

## COMMITTEE REPORT

**Date:** 16 July 2020                      **Ward:** Micklegate  
**Team:** West Area                              **Parish:** Micklegate Planning Panel  
**Reference:** 19/01986/FUL  
**Application at:** Crescent Nursery 7 The Crescent York YO24 1AW  
**For:** Conversion of former nursery to form 4 holiday lets comprising 2 x 1 bedroom, 1 x 2 bedroom apartment and 1 studio apartment, with dormer window to rear and associated works  
**By:** Planusual Projects Ltd  
**Application Type:** Full Application  
**Target Date:** 30 June 2020  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application site is 7 The Crescent, a mid-terrace building of red brick construction. There is a courtyard to the rear with separate access to the public highway. Adjacent to the site is the Crescent Community Venue at no 8 the Crescent, a former working men's club, in use as a community venue since 2015.

1.2 The site is in flood zone 1 and in the Central Historic Core conservation area. The site lies within the city centre boundary as defined by the proposals map accompanying the 2018 Publication Draft Local Plan.

1.3 Planning permission is sought for the conversion of the former nursery to form 4 holiday lets comprising 2 x 1 bedroom, 1 x 2 bedroom apartments and 1 studio apartment, with dormer window to rear and associated works.

1.4 The application as originally submitted included was for permanent residential use and for a large rear extension, pitched roof rear dormer and front rooflights. The extension and the rooflights no longer form part of the scheme and the dormer has been amended to be a flat roof design following comments from the Conservation Architect. The applicant has confirmed their acceptance of the use of the building to be for holiday lets only following comments from the Public Protection Officer.

1.5 The application has been the subject of significant public interest and was called into Planning Area-Sub Committee by Cllr Crawshaw if the recommendation is one of approval.

## Planning History

1.6 There were various applications for extension and alterations in the early 1980s and planning permission was granted in 1985 for the change of use from offices to day nursery (ref: 7/09/1256F/PA).

## **2.0 POLICY CONTEXT**

### National Planning Policy Framework

2.1 The revised National Planning Policy Framework (NPPF) 2019 was published on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied. The policies in the NPPF are material considerations.

2.2 The planning system should contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives. Paragraph 11 advises that at the heart of the Framework there is a presumption in favour of sustainable development.

### Publication Draft Local Plan 2018

2.3 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

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

### 2.4 Relevant Policies

SS3 York City Centre  
EC4 Tourism  
HW4 Childcare Provision  
D1 Placemaking  
D3 Cultural Provision  
D4 Conservation Areas  
D11 Extensions and Alterations to Existing Buildings  
CC1 Renewable and Low Carbon Energy Generation and Storage  
CC2 Sustainable Design and Construction of New Development  
ENV2 Managing Environmental Quality  
T1 Sustainable Access

### 2005 Development Control Local Plan

2.5 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF albeit with very limited weight.

## **3.0 CONSULTATIONS**

### INTERNAL

#### Forward Planning

3.1 Childcare has always been considered against community facility policy rather than education policy. National planning policy guidance (both NPPF 2012 which the plan is being examined under and also NPPF 2019) is silent on childcare facilities specifically, presumably because it falls under the general community facilities references. The childcare policy in the plan is considered to be in response to the Childcare Act and the Local Authority's duty to secure sufficient childcare for working parents. The supporting evidence for the policy comes from the Joint Health and Wellbeing Strategy and the Council's Childcare Sufficiency Assessment. The sufficiency assessment is used to understand how well childcare matches families' needs. Forward Planning believe this has been the driving force behind the

childcare policy in the plan, to help support the CYC childcare team to meet their duty under the act.

3.2 The purpose of the policy is to realistically protect as far as we can childcare provision. The Childcare Act refers itself to securing sufficient childcare for working parents 'so far as reasonably practicable'. As explained on the link above, and in the plan, the early years and childcare market is dynamic and changes can happen over a short period of time.

