

COMMITTEE REPORT

Date: 8 September 2011 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 11/01652/FUL
Application at: 279 Huntington Road York YO31 9BR
For: Erection of 5no. terraced dwellings with associated access following demolition of 279 Huntington Road (resubmission)
By: Mr and Mrs G Cammidge
Application Type: Full Application
Target Date: 17 August 2011
Recommendation: Approve

1.0 PROPOSAL

1.1 This is a full planning application to demolish 279 Huntington Road and to erect five, three-bedroom, two-storey terraced dwellings. The terrace is proposed to run parallel to the river. The properties are of a traditional pitched-roof construction and incorporate living accommodation within the roof space.

1.2 The application site comprises 279 Huntington Road and the rear element of what it appears would have been the gardens of 277 and 279a Huntington Road. The site is bounded to the west by the river Foss. To the south is part of the rear garden of 275 and to the north part of the rear garden of 281 Huntington Road.

1.3 The part of the site where the houses and gardens are proposed is rectangular in area. The site would be linked to Huntington Road by a new private access road. The access strip to the site is approximately 8.2 metres wide.

1.4 Although the proposals are to develop the site with 5 houses the net gain in dwellings is 4 given that it includes the demolition of 279 Huntington Road. The dwelling is being demolished in an attempt to create an adequate access into the site.

PLANNING HISTORY

1.5 In 2001 a planning application (01/00533/FUL) to erect 3 large detached dwellings with associated double garages on a site that had the same boundary was refused by committee on the grounds of overdevelopment and because it was considered that the replacement of a house with an access road would detract from the visual amenity of the area. A subsequent appeal was dismissed. The Inspector raised particular concerns in respect to the impact of the access road on the security

and amenity of adjoining neighbours and felt that the scheme was a 'contrived' overdevelopment which did not make the best use of land to the rear of Huntington Road. She also raised concerns in respect to the position of the bin store.

1.6 In 2007 two planning applications were submitted to develop the current application site coupled with the adjoining land to the rear of 281, 283 and 285 Huntington Road (07/0962 and 07/02588). The schemes were for 9 and 10 houses respectively and included an adopted road access to Huntington Road. Both were withdrawn. Officers had raised several planning concerns including overdevelopment, the impact on trees, the impact on the setting of the river and the impact on the amenity of adjacent occupiers.

1.7 In November 2008 the Committee approved a subsequent application (08/00814/FUL) for 5 dwellings. The site area of this scheme differed from the current application in that it also incorporated land that is now part of the rear garden of number 281. This land is in separate ownership from the land subject to the current application. The proposal included a terrace of 4 properties and a large detached house rather than the 5 terraced properties proposed in this latest application. Planning permission 08/00814/FUL is due to expire on 6 November 2011.

1.8 In April 2011 the Committee considered a proposal (10/00942/FUL) for a scheme that was very similar to the current planning application. It differed from the current scheme largely in that it was of a flat roofed contemporary design and a mix of two and three storey development. The footprint of the scheme, number of houses, access arrangements, garden layout out and so forth were the same as the current application. It was recommended for approval by officers but refused by Members for the following reason:

“The application site consists of a well established residential garden forming a valuable green space within the local area. Residential gardens no longer fall within the definition of previously developed land as defined by Planning Policy Statement 3 "Housing" (Revised June 2010), and are therefore no longer considered as a priority for development. It is considered that the development of the site would result in an unacceptable loss of a residential garden ("garden grabbing"), which would be detrimental to the character of the immediate residential environment, contrary to Policies GP1 and GP10 of the City of York Draft Local Plan.”

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

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2.2 Policies:

CYGP1
Design

CYGP4
Environmental sustainability

CYGP7
Open Space

CYGP9
Landscaping

CYGP10
Subdivision of gardens and infill devt

CYGP15
Protection from flooding

CYNE2
Rivers and Stream Corridors, Ponds and Wetland Habitats

CYH4A
Housing Windfalls

CYH5A
Residential Density

3.0 CONSULTATIONS

INTERNAL

3.1 Highway Network Management - No objections subject to conditions relating to the design of the junction and highway widths.

3.2 Design, Conservation and Sustainable Development (DCSD) Countryside Officer - No objections subject to provision for measures to encourage wildlife within the new development.

