

COMMITTEE REPORT

Date: 9 August 2018 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
 Commercial Team

Reference: 18/00337/FULM
Application at: Grove House 40 - 48 Penleys Grove Street York YO31 7PN
For: Variation of condition 2 of permitted application
17/01129/FULM (conversion part demolition and alteration of
former care home to provide 32 no. apartments) to reduce
number of units from 32 to 29
By: Mr Rufus Salter
Application Type: Major Full Application (13 weeks)
Target Date: 15 August 2018
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

PROPOSAL

1.1 The current application seeks to vary the previous approval 17/01129/FULM which granted permission for a change of use of the vacant care home to 32 flats, and alterations and extensions to the existing building. The previous application was determined at sub committee on 30th November 2017.

1.2 The changes proposed are:

- An increase in height of between 0.34m and 0.49m;
- A reduction in flat numbers from 32 to 29 (a mix of studio, 1, 2 and 3 bed units);
- A change in internal layout to remove the internal communal corridor at ground floor and replace it with external access doors to ground floor apartments as far as possible; and
- An increase in the number of roof lights and dormer windows.

1.3 The application is reported to sub-committee as it has been called in by Cllrs Craghill and Looker. This report details the changes proposed and assesses their impact; the full report relating to the original application is appended to this report.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006
City Boundary York City Boundary 0001
DC Area Teams Central Area 0002
Schools St. Wilfrid's RC Primary 0230

2.2 Policies:

Emerging Local Plan

Policy H3 Balancing the Housing Market
Policy H10 Affordable Housing
Policy D2 Landscape and setting
Policy D4 Conservation
Policy D5 Listed Buildings
Policy D6 Archaeology
Policy D11 Extensions and Alterations to existing buildings
Policy GB3 Reuse of Buildings
Policy CC2 Sustainable Design and Construction of New Development
Policy ENV3 Land Contamination
Policy ENV5 Sustainable Drainage
Policy CC2 Sustainable Design and Construction of New Development

DCLP (2005)

GP1 Design
GP3 Crime Prevention
GP4A Sustainability
GP9 Landscaping
L1c Provision of new open space in developments
T4 Cycle parking standards
NE1 Trees Woodlands and Hedgerows
HE10 Archaeology
HE2 Development in Historic Locations
HE3 Conservation Areas
HE4 Listed Buildings
C3 Change of use of community facilities
CYH4A Housing Windfalls
CYH2A Affordable Housing

3.0 CONSULTATIONS

INTERNAL

Environmental Protection Unit

3.1 No comments about revisions to approved scheme.

Design, Conservation and Sustainable Development (Conservation Architect)

3.2 Revisions have been received which show acceptable window proportions and pattern. The projecting eaves are also now acceptable. Details have been provided which indicate an appropriate method of dealing with the juxtaposition of old and new bricks above the first floor windows.

Design, Conservation and Sustainable Development (Landscape)

3.3 Minor revisions are required to correctly indicate the boundary treatment and tree pit details. There should be no sub-division of the landscaped area around the site. Conditions are recommended to secure an acceptable landscaping scheme and the Arboricultural Method Statement, tree planting details and boundary details.

PFI/ Schools Contract Officer

3.4 An education contribution is not required for a small flatted development of this size if completed within the next 5 years.

Flood Risk Management

3.5 No significant changes from previous scheme. Impose same condition.

Public Realm (Strategy and Contracts)

3.6 Response will be reported at committee regarding revised off-site outdoor sports contribution.

EXTERNAL

Yorkshire Water

3.7 No comments

Neighbour notification and publicity

3.7 3 letters making general comments and 13 letters of objection have been received from local residents. The issues raised are:

Parking issues

Greater mix of units better reflects character of area

Concern that the plans do not clearly show whether trees are to be retained

Concern that external space may be subdivided - impact on Conservation Area

Window detail is not appropriate

Proposed materials need detailing

Concern that utilities and services cannot cope with extra demand

Building does not warrant retention and conversion and should be demolished

Accommodation is cramped and concern about future occupants' amenity - creation of sub-standard housing stock

No lifts - accommodation does not provide lifetime homes standard

Overlooking to properties on Penleys Grove Street

Impact on future maintenance of trees if site sub-divided

Revised plans showing communal external areas welcomed
Concern about increase in height resulting in an over-bearing and overshadowing effect on neighbouring properties
Loss of outlook and light
Detracts from Conservation Area

3.8 1 letter has been received from a local resident who welcomes changes to show the external space retained in communal use.