3.3 Additional capacity is created through a combination of commercial market forces and stimulation and support led by the Early Years and Childcare Service. In facilitating childcare provision the Early Years and Childcare Service can provide support to providers to remain financially viable so that they remain open.

### Early Years and Childcare Service

3.4 Due to the work and associated financial investment that is ideally required on the building to make it more suitable for use as an early years and childcare provision, it is unlikely that an early years provider would choose to rent this building for use as a nursery. Even with a substantial amount spent, it would still not make an ideal building for use as early years and childcare provision for the reasons outlined by the applicant.

3.5 Whilst premises are limited in this area of the city, there is a strong argument that it would be more financially viable for anyone considering opening a new childcare provision to use their financial investment to support the development of a more suitable, possibly larger building.

### Design Conservation and Sustainable Development (Conservation)

3.7 The Crescent has suffered from inappropriate alterations over the years with extensions, the loss of large gardens and the addition of roof lights. It's character and appearance, however, is still easily identifiable and what survives should be, at least preserved, and hopefully enhanced. The roofscape of the Crescent makes a positive contribution to character and appearance and, moreover, No. 7 has retained its original form without the addition of dormers or rooflights.

3.8 There was an objection to the original scheme involving the rear extension, rear dormer and front rooflights.

3.9 On balance and bearing in mind all the other dormers that exist, no objection to the revised plans.

### Highways Network Management

3.10 Highway Development Control has no objection to this development in principle.

3.11 As this would be a holiday let, the property would not be eligible to use on-street parking which is reserved for residents unless they apply for a guest house parking permit. Please note that these might not be available in areas where on-street resident parking is in high demand.

3.12 Note the addition of a secure cycle store although the design would need to be revised to provide 4 cycle spaces in accordance with our guidance. This can be conditioned.

### Public Protection

3.13 The proposed holiday lets are within York City Centre and adjacent to the Crescent WMC, a community venue that holds events such as comedy nights and music nights. Therefore there will be external noise sources as well as noise and vibration transfer from the Crescent WMC that could affect the occupiers of the holiday lets. This could therefore result in the internal noise levels within the flats not meeting the internal noise level recommendations as per BS8233:2014.

3.14 The applicant has provided a noise assessment undertaken by Surface Acoustics dated February 2020. This noise assessment measured noise levels from the operation of the Crescent WMC, at various frequencies, and on the evenings/nights the noise was measured the entertainment provided by the Crescent WMC included a rock band, dub band and electro band thus ensuring that the noise from the venues was representative of the worst case scenario for any disturbance to the occupiers of the proposed holiday lets.

3.15 The assessment measured the noise levels from the events and used this data to calculate the required sound reduction to achieve the recommended internal levels as per BS8233:2014. The mitigation measures proposed included glazing,

ventilation as well as structural insulation. In terms of meeting the requirements of BS8233:2014 the assessment is accepted.

3.16 The assessment did advise that once the mitigation measures are in place there may be areas of the building that are structurally weak and as a result low frequency noise may still transfer to the internal rooms of the holiday lets.

3.17 Therefore in order to ensure that the mitigation measures are installed correctly and to assess whether after these mitigation measures are installed they sufficiently reduce the noise levels and address any transfer of low frequency noise then a sound insulation test condition is recommended.

## EXTERNAL

### Micklegate Planning Panel (response to revised plans)

3.18 We object on planning grounds. We object to the change of use and support the objections from the Councillors.

### Yorkshire Water

3.19 No comment to make.

## 4.0 REPRESENTATIONS

4.1 The application has been advertised by neighbour notification, press notice and site notice. 214 objections were received.

