:** 17/02197/FUL  
**Appeal by:** Mr P Smith  
**Proposal:** Two storey side extension to form two bedroom self contained annex including dormer window to front.  
**Site:** 55 Lamplugh CrescentBishopthorpeYorkYO23 2SR  
**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal relates to a two storey side extension to form two bedroom annexe including front dormer to a detached bungalow with substantial rear dormer (constructed under pd rights).The application was refused due to the design, scale and location of the extension in close proximity to the side/rear boundary which would have had a detriemntal impact on the appearance of the street scene by virtue of its forward projection beyond the building line. In addition it was propped to erect fencing to replace existing boundary hedging which was also considered to result in a form of enclosure out of keeping with the open aspect of the street, resulting in an incongruous addition.The inspector agreed that the extension would appear as an incongrous, poorly designed and unduly prominent feature which would significantly disrupt the existing pattern of development and would erode the sense of spaciousness which is a distinctive characteristic of the street scene. It was felt that the information regarding the fencing was limited and therefore no judgement was made regarding its acceptability.The appeal was nevertheless dismissed.

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**Application No:** 17/02284/FUL  
**Appeal by:** Cardtronics UK Ltd, Trading As CA  
**Proposal:** Installation of 1no. freestanding ATM  
**Site:** Todays Local143 Haxby RoadYorkYO31 8JW  
**Decision Level:** DEL  
**Outcome:** ALLOW

This appeal related to the retention of a free-standing Automated Teller Machine (ATM) on the forecourt to the side of a convenience store. Whilst there are a few other retail and service outlets in the vicinity of the appeal site, the area is predominately residential in character. The application was refused due the likelihood of unacceptable noise and disturbance and resultant loss of amenity to the occupiers of residential properties adjacent to the site, particularly between 2300 and 0600hours. At the time of the Inspectors site visit during late-morning, ambient noise levels on Haxby Road were fairly high and the Inspector considered that during late evening periods and early hours of the morning, noise levels would be much lower and the operation of the ATM keypad would be far more apparent to nearby residents. The appeal is allowed subject to a condition restricting the hours of the use of the ATM between 2300 and 0600, which are inline with the hours of the shop it is adjacent to.

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**Application No:** 17/02380/FUL  
**Appeal by:** Mrs Carla Mitchell  
**Proposal:** Variation of conditions 3 and 4 of permitted application 16/00267/FUL (for the change of use from guesthouse to mixed use guesthouse and wedding venue) to increase number of weddings from 15 to 25 in total in any calendar year and to allow the side garden to be used for wedding ceremonies  
**Site:** Deighton Lodge LimitedRush Farm (Game Farm)York RoadDeightonYorkYO19 6HQ  
**Decision Level:** CMV  
**Outcome:** DISMIS

The application sought permission to increase the number of weddings from 15 to 30. The application was refused on impact upon neighbours amenity. The appellants submitted a noise report with the application and appeal and a Noise Management Plan was in place. However, The Inspector noted that existing doors were being propped open and this would be likely to continue. Furthermore, the additional events proposed would lead to increased levels of activity associated with guests outside the building and from the comings and goings of both guests and delivery vehicles. The Inspector went on to state that 'noise and disturbance is likely to arise from dispersing wedding guests waiting for/getting into vehicles, car doors slamming, engines revving and vehicles manoeuvring in the field and along the access track. This would take place late in the evening when background noise levels, including from the A19, are lowered and when local residents could reasonably expect a quieter environment'.

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**Application No:** 17/02442/FUL  
**Appeal by:** Mr William Betteridge  
**Proposal:** Change of use of newsagent (use class A1) to cafe (use class A3)  
**Site:** 18 Eastholme Drive York YO30 5SW  
**Decision Level:** DEL  
**Outcome:** ALLOW

The appeal sought to vary condition 2 (hours of opening) and remove condition 3 (tables and chairs) of a recent approval for a change of use of newsagent (A1 use) to cafe (A3 use) at 18 Eastholme Drive. The hours of operation (condition 2) approved were those given by the applicant as part of the application submission. The applicant decided however that he wished the premises to be open for an extra three hours on a Saturday from 0800-1700hrs instead of 0800-1400hrs. Officers did not have an issue with this. Condition 3 prohibited the siting of tables and chairs on the forecourt as seating in this location was deemed harmful to the amenity of the immediate residents at 20 Eastholme Drive by virtue of noise, disturbance and privacy. The inspector reasoned that the size and location of the forecourt, including the location of the post box would restrict any proliferation of outdoor seating and that the use would be restricted by the opening hours which would close at 5pm. In addition, given the proximity of neighbouring properties to other retail premises it was felt that the area would already experience comings and goings and the addition of seating would not increase the existing amount of activity. It was therefore concluded that due to the site constraints and limited opening hours, the provision of outside seating would not adversely impact local noise or disturbance or privacy to an unacceptable degree. Condition 2 has therefore been varied and condition 3 removed.

