

## COMMITTEE REPORT

**Date:** 5 July 2018                      **Ward:** Micklegate  
**Team:** Major and                      **Parish:** Micklegate Planning  
                    Commercial Team                      Panel

**Reference:** 17/02874/FULM  
**Application at:** Proposed Apartment Block Clock Tower Way York  
**For:** Erection of a four storey building comprising 18no.  
                    apartments  
**By:** David Wilson Homes Yorkshire East  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 9 July 2018  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1 Clock Tower Way comprises a partially constructed residential element of the wider Terry's re-development scheme lying at the northern edge of the site of the former chocolate works. Planning permission is sought for erection of a four storey apartment block providing a total of 18 apartments on the western side of the junction with Campleshon Road.

1.2 The proposal has been amended since submission to allow for removal of the previously intended penthouse fifth storey with the submitted sunlight and daylight assessment amended accordingly. The site is presently occupied by the car parking for the site marketing office together with a sculptural fountain marking the site's history as a chocolate production centre. Both would be relocated in the event of the proposal being approved and implemented.

#### Planning History

09/01606/OUTM Outline Planning Permission for Mixed Use Including Residential (Use Class C3)

13/03429/REMM Reserved Matters Consent for 57 Dwelling Houses, one apartment block containing 18 units and one apartment block containing 11 units

14/01716/FULM Erection of 229 Dwellings comprising 79 Dwelling Houses and 150 apartments

15/02480/FULM Application under Section 73 of the 1990 Act to Reconfigure the Site Layout of Planning Permission Ref:- 14/01716/FULM.  
Planning permission ref:-14/01716/FULM which forms the current approval for the site gave planning permission for 6no. three-storey town houses with 7 allocated parking spaces within the application area.

Application Reference Number: 17/02874/FULM

Item No: 4b

## **2.0 POLICY CONTEXT**

### 2.1 Publication Draft City of York Local Plan (2018) Policies:-

H10 Affordable Housing  
D1 Place Making  
D5 Listed Buildings  
T1 Sustainable Access

### 2.2 York Development Control Local Plan (2005) Policies:

CGP15A Development and Flood Risk

CYH3C Mix of Dwellings on Housing Site

CYGP1  
Design

CYED4  
Financial Contributions to Education Places

## **3.0 CONSULTATIONS**

### INTERNAL:-

#### Public Protection:-

3.1 Raise no objection in principle to the proposal subject to any permission being conditioned to secure appropriate noise insulation for the apartments, to provide a CEMP during the construction period and to secure remediation of any land contamination.

#### Housing Development Services:-

3.2 Raise no objection in principle to the proposal subject to the provision of 3 affordable units in accordance with the adopted threshold secured by means of a Section 106 Agreement.

#### Strategic Flood Risk Management:-

3.3 Raise no objection to the proposal.

#### Education: PFI and School Contracts:-

3.4 Raise no objection to the proposal.

### Design, Conservation and Sustainable Development (Conservation):-

3.5 Objects to the incorporation of a fifth penthouse storey as originally submitted because of its serious detrimental impact upon the visual amenity of the wider street scene.

### Highway Network Management:-

3.6 Raise no objection to the proposal subject to any permission being conditioned to require strict compliance with the submitted cycle storage plan, and compliance with the submitted internal layout. Contributions are also sought in respect of an annual bus pass/cycle contribution and a financial contribution to the operation of the City Car Club Scheme and its dedicated spaces at the site to be secured by means of a Section 106 Agreement.

EXTERNAL:-

### Yorkshire Water Services:-

3.7 Raise no objection to the proposal

### Micklegate Planning Panel:-

3.8 Object to the proposal because of its visual prominence in the street scene, its over-shadowing effect upon neighbouring properties and the lack of parking for vehicles in the surrounding area.

### Councillor J. Hayes :-

3.9 Objects to the proposal upon the grounds of:-

- overbearing impact upon the visual amenity of the wider street scene;
- impact upon the residential amenity of neighbouring properties by virtue of over-shadowing and loss of privacy;
- impact upon local infrastructure specifically the supply of school places;
- lack of available car parking in the locality;
- precedent for other similarly damaging developments.

