

COMMITTEE REPORT

Date: 19 March 2015 **Ward:** Micklegate
Team: Major and Commercial Team **Parish:** Micklegate Planning Panel

Reference: 14/01383/FULM
Application at: 2 - 14 George Hudson Street York YO1 6LP
For: Change of use from offices (use class B1) to student accommodation comprising 58 self contained units with associated facilities including shop, cycle store, managers office, communal lounge, gym and laundry. A new shop front to the proposed entrance on the George Hudson Street elevation.
By: Forshaw Land And Property Group
Application Type: Major Full Application (13 weeks)
Target Date: 15 September 2014
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application is for the change of use of the upper floors to 85 no. studio flats for students, together with communal areas such as common room, gym and laundry facilities. The ground floor would have a manager's office, cycle storage, and refuse bin storage. The main entrance to the student flats would be from the George Hudson Street elevation. The proposals include altering the entrance to the George Hudson Street elevation to create a separate access to the residential accommodation. A retail unit is proposed at ground floor level, with an entrance proposed from George Hudson Street. The site was previously used as offices.

1.2 The building is grade II listed. The application site is within the Central Historic Core Conservation Area and an Area of Archaeological Importance. The building is within Flood Zone 2, with a small corner of the building and the car park to the rear within Flood Zone 3. There are a significant number of listed buildings neighbouring the site.

1.3 The number of proposed flats has increased from 55 to 58. The application was initially submitted without elevations. A number of revised plans have been submitted following the identification of a number of errors in subsequent plans. In addition further supporting information has been submitted which accounts for the length of time the application has taken to come before Committee. A new entrance to the proposed retail unit was recently included on the plans.

1.4 Pre-application discussions with Council Planning Officers took place regarding the principle of development on the site. However no statement of community involvement has been submitted or other information regarding details of community

engagement and the agents have confirmed that no pre application community consultation was undertaken.

1.5 Relevant site history:-

14/01384/LBC - Internal and external alterations in connection with change of use from offices to student accommodation - Pending

05/00710/FULM - Conversion of first second and third floors into 34 flats (re-submission) - Refused on the following grounds:

- Loss of good quality office accommodation
- The proposal relates to a Grade II listed building which is located in an area where there are significant levels of noise, air pollution and public nuisance. Not demonstrated that adequate measures could be incorporated into the development to ensure that an acceptable standard of amenity could be provided for future residents of the accommodation. In addition, insufficient information was provided in order to enable a detailed assessment to be undertaken of the impact of these measures on the character and appearance of the listed building.
- No affordable housing

04/01733/FUL - Conversion of first, second and third floors into 34 flats – Withdrawn

2.0 POLICY CONTEXT

2.1 2005 Draft Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

Floodzone 2 GMS Constraints: Floodzone 2

Listed Buildings GMS Constraints: Grade 2; 17-22 George Hudson Street York YO1 1LP 0108

2.2 2005 Draft Policies:

CYSP3 Safeguarding the Historic Character and Setting of York

CYSP7B York City Centre and Central Shopping Area

CYSP8 Reducing dependence on the car

CYGP1 Design

CYGP3 Planning against crime

CYGP4A Sustainability

CYGP4B Air Quality

CYGP12 Access to upper floors

CYGP13 Planning Obligations

CGP15A Development and Flood Risk

CYGP16 Shopfronts
CYNE6 Species protected by law
CYHE2 Development in historic locations
CYHE3 Conservation Areas
CYHE4 Listed Buildings
CYHE6 Shopfronts in historic locations
CYT4 Cycle parking standards
CYT13A Travel Plans and Contributions
CYH4A Housing Windfalls
CYH11 Conversion of upper floors to housing
CYH12 Conversion of redundant offices
CYH17 Residential institutions
CYE3B Existing and Proposed Employment Sites
CYED10 Student Housing
CYL1C Provision of New Open Space in Development
CYSP6 Location strategy
CYSP10 Strategic Windfalls

2.3 Emerging Local Plan Policy (Draft Publication Plan 2014)

DP1 York Sub Area
DP2 Sustainable Development
DP3 Sustainable Communities
SS1 Delivering Sustainable Growth for York
SS4 York City Centre
EC1 Provision of Employment Land
EC3 Loss of Employment Land
R3 York City Centre Retail
H2 Density of Residential Development
H3 Balancing the Housing Market
H7 Student Housing
D3 Extensions and Alterations to Existing Buildings
D4 Conservation Areas
D5 Listed Buildings
D11 Shopfronts
G16 New Open Space Provision
CC2 Sustainable design and Construction
ENV1 Air Quality
ENV2 Managing Environmental Quality
ENV4 Flood Risk
T1 Sustainable Access

2.4 NPPF

7 – 14, 17, 18 – 22, 23, 32, 35, 47, 49 – 51, 56 – 58, 60 – 61, 63 – 64, 66, 69 – 70, 73, 93 – 100, 120, 123 – 124, 126, 128 – 129, 131 – 138, 140 - 141

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

Highway Network Management - No objections. States:-

3.1 Vehicular access to the site is available from Tanner Row and North Street. These existing access points will be retained and provide access to limited car parking which will be used by site management staff and disabled residents.