3.9 Councillors Craghill and Looker have asked for the application to be called-in as a result of resident concerns about the additional height causing an overbearing impact; additional windows in the roof resulting in overlooking; loss of light; changes to the access points to the building altering the external appearance and the landscaping facing St John's Crescent.

4.0 APPRAISAL

KEY ISSUES

4.1 The main considerations relevant to the determination of this Section 73 application to vary condition 2 are as follows:

- Design and character, impact on the Conservation Area;
- Impact on residential amenity;
- Impact on trees;
- Highways considerations

LEGISLATIVE BACKGROUND

4.2 Section 73 of the Town and Country Planning Act 1990 (as amended) allows for development of land that has planning permission without compliance with conditions attached to the previous approval. It makes provision for modification of approved proposals where these changes are not fundamental or substantial.

POLICY CONTEXT

4.3 The National Planning Policy Framework (NPPF) 2018 indicates a strong presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted (paragraph 11). Paragraph 38 advises that local planning authorities

should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Chapter 16 (Conserving and Enhancing the historic environment) says in paragraph 190 that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal. They should consider the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 192 a) says that when determining planning applications, local planning authorities should take account of sustaining and enhancing the significance of any heritage asset.

4.4 Planning Practice Guidance notes that new issues may arise after planning permission has been granted which require modification of the approved proposals. A minor material amendment (Section 73 application) has the effect of issuing a new planning permission which sits alongside the original permission which remains intact and unamended.

4.5 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. The emerging Draft Local Plan policies can be afforded limited weight at this stage of preparation, and subject to their conformity with the NPPF. The evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications.

4.6 Although there is no formally adopted local development plan, the City of York Draft Local Plan (incorporating 4th set of changes, April 2005), has been approved for development control purposes. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. However, such policies can be afforded very limited weight. The site is identified on the proposals map as lying within the main built-up area of the City, but has no specific allocation.

APPRAISAL

Design and character

4.7 The proposals result in minor changes to the elevational detail of the previously approved scheme. These have been brought about as a result of internal changes which have changed the mix of units and removed the need for an internal access corridor at ground floor. The changes include an increase in height of between 0.34m and 0.49m above the height already approved. This height is added above the first floor windows such that the eaves are approximately 0.5m higher than was approved.

4.8 Window detailing has been amended to give a more vertical emphasis which gives a better solid to void ratio than the approved scheme. The glazed box at ground floor facing on to St John's Crescent has also been removed resulting in a more uniform appearance to this elevation. Balconies have been simplified on the elevation facing out of the courtyard and are now an inset box style rather than the dormer style previously approved.

4.9 The external space will be retained as a communal area and not subdivided into private garden areas. More individual paths are required to access the flats which are now not accessed via a communal entrance. These have been kept to a minimum around the outside of the building to retain the landscaped area as an open space as far as possible.

4.10 The site is located adjacent to Character Area 6 Lord Mayor's Walk, York's Central Historic Core Conservation Area (CHCCA). The boundary includes the eastern side of St John's Crescent and includes all of St Johns Street. Nos. 29 and 31 Penley's Grove Street is Grade II listed. The site also lies within the Area of Archaeological Importance. The impact on the setting of the Conservation area is a material consideration.

4.11 The report for the approved scheme noted that the existing building has a neutral impact on the setting of the Conservation Area due to its scale and complimentary materials. The approved scheme was considered to result in harm to the character and appearance to the Conservation Area as a result of the two small dormer windows that front St John's Crescent and the artificial slate to be used on the majority of the roof. The roof facing St John's Crescent and the Conservation Area is to be natural slate. Given the small scale of the dormers and set back from the highway it was considered that the harm was less than substantial. Similarly the use of natural slate on the roof facing St John's Crescent preserved important views into the city. Para. 196 of the NPPF states that where less than substantial harm to a designated heritage asset is identified then this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The public benefits from the redevelopment of the site and provision of additional housing are considered to outweigh the less than substantial harm to the designated heritage asset (the Central Historic Core Conservation Area). This has not changed as a result of the current proposals which show no significant changes to the St John's Crescent elevation beyond the 0.49m increase in height which is not considered to impact on the character and appearance of the Conservation Area.