### Publicity and Neighbour Notification:-

3.10 The proposal was advertised by press advertisement and site notice in the locality and a number of neighbouring properties were notified by individual letter. The proposal has generated a significant degree of public comment and was subject to a re-consultation exercise undertaken on 18<sup>th</sup> April 2018 in respect of the removal of the penthouse floor. A summary of the responses received is outlined below.

Some 63 letters of objection have been received outlining the following planning issues:-

- the proposal would give rise to a socially unbalanced community as the apartments would not be occupied by young families and may be used as second homes;
- insufficient car parking space for number of additional cars that would be generated relative to the previously approved scheme for town houses;;
- increases in traffic flow from the area to the detriment of highway safety;
- the proposal would appear physically overbearing in terms of its scale within the wider street scene relative to the existing pattern of Edwardian and later development within Campleshon Road ;
- the proposal would result in over-shadowing and loss of privacy for neighbouring properties specifically properties to the north in Campleshon Road and the existing apartment block to the east in Clock Tower Way;
- the proposal would adversely impact upon the setting of the Grade II Listed Terry's Clock Tower and former Headquarters Building with the adjacent street being purposefully aligned on the Clock Tower to provide a formal vista;
- the proposal would lead to significant pressure upon local infrastructure such as access to school places and the Doctor's Surgery with the Knavesmire School and the local doctor's surgery already heavily over-subscribed;
- loss of the existing car park and work of art;
- the proposal is not sustainably located in terms of access to shops, services and public transport routes ;
- the proposal would represent an over-development of the site by virtue of its scale and density relative to the previously approved scheme for town houses and earlier development aspirations for the wider site;
- the proposal would set a damaging precedent for other similar developments both within the Terry's site and more widely;
- impact upon residential amenity arising from the construction process;
- pollution arising from noise, light and emissions both during construction and subsequently .

## **4.0 APPRAISAL**

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the setting of listed buildings;
- Impact upon the visual amenity of the wider street scene;
- Impact upon the residential amenity of neighbouring properties;
- Impact upon the safety and convenience of highway users;
- Impact upon access to local services;
- Provision of Affordable Housing.

## STATUS OF THE PUBLICATION DRAFT CITY OF YORK LOCAL PLAN (2018):-

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

## STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (2005):-

4.3 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions but any weight is very limited except where in accordance with the National Planning Policy Framework.

## IMPACT UPON THE SETTING OF LISTED BUILDINGS

4.4 The Terry's Clock Tower, Headquarter building, Time Office, Liquor Store and former Factory Building comprise important retained elements of the original chocolate factory layout and as such have been Listed Grade II. The Clock Tower has a wider significance by virtue of its iconic place within the wider City sky line being clearly visible within many key long distance views across the western and southern sections of the City. In a more local context Clock Tower Way is aligned on the main entrance of the former Factory building which is framed in local views by the Clock Tower and listed former Liquor Store as a reflection of its significance to the development of the site and to create a focal point around which the wider development may be legible.

4.5 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Council to " have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." At the same time Section 72 of the same Act lays down a requirement for Local Planning Authorities to have special regard to the preservation and enhancement of Conservation Areas in the exercise of their functions. As this is a statutory duty it must be given considerable importance and weight in determining the planning application. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. Central Government Planning Policy as outlined in paragraph 131 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to ensuring the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and ensuring the desirability of new development making a positive contribution to local character and distinctiveness. Policy D5 of the Publication Draft Local Plan is of particular relevance in this context. This indicates support for proposals affecting Listed Buildings where accompanied by a clear evidence based justification and where the significance and heritage value of the building is maintained.

4.6 The previously approved scheme for the location envisaged the erection of a number of town houses that would frame the northern edge of Clock Tower Way and would reflect the existing pattern of density and scale. A three storey apartment block defines the eastern edge of Clock Tower Way. The current proposal envisages the construction of a four storey apartment block at the western edge of the junction which would more formally define the physical and visual approach along the principal vista to the listed buildings. In terms of potential harms, it would define more closely the approach to the listed buildings but would not compete with or detract from the principal views and would not give rise to any adverse relationship towards its surroundings. The proposal is not therefore felt to harm the significance of the setting of the listed buildings and the balancing exercise required to comply paragraph 134 of the NPPF is not therefore needed.