3.2 The peak demand for car parking will be generated during the term time start/end periods as students arrive and leave. During these periods car parking areas within the site will be used for temporary car parking for loading/unloading. A management plan is also to be implemented which will ensure that the units are occupied/vacated in a staggered approach in order to further minimise and manage the number of cars entering the site. Information supplied by the applicant indicates that this may be achieved through a booking system where students have to book a time slot in which to move. Such an approach has been previously agreed by the authority at other student sites on Navigation Road, Hallfield Road and Lawrence Street. Once vehicles have been loaded/unloaded they will need to leave the site and alternative car parking is available at a number of locations within a short walk, including the adjacent NCP on Tanner Row.

3.3 Surrounding streets are protected by various waiting restrictions, which will reduce the potential for indiscriminate parking.

3.4 Covered and secure cycle parking (30 spaces) has been provided within the building. Cycle parking provision is at 50% of the CYC Annex E maximum standards, which compares favourably with recently approved schemes at Navigation Road, Hallfield Road and Lawrence Street where 50% provision has been approved. This is considered to be a realistic level of provision however the supporting Travel Plan indicates that there is scope for further cycle parking to be provided within the site if demonstrated to be necessary in the future.

3.5 The site is located within the city centre with its associated local facilities. A large number of bus stops served by high frequency services are also within a short distance of the site and as such the site is highly sustainable.

3.6 Request following conditions; Hwy 18 (car & cycle), Travel Plan

Environmental Management (Conservation)

3.7 The submission of elevation drawings illustrating the rear elevation of the Tanner Row range is welcomed.

3.8 The proposed additional soil vent pipes, flues and vents on this elevation will not be overly intrusive; the alterations can be supported. Internally, the proposed suspended ceilings replace existing suspended ceilings. No cornices or other architectural features were found during earlier inspection by Donald Insall Associates. This alteration results in no impact on the special interests of the building

3.9 Now proposed to introduce raised floors over parts of the first floor. Arguably at this late stage, a new listed building consent application could be required by the local planning authority. However with the exception of parts of the range facing Tanner Row, there are no historic fittings or finishes which will be affected. In the Tanner Row range, some historic joinery remains in situ; the raised floor would have to be designed to avoid physical damage to the existing joinery. Presumably the raised floor would sit above the skirting, which it is presumed will remain in situ. Large scale cross section drawings will be required to illustrate this point. The floors should scribe round any other remaining historic joinery.

3.10 Request conditions including: full schedule of proposed alterations; full details of proposed service routes; full details of design, scale and materials for all inlet/outlet vent covers; No permission hereby granted for any alterations to windows or window openings; Indicative cross section through internal window reveal illustrating secondary glazing at 1:5; Vertical cross section through proposed front doors and glazed side lights at 1:5; Indicative cross section through raised floor and skirting at 1:2 (affects rooms to Tanner Row range only); New floors should scribe round, not cut through architraves, panelling, or other historic joinery (where present); further details of the proposed suspended ceiling.

Environmental Management (Sustainability) - No comments received

Flood Risk Management Team - No objections

Environmental Protection Unit - Object. States:-

3.11 Principal concerns relates to the potential impact that the noise levels could have upon the amenity of residents of the proposed student flat during the night time periods as a result of loud impact noises.

3.12 Leq values, or average values over a specified time period, were measured as 66dB(A) during the day and 62db(A) during the night. These figures are almost identical to figures measured by EPU in 2007 at the same location where values of 66dB(A) during the daytime and 63dB(A) at night time were recorded.

3.13 As a result of this satisfied that the Council's internal noise criteria of 35dB(A) Leq 16 hour (07:00 to 23:00) and 30dB(A) Leq 8 hour (23:00 to 07:00) is achievable using the proposed Pilkington Glass window construction of 10mm-200mm-6mm, with a sound reduction level of 49dB R_w or 45dB R_{tra} .

3.14 Concerns regarding the Lmax values associated with external noise sources such as traffic, pubs, clubs, people noise etc the applicant previously provided information on the Lmax levels measured during the monitoring period. The submitted noise report suggested that the worst case free field maximum noise level associated with the noise sources was 85dB(A) as a free field external level. Following further interrogation of the data it was found that 85dB(A) level was actually exceeded 8 times on the Friday night and 15 times on the Saturday night, with the maximum measured noise level of 94.4dB(A).

3.15 Noise monitoring undertaken by EPU in 2007 found that external noise levels at the same location during the night were up to 96dB(A) with 16 events during a Friday night being greater than 85dB(A) described within the application.

3.16 Assuming that the proposed theoretical sound reduction associated with the proposed glazing were the same in situ then internal levels of up to 47dB(A) as a Lmax event could be experienced. There are concerns regarding the difference between theoretical and real levels of sound reduction, as this would make a huge difference on whether or not the scheme was acceptable.

3.17 Have concerns about low frequency noise during the night time which may possibly be associated with noise from Club Salvation. Additional information on noise levels over one minute periods at night time were provided for the 63 and 125Hz frequencies, and showed that the highest measured sound levels were 85.3 dB and 84.3 dB externally in free field conditions. At these frequencies the proposed glazing will provide attenuation of 30dB for 63Hz and 35dB for 125 Hz. This would therefore equate to internal levels of 55.3dB and 49.3dB. When assessed against a noise rating curve these internal levels would equate to a rating curve NR of 31, compared to the normal standard of 25 for a private bedroom. Again the number of occasions in any one evening where this would occur is limited to between 7 and 14 events.