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**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

## Outstanding appeals

**Officer: Alison Stockdale** **Total number of appeals: 3**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
15/06/2018	18/00032/REF	APP/C2741/W/17/3192253	W	3 Hawthorne Mews Strensall York YO32 5RR	Extension of garden curtilage into field at the rear (retrospective)
15/06/2018	18/00033/REF	APP/C2741/W/17/3192020	W	2 Hawthorne Mews Strensall York YO32 5RR	Change of use of paddock to domestic garden (retrospective)
14/06/2018	18/00031/REF	APP/C2741/W/17/3192125	W	4 Hawthorne Mews Strensall York YO32 5RR	Extension of garden curtilage into field at the rear (retrospective)

**Officer: Carolyn Howarth** **Total number of appeals: 1**

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

**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: 3**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
19/04/2018	18/00023/REF	APP/C2741/D/18/3200306	H	30 Southfield Close Rufforth York YO23 3RE	Variation of condition 2 of permitted application 16/01635/FUL to part render front elevation.
04/07/2018	18/00034/REF	APP/C2741/W/18/3203204	W	Bracken Hill North Lane Huntington York YO32 9SU	Erection of replacement dwelling
30/07/2018	18/00040/REF	APP/C2741/D/18/3208233	H	86 Tedder Road York YO24 3JF	First storey side extension and conversion of garage into living accommodation (resubmission).

<b>Officer: Heather Fairy</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
23/07/2018	18/00038/REF	APP/C2741/W/18/3205603	W	Home Farm Buildings 81 Main Street Bishopthorpe	Removal of condition 5 of permitted application 15/02919/FUL to allow retention of external seating	
23/07/2018	18/00037/REF	APP/C2741/W/18/3205580	W	115 Fulford Road York YO10 4ET	Erection of dormer bungalow with garage	
<b>Officer: Jonathan Kenyon</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
13/06/2017	17/00029/NON	APP/C2741/W/17/3177821	P	British Sugar Corporation Ltd Plantation Drive York	Outline application for the development of the site comprising up to 1,100 residential units, community uses (D1/D2) and new public open space with details of access (to include new access points at Millfield Lane and Boroughbridge Road and a new link road, crossing the Former Manor School Site) and demolition of the Former Manor School buildings (duplicate application)	
<b>Officer: Kevin O'Connell</b>						<b>Total number of appeals: 3</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
06/11/2017	17/00054/EN	APP/C2741/C/17/3188555	I	Crabtree Farm York Road Deighton York YO19 6ES	Appeal against Enforcement Notice dated 6th October 2017	
06/11/2017	17/00054/EN	APP/C2741/C/17/3188556	I	Crabtree Farm York Road Deighton York YO19 6ES	Appeal against Enforcement Notice dated 6th October 2017	
09/07/2018	18/00036/REF	APP/C2741/W/18/3200824	W	Beechwood Grange Caravan Club Site Malton	Provision of additional 26no. serviced all-weather pitches accessed by new tarmac road and installation of new service point with bin store, water and drainage pump	
<b>Officer: Matthew Parkinson</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
03/08/2018	18/00039/REF	APP/C2741/D/18/3203464	H	6 Little Meadows Haxby York YO32 3YY	Two storey side extension, new vehicular access crossing to front and timber fence to side boundary.	
20/08/2018	18/00042/REF	APP/C2741/D/18/3204776	H	96 Acorn Way York YO24 2RP	First floor side extension and porch extension to front.	



<b>Officer: Neil Massey</b>					<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
04/07/2018	18/00035/REF	APP/C2741/W/18/3202435	W	Fresh Dental Smile Clinic Ground Floor Manor House	Second floor extension and alterations to roof and insertion of window in first floor north elevation (retrospective).
<b>Officer: Sandra Duffill</b>					<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
20/08/2018	18/00041/REF	APP/C2741/D/18/3204773	H	91 Bishopthorpe Road York YO23 1NX	Single storey rear extension.
<b>Total number of appeals: 20</b>					

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