3.3 DCSD Landscape Architect - No objections.

3.4 DCSD Archaeologist - Watching brief required.

3.5 Environmental Protection Unit - No objections subject to conditions.

3.6 York Consultancy (Drainage) - No objections subject to conditions.

3.7 Lifelong Learning and Leisure – Contribution required towards open space improvements.

3.2 EXTERNAL

Parish Council - None received.

Neighbours - Representations have been received from 4 neighbours.

The following is a summary of the comments made:

- * The previous scheme was refused by committee because of concerns in respect to 'garden grabbing'. This applies to the revised application.
- * The site is still a garden and is integral to the character of the area.
- * The current pitched roof scheme is taller than the previous approved and refused schemes.
- * The proposal will destroy wildlife habitats.
- * There are highway safety concerns in respect to another access on a busy and narrow section of Huntington Road. There are many existing accesses in close proximity and hazards such as bus stops, a cycle lane and parked cars. The traffic situation has become worse in recent years and several major schemes could be proposed in the Monks Cross area.
- * The new access will make it hazardous to enter and exit nearby driveways.
- * The access and refuse collection arrangements will create noise and nuisance to neighbouring houses and gardens.
- * The access will create security concerns.
- * The proposal will harm neighbours privacy.
- * There is insufficient car parking proposed.
- * The electric gates could be difficult to maintain. There will be increased noise and pollution from their use.

- * Query whether large lorries can turn within the site.
- * Construction work will create nuisance and possible damage/subsidence to neighbouring land.
- * There is a covenant on the land that states that terraced houses can not be erected.
- * Concerns that boundary of 277 Huntington Road is not accurately shown.
- * It is wasteful to demolish 279 Huntington Road.

Foss Internal Drainage Board - No objections providing conditions/informatives relating to the rate of surface water discharge, development adjacent to the river and floor levels.

Environment Agency - No objections in principle subject to conditions on surface water and finished floor levels.

Police Crime Prevention Design Advisor - Satisfied that the proposal would provide a safe and secure environment for future residents.

4.0 APPRAISAL

KEY ISSUES

4.1 The previous scheme was refused at committee in April 2011. The only significant difference between the current application and that which was refused at committee in April for 'garden grabbing' is that the external appearance of the houses have been changed from a contemporary style to a traditional one. For completeness however, all of the key issues listed below are addressed in the appraisal.

- development on garden land
- impact on living conditions of adjacent occupiers
- impact on visual amenity
- quality of accommodation
- parking and highway safety
- sustainability
- drainage
- contamination
- wildlife and landscaping
- development potential of adjoining land
- security

4.2 Policy GP1 of the City of York Draft Local Plan sets out criteria for development proposals, including: respect for the local environment: density, layout, scale, mass and design compatible with neighbouring buildings, space and character of the area and provision of adequate amenity space and wildlife habitat. Policy GP10 states that permission for new development will only be granted for the sub-division of existing gardens or infilling where this would not harm the character and amenity of the local environment. Policy H4a generally permits residential development on unallocated land in accessible locations within the urban area where amongst other things it is of an appropriate scale and density to the surrounding development.

4.3 Relevant national guidance includes PPS1: Delivering Sustainable Development and PPS3: Housing. As the site is within Flood zone 2/3 the guidance within PPS25: Development and Flood Risk is also relevant

4.4 Since the previous planning permission PPS3 (Housing) has been updated. In June 2010 two main amendments were made:

- a. The definition of brownfield land was re-classified to exclude gardens.
- b. The minimum density target of 30 units per hectare for residential development was removed.

DEVELOPMENT ON GARDEN LAND

4.5 In June 2010, Central Government re-issued Planning Policy Statement 3 (Housing). A prominent change in the document was the removal of domestic gardens from the classification of previously developed land (brownfield sites). The Minister of State, The Rt Hon Greg Clark MP issued a statement that this was being done to stop local authorities feeling forced to grant planning permission for unwanted development on garden land – simply to maintain the brownfield target.

