



**Notice of a public meeting of
Planning Committee**

- To:** Councillors Horton (Chair), Galvin (Vice-Chair), Ayre, Boyce, Burton, Crisp, D'Agorne, Doughty, Firth, King, Looker, McIlveen, Reid, Simpson-Laing, Watt, Williams and Watson
- Date:** Thursday, 23 October 2014
- Time:** 4.30 pm
- Venue:** Committee Room 2, The Guildhall

AGENDA

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 - 6)

To approve and sign the minutes of the meeting of the Planning Committee held on 21st August 2014.

3. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5pm on Wednesday 22nd October 2014**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

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

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4. Plans List

This item invites Members to determine the following planning applications:

a) **Crockey Hill Farm, Wheldrake Lane, Crockey Hill, York, YO19 4SN (14/01845/FULM) (Pages 7 - 24)**

A major full application for the erection of 6 Holiday Lodges and wildlife pond together with landscaping works following a change of use of agricultural grass land and change of use of former quarry to public amenity area (resubmission). [Wheldrake Ward] [*Site Visit*]

b) Site adjacent to Frog Hall Public House, Layerthorpe, York, (14/00112/FULM) (Pages 25 - 44)

A major full application for the erection of a five storey hotel with public house/restaurant/retail use to ground floor, single storey drive-through restaurant with associated parking, landscaping and access including extension to James Street/Heworth Green Link Road. [Heworth Ward] [Site Visit].

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

Democracy Officer:

Name: Laura Bootland

Contact Details:

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 **(01904) 551550**

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PLANNING COMMITTEE**SITE VISITS****Tuesday 21st October 2014.**

TIME	SITE	ITEM
12:30	Coach leaves Memorial Gardens	
12:50	Crockey Hill Farm	4a
13:45	Site adjacent to Frog Hall, Layerthorpe	4b

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City of York Council

Committee Minutes

Meeting	Planning Committee
Date	21 August 2014
Present	Councillors Horton (Chair), Galvin (Vice-Chair), Boyce, Burton, Cuthbertson (Substitute), Doughty, King, Looker, McIlveen, Orrell (Substitute), Reid, Simpson-Laing, Williams and Watson
Apologies	Councillors Ayre, Crisp, D'Agorne and Firth

10. **Declarations of Interest**

At this point in the meeting, Members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda.

Councillor Williams declared a personal non prejudicial interest in agenda item 4 as an employee of Yorkshire Water who were mentioned in the committee report as a consultee.

11. **Minutes**

Resolved: That the minutes of the Planning Committee held on 21st July 2014 be approved and signed by the Chair as a correct record.

12. **Public Participation**

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

13. **Plans List**

Members then considered a report of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning application, which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

14. Our Ladys RC Primary School, Windsor Garth, York, YO24 4QW (14/01037/FULM).

Consideration was given to an application by Mr Ben Lysiak to vary conditions 2 and 10 of planning permission 13/02892/FULM in respect of Our Lady's RC Primary School, Windsor Garth, York, YO24 4QW.

Officers outlined the report and advised that the complex was currently in the process of being re-developed for the erection of 55 houses in accordance with planning permission 13/02892/FULM with associated Section 106 Agreement.

Planning permission was now being sought under Section 73 of the 1990 Town and Country Planning Act to vary Conditions 2 and 10 of the planning permission to vary the permitted ground level of the highways and surrounding areas as well as ridge heights of house type A in order to facilitate the safe and effective operation of the agreed drainage system.

Members noted that the initial planning permission 13/02892/FULM was subject to a Section 106 Agreement covering matters such as provision of off-site open space, affordable housing and the maintenance of the landscape buffer strip surrounding the site. As there had been no material changes in circumstances since that earlier approval, and the variations proposed would not alter the terms of the obligations that are required to make the application acceptable, it is recommended that the Section 106 Agreement be varied to include any new varied permission for the amended scheme.

Members commented that it was disappointing that the issues had not been picked up when the original application had been made, but as permission had already been given, there was no reason to refuse this application for the condition variations.

Resolved: That Members agreed to:

- (i) Defer decision pending variation of the Section 106 Agreement relating to commuted payments and the maintenance of an off site landscape buffer strip, to refer to this application.

- (ii) Grant delegated authority to officers to approve and issue the decision once the variation of the Section 106 Agreement is completed.

Reason: The proposals would allow for a modest increase in land levels surrounding the approved highways within the site, and raising in height of House Type A primarily within the centre of the site to allow for the efficient operation of the proposed surface water drainage system. It is felt that the proposed amendments would not lead to a materially greater impact upon the setting of Hob Moor than the previously approved scheme and that providing surface water discharges can be attenuated to a maximum of 35 litres per second in respect of all the approved dwellings then there would be no harm generated to the surrounding area in terms of surface water drainage. The proposal is therefore felt to be acceptable in planning terms and approval is recommended.

15. **Appeals Performance Report.**

Members received a report which informed them of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1 October 2013 to 31st December 2013 and provided a summary of the salient points from appeals determined in that period. The report also included a list of outstanding appeals to date.

Resolved: That the report be noted.

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

Cllr D Horton, Chair

[The meeting started at 4.30 pm and finished at 4.45 pm].

COMMITTEE REPORT

Date: 23 October 2014 **Ward:** Wheldrake
Team: Major and **Parish:** Deighton Parish Council
Commercial Team

Reference: 14/01845/FULM
Application at: Cockey Hill Farm Wheldrake Lane Cockey Hill York YO19 4SN
For: Erection of 6no. Holiday Lodges and wildlife pond together with landscaping works following change of use of agricultural grass land and change of use of former quarry to public amenity area (resubmission)
By: Mr Gary Cooper
Application Type: Major Full Application (13 weeks)
Target Date: 3 November 2014
Recommendation: Refuse

SUMMARY

The application site is located within the Green Belt where there is a strong presumption against new development. The report concludes that the proposed development constitutes an inappropriate form of development in the Green Belt which would conflict with the objectives of including land within the Green Belt and would be harmful to openness. There are no very special circumstances which would clearly outweigh the harm caused by the proposed development.

1.0 PROPOSAL**SITE**

1.1 The application relates to a piece of agricultural grassland, to the south of Wheldrake Lane, and immediately to the west of Spindle Cottage. It lies to the south of Cockey Hill, a small hamlet centred round the junction of Wheldrake Lane and the A19. There are a number of small businesses within the Cockey Hill area including a cafe about 500 metres to the north of the site along the A19. The site, itself down to grass, has generally well landscaped boundaries, although the field gate on an adjacent piece of land to the west, at the junction with the A19, affords clear views into the site. To the south of the site is the AG Motors business, which is accessed from Wheldrake Lane, and beyond it the existing farm business, which is accessed from the A19. The site lies in Flood Zone 1 (low probability).

PROPOSAL

1.2 The proposal involves the erection of six holiday lodges around a lake following the change of use of the land. Associated visitor parking and both hard and soft landscaping is proposed. Vehicle access to the lodges would be via the existing entrance from Wheldrake Lane, which serves AG Motors. Pedestrian access would be via a gate in the hedgerow to the west of the visitor parking area or via a pedestrian gate to the west of the lodges, that leads to the adjoining parcel of land, itself accessed from an existing field gate from Wheldrake Lane, close to its junction with the A19. This additional area of land, a former quarry, is shown on the masterplan as being landscaped and access provided to the public as an amenity area, including the provision of a picnic area and field shelter, though it is not included in the application redline boundary. The external finish of the lodges is anticipated to be timber, with a neutral colour, non reflective surface used for the roof - final details to be covered by condition. Additional native species planting is proposed to existing boundary enclosures. Permeable crushed hardcore is proposed for the vehicle parking area and grasscrete for the tracks to the cabins. Waymarker lighting is proposed. Foul sewage would be dealt with by a package treatment plant.

1.3 The application is supported by a planning statement, which contains a flood risk assessment, and ecological assessment.

(i) Planning Statement - confirms that the site is just over 2 hectares in area and that the proposal is for the purposes of agricultural diversification. It explains that the adjacent former quarry area to the west of the site will be enhanced with a programme of landscaping and planting to provide high level of amenity for the users of the holiday cabins, but also for local residents through the creation of permissive paths. It summarises pre-application discussions and consultations as well as the key planning issues. In conclusion, it justifies the proposal as being agricultural diversification, making use of an otherwise redundant piece of agricultural land, which would positively contribute to the tourist economy through the provision of high quality visitor accommodation. It would create jobs, increase biodiversity, enhance the appearance of the countryside and provide a recreational facility for local residents and visitors. It considers that the area would remain largely open as the holiday cabins cover less than 2% of the total ground area of the site. The scheme is sustainable and accessible and, due to the limited number of cabins, would not affect residential amenity, drainage or local facilities;

(ii) Ecological Assessment - The site contains species poor acid grassland which is a BAP habitat, but no protected species were identified. The proposal would provide ecological enhancement and the grassland on the western side managed to increase its species diversity.

HISTORY

1.4 A previous application (ref. 13/03205/FULM) for the erection of six lodges on the land was withdrawn prior to determination. A pre-application response was provided by the case officer (ref. 12/02928/PREAPP). This raised concern with what was considered to be a relatively sizable development in a small hamlet within the Green Belt, which constituted inappropriate development in the Green Belt. As such, very special circumstances would need to be demonstrated to outweigh inappropriateness.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYGP1 -Design

CYGP14 - Agricultural land

CYGP4A - Sustainability

CYGP9 - Landscaping

CGP15A - Development and Flood Risk

CYGB1 - Development within the Green Belt

CYNE1 - Trees, woodlands, hedgerows

CYHE10 - Archaeology

CYV1 - Criteria for visitor related devt

CYV5 - Caravan and camping sites

3.0 CONSULTATIONS

PUBLICITY

3.1 The application was publicised by means of a press notice, site notice and notification to statutory consultees and local residents. The consultation period expired on 26.9.2014 .

INTERNAL

3.2 Countryside Officer - The proposals do not have appeared to have changed from the previous application. The information provided in the ecology report previously submitted and dated September 2013 still remains valid. The comments and condition suggested as part of the previous application in October 2013 still apply. The proposal to include wildlife areas in the west of the site is positive and more detail would be welcomed. Acid and neutral grassland are priority habitats in the City of York Local Biodiversity Action Plan and could be enhanced on this site through wildflower plug planting and appropriate management such as annual cutting and removal of arisings. In order to facilities this the positioning and number of trees should be carefully considered so not to make management difficult. Condition suggested.

3.3 Highway Network Management - Requested further clarification and confirmation. Following receipt of this, confirmed that happy with the responses, subject to being annotated on the planning drawing.

3.4 Flood Risk Management Team - Considers that there is insufficient information provided with regards foul and surface water disposal. Requests further information to be provided in order that the potential impact of the proposals on the existing drainage system and downstream watercourse can be determined.

3.5 City Archaeologist - The application site lies in close proximity to two sites recorded in the City of York Historic Environment Record: Myer Croft (MYO91) and Crockey Hill Post Medieval Buildings (MYO92). Both are of archaeological interest and are mentioned in the A History of the County of York East Riding: Volume III. Approximately 1km to the north-west a series of complex crop-marks recorded on aerial photographs indicate the existence of a well-developed late-prehistoric and Romano-British landscape (MYO3519). This landscape consists of fields, enclosures and remains of settlement including round-houses. It is likely that this landscape extends through the application site. The application site is therefore of archaeological interest and an archaeological watching brief on all groundworks will be required.