4.2 The issues raised in the objections are summarised below.

### 4.3 Loss of childcare facility

- Lack of childcare provision in this area of York
- Finding alternative childcare locations in this area of the city (Micklegate) will be difficult
- Loss of employment opportunities resulting from change of use to residential
- Impact on parent's ability to return to work due to the lack of suitable childcare provision

- Contrary to policy HW4 (Childcare), D3 (Cultural Provision) of the Draft Local Plan 2018
- We, as members of the local community, have heard first hand about the inconvenience of this nursery closing down from local residents and I believe this application should be refused due to the closure of necessary existing childcare facilities to make way for residential development
- York is in short need of nurseries and not more expensive flats
- removal of this provision has moved Micklegate from medium to high risk in relation to childcare sufficiency
- Conversion of a nursery into residential property is against the local plan.
- Surely, another nursery company should be tempted back into the space?

#### 4.4 Impact on Crescent Community Venue

- Building has been in use for more than 100 years as a performance venue
- Since the community venue opened it has been cornerstone of York's music scene and a vital part of the city's cultural offer
- Some of the tradition and ethos of the WMC has been retained such as weekly dominoes sessions.
- Until closure of nursery both the nursery and the community venue co-existing without difficulties. One being a daytime venue and the other a night time venue.
- Future occupants would be significantly impacted by the existing business and the applicant should be required to provide suitable mitigation
- do not believe it would be possible to sufficiently insulate a building which shares a party wall to the level that would be required to ensure future occupants are not disturbed by the reasonable activities of the pre-existing music venue.
- Across the country music venues have been forced to close down due to new neighbours moving in and making noise complaints
- Contrary to policy HW4 (Childcare), D3 (Cultural Provision) of the Draft Local Plan 2018, national planning policy and purple flag vision
- Properties immediately adjoining the Crescent should not be considered for residential development as it will be almost impossible for them to integrate effectively with the existing business due to sound travelling through the fabric of the buildings
- Unless developers fully soundproof the properties there is a risk of complaints and then closure of a social and cultural hub which is vital to the city.

- the Crescent Community Venue is a such a vital part of York's culture drawing in thousands of locals and visitors of all ages to the city every year
- city has needed this type of venue for years
- A great place for excellent music, family events, festivals, safe welcoming place for all
- Need more low cost housing and to protect our community assets
- Crescent Community music venue offers something to residents that no other place does. Without it, York will lose out to Leeds and Manchester in terms of live music and the night time economy.
- York in the late 80s and early 90s had a vibrant music scene, unfortunately a lot of these venues have closed down.
- Great shame in the increasing 'ghettoisation' of town at the weekend with bands of hens and stags and other drinking parties turning York into a no-go area. Maybe by supporting and improving local venues, could tempt people back into the city and provide experiences for people that wish to spend quality time.
- It is one of the only places in this city that houses a diverse range of acts which you will not find elsewhere in the city, it is family run and it would be a monumental loss to the York music scene.
- The Crescent is one of the best venues I have been to. It serves a wide audience and retains the traditional feel if a warm and inviting community centre. More than a pub, more than a venue. York needs this, it's a really important venue and it's such a pleasure to see so many sold out gigs. It's a success. Please let it be
- York doesn't have an actual arts centre and so somewhere like The Crescent is a true 'creative hub for York's people
- This venue is now successful due the hard work of local people. As the venue already has a music licence it should get priority over further residential development
- have a substantial negative financial impact on their business, their ability to provide such events in the future, and may well reduce the community events they hold at a time when local community events and venues are in substantial decline.
- not fully objecting to this conversion - empty buildings are never a good thing - however, if the build goes ahead the onus should be upon the developers to mitigate any potential issues there may be with the neighbouring entertainment venue
- This property should be developed, but only in a way that allows for the continued functioning of the Crescent as a venue



#### 4.5 Other concerns

- Flats will add nothing to the cultural fabric of the City
- Does York need four more apartments? If it was social housing maybe but new apartments for commercial profit in this location are not needed
- conversion to residential will not assist in supporting current Local Draft Plan of circa 790 affordable homes per year
- plenty of other properties that need developing and this isn't one of them
- not sufficient to look at an individual application without looking at possible outcomes for the wider community.