4.6 In the officer's committee report relating to the approval of the 2008 scheme for 5 houses, it was stated that 'proposals to make more efficient use of brownfield sites for residential development are in accordance with the general thrust of central government guidance'. It is not considered however, that this statement implied that normal planning criteria should not be used to assess the proposal. If undue harm is caused to issues of concern, planning applications should be refused. None of the three previous planning applications to develop land to the rear of 279 Huntington Road were approved. A large number of schemes to develop gardens for housing elsewhere in York have been refused in recent years and most decisions have been upheld at appeal. Recently York has had a target of developing 65% of new dwellings on previously developed land. The figure achieved has normally been in the region of 90%. The actual proportion of the 90% that has been made up of back garden development is proportionally very small.

4.7 Whilst the land to the rear of 279 could be viewed as still being garden, there is a live consent for housing on the site - this expires on 6 November 2011, such that it can also be considered as development land. The land is split in two separate ownerships and it may be the case that the current approval will not be implemented. The current planning application is understood to be being put forward as it only requires development to take place on land within a single ownership.

4.8 Within York there have been two recent appeal decisions relating to housing development on garden land. An appeal issued on 5 August 2011 dismissed an application for housing development on the back garden at 2 Wheatlands Grove, Acomb (10/01986). The Inspector felt it would harm the appearance of the area. In respect to revisions to PPS3 he stated that the change 'has removed gardens from the definition of previously developed land. Although this does not rule out garden development, full regard must be given to the amenity value of the site and the quality of the local environment'. In an appeal at 16 Medway Avenue, Nether Poppleton (10/02129) which related to minor revisions to a previously approved scheme for a new dwelling the Inspector stated that 'the Parish Council objects to the development on the grounds that it is 'garden grabbing' but as the existing permission could be implemented (and the land developed) objection to this basis can carry little weight'.

4.9 It is the officer's viewpoint that because there is a live consent on the application site, less weight can be attached to the impact of the change in classification of garden land when assessing the current application. Irrespective of this, however, it is still necessary to assess fully whether the proposal meets normal planning criteria. Even though gardens were classified as previously developed land prior to June 2010, it was stated in Annex B (PPS3 2006) that 'there is no presumption that land that is previously developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed'.

IMPACT ON LIVING CONDITIONS

4.10 The separation to the rear of properties on Huntington Road (approximately 13m to the rear garden boundary and 33m to the rear of houses) remains as with the approved scheme. This is considered acceptable. The second floor of the latest scheme is proposed within the roofspace. As rooflights are used to naturally light the roofspace there will not be any additional overlooking in comparison to the approved scheme. The ridge height of houses in the current application are a little higher than the previous schemes as pitched roofs are used rather than flat roofs, however, given the separation distances set out above and because the site slopes towards the river it is not considered that undue harm will be caused to the reasonable living conditions of occupiers of homes fronting Huntington Road.

4.11 The access drive is the same as previously approved with a secure vehicular entrance and suitable provision for bin storage at the properties. This was

undertaken to address the concerns of the planning inspector in respect of the previous appeal decision.

4.12 It is likely that the level of vehicle movement would be less than for the previously approved scheme. The current scheme includes five 3-bed properties. The approved scheme was for 5 four-bedroom properties (a total of twenty bedrooms)

IMPACT ON VISUAL AMENITY

4.13 The site including the access road is around 0.14 hectares, giving a density of 35 units per hectare. The density figure is below the 40 dwellings per hectare target set out in the Local Plan, however, given the riverside setting close to existing gardens this density is considered to be acceptable. The existing planning permission for 5 houses covers a site area of 0.20 hectares giving a density figure of 30 units per hectare.

4.14 The external appearance of the proposed housing differs from the scheme that was approved (08/00814) and that which was recently refused (10/0942). As stated previously, the reasons for refusing the planning application in April of this year related to 'garden grabbing' and did not relate to the architectural merits of the application. It is understood that the applicant felt that Members might prefer a more traditionally designed scheme. Accordingly, a conventional pitched roof brick terrace is proposed in the same location as the contemporary scheme that was refused.

4.15 It could be argued that the contemporary flat roofed proposal with the generous use of timber cladding would have created a more interesting scheme that would harmonize with the riverside and landscaped setting. However, it is the case that pitched roof traditional dwellings are characteristic of the area and the height of the properties and their distance (16m) from the river Foss accords with relatively recent infill development located in the vicinity.