3.6 Environmental Protection Unit - Raises no objection to this application, with regards to noise, odour, contaminated land or air quality. Request an informative to remind the developer of their obligations in regards to environmental concerns.

EXTERNAL

3.7 Environment Agency - Refer to comments made in previous application, which still apply. No objections subject to conditions. There are three groundwater abstractions within a radius of 1 km from the site, which are used for irrigation. The nearest surface water body to the site is a drain about 100metres to the north of the site. There are four ponds within a 1km radius of the site. Furthermore, a natural conservation site, the Heslington Tillmire, which is classified as a Site of Special Scientific Interest (SSSI), lies about 1.1 km to the N-E of the site of the development. The development is therefore situated in an area sensitive to contamination and it is of high importance to protect the aquifer, the abstractions and the SSSI from contamination, during the construction phases of the development.

3.8 Ouse and Derwent Internal Drainage Board - Comments that the site is in an area where drainage problems exist and requests a condition that requires the applicant to demonstrate that soakaways will work effectively.

3.9 Wheldrake Ward Councillor - Raises no objections on the basis that the small site serves no useful purposes to the Green Belt, is unattractive and bounded on three sides by 2 roads, farm buildings, an automotive repair garage and a caravan storage yard. The site has nothing to commend it and the lodges will probably improve the aspect. The neighbours have no problems with the proposals and one of the boundary lines faces open ground on the other side of the road. Access to the site exists and can easily cope with the few visitors cars that will use it. The Parish Council supports the application.

3.10 Deighton Parish Council - Does not object.

3.11 Local residents - two letters from local residents objecting to scheme on following grounds:

- impact on volume and flow of traffic in Wheldrake Lane caused by the increased number of vehicles;
- affect on safety on Wheldrake Lane, which can be particularly difficult at this time of year when the sun at various times of the day is low in the sky making it difficult to see oncoming traffic;
- access from A19 would benefit most that are affected by the proposals and enhance the nature conservation programme intended for the site;
- impact on Green Belt;

- impact on residential amenity from loss of outlook through planned access point, increased in light and noise pollution, loss of privacy and difficulty in sale of houses;
- adverse affect on open farmland landscape character of Crockey Hill;
- a Zone of Visual Influence should be included in the application and assessment undertaken as landscape character will be changed completely;
- further details of signage, waste management and disabled parking required.

4.0 APPRAISAL

KEY ISSUES

4.1 The key material considerations relevant to the determination of this application are as follows:

- Green Belt location;
- Sustainability;
- Residential amenity;
- Highways, access and parking;
- Flood risk and drainage;
- Nature conservation;
- Contamination;
- Archaeology.

POLICY BACKGROUND

4.2 The development plan for York comprises the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. These policies are YH9(C) and Y1(C1 and C2), which relate to York's Green Belt and the key diagram on page 2014 insofar as it illustrates the general extent of the Green Belt (figure 6.2). The policies require the inner and the rest of the outer boundaries are defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas. The application site falls within the general extent of the Green Belt as shown on the Key Diagram of the RSS.

4.3 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", March 2012). Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking. The principles include: seeking high quality design and a good standard of amenity for all existing and future occupants of land and buildings; protecting the Green Belt around main urban areas, recognising the intrinsic character and beauty of the countryside; taking full account of flood risk; contributing to conserving and enhancing the natural environment; conserving heritage assets; and, actively

managing patterns of growth to make the fullest possible use of public transport, walking and cycling.

4.4 The City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Its policies are material considerations in the determination of planning applications, although it is considered that their weight is limited except when they are in accordance with the NPPF. The relevant policies are summarised in Section 2.2. Of particular relevance are the following policies:

4.5 Policy GB1 sets out a clear policy presumption that planning permission for development within the Green Belt will only be forthcoming where the scale, location and design of such development would not detract from the open character of the Green Belt, would not conflict with the purposes of including land within the Green Belt and would be for one of a number of purposes deemed to be appropriate within the Green Belt.

4.6 Policy GP1 'Design' includes the expectation that development proposals will, inter alia; respect or enhance the local environment; ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape and incorporate appropriate landscaping;

4.7 Policy GP4a 'Sustainability' seeks, amongst other things, to ensure that development proposals are accessible by other means than the car and be easily accessible for pedestrians and cyclists.

4.8 Policy V1 says that visitor related development will be encouraged. In determining applications account will be taken of whether the proposal has made adequate servicing arrangements, is accessible to public transport routes, will result in increased traffic, is likely to improve the prosperity of the tourism industry and the city's economy, will adversely impact on the reasonable use and enjoyment of adjacent buildings and land or adversely impact on the countryside setting of the city.

4.9 Development Control Local Plan Policy V5 'Caravan/Camping Sites' states that planning permission for new caravan/camping sites outside settlement limits will only be granted provided:

- a) the number of pitches does not exceed 20; and
- b) there will be no pitches for static caravans; and
- c) the proposal does not involve the erection of permanently-sited ancillary buildings other than toilets/washrooms and a site office; and
- d) the site is associated with an existing settlement and of a compatible scale to the settlement; and
- e) the site is readily accessible by public transport; and

- f) there is no adverse effect on the openness of the Green Belt; and
- g) it provides a direct benefit to the local residential workforce; and
- h) the approach roads are suitable for caravans; and
- i) there is no adverse effect on the provision of local services; and
- j) the proposal is complimentary to recreational opportunities in the vicinity; and
- k) it provides a direct benefit to the local residential rural community.

4.10 The Good Practice Guide for Planning and Tourism replaced PPG21 in 2006. The guidance advises planners and developers to work together in order to ensure that new tourism developments are as sustainable as possible in transport terms. At the same time, planners will need to recognise that the wide variety of developments that are inherent in the tourism industry means that there are some developments (e.g. touring sites for caravans) that are car dependent. Wherever possible and feasible for the development concerned, they should look to locate the development close to public transport interchanges and bus routes; produce green transport plans and/or establish a visitor management programme (para 5.3). The guide goes on to say that there will be some occasions where development for tourism is sought at a location where it will be difficult to meet the objective of access by sustainable modes of transport. The choice of location may have been determined by a functional need, such as a visitor centre. Developers and planners may find that in such cases there will be limited opportunities to make the development accessible by sustainable modes of transport or to reduce the number or proportion of visits made by car. For small-scale schemes, the traffic generated is likely to be fairly limited and additional traffic movements are therefore unlikely to be a reason for refusal for otherwise suitable tourism developments. (para.5.4).

4.11 Annex A to the guide says Local Planning Authorities should carefully weigh the objective of providing adequate facilities and sites with the need to protect landscapes and environmentally sensitive sites.

GREEN BELT LOCATION

4.12 The site is located within the general extent of York's Green Belt as shown on the Key Diagram of the RSS and is considered as having Green Belt status when assessing the merits of the proposed development against the National Planning Policy Framework and Guidance, relevant local plan policies and other material considerations.

4.13 Section 9 of the NPPF says that the essential characteristics of green belts are their openness and their permanence (para.79). One of the five purposes of including land within the Green Belt is to assist in safeguarding the countryside from encroachment (Paragraph 80). Once defined Local Planning Authorities should plan positively to enhance the beneficial use of the green belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and

recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land (para.81).

4.14 In terms of the Green Belt status of the site the main considerations are:

- whether the proposal constitutes inappropriate development in the Green Belt;
- its effect on the openness of the Green Belt and the purposes of including land within it;
- if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

4.15 The proposed lodges each represent a substantial physical presence, which would be erected permanently on the site. The cabins would not sit on traditional foundations, but would need some form of ground level strengthening. Whilst the applicant points out the scheme is reversible with the cabins being removed at such time as the operator wishes to cease letting them, the application is for the cabins to be permanently sited. Given their size, permanence and physical attachment, it is officers' view that the holiday cabins would comprise operational development and would, therefore, be treated in policy terms as buildings.

Definitional Harm

4.16 The NPPF makes it clear that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. It says that the essential characteristics of Green Belts are their openness and their permanence. Openness can be harmed by (amongst other things) new built form, car parking, boundary walls or fencing. There is a presumption against inappropriate development in the Green Belt. Government guidance uses the term "inappropriate development" to describe development that would harm the openness of the Green Belt. Paragraph 89 of the NPPF lists the forms of new buildings that are considered to be appropriate in the Green Belt. The construction of all other buildings which do not fall within the exceptions listed, are inappropriate development and are therefore, by definition, harmful to the Green Belt (this is referred to in this report as "definitional harm"). Paragraph 90 lists the other forms of development that are not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. The change of use of land is not one of the listed forms of development. Paragraph 88 of the NPPF establishes that 'substantial weight' should be given to any harm to the Green Belt. Paragraph 87 of the NPPF states that inappropriate development that is, by definition, harmful to the Green Belt, should not be approved except in 'very special circumstances'.

4.17 The proposed holiday accommodation does not fall within the exceptions listed in paragraph 89 of the NPPF and the change of use of former quarry does not fall within the specified list in paragraph 90. The proposal, therefore, constitutes inappropriate development that is, by definition, harmful to the Green Belt. In accordance with paragraph 88 of the NPPF, substantial weight is given to this definitional harm against the proposal.

Any other harm

4.18 Paragraph 88 of the NPPF refers to the substantial weight that should be given to any harm to the Green Belt, including "any other harm". Furthermore policy V5 of the DCLP does not support development of touring caravan and camping sites where there is an impact on the openness of the green belt. More permanent accommodation (referred to in the policy as static caravans) is stated not to be appropriate due to their visually intrusive characteristics and permanence.

4.19 The site is part of the open agricultural fields around the cluster of buildings that are Wheldrake Hill Farm. The site is considered to make a positive and significant contribution to the sense of openness and open character of the Green Belt and serves in providing a visual break between the buildings on the farm and the houses on Wheldrake Lane.

4.20 The introduction of the lodges on this land between the existing farm buildings, and the employment buildings within its curtilage, and the houses on Wheldrake Lane would erode the openness of the Green Belt and would add to the sense of encroachment of built form into the Green Belt. Whilst the boundaries of the land are defined by mature native hedges and trees, which contribute to the rural character, the reduced level of cover in the winter months would mean that the development would be more visible in terms of its physical presence and associated lighting, thereby impacting on the open character and visual amenity of the Green Belt. Overall, it is considered that the proposed development fails to protect the essential characteristic of openness or to safeguard the countryside from encroachment, which is one of the five key purposes of including land within the Green Belt as set out in paragraph 80 of the NPPF.

4.21 Therefore, in addition to definitional harm, it is considered that the proposal would result in further harm to the open character of the Green Belt and the purpose for including land within it.