4.6 The Music Venue Trust has objected on the following grounds to the original scheme raising the following matters:

- Contrary to para 6 of the NPPG, para 123 of the NPPF, para 70 of the NPPF and para 182 of the NPPF
- No local policies regarding night time economy or local cultural output (Officer response: this is incorrect, Policy D3 of the 2018 Draft Plan is relevant).
- contrary to the briefing on York's Evening and Night-Time Economy for Scrutiny Management Committee which supports proposals which reinforce and promote York's role as a positive centre for tourism, culture and events and as a key destination for business tourism.
- Several music events each week in the form of live bands and singers, dj and electronic music nights and children's discos as well as comedy performances, films, youth theatre, quizzes, beer and music festivals, book and record fairs and various meetings and has thus not only become a significant presence in the York music scene but also added to the social life of the city
- Crescent Venue created employment
- Allowing the proposed development to take place would adversely affect the ability of The Crescent to operate as a music and cultural venue and could possibly result in the loss of the venue
- York is already publicly committed to supporting the night-time economy through the 'Purple Flag Initiative'.
- the loss of music venues is a UK wide issue and justifying the loss of one venue on the basis that there might be others in the same city – within a planning policy context which protects such premises – provides no justification what so ever

- there is no comparison between The Crescent Community Centre with the other premises within the City as no other venue in York provides the same function that The Crescent Community Centre does to its local community and the cultural output of York
- A range of premises are needed from pubs that have occasional open mic nights, to grassroots music venues of varying sizes, to larger commercial music venues. These different music venues cater for performers at varying stages of popularity and professionalism and offer entirely different listening and cultural experiences for those in attendance
- Alternative premises in York do not operate in the same market as The Crescent Community Centre. These alternative premises do not perform the same function as The Crescent Community Centre due both to their sizes and capacity as well as their programming choices which are materially different to those of The Crescent Community Centre, a grassroots music venue
- Crescent Community Centre is not 'competing' with the other venue. Its loss would therefore result in a manifest reduction in the range of music venues available within the city. There would be a clear and demonstrable harm to the cultural offering within the city
- Nothing within the submissions made by the applicant provides any special planning justification that would support its loss. It is operating successfully, has no particular environmental history that would justify its removal as an environmental benefit and, indeed, has considerable local support. Moreover, it is becoming increasingly problematic for venue operators to find and operate music venues, particularly in city centre locations. We note that the applicant does not suggest that the facility could somehow be re-provided.

#### 4.7 Cllr Kilbane (Ward Councillor) objected citing the following concerns:

- Contrary to Policy HW4 as shortage of childcare provision in ward.
- Removal of provision would move Micklegate from medium to high risk in terms of childcare provision.
- Impact on Crescent music and performance venue in terms of cultural amenity and York's music scene.
- Paragraph 182 of the NPPF applicant should be required to provide suitable mitigation. Properties immediately adjacent should not be considered for residential use
- Contrary to Policy D3 of the 2018 Draft Plan
- Difficult to see how they could soundproof sufficiently

4.8 Cllr Crawshaw (Ward Councillor) objected citing the following concerns:

- Contrary to para 7 of the NPPF, sustainable development.
- Proposal does not meet the HW4 policy exemptions
- Regular complaints over the lack of childcare
- Nursery was still fully subscribed
- Medium to high risk regarding childcare provision in ward
- No suitable accommodation in South Bank area
- Crescent venue operating over 100 years
- Cornerstone of music scene and cultural offer
- Lack of similar sized venues
- No current conflict to daytime and night time uses
- Impact on future occupants, agent of change

4.9 Cllr Taylor (Fishergate ward) objected citing the following concerns:

- Will not provide suitable accommodation next to live music venue
- Doubt noise attenuation could reduce levels of noise seepage to an acceptable degree
- Unacceptable demand on the business and wider community if closed

4.10 Following the submission of revised plans, a further consultation was undertaken. 5 new points of objections were received.