3.18 The agent has recently advised that further attenuation from the window may be achieved through the provision of absorption in the window reveals to the windows in the property and thereby ensure that the 45dB(A) Lmax value would not be exceeded. Requested that this additional information be provided as well as validation of in-situ results. (*Officer note – at the time of writing the report this information had not been submitted*). Should this show that the Council's internal noise standard, which is based on the WHO guidelines on community noise and BS8233, can be achieved then would no longer have any objection to the proposals on noise grounds, but would request that the a condition be attached to any approval in relation to internal noise levels.

Economic Development Unit – Object. States:-

3.19 The City of York Key Sites report, authored by GVA, outlines the need for high quality office space in the city centre, and given the development site constraints provided by surrounding green belt land and the city walls/street layout, cannot afford to lose offices in such a prime location to another use.

3.20 There is currently a reliance on pre-let development owing to an inability to attract speculative development in the near future, with page 26 and 28 of the Centre for Cities Report (Making the Grade, May 2012) highlighting the need for developers to see "the potential returns associated with refurbishing existing space".

3.21 Question why agent has dismissed enquiries that do not specify size or specification. Applicant/Agent makes a presumption of no interest in enquiries searching for less than 28,000 sq ft. Contradicts the marketing material which states that "offices can be made available either as a whole or in floors/suites, to suit occupier requirements"

3.22 2-4 GHS marketing material says "upper floors to be refreshed as quality, self-contained student accommodation". In addition, the freehold marketing literature refers to "potential for hotel, residential and student residential development"; and provides information on mileage to York St John University. Wording of this literature presuming too much and dissuading from office use?

3.23 Request evidence for the demand for student accommodation in this area

Public Realm

3.24 As there is no on-site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used at a local site such as North Street Gardens or a closed churchyard. (b) play space - not required as 1 bed flats (c) sports pitches - would be used to improve a facility within the West or South Zone of the Sport and Active Leisure Strategy. The contribution to off site provision is to be based on the latest York formula.

Planning and Environmental Management – Object. States:-

3.25 Under Policy E3b there is a presumption in favour of retaining existing and proposed employment sites, unless it can successfully be demonstrated that the site is not needed for employment use. Should the loss of employment land be considered acceptable by colleagues in EDU would support the principal of student housing development in this location provided that colleagues in design and conservation consider the impact of the proposals on the historic environment to be acceptable.

3.26 Should planning permission be forthcoming we consider, as has been best practice with other applications for student housing, that a suitably worded condition be attached to ensure the development remains occupied in perpetuity by students only. Without such a condition the situation may arise that non students occupy the properties and as such, it would be necessary to negotiate the provision of affordable housing on the site.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

Police Architectural Liaison Officer

3.27 The site is within an area of high risk in respect of crime and disorder

3.28 The applicant has provided no detail to demonstrate how crime prevention has been considered in respect of this proposal.

3.29 The most important security considerations will be i) access control and ii) the security of the rear area.

3.30 It is important that the doors leading into this development from Tanner Row are used for emergency use only. These doors are located immediately next to Salt & Peppers Takeaway, where large groups of people tend to congregate, particularly at the weekend, many under the influence of alcohol.

3.31 It is vital that the gates that give access to the rear parking area from Tanner Row, are controlled and kept locked, as at present. Evidence of discarded drug paraphernalia, in the covered passageway at the time of the site visit.

3.32 The flat roof over the ground floor shops/restaurants, will give access to vulnerable first floor studio windows. It is therefore strongly recommended that if existing windows at this level are to be replaced, then they should be replaced with windows meeting a good security standard, ideally, BS PAS 24. In addition the windows must be fitted with opening restrictors.

3.33 The rear area must be well lit and covered by CCTV. CCTV must be fitted to provide coverage of all the entrances into the building, including internal stairwells. Cameras should be positioned to provide a clear head and shoulders (facial recognition) shot of persons within the building.

3.34 Access control arrangements should be incorporated at all entrance doors in order to prevent unauthorised entry, e.g. keyfob entry system. Tailgating can be a problem at student accommodation hence the reason why CCTV coverage is crucial.

3.35 Each individual bedroom doorset should be fitted with a door viewer and a five lever mortice lock (BS3621) with internal thumb turn release.

3.36 An Operational Management Statement in support of this application should be a requirement. This statement should clearly detail how management and supervision of both the accommodation and its occupants are to be addressed.

3.37 Where crime prevention or the fear of crime is material to a proposed development, local planning authorities may wish to consider planning conditions to secure measures that reduce the possibility of crime. Conditions may be appropriate if a potential criminal act would have an adverse effect on the use or potential use of land such situations may include where the intended occupants or users of a development are particularly vulnerable and so require higher standards of security or personal safety justifying specific crime prevention measures.