QUALITY OF ACCOMMODATION

4.16 It is considered that the proposed dwellings have a good standard of amenity with attractive views across the river. The garden sizes of some of the properties are relatively modest at around 7 metres long, but equate to the approved scheme that included larger dwellings. Because of the openness of the site the properties have good 'visual access' to surrounding land. Small storage buildings are indicated within the rear garden.

PARKING AND HIGHWAY SAFETY

4.17 Highways officers have no objections to the scheme. 12 parking spaces are proposed to serve the 5 dwellings and their visitors. Cycle storage is included.

SUSTAINABILITY

4.18 Policy GP4a of the Draft Local Plan requires the submission of a sustainability statement to demonstrate how the proposal addresses the criteria set out within the policy. The current application accords with this criteria as did the previous scheme. The achievement of Code for Sustainable Homes Level 3 "star" and 5 % renewable energy are covered by condition.

DRAINAGE

4.19 The proposed rear gardens are within flood zone 3. Given that the ground levels rise up from the river the houses themselves would be within flood zone 2. In accordance with the Council's Strategic Flood Risk assessment the applicant has included calculations to assess flood risk to and as a consequence of the proposed development. These have been assessed by internal and external consultees and are considered acceptable.

CONTAMINATION

4.20 The Council's Environmental Protection Officer is satisfied that any issues that might arise in respect to any contamination that might exist on the site can be addressed by condition.

WILDLIFE AND LANDSCAPING

4.21 The application site has been surveyed by the Council's countryside officer and has relatively limited value for wildlife. However, given the potential importance of the riverbank as wildlife habitat it will be conditioned that further details are submitted in respect to its treatment and maintenance. A condition has been included requiring features suitable for bat roosts and controlling the timescale for the demolition of outbuildings.

DEVELOPMENT POTENTIAL OF ADJOINING LAND

4.22 The land that was to the rear of 281 Huntington Road is no longer part of the application site. It is understood that this land has been sold to the occupier of 281 Huntington Road. The owner has stated that he now has no plans to develop it. The current planning application is not reliant on this land. Should any proposal be put forward in the future to develop land to the rear of 281 it should be determined

on its merits. It has been conditioned that a new boundary is erected between the application site and the side garden boundary of number 281.

SECURITY

4.23 Although not given as a reason for refusal of the 2001 application, the Inspector expressed concerns about the implications of the development on the security of people walking to the development and also the impact of opening up the garden boundary of the two adjoining houses to the access road. To try to overcome these concerns the applicant has retained proposals for gates to the front of the access road. It is intended that the vehicular access gate be operated by remote control. It is considered that these arrangements would create the impression that the road is private and deter strangers from entering.

SECTION 106 CONTRIBUTIONS

4.24 Play/Open space - The development will result in a net gain of 4 dwellings. The floor plan for three of the five dwellings states that the roof space is a study and that only two rooms in the houses are bedrooms. However, as the room in the roof spaces could quite reasonably be used as a bedroom, for the purposes of assessing financial contributions they are all considered three-bedroom.

4.25 On sites of less than 10 dwellings a commuted sum will be required towards off site provision. Using the Councils guidance on commuted sums for open space that was updated in 2011 a total contribution of £8,016 would be required for the provision/improvement of children's equipped play space, informal amenity space and outdoor sports facilities.

4.26 Education - No contribution required.

4.27 Affordable Housing - The site area and number of homes is below the threshold for which affordable housing is sought.

5.0 CONCLUSION

5.1 The current planning application and that which was previously refused do not vary in form from the scheme approved in 2008 to such a degree as to raise significant concerns in respect to local and national planning advice and policies.

5.2 Garden land is no longer classified as previously developed land, however this does not mean that new development is unacceptable on gardens, providing it meets established criteria in respect to the impact on neighbours' living conditions, quality of design and other material considerations. In addition there is an extant permission for development on the site. It is considered that the original gardens on this section of Huntington Road were exceptionally long, and that subject to the

suggested conditions development can be accommodated on this site without causing undue harm to the living conditions of nearby residents. The proposed form of development relates well to other nearby developments to the rear of Huntington Road in recent years, and would provide new accommodation in a location close to a range of facilities and services.