4.7 The field directly to the west of the site lying within the curtilage of the York Racecourse lies within the Terry's/Racecourse Conservation Area. It is relatively open in character with a belt of mature trees lying at the site boundary as well as being elevated relative both to the application site and the remainder of the Conservation Area to the west and south west. It is felt that the proposal would not give rise to any demonstrable harm to the setting of the Conservation Area by virtue of the site topography and mature landscaping at the site boundary.

#### IMPACT UPON THE VISUAL AMENITY OF THE WIDER STREET SCENE:-

4.8 Central Government Planning Policy as outlined in paragraph 61 of the NPPF indicates that planning decisions should address the connections between people and places and secure the integration of new development into both the natural, historic and built environment. Policy D1 of the Publication Draft Local Plan sets out that new development will be expected to demonstrate that the resulting pattern of development would be appropriate for its context and neighbourhood and would not over dominate other buildings in the locality.

4.9 The Terry's residential re-development has been undertaken as a high density urban re-development with a mix of three and four storey apartment blocks arranged around the boundaries of the site with terraces of three storey brick built town houses within the central section with the retention where possible of the existing mature landscaping. The apartment block directly to the east of the junction between Clock Tower Way and Campleshon Road is of a three storey form but with the lower storey of a greater height to allow for the future development of a retail unit on the ground floor. A further four storey apartment block lies directly to the east with town houses of steadily diminishing scale lining Clock Tower Way to the south. The properties close to the Campleshon Road frontage are softened to an extent by the retention of the mature landscaping at the site boundary and the presence of a belt of mature street trees along Campleshon Road itself in the case of the proposed property and its neighbour to the east.

4.10 In terms of built form Campleshon Road to the north comprises a mixed pattern of two storey brick built houses of Late Victorian and Edwardian date set back from the main road frontage with Knavesmire School and a Church of rather more substantial scale in the vicinity of the road junction. The boundary in terms of the character of the built form along Campleshon Road is therefore sharp and highly distinct. The proposed apartment block would be seen as part and parcel of the residential re-development of the main site and not in the context of the earlier development to the north and east. The softening impact of the street trees and landscaping would be maintained. At 11.4 metres to ridge level it is of a comparable scale to the existing apartment block to the east of the road junction and less than 0.5 metres higher and as such it is not felt that it would materially harm the visual amenity of the wider street scene.

4.11 In terms of comparison with the approved scheme for town houses, the approved scheme envisaged the erection of 4 three bedroom and 2 four bedroom houses whereas the current proposal envisages the erection of 18 apartments with 3 one bed room and 15 two bedroom units. The approved ridge height for the town houses was 10.6 metres. The impact of the proposal upon the visual amenity of the street scene compared with the approved scheme is therefore felt to be acceptable whilst allowing for a more efficient use of land.

#### IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

4.12 Central Government planning policy as outlined in paragraph 17 of the NPPF "Core Planning Principles" calls on Local Planning Authorities to seek to provide and maintain a good standard of amenity for all new and existing occupants of land and buildings. Policy D1 of the Publication Draft City of York Local Plan as amended seeks that new development should secure the residential amenity of adjacent properties. Concern has been expressed by objectors in respect of the impact of the proposal upon the privacy of neighbouring properties along with the potential for over-shadowing.

4.12 In terms of separation distances the proposed apartment block is some 18 metres from the apartment block to the east of the road junction and 19 metres at its closest point to the town houses to the south beyond the parking area associated with the proposal. The overall approved scheme (14/01716/FULM) is at a high level of density and whilst close are characteristic of the wider development. The scheme has been amended to include privacy screens in order to minimise the risk of mutual overlooking between the existing and proposed apartment blocks and as such the proposal is felt on balance to be acceptable.