3.38 Request planning conditions that the developer provide full details of how crime prevention is being addressed

Environment Agency - No objections

3.39 Consideration should be given to the raising of floor levels and incorporating flood proofing

3.40 Developer should produce a flood evacuation plan with consultation from the Emergency Planning team

3.41 Flood mitigation measures could be imposed

3.42 Should be consistent with the recommendations of the Strategic Flood Risk Assessment

Yorkshire Water - No comments

English Heritage

3.43 The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice

Micklegate Planning Panel

3.44 No objections

2 Representations of Objection

3.45 Comments made:-

- The objector is a tenant of the offices at 20 George Hudson Street. When deciding on a location worked through the decision process of selecting a new office location decided upon George Hudson Street based the type of long standing businesses surrounding this site, i.e. mixture office, retail and hospitality whilst being in close proximity to our major clients.
- The area is not conducive to student lets and over time will discourage other businesses/companies relocating to the area to take up empty office space not only in our building but others in the surrounding area;
- Objector is located directly next door to the proposed site and the rear flat roof which is part of that building and linked to the 2nd floor of our premise. Have concerns that we will lose "quiet enjoyment" by staff in close proximity to this area. The 2nd floor is a meeting suite where business development and client focussed meetings are held. Disturbance from next door will negatively impact the effectiveness and professionalism of these meetings
- Concerned that the area in the vicinity of the premises will become littered, which projects a poor image to our client base, which is predominately centred in the York area.
- The application makes no mention of car parking or that the site would be excluded from residents parking zones, request that it is excluded

1 Representation of Comments

3.46 Comments made:-

- The proposed site is in an area which has a busy night time economy, there are many people in the area during the early hours of the morning. As such the noise will affect people living in the proposed flats. The building should be sound proofed to a very high standard.

33 Proforma Letters of Support have been received

3.47 Comments made:-

- There are unoccupied office units within the City Centre
- Proposal will retain a grade II listed building, leaving the facade unaltered
- Proposal will bring more people into the city centre and create more trade
- Good transport links
- There are noise reduction measures included within the proposal

4.0 APPRAISAL

4.1 Key Issues:-

- Loss of employment (office space)
- Impact to conservation area and listed building
- Requirement for student accommodation
- Occupants residential amenity
- Impact to neighbouring uses
- Highways
- Open Space

ASSESSMENT

PLANNING POLICY

4.1 The National Planning Policy Framework (NPPF) 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. There are three dimensions to sustainable development: economic, social, and environmental. These roles should not be undertaken in isolation, because they are mutually dependent. The core principles within the NPPF states always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; the use of previously developed land is encouraged; take account of the different roles and character of different areas; conserve heritage assets in a manner appropriate to their significance

4.2 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the NPPF.

PRINCIPLE OF DEVELOPMENT

4.3 The NPPF seeks to promote the vitality of town and city centres and requires Local Planning Authorities to set policies which are positive and promote competitive town centre environments. In part it is suggested that this should be done by allocating a range of sites for offices to ensure that office uses are met in full and not compromised by site availability. The NPPF is clear in that Planning should operate to encourage and not act as an impediment to sustainable growth. The NPPF states planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no

reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

4.4 Paragraph 58 of the NPPF states that decisions should aim to ensure that development: will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks; respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and are visually attractive as a result of good architecture and appropriate landscaping.

4.5 The NPPF seeks to: Significantly boost housing supply (paragraph 47); housing applications should be considered in the context of the presumption in favour of sustainable development (49). Bring back into residential use empty buildings in line with local housing and empty homes strategies ... and normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate (51). - Sustain and enhance the significance of listed buildings and put them to viable uses consistent with their conservation (126). Encourage the effective use of land by reusing land that has been previously developed. Place significant weight on the need to support economic growth through the planning system. This includes supporting existing business sectors, in particular those which are expanding (21).

4.6 Policies E3b of the Draft 2005 Local Plan seek to keep all office uses in such use, unless there is an adequate supply of alternative premises over the plan period or where the proposed use will lead to significant benefits to the local economy. The broad intention of these policies does not conflict in principle with the NPPF.

4.7 The aim of local and national policy is to retain office space within the city centre for future office use and to attract inward investment. The Economic Development Unit has objected to the proposal on the grounds of the loss of office space, and lack of justification. This view is supported by City Development. The site provides a large area of office space within the city centre, which is need of some renovation. The site until recently was used as office accommodation by CYC. The client has stated that the office accommodation is no longer required; they have marketed the site as a redevelopment opportunity and as office accommodation. The site has

been marketed since March 2013, the estate agent has confirmed that whilst there has been initial interest, the interest has not progressed further. EDU confirm that from the York Means Business website there is interest for the size of office accommodation. However the applicant/agent has made a presumption of no interest in enquiries searching for less than 28,000 sq ft which contradicts the marketing material which states that "offices can be made available either as a whole or in floors/suites, to suit occupier requirements". However it is understood that the applicant is the prospective owner rather than the current owner. Renovation of office space has been undertaken on the neighbouring site (16 - 24 George Hudson Street), creating high quality accommodation, with the flexibility to be rented as a whole or in part. The agent has made the argument that the layout of the application building (particularly access to the third floor) does not lend itself to the same flexible approach in the letting of office space. The applicant argues that the quality of the existing offices are prohibitive to the interest of future tenants and that renovation would be required, the applicants have made a case that it would not be economically viable and more income can be generated from student accommodation.