4.12 The general duty with respect to listed buildings in the exercise of planning functions is contained in Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the

building or its setting or any features of special architectural or historic interest which it possesses. The proposal is not considered to impact on the setting of the listed building at 29/31 Penleys Grove Street.

Impact on residential amenity

4.13 Concern has been raised by local residents in relation to the increase in height of the building particularly in relation to Penleys Grove Street. The increase in height here is 0.34m at the ridge and 0.5m at the eaves. The impact on amenity of the increase in height is considered minimal beyond that resulting from the previously approved scheme because of the small increase in height. The separation between the new property and existing properties is not unreasonable for an urban location and is also appropriate to the local character.

4.14 Windows in the Penleys Grove Street elevation are similar to the approved. The number of openings at ground floor remains the same but two of the approved doors are now windows. The number of windows at first and second floors remains the same although the second floor windows in the gable become larger.

4.15 The previous scheme included a condition to obscure glaze the lower half of the second floor windows on the gables facing Garden Street and Abbot Street. This was as a result of the low sills and concern about the potential for overlooking because of the low sills, the height of the elevation, distance to neighbouring properties and lack of windows in the existing building at this location. This obscure glazed panel has been removed from the current scheme. This is because internal changes have resulted in window sills sitting approximately 0.5m higher than the approved scheme. In the approved scheme the top of the obscure glazed panel was approximately 1.2m above the floor level whilst in the current proposed scheme the window sill of the proposed scheme is approximately 1.1m above floor level. It is considered that residents are less likely to sit in the windows of the current scheme as a result of their higher sill height and the impact on amenity of neighbouring residents is therefore not significantly different to the approved scheme.

4.16 More balconies are proposed at second floor level in the elevation facing across the courtyard to the almshouses than were approved but the distance is considered to sufficient to prevent overlooking.

4.17 Amenity for future residents is considered acceptable. Flats are of a reasonable size to provide for residents' amenity and there is a mix of sizes to cater for different occupiers. There are no lifts to the upper floors but some ground floor flats provide level access. The level of external amenity space is similar to the approved scheme which was considered acceptable for the scale of development and location.

Impact on trees

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4.17 The current scheme does not bring development closer to the trees than was previously the case. The new paths avoid impact on the root systems of the trees. Additional information is to be supplied regarding the landscaping scheme and details of the new tree planting. If this is not received prior to determination then the details will be secured by planning condition.

Highways considerations

4.18 The approved scheme allowed 16 parking spaces for 32 flats. The current scheme shows 17 spaces for 29 flats. No objections are raised to the parking layout, provision or access. Cycle provision is now 24 spaces within the building and 10 within a separate outbuilding. While the provision is acceptable, no details have been provided of the separate cycle store, so a condition is suggested to secure these.

Public Realm (Strategy and Contracts)

4.19 The applicant has made the payment for £8520 for off-site sports provision. This was to be used towards the improvement and expansion of facilities at Heworth Rugby Club to attract women in to sport. The contribution associated with the revised scheme is £8733, therefore the difference of £213 is to be sought via a deed of variation. This is also to be used towards the facilities at Heworth Rugby Club.

Other issues

4.20 An off-site contribution for affordable housing of £210,246.00 has already been paid.

5.0 CONCLUSION

5.1 When considering the planning balance, as some harm is identified to the setting of the adjacent Conservation Area, the more restrictive policies in the NPPF relating to conservation of heritage assets apply, rather than the 'tilted balance' in favour of sustainable development in paragraph 11 of the NPPF. In the planning balance, the site is previously developed land within a sustainable location. The provision of 29 flats will contribute towards City of York Council's housing supply.