Consideration of 'Very Special Circumstances'

4.22 Paragraph 88 of the NPPF explains that 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. To be "clearly outweighed" it is not enough simply to show that the harm and the countervailing

considerations are in balance as this is not outweighing and certainly not "clearly" outweighing. Additionally, the fact that any particular factor outweighs any harm to the Green Belt does not mean that that factor could reasonably be described as comprising "very special circumstances", as in order to meet the test the circumstances must in truth be "very special" and the words should be given their full force and effect. The fact that the development might be considered desirable from certain points of view is not sufficient in itself to amount to a very special circumstance. The very special circumstances must clearly be so special that the strong presumption against inappropriate development in the Green Belt (which by definition is harmful to the objectives of the Green Belt) can exceptionally be set aside in those particular circumstances. In this respect the application is considered to be weak. The planning statement submitted by the applicant includes a justification for the proposal in paragraph 15 that can be summarised as follows:

- (i) Benefits to the economy - The planning statement refers to the use of 'an otherwise redundant piece of agricultural land' to achieve agricultural diversification, contribution to the tourist economy and the creation of jobs (stated as two full time and one part time employees).
- (ii) Benefits to biodiversity - This refers to the provision of 'an oasis for wildlife...in an area where agriculture and farming practice currently leans towards monoculture'.
- (iii) Benefits to local community - The planning statement refers to the opening up of the land to the west of the site through the provision of permissive paths (short mown grass) that would be accessible by public transport as well as to local residents as well as for wheelchair and ambulant disabled as well as cyclists. It highlights the small size of the Crockey Hill settlement with no clearly defined centre or limit and the opportunity the scheme offers to 'provide an attractive amenity area to be enjoyed by local people as well as visitors occupying the holiday site'.
- (iv) Limited impact on amenity of local area - The planning statement refers to the existing and new planting that could screen the cabins and as such the proposal would have a 'very minimal visual impact'. Lighting is to be kept to a minimum and the additional planting would also seek to reduce noise to local residents. The scheme would lead to an improvement to the visual appearance of the Green Belt.
- (v) Sustainability - The planning statement states that the proposal is in a sustainable location, accessible by public transport, with its own drainage provision and negligible impact on local schools and services.

4.23 Whilst the proposal would undoubtedly increase both the quantity and variety of tourist accommodation serving York and the wider area, this consideration could apply to any number of sites within the City. Although Section 3 of the NPPF does encourage planning policies to support economic growth in rural areas in order to create jobs, there is no relevant local policy and it is noted that the number of jobs to

be created by this proposal is limited. No evidence has been submitted to show that the existing agricultural holding is not viable, thereby supporting the claim of agricultural diversification. Furthermore, it is noted that there are already employment uses in the buildings immediately to the north and east of the farm buildings and that land to the east is used for caravan storage. The planning statement makes reference to the need for the holiday cabins being to provide 'an income and economic base to support the landscape and wildlife improvements', rather than to sustain the operation of the agricultural holding.

4.24 The intention of the applicant to enhance biodiversity features is positive and in line with advice in Section 11 of the NPPF, which advises permission be granted where the primary aim is to conserve or enhance biodiversity. Whilst being in general support, more detail is required by the Council's Countryside and Ecology Officer. The Officer confirms that acid and neutral grassland are priority habitats in the City of York Local Biodiversity Action Plan. Such areas could be enhanced through wildflower plug planting and appropriate management such as annual cutting as is referred to in the Ecological Assessment submitted with the application. The Officer advises caution with regards the positioning and number of trees proposed within the site as this could make management difficult. There is no supporting evidence to demonstrate that the cost of the improvements to the grassland, and indeed the bird boxes illustrated on the masterplan, would necessitate the erection of six holiday lodges. Furthermore, the planting of additional trees is primarily to screen the development from neighbouring properties and is not needed as part of the grassland improvements. With regards the creation of a new pond, it is likely that its biodiversity potential would be limited due to its proposed location surrounded in close proximity by holiday cabins and the impact of disturbance to it from noise and lighting associated with the use of the lodges.

4.25 The opening up of permissive paths on the former quarry land to the west and the subsequent access to the Green Belt, is clearly what paragraph 81 of the NPPF is seeking to support. The masterplan refers to the former quarry site as a public amenity area and shows the erection of a shelter and steps. Planning permission would be required for the change of use and operational works, though the site of the former quarry falls outside the redline application boundary. The increased access to the land through permissive routes would be of benefit to those in the immediate locality and primarily to those that are within walking distance of the site given its isolated location and lack of dedicated parking provision to serve it. The paths and cycle track, which would be short mown grass, would not form part of any footpath or cycleway network, with the only access through the site being provided for the occupants of the holiday cabins to and from Wheldrake Lane. The use of short mown grass for the permissive paths would not provide a suitable surface for wheelchair and ambulant disabled visitors. Furthermore, improved access to this area could be provided without the proposed development and this proposed benefit should be afforded little weight.

4.26 The additional landscaping along site boundaries, and within the site itself, would not offer any significant benefit to the neighbouring properties other than as a screen to reduce the visual impact of the scheme or the visual and acoustic benefit of the public amenity area.

4.27 The site is close to a public transport route between York and Selby along the A19 as well as being a short drive along the A19 from the park and ride facility at the Designer Outlet. Officers concur with the comments in the planning statement in relation to the limited impact on schools and local facilities. Conditions are required in relation to drainage.

4.28 As a result of the above, the issues set out by the applicant to justify inappropriate development are not of overriding weight, either individually or collectively, in the consideration of the application to amount to very special circumstances. Therefore, the harm arising from the inappropriateness of the development and the other harms identified are not outweighed by the very special circumstances advanced by the Applicant.

SUSTAINABILITY

4.29 The NPPF establishes a presumption in favour of sustainable development in paragraph 14, which for decision-taking means approving development proposals that accord with the development plan. Local Plan Policy GP4a 'Sustainability' sets out the local requirements. The site lies on a public transport route between York and Selby and is a short drive away from the park and ride facility at the Designer Outlet. There is a cafe approximately 500 metres to the north of the site along the A19 as well as a farm shop and there is public house at Deighton to the south along the A19. There is a cycle track between York and Selby to the west on the opposite side of the A19 at a distance of approximately 3km. Therefore, whilst it is likely due to the nature of the scheme and location of the site that the primary means of transport would be by private car, it is acknowledged that alternative means could be utilised and local facilities, albeit limited, do exist within the locality.

RESIDENTIAL AMENITY

4.30 One of the core planning principles outlined in the NPPF is the need to seek a good standard of amenity for all (paragraph 17) and this is reflected in Local Plan Policy GP1. The application has the potential to increase noise disturbance from activity associated with the holiday accommodation, particularly Spindle Cottage, which lies to the east at a distance of approximately 29m and has windows in its side elevation facing the cabins. There is an existing established hedge between the cottage and the site and the masterplan indicates additional planting within the site along the entire length of boundary of the curtilage of Spindle Cottage. The separation distance and the planting belt would help to lessen any adverse impact on the amenity that the residents of Spindle Cottage can reasonably expect to enjoy.

The existing field enclosure along the northern boundary with Wheldrake Lane is also proposed to have a row of trees planted along its inner length. Details of the new planting would have to be covered by condition.

HIGHWAY SAFETY

4.31 Vehicles related to the holiday lodges would utilise the existing access from Wheldrake Lane. Occupants of the lodges could also access the site on foot via the existing field opening on Wheldrake Lane and then across the adjoining field to the west of the application site. Further clarification has been sought by the Local Highway Authority, and satisfactorily answered by the applicant. No objection is raised on highway safety terms, subject to a revised plan being submitted that annotates the answers given, to allow the drawing to be conditioned as part of any approval.

FLOOD RISK AND DRAINAGE

4.32 Section 10 of the NPPF requires LPAs to ensure that flood risk is not increased elsewhere as a result of the development. This advice is reflected in Policy GP15a of the Local Plan. The site falls within low risk Flood Zone 1 and is, therefore, not at risk from river flooding. However, the Internal Drainage Board highlights that the site lies in an area where drainage problems do exist and requests a condition with regard to surface water drainage. The Council's Flood Risk Management Team requests further information with regards to water disposal. Officers' consider that the proposal is acceptable in drainage terms, subject to the condition requested by the drainage board.

NATURE CONSERVATION

4.33 Section 11 of the NPPF deals with the conservation and enhancement of the natural environment. Paragraph 118 states that LPAs should aim to conserve and enhance biodiversity by permitting development proposals where this is the primary objective. An Ecological Assessment has been submitted in support of the application. It highlights that the site includes areas of acid and neutral grassland, which are priority habitats in the City of York Local Biodiversity Action Plan. The proposal to enhance the grassland within the site through future management could be covered through condition. The wildlife benefit of the pond is likely to be affected by the location of the holiday cabins around it and at close proximity.

CONTAMINATION

4.34 Section 11 of the NPPF also sets out Government policy with regards contaminated land. It states in paragraph 120 that new development must be appropriate for its location to prevent unacceptable risks from pollution and land instability. The Environment Agency requests a condition to address potential contamination, due to the site's history as a quarry.

ARCHAEOLOGY

4.35 Section 12 of the NPPF requires LPAs to take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 139 states that non-designated heritage assets of archaeological interest should be considered subject to the policies for designated heritage assets. This is reflected in Local Plan Policy HE10. The site lies in close proximity to two recorded sites of archaeological interest that consist of fields and enclosures and remains of settlement. The City Archaeologist considers that it is likely that this landscape extends through the application site and as such an archaeological watching brief would be required on any ground works. This could be addressed through condition.

5.0 CONCLUSION

5.1 For the reasons set out above, the development is considered to be inappropriate development in the Green Belt. The harm arising from the inappropriateness of the development and the harm identified to openness and purpose of including land in the Green Belt are not outweighed by the circumstances advanced by the Applicant. The application is, therefore, recommended for refusal.

6.0 RECOMMENDATION: Refuse

1 Policies YH9 and Y1 of the Yorkshire and Humber Plan Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. Cockey Hill Farm is located in Green Belt as identified in the City of York Development Control Local Plan (April 2005). It is considered that the proposed development consisting of six holiday lodges, as well as the associated infrastructure, constitutes inappropriate development in the Green Belt as set out in Section 9 of the National Planning Policy Framework. As such, the proposal results in substantial harm to the Green Belt, by definition, and by reason of any other harm, including the impact on the openness of the Green Belt and conflict with the purposes of including land within it. No 'very special circumstances' have been put forward by the applicant that would outweigh this substantial harm. The proposal is, therefore, considered contrary to

advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt land' and City of York Draft Local Plan Policies GB1 and V5.