5.3 It is the officer view that that for the reasons set out in this report the application should be approved.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

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

Proposed plans and elevations 10:03:03 Rev K received by the Local Planning Authority on 21 June 2011.

Proposed longitudinal sections 10:03:04 Rev E received by the Local Planning Authority on 21 June 2011.

Proposed site plan 10:03:02 K Rev K received by the Local Planning Authority on 21 June 2011.

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

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 the development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

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 for the hardsurfacing of the site shall be submitted to and

approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance and reduce surface water run-off.

5 Notwithstanding the details shown on the approved drawings details of all means of enclosure to the site boundaries including adjacent to 281 Huntington Road shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities and security of the area.

6 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

7 Details of the proposed entrance gates shown on drawing 10:03:02 rev K dated 08/01/10 shall be submitted to and agreed in writing with the Local Planning Authority. The gates shall be erected in accordance with the agreed details prior to the occupation of the dwellings and the gates shall be maintained in a fully efficient working order unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to provide a secure environment for future occupiers and occupiers of adjacent dwellings.

8 Prior to the development coming into use, all areas used by vehicles shall be surfaced, sealed and positively drained within the site, in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the egress of water and loose material onto the public highway

and minimise flood risk.

9 No development approved by this permission shall be commenced until a scheme for the on-site storage of surface water and its discharge from the site at a controlled rate has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in its entirety prior to the first occupation of the development and shall be maintained thereafter. The rate of discharge shall not exceed that of a "greenfield site", i.e. 1.4 lit/sec/ha.

Reason: To prevent the increased risk of flooding and prevent damage to landscaping.

10 The development shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

11 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

12 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.

13 Vehicular access to the site shall at all times have a minimum width of 3.7m with a height clearance of 4.5m. Details of the design of this access, together with associated sightlines and street lighting, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Reason: To ensure that there is access for emergency vehicles.

14 Notwithstanding the approved details, prior to the occupation of the accommodation further details of the proposed refuse collection point shall be submitted to and agreed in writing with the Local Planning Authority. The collection point shall be implemented in accordance with the plans prior to the occupation of

the accommodation and maintained as agreed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the amenity and living conditions of adjacent occupiers

15 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

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

16 All drainage routes through the site shall be maintained both during and after completion of the works on the site.

Provisions shall be made to ensure that upstream and downstream riparian owners and those areas that are presently served by any drainage routes passing through or adjacent to the site are not adversely affected by the development.

Drainage routes shall include all methods by which water may be transferred through the site and shall include such systems as "ridge and furrow" and "overland flows".

Reason: To avoid increasing the risk of flooding

17 Finished floor levels shall be set no lower than 11.40 AOD.

Reason: To protect the dwellings from potential flood flow routes through the site

18 Trees shown to be retained and/or subject to a tree preservation order (TPO) shall be protected during the development of the site by the following measures: -

Prior to site clearance, site preparation, installation of utilities, building or other development operations, including the importing of materials and any excavations, protective fencing to BS5837: 2005 shall be erected around all existing trees shown to be retained. Before commencement on site the protective fencing line shall be shown on a plan and agreed with the local authority and subsequently adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zone: excavation, raising of levels, storage of any materials or top soil, lighting of fires, parking or manoeuvring of vehicles, mechanical cultivation under the canopy spread of retained trees. There

shall be no site huts, no marketing offices, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, pipe runs for services or drains. The fencing shall remain secured in position throughout the construction process including the implementation of landscape works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To ensure protection of existing trees before, during and after development which are covered by a Tree Preservation Order and/or make a significant contribution to the amenity of the area and/or development.

19 No development shall take place until details have been submitted to and approved in writing by the Council of what measures are to be provided within the design of the new buildings to accommodate bats. The works shall be completed in accordance with the approved details.

Reason: To take account of and enhance the habitat for bats.

INFORMATIVE: Features suitable for incorporation for this group include the use of special tiles, bricks, soffit boards, bat boxes. etc.