4.13 In terms of daylight, sunlight and overshadowing the daylight and sunlight assessment as revised this establishes that any loss of daylight/sunlight from properties in Campleshon Road to the north would be modest and of and not give rise to undue harm. In terms of impact upon the apartment block to the east of the

road junction the impact would be more significant when compared with the previously approved scheme with some loss of daylight and sunlight from windows on the first floor. However, in two of the three cases of loss of daylight the windows affected are not the principal windows serving the room and there are other larger windows serving the same room which would be unaffected and in terms of sunlight in one of the two cases the window is not the principal window serving the room and again there are other larger windows which would be unaffected. Once again the conditions reflect the approved pattern of development elsewhere within the wider site and are felt on that basis to be on balance acceptable.

#### IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.14 Issues of parking provision have been raised by objectors associated with development together with the level of traffic that would be generated onto the adjoining network. The approved scheme allowed for the provision of 7 car parking spaces for residents which incorporated sets of tandem spaces to allow for 2 spaces for larger properties as required by the adopted parking standards. The proposed scheme has provision for 18 spaces which is similarly fully compliant with the Authority's adopted maximum parking standards.

4.15 Concern has been expressed by consultees in terms of the highway layout specifically in relation to the location of the allocated car parking spaces and bin storage with the associated implications for pedestrians and the landscaping within the site. The proposed highway layout has subsequently been amended to rationalise the car parking area and provide more clearly defined pedestrian access routes in order to address the concerns and to arrive at a satisfactory standard of layout. Concern has also been expressed by consultees in terms of the proposed cycle parking numbers and the design of the cycle parking area. The layout has been amended subsequently to ensure the level and design of cycle parking is in accordance with the adopted standards for new building.

4.16 Concern has been expressed by objectors in respect of the sustainability of the location for the development. It is however within walking and cycling distance of both the Bishopthorpe Road shopping area and the southern section of the City Centre. Campleshon Road and the adjacent section of Bishopthorpe Road are also located on local bus routes. In order to develop sustainable methods of transport from the site it is recommended that contributions towards the operation of the City Car Club Scheme and its dedicated spaces at the site and bus pass/cycle ownership be sought and secured by means of a Section 106 Agreement as secured in respect of the original development site. The applicant has agreed to such contributions being provided it is felt that such a requirement would be in accordance with Regulations 122 of the 2014 CIL Regulations as being directly related to the development, necessary to make the development acceptable in planning terms and fairly and reasonably related to the development in scale and kind. It is furthermore confirmed that the proposal would comply with Regulation 123



of the 2014 CIL Regulations in terms of pooling of financial contributions in respect of the requested contribution to the City Car Club Scheme.

#### IMPACT UPON ACCESS TO LOCAL SERVICES:-

4.17 Concern has been expressed by objectors in respect of the impact of the proposal upon access to local services specifically school places at Knavesmire School adjacent to the site and access to the local Doctor's Surgery. Financial contributions have previously been made in accordance with Policy ED4 of the York Development Control Local Plan and secured by Section 106 Agreement to secure additional school places and improvements at local schools. It is not however felt that the proposal would material affect the demand for places to the extent of requiring the payment of further financial contributions..

#### AFFORDABLE HOUSING:-

4.18 Policy H10 of the Publication Draft Local Plan indicates that the provision of affordable housing will be sought in respect of new residential schemes that involve the construction of numbers of units above the relevant adopted thresholds. The current proposal envisages the erection of 18 units which sits above the adopted threshold for the urban area of 15 units and seeks a provision of three units which has been agreed at two social rent and one discounted sale. The units would be secured by means of a Section 106 Agreement. It is considered that the proposal complies with the requirements of Regulations 122 of the 2014 CIL Regulations as being directly related to the development, necessary to make the development acceptable in planning terms and fairly and reasonable related to the development in scale and kind.

#### OTHER ISSUES:-

4.19 Concern has previously been expressed by objectors in terms of the future location of the sculptural fountain which marks the history of the site as a chocolate factory. The applicant has submitted details of its refurbishment and relocation to the central square within the development.

4.20 Attention has been drawn by objectors to the presence of restrictive covenants relating to the type and density of housing that may be erected on the Campleshon Road frontage of the site dating to the period of first establishment of the Chocolate Works. Covenants are a land ownership issue mediated through the Lands Tribunal and their existence or otherwise is not a material consideration in determination of the current proposal.