7.0 INFORMATIVES:

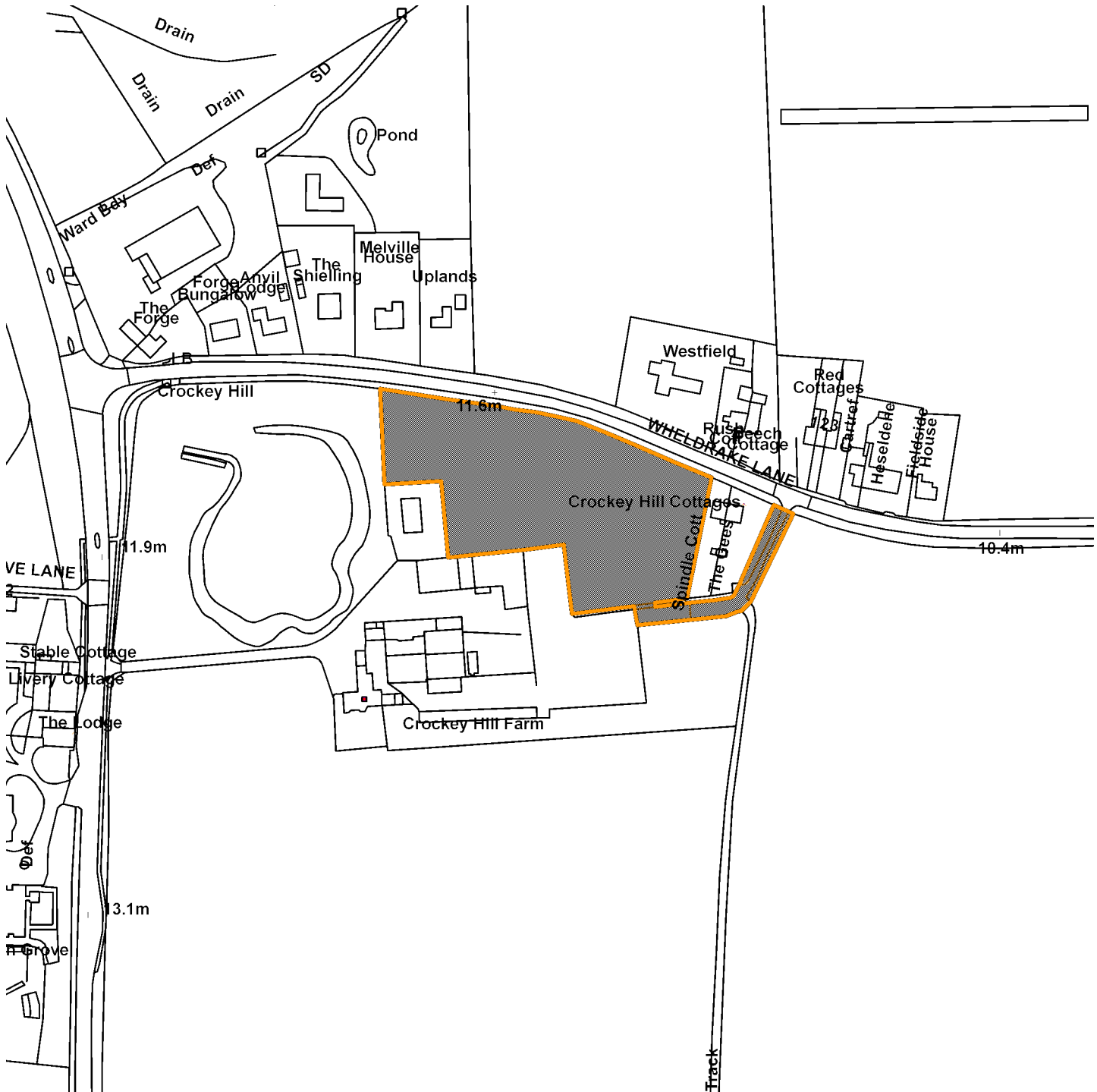
Contact details:

Author: Hannah Blackburn Development Management Officer

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14/01845/FULM

Crockey Hill Farm, Wheldrake Lane



Scale : 1:2472

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Organisation	Not Set
Department	Not Set
Comments	Site Plan
Date	14 October 2014
SLA Number	Not Set

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COMMITTEE REPORT

Date: 23 October 2014 **Ward:** Heworth
Team: Major and **Parish:** Heworth Planning Panel
Commercial Team

Reference: 14/00112/FULM
Application at: Site Adjacent To Frog Hall Public House Layerthorpe York
For: Erection of five storey hotel with public house/restaurant/retail use to ground floor, single storey drive-through restaurant with associated parking, landscaping and access including extension to James Street/Heworth Green Link Road
By: Tiger Developments
Application Type: Major Full Application (13 weeks)
Target Date: 21 April 2014
Recommendation: Approve

1.0 PROPOSAL**APPLICATION SITE**

1.1 The application site is presently vacant. It was once part of the former gasworks site, bound by Layerthorpe to the south, Heworth Green to the north, the River Foss to the west and the former Derwent Valley railway line, which now forms part of the national cycle route network, to the east. The site was designed for redevelopment (residential and offices) in the 2005 Local Plan.

1.2 Part of the Council's transport strategy is to establish the St James Link Road, between Heworth Green and Layerthorpe, to relieve traffic volumes on the inner ring road. The link road has been constructed in part, alongside recent office and residential development to the north of the application site. The application site is the remaining parcel of land between the route of the proposed road and the River Foss.

PROPOSALS

1.3 This application is for a hotel with 124 bedrooms and commercial floor-space at ground floor level, for a drive-through restaurant and either a retail, restaurant or drinking establishment (use classes A1, A3 or A4). The development would include 87 car parking spaces, 27 cycle spaces, landscaping and a river walkway along the Foss, which would form a continuation of the existing walkway established alongside recent development to the north.

SITE HISTORY

1.4 Planning permission was granted for the same type and amount of development in June 2012 (application 11/02210/FULM). It has not been possible to implement the previous permission as the hotel aspect could not go ahead until the gasholder, which is to the northeast, is de-commissioned. This was a requirement from the Health and Safety Executive due to the scale of the hotel and its proximity to the gasholder. The gasholder is yet to be de-commissioned, therefore applicants have come forward with an alternative scheme which moves the building further from the gasholder to the extent that the HSE requirement would no longer apply.

1.5 An application was also made in 2004 for 158 residential apartments at the site (with basement parking). The scheme was approved by members, subject to a legal agreement to deliver affordable housing, offsite open space provision, a bond for remediation of contaminated land, a contribution toward a car club and access arrangements to a riverside walkway. The legal agreement was not signed and the application withdrawn as the scheme was not financially viable.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

DC Area Teams GMS Constraints: Central Area 0002

Floodzone 2 GMS Constraints: Flood zone 2

Floodzone 3 GMS Constraints: Flood zone 3

Hazardous Premises GMS Constraints: Transco PLC COMPLETE

2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP6	Contaminated land
CYGP15	Protection from flooding
CYT2B	Proposed Pedestrian/Cycle Networks
CYT4	Cycle parking standards
CYE1A	Premier Employment Sites
CYV4	Allocation of hotel sites
CYNE7	Habitat protection and creation
CYNE8	Green corridors

3.0 CONSULTATIONS

Environmental Protection Unit

3.1 Officers raise issue with possible noise disturbance from the drive-through restaurant. They recommend conditions, to control delivery times and require that any plant/machinery is below the existing background noise level, in the interests of residential amenity. Officers also recommend the following conditions -

- The hotel building be insulated so internal noise levels are adequate for occupation.
- A restriction on times of construction and for a Construction Management Scheme.
- The kitchen equipment be able to deal with cooking smells/odour.
- External lighting to be agreed.
- Land contamination to be suitably remediated.
- Provision of electric vehicle charging points within the development.

Ecology Officer

3.2 The submitted plans include some thinning and replanting of the trees along the river corridor but the width of this strip has been reduced down to approx 2.5 m wide which will constrain its functionality as wildlife corridor. It would be beneficial to site the cycle path further from the river, so that the width of vegetation and, thus, the wildlife corridor is maximised. The proposed lighting along the cycleway should be designed so that it does not interfere with foraging corridors, and officers have advised how this could be achieved.

3.3 A sedum roof has been incorporated into the development but it would also be beneficial to see some integrated bat and bird habitat features (such as bat bricks, swift boxes) as part of the plans.

Highway Network Management

3.4 Officers do not object to the scheme. It is noted that the development would secure the remainder of the link road. There is no objection in terms of traffic generation which has already been considered as part of the Foss Basin Masterplan, which considered re-development of this area. Officers advise if the scheme is recommended for approval conditions / a legal agreement would be required to secure -

- The delivery of the link road
- A road safety audit for the new highway
- That the hotel has a travel plan
- Agreement on how the highway network is affected during construction

Flood Risk Management

3.5 The south west elevation of the proposed building and North West corner of proposed car park lie within Flood Zone 3a where there should be no lifting of levels unless flood compensation is provided. To assess the impact of the proposed development, officers have asked for flood compensation details, including sections; volume calculations and location of the flood compensation.

3.6 Officers advise that the surface water drainage details also need to be submitted for approval with peak surface water run-off from the development attenuated to the 2 litres/sec, as proposed in the submitted Flood Risk Assessment.

Police Architectural Liaison Officer

3.7 Officers advise the applicants engaged in pre-application discussions with the police and secure by design principles have been incorporated into the scheme.

Canal & River Trust (replaced British Waterways)

3.8 No comment.

Environment Agency

3.9 Comments on the revised Flood Risk Assessment are pending and will be provided prior to or at the committee.

Publicity

Publicity

3.10 There are six objectors to the scheme. There was re-consultation, following submission of the revised plans. Comments are summarised below -

Harm to residential amenity

- Noise as a consequence of the traffic movements associated with the proposed drive through and the hotel, the latter would have associated activity on a 24 hour basis.
- Due to the layout and proposed drive-through the area is one where it is likely youths with cars/scooters will concentrate and hang out and this will lead to disturbance and loss of residential amenity.
- Litter creation due to customers from the drive-through.
- Smells and odours from restaurants.
- Over-looking over Rome House flats (to the north)

- Opening up the riverside walk to the public will lead to loss of privacy, a lack of security and an increase in noise, litter and nuisance.

Design

- The architecture and materials proposed are atypical of York. The building is too 'big and 'boxy' and is more akin to 1960's/70's office blocks, which are out of keeping with the scale, materials and building form that characterises the city.
- Loss of views towards The Minster (from Layerthorpe)

Other

- A drive-through restaurant is an unhealthy and unsustainable option, which should not be located in an inner city area.

4.0 APPRAISAL

4.1 Key issues

- Principle of the proposed development
- Land contamination
- Health and safety
- Visual impact
- Residential amenity
- Highway Network Management
- Flood Risk
- Management of the river walkway
- Sustainable design and construction

Principle of the proposed development

4.2 The National Planning Policy Framework (section 1) advises that the Government is committed to securing economic growth. Planning Authorities should identify priority areas for economic regeneration and support expanding business sectors.

4.3 The site is within the Heworth Green action area, designated in policy SP9 of the 2005 Local Plan. The allocation sought to develop the site as a mixed use of employment, retail, leisure and residential. There has already been residential and office development delivered within the action area.

4.4 The application site has been identified for regeneration in the 2005 Local Plan and the composition of uses proposed have already been approved in 2012 and could still be implemented. The development would also deliver important infrastructure; completion of the link road to ease traffic on this side of the city, that has been a Council aspiration for sometime, forming part of the Foss Basin Masterplan. The

proposals would be consistent with the National Planning Policy Framework in terms of delivering regeneration and economic growth in designated areas.

4.5 The National Planning Policy Framework advises that when a Local Plan is not up to date, proposals for city centre uses, such as that proposed, which are not within the defined city centre should be subject to a sequential test and impact assessment, the latter when development would exceed 2,500 sq m. The amount of floor space proposed in this development is approx 4,100 sq m.

Sequential Test and Impact Assessment

4.6 A sequentially preferable site where the hotel development could be located would be Hungate where there is an unimplemented outline planning permission for a hotel of comparable size (application 13/03232/OUTM). A sequentially preferable site where the hotel development could be located would be Hungate where there is an unimplemented outline planning permission for a hotel of comparable size (application 13/03232/OUTM). However the site would not accommodate the additional proposed uses - the retail element and the restaurant, with a drive-through facility. Without the additional uses the development would not generate the income to contribute/deliver the link road and be viable.