- Residential use or holiday use not appropriate for the area given proximity to clubs and bars which form essential part of the night time economy and need protecting from developers.
- This does not change opposition to the development. Don't think that the fact that the flats will be occupied on a short term basis will diminish the likelihood of noise complaints being raised. The risk of poor reviews on travel websites could lead to the business owners making these complaints.
- Do not consider that the assessment of the problems experienced by the nursery support the application. It does show that the nursery needed some investment to improve the way in which it could operate. The changes proposed to convert the building to self-contained flats appear much more radical than those that would be required to support its continued operation as a nursery.
- Only change seems to be the assertion that the building is not fit for childcare because the business wasn't run efficiently.

- There is nothing showing plans, there is nothing outlining how the building will be soundproofed.
- York does not need more holiday lets. We need affordable homes for local residents.

## **5.0 APPRAISAL**

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. There is no development plan for this part of York.

5.2 The application site is within the Central Historic Core Conservation Area where Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act") requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

### **5.3 Main Issues**

- proposed residential (holiday accommodation) use
- impact on childcare provision
- impact on neighbouring community venue
- impact on the character of the conservation area
- impact on the streetscene
- impact on amenity and living conditions of adjacent occupiers
- highways and parking
- sustainability

## **PRINCIPLE OF DEVELOPMENT**

5.4 The site lies within York City Centre as set out in the proposals map accompanying the 2018 Publication Draft Plan. Moderate weight can be applied to Policy SS3 of the 2018 Draft Plan which advises that dwellinghouses are acceptable in principle in the city centre. Tourism in York will contribute to a diverse economy. This will be achieved by supporting proposals that relate to maintaining and improving the choice and quality of visitor accommodation to encourage overnight stays, particularly by higher spending visitors. This is in line with paragraph 85 a) of the NPPF which states that planning policies should allow a suitable mix of uses,

including housing in town centres. Paragraph 85f) states that policies should encourage residential development on appropriate sites.

5.5 Given the above, it is considered holiday accommodation is acceptable in principle, in this location.

## IMPACT ON CHILDCARE PROVISION

5.6 The Department for Education's November 2019 guidance on 'Securing developer contributions for education' notes that "while many early years settings fall within the private, voluntary and independent (PVI) sector, local authorities have a duty to ensure early years childcare provision within the terms set out in the Childcare Acts 2006 and 2016."

5.7 Policy HW4 of the 2018 Draft Plan carries moderate weight and states that proposals which fail to protect existing childcare facilities will be refused unless it can be demonstrated that the provision is no longer required, no longer viable, or if equivalent replacement facilities can be provided elsewhere.

5.8 A number of objections to the application have highlighted the loss of the Nursery in terms of childcare provision. However, as the applicant and the Council's Childcare team have noted, when the existing nursery closed all of the attending children were located elsewhere within 1.5 miles. This is considered to meet the test of 'equivalent replacement facilities' being provided elsewhere. Furthermore, there are concerns over the quality of the existing accommodation for the use as a childcare facility and it is not considered reasonable to refuse the application for this reason.

## IMPACT ON THE EXISTING CULTURAL AND MUSIC VENUE

5.9 Paragraph 92 of the NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

5.10 Paragraph 182 goes on to say that decisions should ensure that new development can be integrated effectively with existing businesses and community

facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

5.11 Policy D3 of the 2018 Draft Plan carries moderate weight states that proposals will be supported where they are designed to sustain, enhance, and add value to the special qualities and significance of York's cultural character, assets, capacity, activities, and opportunities for access. Development proposals will be supported where they do not cause the loss of cultural facilities, activities, or services; and do not cause the loss of venues or spaces, including in the public realm, that deliver cultural opportunities, activities, or services.