4.8 Draft 2005 Local Plan Policy ED10 relates to student housing. The policy advises that proposals for off-campus residential accommodation will need to meet the following criteria -

- There is identified need
- The universities are accessible from the site
- The development is of appropriate design
- The would not be a detrimental impact on nearby residents
- Car parking will be satisfactorily managed

4.9 Whilst a certain percentage of students will at some point want to be in private accommodation, rather than managed residencies, there is a demand in the market for the type of accommodation proposed. The developers are confident the proposals are viable and this view is not challenged. Both universities are easily accessible from the application site.

4.10 Paragraph 104 of the NPPF states that applications for a change of use should not be subject to sequential or exception tests. The majority of the site is within Flood Zone 2, a small corner of the site (a covered gated vehicle access) would be within Flood Zone 3. Neither the Environment Agency or the Flood Risk Management Team have an objection of the change of use of the existing building, subject to an evacuation plan being in place.

4.11 On balance there is a demonstrable demand for residential student development in the city. Officers consider, without adopted local policy that it would be difficult to defend a refusal on the basis of loss of office space.

IMPACT ON HERITAGE ASSETS

4.12 In accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in exercising its planning duties. Section 66 of the same Act requires the Local planning authority to have regard to preserving the setting of Listed Buildings or any features of special architectural or historic interest it possesses. Where there is found to be harm to the character or appearance of the Conservation Area, or the setting of a listed building, the statutory duty means that such harm should be afforded substantial weight.

4.13 The NPPF states that Local Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and that they should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise (paragraph 129). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the to the asset's conservation. The more important the asset the greater the weight should be. Where a proposed development would lead to substantial harm or to total loss of significance consent should be refused, unless this is necessary to achieve substantial public benefits; where a development proposal would lead to less than substantial harm to the significance of the asset, this harm should be weighed against public benefits of the proposal. The NPPF goes on to state that Local Planning Authorities should look for opportunities within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance, para 137.

4.14 The application site is within the Central Historic Core Conservation Area. The whole of the application site is within Character Area 21: 'Micklegate' which contains independent retail/ commercial streets on through routes. The effect on the listed buildings is discussed in companion application 14/01384/LBC. The conclusion of the Conservation Officer is that the proposal does not give rise to any harm to the Conservation Area or the setting of the listed building.

4.15 The change of use of the building to residential would maintain the character and appearance of the conservation area. The alterations to the facade of the building are on the more recent rear elevation and are limited to vents, the changes would maintain the character and appearance of the conservation area. The George Hudson Street ground floor frontage is not original and adds little to the significance of the facade above. The alterations to the entrance on the George Hudson Street elevation are relatively minor and would have a neutral impact to the facade. The change of use of the ground floor to a retail unit will likely allow views into the unit, as seen in the neighbouring units, which are considered to be a positive on the

current situation. The proposed use is not considered to result in any harm to the listed building or its setting, or to the conservation area and its setting

FUTURE OCCUPANT RESIDENTIAL AMENITY

- AIR QUALITY

4.16 Para 123 of the NPPF requires that adverse impacts on health and quality of life are mitigated and reduced and that planning decisions should ensure that any new development in Air Quality Management Areas (AQMAs) is consistent with the local air quality action plan. Policy GP4b requires proposals for development within AQMAs to assess their impact on air quality. The building falls within City of York Council's Air Quality Management Area (AQMA) where exceedences of both the hourly mean and annual mean nitrogen dioxide objectives. The latest monitoring results for the 2013 calendar year indicate breaches of the annual mean objective in the immediate vicinity of the proposed development.

4.17 Not adding to the existing air quality problems in the area is of importance, however it is considered that that the application would not increase vehicle trips over and above the former office use of the site and therefore the proposed residential use would not result in a reduction in air quality.

4.18 The applicants have devised a strategy for overcoming the air quality impacts to future occupiers. All rooms to be mechanically ventilated by clean air is drawn from the rear of the building. The windows fronting onto George Hudson Street and Tanner Row will have secondary glazing which if fixed shut together with the mechanical ventilation would overcome the air pollution issues. Whilst the applicant has not stated that the windows would be fixed shut in any of the supporting information, it is considered this can be sought via condition and as such the scheme would comply with Policy GP4b of the Draft DCLP 2005 and with national guidance contained within the NPPF.

- NOISE

4.19 The NPPF states that planning decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life, para 123 and Policy GP1 of the Draft DCLP 2005 requires that there should be no undue adverse impact from noise disturbance. Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

4.20 Unlike air quality, there are currently no European or national noise limits which have to be met. Noise pollution depends not just on the physical aspects of the sound itself, but also the human reaction to it. The consideration should be the impact to health, and the impact to quality of life. The Noise Policy Statement for England requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development. This does not mean that such adverse effects cannot occur.

4.21 Noise has no adverse effect so long as the exposure is such that it does not cause any change in behaviour or attitude. Once noise exposure causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present, the NPPG states that the planning process should be used to avoid this effect occurring, by use of appropriate mitigation. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.

4.22 The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day. The cumulative impacts of more than one source should be taken into account along with the extent to which the source of noise is intermittent and of limited duration. Consideration should also be given to whether adverse internal effects can be completely removed by closing windows. In this case, secondary glazing is proposed (as previously mentioned a condition requesting the windows on the George Hudson Street and Tanner Row facade to be fixed shut) together with mechanical ventilation. The NPPG sets out that some commercial developments including fast food restaurants, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night, and considerations should be given to not only the noise that is generated within these premises but also the noise that may be made by customers in the vicinity. A list of the pertinent applications relating to premises in the surrounding area is included at Annex 1.