4.7 Hotel occupancy rate studies undertaken demonstrate that York hotels generally have a high level of occupancy, except in January. The amount of hotel rooms has increased by around 20% over the past 5 years, and occupancy levels have remained fairly constant. The site is within walking distance of the city centre and the development would contribute to the city centre economy. As found in the 2011 application, the proposed hotel would not have an undue impact on the city centre.

4.8 The proposed commercial units (retail/restaurant/drinking establishment) would cater for the local population, which is set to grow as regeneration at the remainder of the Heworth Green site and around Layerthorpe occurs, and compete with similar facilities in the locality. Despite the drive-in option, the development is designed and located to promote sustainable modes of transport, in accordance with paragraph 35 of the National Planning Policy Framework. There would not be a significant effect on the vitality and viability of the city centre.

Conclusion

4.9 That this specific inner city area has been identified in local plans for regeneration, including potential leisure uses, carries significant weight. The site is in a sustainable location, within walking distance of the city centre, and the significant benefits the scheme would bring, including delivery of the link road, and re-development of a large derelict site, outweigh the low impact there would be on the city centre.

Land contamination

4.10 The National Planning Policy Framework requires that, to avoid unacceptable risk from pollution, planning should ensure that sites are suitable for the proposed use taking account of ground conditions, arising from previous uses, and any proposals for mitigation including land remediation.

4.11 The site, in particular ground water, is contaminated. The applicants have carried out investigation to date and it is proposed permission be granted subject to conditions that remediation be carried out prior to construction. This approach is agreed to by Council and the Environment Agency. At least a year of monitoring will be required also to ensure the ground water contamination has been deal with. There would need to be protection for the monitoring points, so monitoring is not precluded due to construction.

Health and safety

4.12 The proposed building would lie in the outer zone in terms of proximity to the gasholder, which remains active. The gasholder is regarded as a major hazard by the HSE. Being in the 'outer zone' is an adequate clearance for the type of development proposed and therefore the development could be occupied whilst the gasholder remains active.

Visual impact

4.13 The National Planning Policy Framework advises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.14 National planning practice guidance advises that in assessment of design, consideration, where appropriate should be given to layout, form, scale, detailing and materials.

Layout & Scale

4.15 The building is set further back from Eboracum Way in relation to the existing development along the street' this is a requirement due to the gasholder. The applicants have revised the scheme since submission, to give more prominence to the proposed building and the landscaping, integrate the restaurant into the main building and make car parking less prominent. There is space for landscaping at the front of the site, which is welcome, and by moving the proposed building away from the south boundary the car parking is spread over the site, thus appearing less prominent. The walkway is continued along the river.

The layout is reasonable. It is not as successful as the 2011 scheme, which addressed the street. However this is not possible because of the required separation distance from the gasholder.

4.16 The building is single storey at the south end and is a reasonable distance from 87 Layerthorpe, to allow the change in building scale without appearing out of place in its setting. It is of comparable massing to the other recent development to the north.

Form, detailing and materials

4.17 Along Eboracum Way there is already a 4/5 storey residential block in buff brick and an office building which uses modern cladding materials of similar massing to the proposed building. The buildings have a commercial and large scale appearance and use modern materials.

4.18 The proposed building will be predominantly of light brick, the massing broken up by a step in the building line, the use of a single storey element to the front, horizontal concrete banding between floors and deeply recessed reveals accommodating windows and cladding panels. The commercial element at ground floor and single storey restaurant area give the building a strong base, human scale and active frontage. The top is lightened by the use of less brickwork.

4.19 The proposed building is of acceptable design quality and would not harm its setting. It would be of harmonious scale, massing and design to the remainder of the street, yet with its own strong, refined and contemporary identity, using the aforementioned architectural devices which are recognised as being good practice.

River walkway

4.20 It is an aspiration of the Council to provide a continuous walkway along the Foss. The route through the application site (and past the dwellings to the north) is shown on the 2005 Local Plan proposals map. The walkway will have a pleasant and spacious character in spirit with the walkway to the north. Via a legal agreement the applicants would manage the walkway and provide public access in due course.

Residential amenity

4.21 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

4.22 The proposed building will be 5-storey, the same height as the building previously approved and a comparable height to the residential units to the north - Rome House.

4.23 To the south of the site there is a flat above the bike shop at 87. The flat has one dormer window in the rear roofslope. Otherwise first floor windows are on the front and side elevations. On Rome House on the upper floors there is a window to a second bedroom and a second window to a living/dining area facing the application site. The primary outlook is either west over the river, or east. Unlike the previous planning application, the hotel room windows would face north and south, so towards the dwelling at 87 Layerthorpe and those in Rome House.

4.24 Where the building would be 5-storey it would be 22m from the flat at 87 Layerthorpe, and at its closest, 36.5 m from the flats at Rome House, to the north. There would be no undue overlooking and the separation distance between the two buildings is deemed to be acceptable, to the extent that the new building would not be overbearing or over-dominant.

4.25 The proposed hotel and ancillary restaurant would be 24 hour operations and officers would not typically seek to restrict the hours of an A1 retail premises, as was the case in the previous planning permission. The site is identified for mixed-use regeneration in the 2005 Local Plan. The proposals also seek permission to allow the ground floor area to possibly be used as a pub/restaurant and drive-through takeaway/restaurant. It is asked the drive-through be allowed to operate until 24:00.

4.26 The arrangement and location of the drive-through has changed since the application approved in 2011. The food collection point and the vehicular route would be further from the flat at 87. Officers recommend the same conditions as in the previous permission to control residential amenity – to control machinery and plant noise and cooking odour; 24:00 (midnight) closing time for any bar or restaurant independent of the hotel; delivery times only 08:00 to 18:00 (09:00 to 17:00 Sundays).

Highway Network Management

4.27 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

4.28 The proposed building has to be set back from the proposed new road, to enable a suitable clearance from the gasholder. The layout shows a direct pedestrian route to each of the proposed uses from the proposed highway. This avoids the area where vehicles would be likely to travel (i.e. the spaces most convenient for access to the commercial uses).

4.29 Staff cycle parking (15 spaces) is covered and secure and there are also external spaces for visitors/customers. The amount of staff space is above the minimum requirements established in the Local Plan. Visitor parking (12 spaces) is convenient and overlooked. There are 4 fewer car parking spaces (87) compared to the previous approval and the overall amount is below the maximum standards established in the Local Plan.

Flood Risk

4.30 The site is in Flood Zone 3. In accordance with the National Planning Policy Framework in order for the proposals to be acceptable it must be demonstrated (in a site specific Flood Risk Assessment (FRA)) the development will be safe for its lifetime and not increase flood risk elsewhere (paragraphs 102 & 103). The development should also pass the sequential and exception tests.

Whether the development would be safe from flooding

4.31 There would be a safe means of escape from the building and in accordance with York's Strategic FRA, the proposed finished floor levels are at a set above the 1:100 + climate change flood level (10.980m AOD).

Off-site flood risk

4.32 The intent is that there would be no material increase in flood risk elsewhere and there are revised drainage proposals currently under assessment by the EA. The scheme has been designed so surface water would be diverted to a water storage tank on-site and ground levels would be altered, lowered by the riverbank, to ensure no loss of on-site floodwater storage whilst making the proposed development safe.

Sequential/exception tests

4.33 The site passes the sequential test as it is designated for regeneration in the Local Plan (policy SP9). Permission has previously been granted for the uses proposed on site. There are no designated or other previously developed sites in more central locations which are either deliverable in the short-term or allocated for a hotel (with other mixed use development) in the Local Plan. Assuming it is confirmed that flood risk would not be increased elsewhere the development would pass the exception test, due to the sustainability benefits that would arise from regeneration of the site.

Sustainable design and construction

4.34 The interim planning document on sustainable design and construction requires schemes to achieve a BREEAM rating of very good. The supporting documentation

with the application confirm it is intended the scheme will achieve a BREEAM bespoke rating of very good.

5.0 CONCLUSION

5.1 The site is derelict and the proposed scheme will deliver both a river walkway along the Foss and the James Street Link Road, two aspirations within the existing Local Plan. The building would be constructed to meet sustainable construction requirements and there would be no undue harm to amenity, highway safety and flood risk. Proposals constitute the type of sustainable economic growth recommended within the NPPF and there is no evidence that there would be a significant impact on the vitality of the city centre, as required by the NPPF.

5.2 It is recommended that the scheme be approved, subject to a legal agreement requiring –

- Delivery of the final section of the James Street/Heworth Green Link Road.
- Delivery and maintenance of the Riverside Walk/Cycleway.
- Contamination bond of £250k to cover the need for remediation works in the event that groundwater contamination occurs.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to legal agreement

1 TIME2 Development start within three years -

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

A50 - 00, 01A, 02, 03B, 04B, 05B

A51 - 00A, 01B, 02B, 03B

A52 - 00B,

A53 - 00B, 01B, 02B

A55 - 00B

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

3 VISQ7 Sample panel ext materials to be approved

4 Landscaping

A detailed hard and soft landscaping scheme shall be approved in writing by the Local Planning Authority prior to construction of the development hereby approved. The scheme shall include -

- the number, species, density (spacing), stock size, and position of trees, shrubs and other plants; and seeding mix, and sowing rates of grassed areas; specification for preparation of planting beds and tree pit details; specification for the planting of the living roof; measure to encourage bat and bird habitat;
- lighting and signage;
- hard surfacing materials;
- boundary treatment;
- furniture such as litter bins;
- location of electric vehicle charging point;
- a detailed plan provided to show the river walk section (any new balustrade to be adjacent the walkway and not the river).

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 overall appearance of the site.

Informative: External lighting should not exceed light limitations for areas classed as E2 in the ILE Guidance Notes For The Reduction Of Obtrusive Light.

5 Plant enclosures

Details of the plant room enclosures listed below shall be submitted to and approved in writing by the Local Planning Authority prior to their installation and the works shall be carried out in accordance with the approved details.

- a) materials and design of the louvred screen to plant room areas
- b) layout and scale of the plant room to the main roof and to the restaurant (the latter to be no higher than the horizontal banding between first and second floor levels)

Reason: In the interests of visual amenity.

6 Signage

Any signage to be placed on the ground floor fascia panels to the building shall be approved in writing by the Local Planning Authority prior to installation and carried out in accordance with the approved details.

Reason: In the interests of the appearance of the host building and its setting.

7 The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'.

A BREEAM Design Stage assessment shall be carried out and a BREEAM Design Stage Certificate shall be submitted to the Local Planning Authority within 6 months of commencement of the development. Within 3 months after first occupation of the building a Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority.

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

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

8 Site Drainage

To be inserted following consultation

9 Land contamination

The following components of a scheme to deal with the risks associated with contamination of the site shall each be approved, in writing, by the local planning authority prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority):

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) The results of the site investigation and detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for post remediation monitoring of pollutant linkages, maintenance and arrangements for contingency action, and the timing of such works.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to property and ecological systems. To protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

10 A verification report demonstrating completion of the works set out in the verification plan detailed in condition 22 part d) and the effectiveness of the remediation shall be approved in writing by the local planning authority within 1 month of the completion of such works, unless otherwise agreed by the local planning authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a "post remediation monitoring and maintenance plan" for post remediation monitoring of pollutant linkages, maintenance and arrangements for any required contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: To protect human health and to protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

INFORMATIVE: The monitoring programme may continue during and following development provided these are not below building footprints.