20 Prior to the commencement of the development, the developer shall submit for the written approval of the Local Planning Authority an initial Code for Sustainable Homes (CSH) Design Stage assessment for the development. Unless otherwise agreed in writing with the Local Planning Authority, this shall indicate that at least the minimum code level 3-star rating will be achieved. This shall be followed by the submission of a CSH Post Construction Stage assessment, and a CSH Final Certificate (issued at post construction stage). These documents shall be submitted to the Local Planning Authority after completion and before first occupation of the building. Both documents submitted shall confirm that the code rating agreed in the initial CSH Design Stage assessment has been achieved.

Reason: In the interests of sustainable development.

21 No building work shall take place until details have been submitted and approved in writing by the Local Planning Authority to demonstrate how the development will provide 5% of its predicted energy requirements from on-site renewable sources. The development shall be carried out in accordance with the submitted details unless otherwise agreed in writing by the local planning authority. The approved scheme shall be implemented before first occupation of the development. The site shall thereafter be maintained to the required level of generation.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction.

22 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts a to c of this condition have been complied with:

a. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases, where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

b. Submission of Remediation Scheme

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

c. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the previous condition, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the previous condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

24 NOISE7 Restricted hours of construction -

25 Any piling operations shall be carried out using the quietest practicable method available. Local residents should be notified of the dates, times, likely duration and works to be undertaken. Details of the piling method chosen must be submitted to and approved in writing by the Local Planning Authority prior to any works being carried out.

Reason: To protect the amenity of nearby residents.

26 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1c of the Development Control Local Plan which requires that all new housing sites make provision for the open space needs of future occupiers.

INFORMATIVE:

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £8,016

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

27 No development approved by this permission shall be commenced until a scheme for the provision and implementation of the method of working and restoration and maintenance of the river edge has been approved by and implemented to the reasonable satisfaction of the Local Planning Authority in consultation with the Internal Drainage Board.

Reason: To safeguard the water environment.

28 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A - F (extensions, boundaries etc) of Schedule 2 Part 1 and Class A of Part 2 (boundaries) of that Order shall not be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the adjoining residents and the setting of the river the Local Planning Authority considers that it should exercise control over any future extensions or alterations and boundary fences which, without this condition, may have been carried out as "permitted development" under the above

classes of the Town and Country Planning (General Permitted Development) Order 1995.

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- impact on living conditions of adjacent occupiers
- impact on streetscene
- impact on visual amenity
- quality of accommodation
- parking and highway safety
- sustainability
- drainage and flood risk
- wildlife and landscaping
- development potential of adjoining land
- security

As such the proposal complies with Policies GP1, GP4a, GP7, GP9, GP10, GP15a, NE2, NE1, NE7, H4a, H5a of the City of York Local Plan Deposit Draft.

2. DEMOLITION AND CONSTRUCTION

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

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

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

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

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

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

3. HIGHWAYS

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

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

4. BATS

If bats are discovered in the course of the work, then work should cease and Natural England consulted before continuing. It is recommended that the existing outbuildings be demolished at a time that minimises conflict with wildlife.

5. PERMITTED DEVELOPMENT

Future occupiers should be made aware that because of the sensitivity of the site permitted development rights to erect extensions, dormer windows, outbuildings, new openings, fencing/walls etc have been removed and as such planning permission will always be required for such developments. All occupiers are recommended to check with the Local Planning Authority prior to undertaking any alterations or extensions.

6. FOSS INTERNAL DRAINAGE BOARD/ENVIRONMENT AGENCY

A strip of land 9 metres wide adjacent to the top of both banks of all watercourses shall be kept clear of all new buildings and structures (including gates, walls, fences and trees) unless agreed otherwise in writing with the Local Planning Authority and Environment Agency in consultation with the Internal Drainage Board. Ground levels must not be raised within this area. Access arrangements should be agreed with the Internal Drainage Board.

The proposed development is within the Board's area and is adjacent to the River Foss, which at this location, is maintained by the Board under permissive powers within the Land Drainage Act 1991. However, the responsibility for maintenance of the watercourse and banks rests ultimately with the riparian owner.

Under the terms of the Land Drainage Act 1991 and the Board's Byelaws, the prior written consent of the Board is required for any proposed works or structures in, under, over or within 9 metres of the top of any watercourse.

Any new outfall to a watercourse requires the prior written consent of the Board under the terms of the Land Drainage Act 1991 and should be constructed to the satisfaction of the Board.

Contact details:

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