4.23 A Noise Assessment was submitted in support of the application, together with later additions. The measurements were taken over a weekend, on one of the nights the adjacent Club Salvation was closed on the Friday night. All of the proposed flats are single aspect.

4.24 Leq values, or average values over a specified time period, were measured as 66dB(A) during the day and 62db(A) during the night. These figures are almost identical to figures measured by EPU in 2007 at the same location where values of 66dB(A) during the daytime and 63dB(A) at night time were recorded. As a result officers are satisfied that the Council's internal noise criteria of 35dB(A) Leq 16 hour

(07:00 to 23:00) and 30dB(A) Leq 8 hour (23:00 to 07:00) is achievable using the proposed Pilkington Glass window construction of 10mm-200mm-6mm, with a sound reduction level of 49dB R_w or 45dB R_{tra} .

4.25 With regards to my concerns over the L_{max} values associated with external noise sources such as traffic, pubs, clubs, people noise etc the submitted noise report suggested that the worst case free field maximum noise level associated with the noise sources was 85dB(A) as a free field external level. Following further interrogation of the data it was found that 85dB(A) level was actually exceeded 8 times on the Friday night and 15 times on the Saturday night, with the maximum measured noise level of 94.4dB(A). Noise monitoring undertaken by EPU in 2007 found that external noise levels at the same location during the night were up to 96dB(A) with 16 events during a Friday night being greater than 85dB(A) described within the application. Assuming that the proposed theoretical sound reduction associated with the proposed glazing was the same in situ, then internal levels of up to 47dB(A) as a L_{max} event could be experienced. There are concerns regarding the difference between theoretical and real levels of sound reduction, as this would make a huge difference on whether or not the scheme was acceptable. This concern relates principally to the facades facing George Hudson Street and Tanner Row.

4.26 EPU have expressed concerns have been raised about low frequency noise during the night time which may possibly be associated with noise from nearby clubs (a nearby club was closed on one night during the assessment period). Additional information on noise levels over one minute periods at night time was provided for the 63Hz and 125Hz frequencies, and showed that the highest measured sound levels were 85.3 dB and 84.3 dB externally in free field conditions. At these frequencies, the proposed glazing would provide attenuation of 30dB for 63Hz and 35dB for 125 Hz. This would therefore equate to internal levels of 55.3dB and 49.3dB. The acoustic engineer in their calculations have used the level of 80.8 dB (63Hz) and 75db (125Hz) with the attenuation within the affected flats the internal levels of 51 dB and 45dB. Under practical conditions the attenuation to the large windows is generally reduced by some 4-6dB. The data submitted states the level used by the acoustic engineer was exceeded for 64 (63Hz) and 114 (125Hz) over the entire weekend.

4.27 In view of this it would appear that the proposed glazing of Pilkington Glass construction (10mm-200mm-6mm) would for the majority of rooms in the proposed development provide the best available protection against external noise, other than for those directly opposite the night club. The applicant's acoustician acknowledges that any further attenuation is unlikely to be achievable. However there would still be issues regarding night time noise impacts on sleep. At the time of writing the report the agent had employed another acoustic consultant, the intention is that additional information will be submitted indicating that further attenuation is possible, this will be reported to committee at the meeting.

4.28 In addition, the third bullet point of paragraph 123 of the NPPF is pertinent: "...recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established". In allowing a residential use in this location this may impact on the current business activities of the surrounding late night businesses and prevent any further development of those businesses. It is likely that the proposed use will result in complaints regarding the commercial activities of the surrounding business together with the potential noise and disturbance from customers in the vicinity. This is because existing noise levels from the business even if intermittent (for example, a live music venue) even with the proposed attenuation measures may be regarded as unacceptable by the new residents and subject to enforcement action.

4.29 The importance of keeping listed buildings in active use is recognised by NPPF. The proposed accommodation would be for students who might be attracted by the proximity of late night entertainment as well as the other conveniences of city centre living. However, residents should not be denied the reasonable expectation of an uninterrupted night's sleep when they need one. It is considered that to create accommodation that would almost certainly be substandard would deny residents the choice and would therefore be a poor form of development, unlikely to benefit the listed building or the city in general.

- SAFE ENVIRONMENTS

4.30 There is a requirement on the LPA to consider crime and disorder implications, under S17 of the Crime and Disorder Act 1998. The NPPF states that decisions should aim to ensure development creates safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesions. Given the surrounding uses and the late night economy of the area there may be issues. The Police Architectural Liaison Officer (PALO) has confirmed that the proposed development is within "an area of high risk in respect of crime and disorder". The PALO submitted a report showing that between 01.06.2013 and 31.05.2014 there were 284 incidences of reported crime and 266 reported incidences of Anti Social behaviour (this figure does not include the ASB events that have been converted into crimes). With regards to the reported crime the majority of the reported crimes (194) took place between 23.00 and 03.00 hours. With regards to the ASB the significant majority (163) take place 00.00 and 04.00.