5.12 The Crescent Community Venue is a long standing community venue holding a variety of events in the evening including live music and Draft Policy D3 and paragraphs 92 and 182 of the NPPF are relevant. The building is next door to and attached to the application site forming part of the same terrace. The internal layout of the site is such that the bar area is at the front of the building and the stage area is to the rear in an existing single storey rear extension. From discussions with the owners it was understood that the bar area is also used for some events. As a number of representations make clear the arrangement of a day time use of a nursery complemented the Crescent Venue's evening activities.

5.13 The proposed change of use of the existing building from a day nursery to residential accommodation, would see a clear shift in when the site is predominantly occupied. As an 'agent of change' the onus is on the applicant to demonstrate suitable mitigation to protect the viability of the venue. The application as originally submitted was for the proposed use to be permanent residential accommodation. However given the concerns raised by officers and members of the public concerning amenity and the impact on the viability of the existing venue if noise complaints are made, the applicant has put forward restricting the use to holiday accommodation only and produced a noise assessment that has been considered by the Council's Public Protection Officer. The impact on amenity is considered further below.

## IMPACT ON AMENITY

5.14 The NPPF states that developments should create places with a high standard of amenity for all existing and future users. It goes on to state that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Policies D1 and ENV2 of the 2018 Draft Plan consider amenity and carry moderate weight.

5.15 The main issues arising from the change of use is the location of the application site next door to an existing live music venue. The Crescent venue includes late night live music and entertainment events. Not only does this include noise and vibration from inside the venue, it also means the gathering of patrons of the club outside the venue, and therefore the application site, at unsociable hours leading to an increase in noise levels. Some patrons will also be outside to smoke.

5.16 This presents a number of difficulties for a residential use in the building next door, one which proposes sleeping accommodation to rooms at the front of the building, closest to the venue entrance. The applicant intends to overcome these issues by using noise insulation measures to the windows at the front and to the party wall shared with the venue and by the use of mechanical ventilation to the bedrooms that will enable the windows to be fixed closed. The applicant has also confirmed they intend for the residential use to be holiday accommodation. The Council's Public Protection Officer has considered the information and is of the view that holiday accommodation that this is acceptable subject to the sound insulation measures being carried out and secured by condition. Subject to appropriate conditions covering the noise insulation measures, restricting window opening and occupancy restrictions the proposal is therefore considered to be acceptable with regard to amenity and also is considered to protect the existing cultural venue, the Crescent Community Venue.

## IMPACT ON THE CHARACTER OF THE TERRACE AND THE CONSERVATION AREA

5.17 The statutory duty contained in section 72 of the 1990 Act is in addition to government policy on heritage assets contained in Section 16 of the NPPF. The NPPF classes Conservation Areas as "designated heritage assets". Paragraph 190 of the NPPF advises that the particular significance of a heritage asset that may be affected by the development proposal should be identified and assessed. Paragraph 192 states with regard to heritage assets that when determining applications local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

5.18 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Para 194 goes on to say that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 196 states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

5.19 Policy D4 of the 2018 Draft Plan states proposals within or affecting the setting of a conservation area will be supported where they are designed to preserve or enhance the special character and appearance of the conservation area and would enhance or better reveal its significance and respect important views.

5.20 General design guidance is provided in Section 12 of the NPPF which sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Policies D1 and D11 of the 2018 Draft Plan are also relevant.

5.21 The site lies within character area 23 (Blossom Street and Nunnery Lane) of the Central Historic Core Conservation Area. The Victorian terrace, The Crescent is designated as 'buildings of merit'. The rear elevation of the Crescent terrace retains an impressive sweep that is visible from certain viewpoints. It is noted that most of the rear roof slopes now have dormers with the application site being one of the few exceptions. Given this, it is considered that dormers now form part of the character of the terrace and to resist any form of dormer on the rear roof slope would be difficult to justify.