11 A post remediation monitoring and maintenance plan shall be approved by the Local Planning Authority and implemented in accordance with the approved details.

Reports on monitoring, maintenance and any contingency action carried out shall be submitted to the local planning authority as set out in that plan, this shall include a plan for the protection and where necessary reinstatement of monitoring points during and on completion of the construction phase. On completion of the plan, a final report demonstrating that all site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that successful remediation of this site is undertaken to protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

12 Foundation design

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

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

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

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

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

15 Cycle parking

The area shown as cycle storage on drawing A51-00 rev A shall be provided prior to first use of the development hereby permitted and retained for such use at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate space for, and to encourage cycle use in accordance with Local Plan policies GP1 and T4 and section 3 of the National Planning Policy Framework.

16 Travel Plan

Within 6 months of occupation of each of the approved uses, a travel plan (for both

employees and visitors, setting out measures to promote sustainable travel and reduce dependency on private car journeys) shall be submitted and approved in writing by the Local Planning Authority. The travel plan shall be developed and implemented in line with Department of Transport guidelines and updated annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan. Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce private car travel and promote sustainable travel in accordance with paragraph 36 of the National Planning Policy Framework and policy T13a of the City of York deposit Draft Local Plan.

17 Safety Audit; A full 3 stage road safety audit carried out in accordance with advice set out in the DMRB HD19/03 and guidance issued by the council, shall be carried out for the highway layout of Eboracum Way and all off-site works requiring alteration as specified in drawing LYH 04 rev P03, stage 1 of which shall be agreed in writing by the Local Planning Authority prior to construction works commencing onsite.

Reason: To minimise the road safety risks associated with the changes imposed by the development.

18 NOISE7 Restricted hours of construction

8:00 to 18:00 Monday to Friday
9:00 to 13:00 Saturday
no working on Sundays or public holidays.

19 Any A3 (restaurant/cafe), A4 (drinking establishment) or A5 (hot food takeaway) uses on the site (independent from the hotel hereby approved) shall only operate within the hours of 08:00 and 24:00 each day of the week.

Reason: In the interests of the amenity of surrounding occupants.

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

Monday to Saturday	08.00 to 18.00
Sundays and Bank Holidays	09.00 to 17:00

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

21 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard-standings shall be passed through an oil, petrol and grit interceptor.

Reason: To prevent pollution of the water environment.

22 Electric Vehicle Recharging Point

Before the occupation of the development an Electric Vehicle Recharging Point shall be provided on-site and maintained for the lifetime of the development, to the satisfaction of the Local Planning Authority.

REASON: To promote and facilitate the uptake of electric vehicles / bikes / scooters on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

INFORMATIVE: Electric Vehicle Recharging Point means a free-standing, weatherproof, outdoor recharging unit capable of charging two electric vehicles simultaneously with the capacity to charge at both 3kw (13A) and 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point.

For further information on how to comply with this condition please contact City of York Council's Low Emission Officer Derek McCreadie.

23 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to property and ecological systems, and to protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

7.0 INFORMATIVES: Notes to Applicant

1. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

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

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

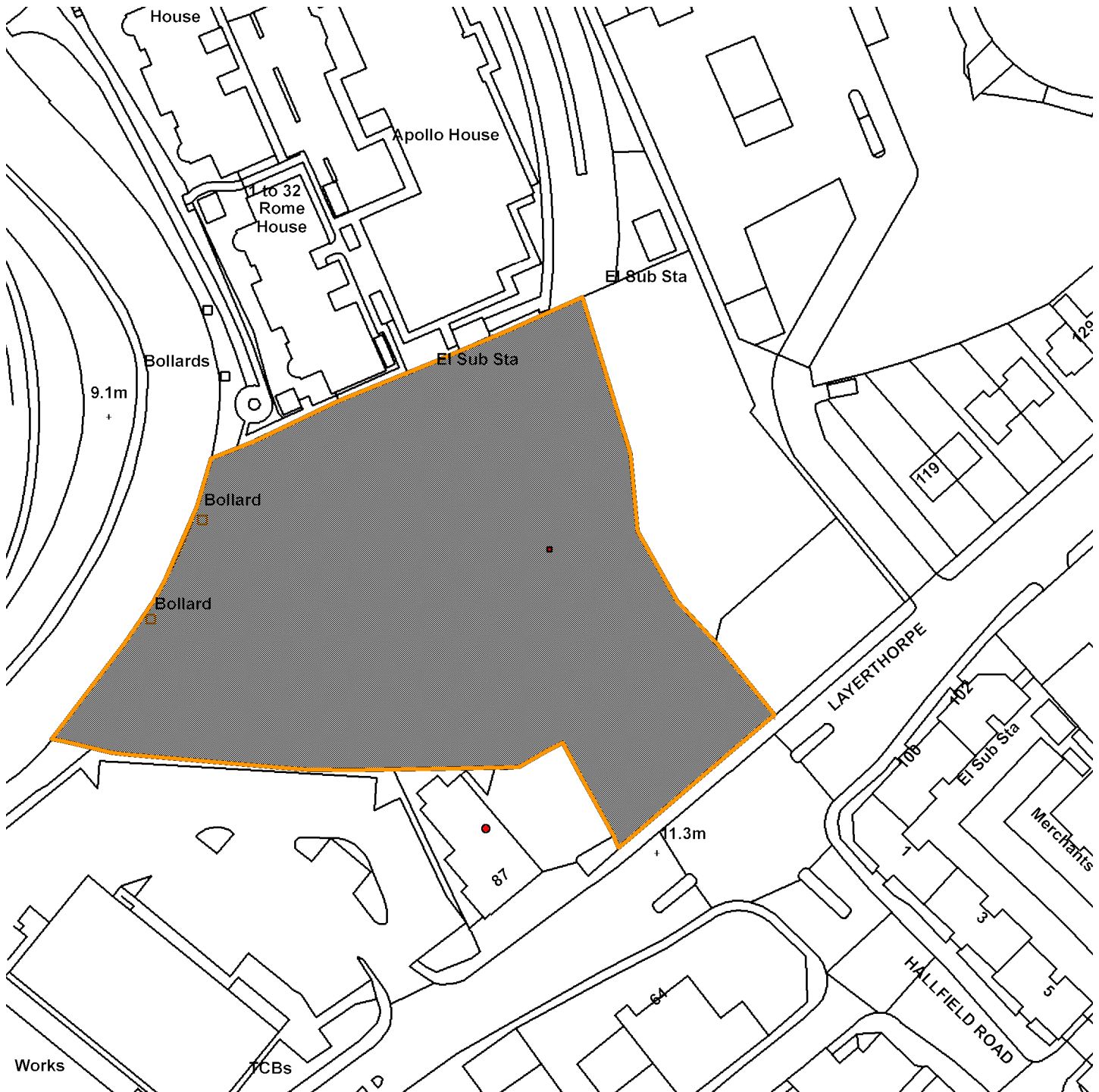
Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323

14/00112/FULM

Site Adjacent To Frog Hall Public House Layerthorpe



Scale : 1:1059

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Organisation	CYC
Department	Not Set
Comments	Site Plan
Date	14 October 2014
SLA Number	Not Set

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Legal Briefing for Planning Committee on 23 October 2014
on approach to Green Belt policies – App ref:14/01845/FULM

1. As Members know, within the Green Belt, the usual presumption in favour of sustainable development is reversed and there is a strong presumption against new development (with certain exceptions). Within the Green Belt, the onus is very much on the applicant to demonstrate that there are compelling reasons why permission should be granted for inappropriate development. This is a tough test and makes Green Belt designation an exceedingly restrictive policy.
2. The National Planning Policy Framework confirms the great importance attached to Green Belts. The Framework is very clear that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. It says that the essential characteristics of Green Belts are their openness and their permanence. In this regard, the Framework identifies five purposes of the Green Belt. These include safeguarding the countryside from encroachment.
3. The Framework makes it plain (para 79) that the essence of the Green Belt is its openness. There is no specific definition of “openness” in the Framework. The courts have considered that openness is a concept which relates to the lack of buildings or development – but not by buildings that are unobtrusive or camouflaged or screened in some way. For example, the courts have considered that as a new building would enclose space that is currently open, this impairs openness. It is the loss of unbuilt on land that would have a harmful effect on the openness of the Green Belt.
4. The overriding principle of national Green Belt policy is that any new development in the Green Belt should preserve its openness and reflect the purposes of its designation. The Framework makes it clear that the construction of new buildings is by definition “inappropriate” for the Green Belt, unless it falls within certain specified exceptions. The Framework says that inappropriate development is by definition harmful to the Green Belt and should not be

approved except when very special circumstances exist which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harms.

5. Officers have considered the proposed development against relevant Green Belt policies, as outlined in the report. The officer's report concludes that as the proposal involves new buildings, it is by definition inappropriate and harmful to the Green Belt. The report says it is also inappropriate development based on the fundamental aim of Green Belt policy, which is to keep them permanently open – the report concludes that the buildings would not preserve the openness of the Green Belt. The report also concludes that the buildings would impact on the visual amenity of the Green Belt and would conflict with one of the main purposes of including land within the Green Belt - namely that of preventing encroachment into open countryside.
6. In order to justify inappropriate development, it is for the applicant to demonstrate that very special circumstances exist which clearly outweigh these harms. This is a tough test. The Framework states that the harm to the Green Belt carries substantial weight against the proposal in the determination of an application for inappropriate development.
7. In order to justify the development, the Framework says that the harms must be "clearly outweighed" by other considerations in order for very special circumstances to exist (para 88).
8. The Courts have emphasised that in order to meet the test the circumstances must in truth be 'very special' and these words are to be given their full force and effect. So the concept of very special circumstances goes well beyond identifying a number of advantages to any particular proposal. The very special circumstances must be matters of a substantial nature and compelling.
9. The courts have said that it is not necessary to show that each and every factor in itself amounts to a very special circumstance, but that the combination of circumstances, when viewed objectively, must clearly be so special that the strong presumption against inappropriate development in the Green Belt can exceptionally be set aside in those particular circumstances.

outdoor recreation does not justify permitting the construction of buildings that fail to preserve the openness of the Green Belt or conflict with the purposes of including land in the Green Belt. Therefore, the NPPF states that if these requirements are not met, the proposed buildings can be permitted only if very special circumstances are made out.

Apart from this point, the document circulated does not raise any new issues that are not already dealt with in the Committee report.

Therefore, the document submitted does not alter officers' recommendation.

3. Green Belt Appraisal

A recent Court of Appeal decision, *Redhill Aerodrome Limited v The Secretary of State for Communities and Local Government and Ors.*, has clarified the approach to be adopted in considering 'any other harm' in Green Belt cases. It is Officers opinion that all the harms identified in the report are harms to the Green Belt, and as such the judgement from the court case does not alter the conclusions and recommendation.