4.31 Whilst conditions could be placed requiring CCTV etc this would only cover the inside of the building and entrances, it would not prevent the existing problems outside the building. This may not be sufficient to overcome the fear of crime particularly during evening and early morning hours to the occupants of the building. However it is considered that future occupants of the building would be aware of the surrounding late night uses and the potential problems that arise in the proximity of such uses. As such it is not considered that refusing the application on the fear of crime could not be reasonably defended at appeal.

SUSTAINABILITY

4.32 Draft 2005 Policy GP4a requires issues of sustainability to be considered within planning applications. The site is in reasonable proximity to York St John University without resorting to private transport, and regular bus routes to York University run past the site. The site is in close proximity to shops and other amenities. The site is considered to be in a sustainable location with good pedestrian and cycle facilities in the local area. Local facilities and bus stops served by frequent public transport services are within recognised walking distances of the site. The development would also benefit from covered and secure cycle parking. If any visitors came by car there is a NCP car park on the opposite side of George Hudson Street.

4.33 The agent has made no reference within the supporting information as to whether the proposed conversion can achieve BREEAM multi-residential within a listed building, it is considered that this information can be sought via condition if the application is approved

4.34 Refuse bins will be stored within the building envelope, however the door arrangement and the width of the doors would make it problematic taking the bins to the rear of the property for collection. Whilst the agent was advised of this issue they were unwilling to change this aspect of the plans. However it is considered that the refuse bins can be reasonably stored to the rear of the building.

HIGHWAYS

4.35 Cycle parking provision is at 50% is considered to be a realistic level of provision, and the supporting Travel Plan indicates that there is scope for further cycle parking to be provided within the site if demonstrated to be necessary in the future.

4.36 Vehicular access to the site is available from Tanner Row and North Street. These existing access points will be retained and provide access to limited car parking which will be used by site management staff and disabled residents.

4.37. As stated by Highway Network Management, a management plan would be implemented to ensure that the units are occupied/vacated in a staggered approach in order to further minimise and manage the number of cars entering the site. This approach has successfully been adopted elsewhere in the City. ..

4.38 Surrounding streets are protected by various waiting restrictions, which will reduce the potential for indiscriminate parking. The site is located within the city centre with its associated local facilities. A large number of bus stops served by high frequency services are also within a short distance of the site and as such the site is highly sustainable.

OPEN SPACE

4.39 Draft 2005 Local Plan policy L1c requires developments to make provision for the open space needs of future occupiers. The type of open space required is dependent upon whether the existing open space in the locality is adequate, and whether it has the capacity to accommodate the proposed development.

4.40 Open space is divided into typologies; amenity open space, play space and sports provision. As the development is for university students, there is no need to contribute toward play space, as there would be no increased demand for such. Officers are of the opinion that to require contributions towards sports provision would not meet the tests of the NPPF, which requires any contributions to be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

4.41 This is on the basis that generally the universities will provide sports facilities for students and the LPA would need to demonstrate that a facility could be either upgraded or provided in the locality. A contribution towards amenity space £8,758 (£151 per student room) has been requested, which is in accordance with the latest Open Space contribution requirements, as established in the Supplementary Planning Guidance on such and national guidance set out in paragraph 73 of the NPPF.

5.0 CONCLUSION

5.1 The loss of the office space and the requirement for the student accommodation is accepted. There is no harm to the setting of the listed building or the character and appearance of the conservation area. It is accepted that anybody considered occupying one of the proposed flats would be aware of the surrounding uses. The proximity of the surrounding business and the late night economy character of the area would result in noise that would affect the residential amenity, quality of life, and potentially health of future occupants. The proposed attenuation is welcomed however it is not sufficient to overcome concerns, and any further attenuation is unlikely to be achievable.

5.2 It is likely that the proposed use will result in complaints regarding the commercial activities of the surrounding business together with the potential noise and disturbance from customers in the vicinity. The NPPF states that “existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established”(123). The noise issues arising to the occupants of these flats may impact on the current business activities of the surrounding late night businesses and prevent any further development of those businesses.

5.3 Therefore, on balance, the proposal is recommended for refusal.

6.0 RECOMMENDATION:

1. The proposed attenuation proposals are not considered to be sufficient to mitigate the noise issues from the surrounding uses (particularly during the night time hours) and further attenuation is unlikely to be achievable, as such would result would in harm to the residential amenity and quality of life of the occupants and result in accommodation that be substandard and therefore a poor form of development. For these reasons the proposed development would to fail secure a good standard of amenity for all the future occupants of the building and considered contrary to advice within the National Planning Policy Framework, in particular Core Principle 4 and paragraph 123, and would conflict with the aims of the National Planning Policy Framework .
2. The proposed residential use in this location is likely to have an adverse impact on the current business activities of the surrounding late night businesses and prevent any further development of those businesses. It is likely that the proposed use will result in complaints regarding the commercial activities of the surrounding business together with the potential noise and disturbance from customers in the vicinity, contrary to paragraph 123 of the NPPF.