5.22 Following the removal of the rear extension, the front rooflights and the amendment to the design of the dormer, it is considered that the modest flat roof dormer would not harm the character of the terrace or the conservation area as such would not conflict with paragraphs 127 and policies on heritage assets of the NPPF or Policies D1, D4 and D11 of the 2018 Draft Plan. Conditions are recommended to cover the detailed design and materials of the proposed dormer.

## HIGHWAYS AND PARKING

5.23 Paragraph 108 of the NPPF states that when assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location. Policy T1 of the 2018 Draft Plan is also relevant.

5.24 The application is in a very sustainable location close to bus stops and shops on Blossom Street. The railway station is also within walking distance. Given this, designated car parking is not considered necessary. There is space to the rear of the building to allow for a cycle store, the details of which could be left to planning condition. The proposal is considered to be acceptable with regard to highways and parking.

## 6.0 CONCLUSION

6.1 Paragraph 11 of the NPPF states that planning decisions should apply a presumption in favour of sustainable development. The proposed change of use from a children's day nursery is considered to comply with the national and local planning policies in this regard given the layout of the building and that existing places were available elsewhere when the nursery closed. Subject to noise insulation measures and the occupancy being controlled by conditions the proposal is also considered to provide suitable mitigation to meet the 'agent of change' requirements in the NPPF and to protect the Crescent Community Venue. The revised proposals have also removed the initial identified harm to the character of the conservation area and the proposal is considered to preserve not only the character of the designated heritage asset, but also that of the streetscene. The application site is in a sustainable location in the city centre, where policy encourages residential use and tourist accommodation. The sustainable location and cycle parking also ensure the proposal is satisfactory with regards to highways. Taking this into account and the matters raised by public representations, the proposal is considered to be acceptable subject to the following conditions.

## **7.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

18047-001; 18047-007 P02; 18047-101 P01; 18047-102 P01; 18047-103 P01;  
18047-104 P01; 18047-105 P01; 18047-130 P01; 18047-131 P02;  
18047-133 P02; 18047-135 P02

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

3 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

The dormer and its window at scale 1:20

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

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

Reason: So as to achieve a visually cohesive appearance.

5 HWAY18 Cycle parking details to be agreed

6 The building shall not be used for any purpose within class C3 of the Town and Country Planning Use Classes Order other than for holiday letting. For the purpose of this condition "holiday letting" means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 days in any one calendar year.

Reason: The premises are unsuitable for permanent, independent residential occupation due to the proximity of the building to the established live music venue next door.

7 A register of all guests using the holiday lets shall be kept, including dates and durations of each stay by each guest, and the register shall be made available for inspection by the Local Planning Authority at 48 hours' notice.

Reason: To enable the Local Planning Authority to regulate and control the development as short term holiday letting accommodation, having regard to Policies SS3, D3 and ENV2 of the 2018 Publication Draft Plan coupled with the requirements of paragraphs 127(f) and 182 of the National Planning Policy Framework 2019.

8 The holiday lets shall not be occupied until a sound insulation test has been carried out and the results submitted to and approved in writing by the local planning authority. The test shall be carried out to show that the predicted noise levels as stated within Surface Noise Assessment dated February 2020 have been achieved as well as all bedrooms within the holiday lets achieving NR20 and living rooms achieving NR25. The sound insulation measures as approved by the local planning authority shall be permanently retained thereafter

Reason: To protect the amenity of people living in the new property from externally generated noise and to ensure unreasonable restrictions are not placed on the adjoining live music venue as a result of the approved development and in accordance with the National Planning Policy Framework.

9 The windows to the front elevations of the building shall be fixed shut at all times.

Reason: To protect the amenity of people living in the new property from externally generated noise and to ensure unreasonable restrictions are not placed on the adjoining live music venue as a result of the approved development and in accordance with the National Planning Policy Framework.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) 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 Plans

Appropriate planning conditions

**2. INFORMATIVE:** The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater

than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). All bedrooms within the holiday lets shall achieve NR20 and livingrooms shall achieve NR25. These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

**Contact details:**

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