## 5.0 CONCLUSION

5.1 Clock Tower Way comprises a partially completed residential element of the wider Terry's re-development scheme. Planning permission is sought for erection of

a four storey apartment block providing a total of 18 apartments on the northern side of the junction with Campleshon Road previously proposed to be developed with three storey town houses. The proposal has been amended since submission to allow for removal of the previously intended fifth storey. It is felt that the proposal as amended would not give rise to harm to the setting of the Terry's Clock Tower. The amended scheme would reflect the form of the adjacent apartment block and would not materially impact upon the visual amenity of the wider street scene. There would be some impact upon residential amenity of the apartment block to the east- however again it would reflect the pattern of development previously approved. Requirements for provision of affordable housing and the encouragement of sustainable transport modes are engaged and those would be secured by means of a Section 106 Agreement. Such requirements are in compliance with Regulations 122 and 123 of the 2014 CIL Regulations as fairly and reasonably relating to the permitted development.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement to cover the provision of three “affordable” housing units within the development, together with a financial contribution of £1,920 towards the operation of the City Car Club Scheme and its dedicated spaces at the development and a financial contribution towards cycle ownership/one (no) annual bus pass for each apartment owner on first occupation.

1 TIME2 Development start within three years

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

Drawing Refs:-2359\_PL\_010D; 2287\_SK\_365; 2359\_PL\_400D; 2359\_PL\_401D; 2359\_PL\_101C; 2359\_PL\_001B; 2359\_PL\_100B; 2359\_SK\_200; 2359\_SK\_204; 2359\_SK\_205; 2359\_SK\_500

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

3 VISQ4 Boundary details to be supplied

4 VISQ8 Samples of exterior materials to be app

5 VISQ7 Sample panel ext materials to be approv

6 The cycle parking provision shall be erected and laid out in strict accordance with plans ref:-2359\_SK\_610 B and 2359\_PL\_010 E prior to the apartments hereby authorised being first brought into use and shall be retained for the use of residents thereafter.

Reason: To secure the use of sustainable means of transport.

7 HWAY19 Car and cycle parking laid out

8 Prior to the development hereby approved coming into use, 3 (no)three pin 13 amp external electrical sockets which are also suitable for outdoor use shall be installed. The socket shall be located in a suitable position to enable the charging of an electric vehicle within the site using a 3m length cable.

Note: Any socket provided must comply with BS1363, or an equivalent standard, Building Regulations and be suitable for charging electric vehicles. It should also have a weatherproof cover and an internal switch should be also provided in the property to enable the socket to be turned off.

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

9 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To safeguard the residential amenity of neighbouring properties

10 No development shall take place beyond foundation works until a detailed scheme of noise insulation measures for protecting the approved residential from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LA eq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LA eq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other

means of ventilation provided.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with the National Planning Policy Framework.

11 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays.

The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason. To protect the amenity of local residents

12 The provisions for bin storage illustrated within the application plans hereby approved shall be provided before the development is first brought into use and shall be kept and maintained for the usage of residents for the lifetime of the development.

Reason:- To safeguard residential amenity and to secure compliance with paragraph 17 of the NPPF “Core Planning Principles”.

13 The provisions for privacy screens illustrated within the application plans hereby approved shall be provided before the development is first brought into use and shall be kept and maintained for the benefit of residents for the lifetime of the development.

Reason:- To safeguard residential amenity and to secure compliance with paragraph 17 of the NPPF “Core Planning Principles”.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

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

i) Sought revisions to the internal layout to improve parking/pedestrian provision;

- ii) Sought amendment of the scheme to remove the fifth penthouse storey;
- iii) Sought appropriate provision for cycle storage;
- iv) Sought details of relocation of the art work presently on site.

## 2 HIGHWAY WORKS:-

### INFORMATIVE:

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:

- Vehicle Crossing - Section 184 - (01904) 551550 – Tom Forrest  
streetworks@york.gov.uk

### **Contact details:**

**Author:** Erik Matthews Development Management Officer  
**Tel No:** 01904 551416