Contact details:

Author: Hannah Blackburn Development Management Officer

Tel No: 01904 551325

COMMITTEE REPORT

Date: 23 October 2014 **Ward:** Heworth
Team: Major and **Parish:** Heworth Planning Panel
Commercial Team

Reference: 14/00112/FULM
Application at: Site Adjacent To Frog Hall Public House Layerthorpe York
For: Erection of five storey hotel with public house/restaurant/retail use to ground floor, single storey drive-through restaurant with associated parking, landscaping and access including extension to James Street/Heworth Green Link Road
By: Tiger Developments
Application Type: Major Full Application (13 weeks)
Target Date: 21 April 2014
Recommendation: Approve

1.0 PROPOSAL

APPLICATION SITE

1.1 The application site is presently vacant. It was once part of the former gasworks site, bound by Layerthorpe to the south, Heworth Green to the north, the River Foss to the west and the former Derwent Valley railway line, which now forms part of the national cycle route network, to the east. The site was designed for redevelopment (residential and offices) in the 2005 Local Plan.

1.2 Part of the Council's transport strategy is to establish the St James Link Road, between Heworth Green and Layerthorpe, to relieve traffic volumes on the inner ring road. The link road has been constructed in part, alongside recent office and residential development to the north of the application site. The application site is the remaining parcel of land between the route of the proposed road and the River Foss.

PROPOSALS

1.3 This application is for a hotel with 124 bedrooms and commercial floor-space at ground floor level, for a drive-through restaurant and either a retail, restaurant or drinking establishment (use classes A1, A3 or A4). The development would include 87 car parking spaces, 27 cycle spaces, landscaping and a river walkway along the Foss, which would form a continuation of the existing walkway established alongside recent development to the north.

SITE HISTORY

1.4 Planning permission was granted for the same type and amount of development in June 2012 (application 11/02210/FULM). It has not been possible to implement the previous permission as the hotel aspect could not go ahead until the gasholder, which is to the northeast, is de-commissioned. This was a requirement from the Health and Safety Executive due to the scale of the hotel and its proximity to the gasholder. The gasholder is yet to be de-commissioned, therefore applicants have come forward with an alternative scheme which moves the building further from the gasholder to the extent that the HSE requirement would no longer apply.

1.5 An application was also made in 2004 for 158 residential apartments at the site (with basement parking). The scheme was approved by members, subject to a legal agreement to deliver affordable housing, offsite open space provision, a bond for remediation of contaminated land, a contribution toward a car club and access arrangements to a riverside walkway. The legal agreement was not signed and the application withdrawn as the scheme was not financially viable.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

DC Area Teams GMS Constraints: Central Area 0002

Floodzone 2 GMS Constraints: Flood zone 2

Floodzone 3 GMS Constraints: Flood zone 3

Hazardous Premises GMS Constraints: Transco PLC COMPLETE

2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP6	Contaminated land
CYGP15	Protection from flooding
CYT2B	Proposed Pedestrian/Cycle Networks
CYT4	Cycle parking standards
CYE1A	Premier Employment Sites
CYV4	Allocation of hotel sites
CYNE7	Habitat protection and creation
CYNE8	Green corridors

3.0 CONSULTATIONS

Environmental Protection Unit

3.1 Officers raise issue with possible noise disturbance from the drive-through restaurant. They recommend conditions, to control delivery times and require that any plant/machinery is below the existing background noise level, in the interests of residential amenity. Officers also recommend the following conditions -

- The hotel building be insulated so internal noise levels are adequate for occupation.
- A restriction on times of construction and for a Construction Management Scheme.
- The kitchen equipment be able to deal with cooking smells/odour.
- External lighting to be agreed.
- Land contamination to be suitably remediated.
- Provision of electric vehicle charging points within the development.

Ecology Officer

3.2 The submitted plans include some thinning and replanting of the trees along the river corridor but the width of this strip has been reduced down to approx 2.5 m wide which will constrain its functionality as wildlife corridor. It would be beneficial to site the cycle path further from the river, so that the width of vegetation and, thus, the wildlife corridor is maximised. The proposed lighting along the cycleway should be designed so that it does not interfere with foraging corridors, and officers have advised how this could be achieved.

3.3 A sedum roof has been incorporated into the development but it would also be beneficial to see some integrated bat and bird habitat features (such as bat bricks, swift boxes) as part of the plans.

Highway Network Management

3.4 Officers do not object to the scheme. It is noted that the development would secure the remainder of the link road. There is no objection in terms of traffic generation which has already been considered as part of the Foss Basin Masterplan, which considered re-development of this area. Officers advise if the scheme is recommended for approval conditions / a legal agreement would be required to secure -

- The delivery of the link road
- A road safety audit for the new highway
- That the hotel has a travel plan
- Agreement on how the highway network is affected during construction

Flood Risk Management

3.5 The south west elevation of the proposed building and North West corner of proposed car park lie within Flood Zone 3a where there should be no lifting of levels unless flood compensation is provided. To assess the impact of the proposed development, officers have asked for flood compensation details, including sections; volume calculations and location of the flood compensation.

3.6 Officers advise that the surface water drainage details also need to be submitted for approval with peak surface water run-off from the development attenuated to the 2 litres/sec, as proposed in the submitted Flood Risk Assessment.

Police Architectural Liaison Officer

3.7 Officers advise the applicants engaged in pre-application discussions with the police and secure by design principles have been incorporated into the scheme.

Canal & River Trust (replaced British Waterways)

3.8 No comment.

Environment Agency

3.9 Comments on the revised Flood Risk Assessment are pending and will be provided prior to or at the committee.

Publicity

Publicity

3.10 There are six objectors to the scheme. There was re-consultation, following submission of the revised plans. Comments are summarised below -

Harm to residential amenity

- Noise as a consequence of the traffic movements associated with the proposed drive through and the hotel, the latter would have associated activity on a 24 hour basis.
- Due to the layout and proposed drive-through the area is one where it is likely youths with cars/scooters will concentrate and hang out and this will lead to disturbance and loss of residential amenity.
- Litter creation due to customers from the drive-through.
- Smells and odours from restaurants.
- Over-looking over Rome House flats (to the north)

- Opening up the riverside walk to the public will lead to loss of privacy, a lack of security and an increase in noise, litter and nuisance.

Design

- The architecture and materials proposed are atypical of York. The building is too 'big and 'boxy' and is more akin to 1960's/70's office blocks, which are out of keeping with the scale, materials and building form that characterises the city.
- Loss of views towards The Minster (from Layerthorpe)

Other

- A drive-through restaurant is an unhealthy and unsustainable option, which should not be located in an inner city area.

4.0 APPRAISAL

4.1 Key issues

- Principle of the proposed development
- Land contamination
- Health and safety
- Visual impact
- Residential amenity
- Highway Network Management
- Flood Risk
- Management of the river walkway
- Sustainable design and construction

Principle of the proposed development

4.2 The National Planning Policy Framework (section 1) advises that the Government is committed to securing economic growth. Planning Authorities should identify priority areas for economic regeneration and support expanding business sectors.

4.3 The site is within the Heworth Green action area, designated in policy SP9 of the 2005 Local Plan. The allocation sought to develop the site as a mixed use of employment, retail, leisure and residential. There has already been residential and office development delivered within the action area.

4.4 The application site has been identified for regeneration in the 2005 Local Plan and the composition of uses proposed have already been approved in 2012 and could still be implemented. The development would also deliver important infrastructure; completion of the link road to ease traffic on this side of the city, that has been a Council aspiration for sometime, forming part of the Foss Basin Masterplan. The

proposals would be consistent with the National Planning Policy Framework in terms of delivering regeneration and economic growth in designated areas.

4.5 The National Planning Policy Framework advises that when a Local Plan is not up to date, proposals for city centre uses, such as that proposed, which are not within the defined city centre should be subject to a sequential test and impact assessment, the latter when development would exceed 2,500 sq m. The amount of floor space proposed in this development is approx 4,100 sq m.

Sequential Test and Impact Assessment

4.6 A sequentially preferable site where the hotel development could be located would be Hungate where there is an unimplemented outline planning permission for a hotel of comparable size (application 13/03232/OUTM). A sequentially preferable site where the hotel development could be located would be Hungate where there is an unimplemented outline planning permission for a hotel of comparable size (application 13/03232/OUTM). However the site would not accommodate the additional proposed uses - the retail element and the restaurant, with a drive-through facility. Without the additional uses the development would not generate the income to contribute/deliver the link road and be viable.

4.7 Hotel occupancy rate studies undertaken demonstrate that York hotels generally have a high level of occupancy, except in January. The amount of hotel rooms has increased by around 20% over the past 5 years, and occupancy levels have remained fairly constant. The site is within walking distance of the city centre and the development would contribute to the city centre economy. As found in the 2011 application, the proposed hotel would not have an undue impact on the city centre.

4.8 The proposed commercial units (retail/restaurant/drinking establishment) would cater for the local population, which is set to grow as regeneration at the remainder of the Heworth Green site and around Layerthorpe occurs, and compete with similar facilities in the locality. Despite the drive-in option, the development is designed and located to promote sustainable modes of transport, in accordance with paragraph 35 of the National Planning Policy Framework. There would not be a significant effect on the vitality and viability of the city centre.

Conclusion

4.9 That this specific inner city area has been identified in local plans for regeneration, including potential leisure uses, carries significant weight. The site is in a sustainable location, within walking distance of the city centre, and the significant benefits the scheme would bring, including delivery of the link road, and re-development of a large derelict site, outweigh the low impact there would be on the city centre.

Land contamination

4.10 The National Planning Policy Framework requires that, to avoid unacceptable risk from pollution, planning should ensure that sites are suitable for the proposed use taking account of ground conditions, arising from previous uses, and any proposals for mitigation including land remediation.

4.11 The site, in particular ground water, is contaminated. The applicants have carried out investigation to date and it is proposed permission be granted subject to conditions that remediation be carried out prior to construction. This approach is agreed to by Council and the Environment Agency. At least a year of monitoring will be required also to ensure the ground water contamination has been deal with. There would need to be protection for the monitoring points, so monitoring is not precluded due to construction.

Health and safety

4.12 The proposed building would lie in the outer zone in terms of proximity to the gasholder, which remains active. The gasholder is regarded as a major hazard by the HSE. Being in the 'outer zone' is an adequate clearance for the type of development proposed and therefore the development could be occupied whilst the gasholder remains active.

Visual impact

4.13 The National Planning Policy Framework advises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.14 National planning practice guidance advises that in assessment of design, consideration, where appropriate should be given to layout, form, scale, detailing and materials.

Layout & Scale

4.15 The building is set further back from Eboracum Way in relation to the existing development along the street' this is a requirement due to the gasholder. The applicants have revised the scheme since submission, to give more prominence to the proposed building and the landscaping, integrate the restaurant into the main building and make car parking less prominent. There is space for landscaping at the front of the site, which is welcome, and by moving the proposed building away from the south boundary the car parking is spread over the site, thus appearing less prominent. The walkway is continued along the river.

The layout is reasonable. It is not as successful as the 2011 scheme, which addressed the street. However this is not possible because of the required separation distance from the gasholder.

4.16 The building is single storey at the south end and is a reasonable distance from 87 Layerthorpe, to allow the change in building scale without appearing out of place in its setting. It is of comparable massing to the other recent development to the north.

Form, detailing and materials

4.17 Along Eboracum Way there is already a 4/5 storey residential block in buff brick and an office building which uses modern cladding materials of similar massing to the proposed building. The buildings have a commercial and large scale appearance and use modern materials.

4.18 The proposed building will be predominantly of light brick, the massing broken up by a step in the building line, the use of a single storey element to the front, horizontal concrete banding between floors and deeply recessed reveals accommodating windows and cladding panels. The commercial element at ground floor and single storey restaurant area give the building a strong base, human scale and active frontage. The top is lightened by the use of less brickwork.