5.2 It is considered that the proposed scheme represents only minor amendments beyond the approved scheme and that the increase in height will not result in any significant impact on neighbouring residential amenity.

5.3 Great weight has been given to conservation of the designated heritage asset in accordance with paragraph 193 of the NPPF. The harm identified is less than substantial and is not materially different to that identified in the approved scheme,

and it is considered that the public benefits of the delivery of residential development, in a sustainable location, outweigh that harm. (para196)

5.4 Accordingly, the recommendation is one of approval subject to a deed of variation to link the current application to the approved scheme to ensure the continued provision of a financial contribution towards off-site sport provision.

COMMITTEE TO VISIT

6.0 RECOMMENDATION:

Approve subject to the prior completion of a Section 106 Agreement (or deed of variation as appropriate) to provide a contribution of £213 (the difference between the contribution payable on the previous scheme and the current scheme) towards off site outdoor sports provision.

CONDITIONS

- 1 TIME2 Development start within three years
- 2 Approved plans and other submitted details
- 3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any construction work. The details shall include natural slate on the elevation fronting St John's Crescent.

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

Reason: So as to achieve a visually cohesive appearance and in the interests of the character and appearance of the adjacent conservation area.

- 4 LAND1 IN New Landscape details
- 5 Prior to the commencement of any invasive work on site, including demolition, excavations, and building operations, an Arboricultural Method Statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst other information, this statement shall include details and locations of protective fencing, site rules and prohibitions, phasing of works, site access and means of demolition/construction, types of construction

machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of site compound. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material and/or boundary treatments is proposed within the root protection area of existing trees. A copy of the document shall be available for inspection on site at all times.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development.

6 The containment, control and removal of Japanese Knotweed on site shall be carried out in accordance with details approved under AOD/18/00127.

Reason: To ensure that an adequate means of eradicating or containing the spread of Japanese knotweed is considered and thereafter implemented to prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

7 The development shall not be occupied until the junction between the internal access road and the highway has been constructed in accordance with a scheme which has previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety.

8 The development shall not be brought into use until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb and footway to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

9 No part of the site shall come into use until the turning areas have been provided in accordance with the approved plans. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To enable vehicles to enter and leave the site in a forward gear thereby ensuring the safe and free passage of traffic on the public highway.

10 HWAY19 Car and cycle parking laid out

11 The bollards within the access to the site shown on the proposed site plan 8079 P(000)007 Rev P shall be so located as to enable access for refuse and recycling bins.

Reason: In the interest of satisfactory waste management.

12 Foul and surface water drainage shall be carried out in accordance with the details submitted and approved under AOD/18/00127.

Reason: To ensure the proper drainage of the site.

13 LC4 Land contamination - unexpected contamination.

14 Prior to the development hereby approved coming into use, electric vehicle charging points in line with the details submitted and approved under AOD/18/00127 shall be installed and brought in to use.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles. To promote the use of low emission vehicles on the site in accordance with paragraph 35 of the National Planning Policy Framework.

15 The programme of archaeological work shall be undertaken in accordance with the Written Scheme of Investigation for a Watching Brief submitted and approved under AOD/18/00127.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

16 NOISE7 Restricted hours of construction

17 Prior to first occupation, full details of the any new tree planting shall be submitted and approved in writing by the Local Planning Authority. Where trees are to be located within paved areas, the planting details shall accommodate such suitable soil volumes underneath porous surfaces as is required to provide sufficient capacity for the proposed trees to survive and thrive. The tree shall then be planted in accordance with the approved details.

Reason: To ensure that the trees are able to perform as intended within the approved landscape scheme and to improve the visual amenity of the site.

18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), the windows on flat 1.03 shown to be 'coated glazed side blank panels' on the submitted elevations (8079 P(000)008 M); shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

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

properties.

19 HWAY18 Cycle parking details to be agreed

20 The window sill heights of units 2.01 and 2.07 (North West facing elevation only) and 2.02 (South West facing elevation only) shall not be lower than 1.1m above the finished floor level.

Reason: In the interests of residential amenity.

7.0 INFORMATIVES:

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:

Revised details requested in relation to site layout and elevational details.

Contact details:

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