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 an attempt to achieve a positive outcome:

- Revised plans and additional information including further noise details
- Consideration of conditions

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

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Annex 1

Relevant Applications for Property in The Surrounding Area

Salt and Peppers - 19 Tanner Row

08/01750/FUL - Removal of condition 1 of planning permission (06/00253/FUL) to allow 24 hour opening - Approved

York Jumbo Buffet - 2 George Hudson Street

00/02646/FUL - Change of use of ground floor of 2-4 George Hudson Street from retail (Class A1) to food and drink (Class A3) (amended description) - Approved
Opening hours condition till 12.00 midnight

Akbars - 6 George Hudson Street

05/01134/FUL - Change of use of basement storage and ground floor printing shop (use A2) to restaurant (use A3) - Approved

- No opening hours conditioned

Thida Thai Cuisine - 16 George Hudson Street)

03/02655/FUL - Change of use from retail (class A1) to class A3 - Approved

- Hours conditioned to: 1000 and 2400 hours Mondays to Saturdays and 1000 to 2300 hours on Sundays and Bank Holidays.

16 – 22 George Hudson Street

13/03126/FULM - Change of use of 16 to 22 George Hudson Street from restaurant (class A3) and offices (class B1) to hotel use (class C1) with ancillary restaurant/bar (class A3/A4), alterations to shopfront and new rooftop plant and screen -
Withdrawn

Kapadokya - 24 George Hudson Street

02/03475/FUL - Change of use from vacant shop to restaurant on ground floor and basement store with erection of extraction flue

- Opening hours conditioned to: 10am to 1am

Red Chilli - 25 George Hudson Street

07/00578/FUL - Change of use of Unit 2 from class A1(retail) to Class A3 (restaurant) to include installation of external metal flue - Approved

- No opening hours were conditioned

Society Lounge And Bar 1 Rougier Street

12/02062/FUL - Change of use of public highway to pavement cafe (resubmission) - Approved

- Hours of operation conditioned to 07:00-20:00

11/02710/FUL - Change of use of public highway to pavement cafe - Refused, for the following reasons:-

- The opening hours of the proposed pavement cafe would be detrimental to the amenities of nearby residents and occupiers by significantly increasing the potential for late night noise and nuisance from customers congregating in the area.
- It is considered that the introduction of an external drinking area operating until late evening, in the vicinity of the neighbouring take-away, restaurants, nightclubs, and public houses would aggravate the crime and disorder problems in the area significantly increasing the potential for crime and anti-social behaviour. The site is located within the City of York Council's Cumulative Impact Zone,
- The pavement café would result in an unacceptable conflict with other users of the public footpath

07/00152/FUL - Variation of condition 3 of application 04/01534/FUL to extend hours of use of pavement cafe as an outside smoking area until 02:00 Sunday to Thursday and 03:00 on Fridays and Saturdays (existing hours 11:00 to 20:00 on all days) - Refused, Overturned at committee (27.02.2007). Reasons:-

- It is considered that the proposed extension of the hours of use of the pavement café would be detrimental to the amenity of nearby residents by significantly increasing the potential for noise and nuisance as a result of customers and other members of the public gathering outside the premises late at night.
- It is considered that the proposal would significantly increase the potential for crime and anti-social behaviour as a result of the location of the site within the City of York Council's Cumulative Impact Zone
- It is considered that the proposed extension of the hours of use of the pavement café would result in an unacceptable conflict with other users of the public footpath,

04/01534/FUL - Change of use of public highway to pavement cafe - Approved
Hours of operation conditioned to 07:00-20:00

04/01534/FUL - Change of use of public highway to pavement cafe - Approved

Hours of operation conditioned to Monday to Saturday 11.00 to 20.00 hours,
Sundays and Bank Holidays 11.00 to 20.00 hours

4 - 8 Rougier Street

14/01733/ORC - Proposed change of use of part of ground floor from offices to 3no. apartments (use class C3) under Class J Part 3 Schedule 2 of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995 - No objections

13/03342/ORC - Proposed change of use from offices (class B1c) to 46 apartments (use class C3) under Class J Part 3 Schedule 2 of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995 - No objections

Opening hours set out in the premises licence (licensing act 2003):-

- Salt and Peppers (19 Tanner Row)
Opening Hours: Mon - Sun 11.00 to 05.00
- Akbars (6-8 George Hudson Street)
Opening Hours: Sun - Thus 17.00 to 00.00 Fri- Sat 17.00 to 00.30
- York Jumbo Buffet (2 George Hudson Street)
Opening Hours: Mon to Sat 12.00 to 23.00 Sun 12.00 to 22.30
- Karachi (14 George Hudson Street)
Opening hours - No restrictions
- Kapadokya 24 George Hudson Street
Opening hours - No restrictions
- Red Chilli (25 George Hudson Street)
Opening Hours: Mon to Sun 12.00 - 00.30
- Popworld 1 - 3 George Hudson Street
Opening Hours: Mon - Thur 10.00 to 02.30, Fri - Sat 10.00 to 03.30, Sun 11.00 to 02.30
- Club Salvation (25 Tanner Row)
Opening Hours Mon to Sun 11.00 to 04.30
- Society Lounge And Bar 1 Rougier Street
Opening Hours: Sun - Thur 11.00 - 02.30, Fri - Sat 11.00 - 03.30
- Corner Pin PH (17 Tanner Row)
Opening Hours: Sun - Wed 10.00 to 00.30, Thur - Sat 10.00 to 01.30

- Flares (6 Tanner Row)

Opening Hours: Mon to Thur 10.00 to 02.30, Frito sat 10.00 to 03.30, Sun 11.00 to 02.30