4.19 The proposed building is of acceptable design quality and would not harm its setting. It would be of harmonious scale, massing and design to the remainder of the street, yet with its own strong, refined and contemporary identity, using the aforementioned architectural devices which are recognised as being good practice.

River walkway

4.20 It is an aspiration of the Council to provide a continuous walkway along the Foss. The route through the application site (and past the dwellings to the north) is shown on the 2005 Local Plan proposals map. The walkway will have a pleasant and spacious character in spirit with the walkway to the north. Via a legal agreement the applicants would manage the walkway and provide public access in due course.

Residential amenity

4.21 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

4.22 The proposed building will be 5-storey, the same height as the building previously approved and a comparable height to the residential units to the north - Rome House.

4.23 To the south of the site there is a flat above the bike shop at 87. The flat has one dormer window in the rear roofslope. Otherwise first floor windows are on the front and side elevations. On Rome House on the upper floors there is a window to a second bedroom and a second window to a living/dining area facing the application site. The primary outlook is either west over the river, or east. Unlike the previous planning application, the hotel room windows would face north and south, so towards the dwelling at 87 Layerthorpe and those in Rome House.

4.24 Where the building would be 5-storey it would be 22m from the flat at 87 Layerthorpe, and at its closest, 36.5 m from the flats at Rome House, to the north. There would be no undue overlooking and the separation distance between the two buildings is deemed to be acceptable, to the extent that the new building would not be overbearing or over-dominant.

4.25 The proposed hotel and ancillary restaurant would be 24 hour operations and officers would not typically seek to restrict the hours of an A1 retail premises, as was the case in the previous planning permission. The site is identified for mixed-use regeneration in the 2005 Local Plan. The proposals also seek permission to allow the ground floor area to possibly be used as a pub/restaurant and drive-through takeaway/restaurant. It is asked the drive-through be allowed to operate until 24:00.

4.26 The arrangement and location of the drive-through has changed since the application approved in 2011. The food collection point and the vehicular route would be further from the flat at 87. Officers recommend the same conditions as in the previous permission to control residential amenity – to control machinery and plant noise and cooking odour; 24:00 (midnight) closing time for any bar or restaurant independent of the hotel; delivery times only 08:00 to 18:00 (09:00 to 17:00 Sundays).

Highway Network Management

4.27 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

4.28 The proposed building has to be set back from the proposed new road, to enable a suitable clearance from the gasholder. The layout shows a direct pedestrian route to each of the proposed uses from the proposed highway. This avoids the area where vehicles would be likely to travel (i.e. the spaces most convenient for access to the commercial uses).

4.29 Staff cycle parking (15 spaces) is covered and secure and there are also external spaces for visitors/customers. The amount of staff space is above the minimum requirements established in the Local Plan. Visitor parking (12 spaces) is convenient and overlooked. There are 4 fewer car parking spaces (87) compared to the previous approval and the overall amount is below the maximum standards established in the Local Plan.

Flood Risk

4.30 The site is in Flood Zone 3. In accordance with the National Planning Policy Framework in order for the proposals to be acceptable it must be demonstrated (in a site specific Flood Risk Assessment (FRA)) the development will be safe for its lifetime and not increase flood risk elsewhere (paragraphs 102 & 103). The development should also pass the sequential and exception tests.

Whether the development would be safe from flooding

4.31 There would be a safe means of escape from the building and in accordance with York's Strategic FRA, the proposed finished floor levels are at a set above the 1:100 + climate change flood level (10.980m AOD).

Off-site flood risk

4.32 The intent is that there would be no material increase in flood risk elsewhere and there are revised drainage proposals currently under assessment by the EA. The scheme has been designed so surface water would be diverted to a water storage tank on-site and ground levels would be altered, lowered by the riverbank, to ensure no loss of on-site floodwater storage whilst making the proposed development safe.

Sequential/exception tests

4.33 The site passes the sequential test as it is designated for regeneration in the Local Plan (policy SP9). Permission has previously been granted for the uses proposed on site. There are no designated or other previously developed sites in more central locations which are either deliverable in the short-term or allocated for a hotel (with other mixed use development) in the Local Plan. Assuming it is confirmed that flood risk would not be increased elsewhere the development would pass the exception test, due to the sustainability benefits that would arise from regeneration of the site.

Sustainable design and construction

4.34 The interim planning document on sustainable design and construction requires schemes to achieve a BREEAM rating of very good. The supporting documentation

with the application confirm it is intended the scheme will achieve a BREEAM bespoke rating of very good.

5.0 CONCLUSION

5.1 The site is derelict and the proposed scheme will deliver both a river walkway along the Foss and the James Street Link Road, two aspirations within the existing Local Plan. The building would be constructed to meet sustainable construction requirements and there would be no undue harm to amenity, highway safety and flood risk. Proposals constitute the type of sustainable economic growth recommended within the NPPF and there is no evidence that there would be a significant impact on the vitality of the city centre, as required by the NPPF.

5.2 It is recommended that the scheme be approved, subject to a legal agreement requiring –

- Delivery of the final section of the James Street/Heworth Green Link Road.
- Delivery and maintenance of the Riverside Walk/Cycleway.
- Contamination bond of £250k to cover the need for remediation works in the event that groundwater contamination occurs.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to legal agreement

1 TIME2 Development start within three years -

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

A50 - 00, 01A, 02, 03B, 04B, 05B

A51 - 00A, 01B, 02B, 03B

A52 - 00B,

A53 - 00B, 01B, 02B

A55 - 00B

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

3 VISQ7 Sample panel ext materials to be approved

4 Landscaping

A detailed hard and soft landscaping scheme shall be approved in writing by the Local Planning Authority prior to construction of the development hereby approved. The scheme shall include -

- the number, species, density (spacing), stock size, and position of trees, shrubs and other plants; and seeding mix, and sowing rates of grassed areas; specification for preparation of planting beds and tree pit details; specification for the planting of the living roof; measure to encourage bat and bird habitat;
- lighting and signage;
- hard surfacing materials;
- boundary treatment;
- furniture such as litter bins;
- location of electric vehicle charging point;
- a detailed plan provided to show the river walk section (any new balustrade to be adjacent the walkway and not the river).

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 overall appearance of the site.

Informative: External lighting should not exceed light limitations for areas classed as E2 in the ILE Guidance Notes For The Reduction Of Obtrusive Light.

5 Plant enclosures

Details of the plant room enclosures listed below shall be submitted to and approved in writing by the Local Planning Authority prior to their installation and the works shall be carried out in accordance with the approved details.

- a) materials and design of the louvred screen to plant room areas
- b) layout and scale of the plant room to the main roof and to the restaurant (the latter to be no higher than the horizontal banding between first and second floor levels)

Reason: In the interests of visual amenity.

6 Signage

Any signage to be placed on the ground floor fascia panels to the building shall be approved in writing by the Local Planning Authority prior to installation and carried out in accordance with the approved details.

Reason: In the interests of the appearance of the host building and its setting.

7 The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'.

A BREEAM Design Stage assessment shall be carried out and a BREEAM Design Stage Certificate shall be submitted to the Local Planning Authority within 6 months of commencement of the development. Within 3 months after first occupation of the building a Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority.

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

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

8 Site Drainage

To be inserted following consultation

9 Land contamination

The following components of a scheme to deal with the risks associated with contamination of the site shall each be approved, in writing, by the local planning authority prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority):

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) The results of the site investigation and detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for post remediation monitoring of pollutant linkages, maintenance and arrangements for contingency action, and the timing of such works.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to property and ecological systems. To protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

10 A verification report demonstrating completion of the works set out in the verification plan detailed in condition 22 part d) and the effectiveness of the remediation shall be approved in writing by the local planning authority within 1 month of the completion of such works, unless otherwise agreed by the local planning authority.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a "post remediation monitoring and maintenance plan" for post remediation monitoring of pollutant linkages, maintenance and arrangements for any required contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason: To protect human health and to protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

INFORMATIVE: The monitoring programme may continue during and following development provided these are not below building footprints.

11 A post remediation monitoring and maintenance plan shall be approved by the Local Planning Authority and implemented in accordance with the approved details.

Reports on monitoring, maintenance and any contingency action carried out shall be submitted to the local planning authority as set out in that plan, this shall include a plan for the protection and where necessary reinstatement of monitoring points during and on completion of the construction phase. On completion of the plan, a final report demonstrating that all site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that successful remediation of this site is undertaken to protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

12 Foundation design

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

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

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

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

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

15 Cycle parking

The area shown as cycle storage on drawing A51-00 rev A shall be provided prior to first use of the development hereby permitted and retained for such use at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate space for, and to encourage cycle use in accordance with Local Plan policies GP1 and T4 and section 3 of the National Planning Policy Framework.

16 Travel Plan

Within 6 months of occupation of each of the approved uses, a travel plan (for both

employees and visitors, setting out measures to promote sustainable travel and reduce dependency on private car journeys) shall be submitted and approved in writing by the Local Planning Authority. The travel plan shall be developed and implemented in line with Department of Transport guidelines and updated annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan. Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce private car travel and promote sustainable travel in accordance with paragraph 36 of the National Planning Policy Framework and policy T13a of the City of York deposit Draft Local Plan.

17 Safety Audit; A full 3 stage road safety audit carried out in accordance with advice set out in the DMRB HD19/03 and guidance issued by the council, shall be carried out for the highway layout of Eboracum Way and all off-site works requiring alteration as specified in drawing LYH 04 rev P03, stage 1 of which shall be agreed in writing by the Local Planning Authority prior to construction works commencing onsite.

Reason: To minimise the road safety risks associated with the changes imposed by the development.

18 NOISE7 Restricted hours of construction

8:00 to 18:00 Monday to Friday
9:00 to 13:00 Saturday
no working on Sundays or public holidays.

19 Any A3 (restaurant/cafe), A4 (drinking establishment) or A5 (hot food takeaway) uses on the site (independent from the hotel hereby approved) shall only operate within the hours of 08:00 and 24:00 each day of the week.

Reason: In the interests of the amenity of surrounding occupants.

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

Monday to Saturday	08.00 to 18.00
Sundays and Bank Holidays	09.00 to 17:00

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

21 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard-standings shall be passed through an oil, petrol and grit interceptor.

Reason: To prevent pollution of the water environment.

22 Electric Vehicle Recharging Point

Before the occupation of the development an Electric Vehicle Recharging Point shall be provided on-site and maintained for the lifetime of the development, to the satisfaction of the Local Planning Authority.

REASON: To promote and facilitate the uptake of electric vehicles / bikes / scooters on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

INFORMATIVE: Electric Vehicle Recharging Point means a free-standing, weatherproof, outdoor recharging unit capable of charging two electric vehicles simultaneously with the capacity to charge at both 3kw (13A) and 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point.

For further information on how to comply with this condition please contact City of York Council's Low Emission Officer Derek McCreadie.

23 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to property and ecological systems, and to protect and improve the Sherwood Sandstone Principal Aquifer beneath the site and the Alluvial/Glacial sands and gravel Secondary Aquifer and the adjacent River Foss.

7.0 INFORMATIVES: Notes to Applicant

1. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

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

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

Contact details:

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