

Notice of a public meeting of

Decision Session - Executive Leader (incorporating Finance & Performance)

To: Councillor Gillies (Executive Member)

Date: Monday, 16 July 2018

Time: 3.00 pm

Venue: The Auden Room - Ground Floor, West Offices (G047)

AGENDA

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by **4:00 pm on Wednesday, 18 July 2018**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any items that are called in will be considered by the Customer and Corporate Services Scrutiny Management Committee (Calling In).

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5:00pm on Thursday, 12 July 2018**.

1. **Declarations of Interest**

At this point in the meeting, the Executive Member is asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. **Minutes**

(Pages 1 - 2)

To approve and sign the minutes of the Decision Session held on 14 May 2018.

3. **Public Participation**

At this point in the meeting, members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Friday, 13 July 2018**. Members of the public can speak on agenda items or matters within the Executive Member's remit.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

Filming, Recording or Webcasting Meetings

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. The broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if recorded, this will be uploaded onto the Council's website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at https://www.york.gov.uk/downloads/file/11406/protocol_for_webcasting_film_and_recording_of_council_meetings_20160809

**4. St. Christopher House, George Cayley Drive, (Pages 3 - 16)
Clifton Moor – Application to Remove
Restrictive Covenant**

This Report sets out details of an application to lift the restrictive covenant on an office site at Clifton Moor to allow a low-cost residential development.

5. Urgent Business

Any other business which the Executive Member considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Fiona Young

Telephone: 01904 552030

Email: fiona.young@york.gov.uk

For more information about any of the following, please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

☎ (01904) 551550

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City of York Council

Committee Minutes

Meeting	Decision Session - Executive Leader (incorporating Finance & Performance)
Date	14 May 2018
Present	Councillor Gillies

36. Declarations of Interest

At this point in the meeting, the Executive Leader was asked to declare any personal, prejudicial or pecuniary interests in the business of the agenda. The Executive Leader declared a personal, non-prejudicial interest as the Ward Member for Poppleton and as a customer of the Lord Collingwood Public House.

37. Minutes

Resolved: That the minutes of the Executive Leader (incorporating Finance & Performance) Decision Session held on 9 April 2018 be approved and then signed by the Executive Leader as a correct record.

38. Public Participation

It was reported that there no registrations to speak at the meeting under the Council's Public Participation Scheme.

39. Application for Community Right to Bid under the Localism Act 2011 - The Lord Collingwood Public House, Upper Poppleton

The Executive Leader considered a report which presented an application to list the Lord Collingwood Public House, The Green, Upper Poppleton, York, as an Asset of Community Value (ACV), for consideration by the Council. The Asset Manager confirmed that there was no update to the report.

Resolved: That the listing of the Lord Collingwood Public House, The Green, Upper Poppleton, York, as an Asset of Community Value (ACV) be approved.

Reasons:

- i. The application meets the required criteria.
- ii. To ensure the Council meets its legislative requirements of the Localism Act 2011 and promotes community access to community facilities.

Cllr I Gillies, Chair

[The meeting started at 3.00 pm and finished at 3.01 pm].



16 July 2018

Executive Leader (incorporating Finance and Performance) Decision Session

Report of the Director of Economy and Place

St. Christopher House, George Cayley Drive, Clifton Moor – Application to remove Restrictive Covenant

Summary

1. This Report sets out details of an application to lift the restrictive covenant on an office site at Clifton Moor to allow a low-cost residential development. The application is in accordance with the Asset Management Policy on lifting restrictive covenants on Clifton Moor and a capital receipt has been agreed in accordance with the Policy.

Background

2. The Asset Management Policy on lifting restrictive covenants at Clifton Moor was approved at the Cabinet Member Decision Making Session on 7 July 2014 and a copy of this policy is attached at Annex A. Several approvals have been given at recent Cabinet and Executive Member Decision Making Sessions to lift restrictive covenants on sites nearby, amongst them are Pioneer Business Park, other units at Aviator Court and Marsden Park, and this has been in return for capital sums.
3. An application has been received for St. Christopher House, George Cayley Drive, Clifton Moor which is covered by the same restrictive policy for further use and development. Details are outlined below.
4. Silvadale Ltd. have applied to lift the restrictive covenant at St. Christopher House, George Cayley Drive, Clifton Moor where the office building has been vacant for a considerable period of time and a scheme has been put together for a residential development on the site. A site plan is attached at Annex B.
5. The proposal is to create 6 x 1 bed apartments within the existing office building structure to be marketed at first time buyers as

starter homes. Ground and first floor plans of the proposal are attached at Annex C.

6. The adopted Council policy has the following requirements for such an application to be considered and these are set out below together with details of how these requirements are being met.
7. Appropriate communal open space for clothes drying, secure cycle storage and bin storage, etc.

Cycle and bin storage is already provided and it is proposed to enhance this to accommodate recycling requirements. The grassed area surrounding the building has been split between the ground floor units with one flat having direct access to this.

Some play provision

The applicants have stated that the apartments are not designed for general family housing and therefore there is no specific play provision.

Suitable pedestrian access

Pedestrian access will remain as existing which is directly from George Cayley Drive.

Appropriate acoustic treatment to limit road noise, etc.

Planning consent has been granted for the proposal, conditional on significant work to meet specific internal acoustic levels with appropriate acoustic ventilation. As part of this work the property has been re-glazed. This planning condition has been fully complied with by the property owner.

8. The proposal for St. Christopher House therefore meets the requirements of this Policy. However although the apartments are proposed to be sold at a reasonable figure it is the view of Housing Services that these are not 'affordable' apartments within the relevant definition and therefore, in accordance with the Policy, a capital sum has been negotiated to remove the restriction. The amount which has been agreed is £21,180 and it is considered that this amount is an adequate figure to recommend for acceptance. It is directly comparable to the sums agreed for the release of the restrictive covenant on the other schemes approved by the Executive Member.

Options

9. If these proposals are not accepted then the applicants have indicated they will take the matter to the Lands Tribunal. Legal Services have previously indicated there is a reasonable chance of success although it will be costly and take a considerable length of time.
10. The option to accept the capital sums offered is therefore recommended, as it provides a capital receipt for the Council and also potentially 6 apartments for first time buyers.

Council Plan

11. The proposed policy supports the Council policy of Get York Building, creating additional low cost housing on brownfield land.

Council Values

12. The proposed policy meets the Council Values in terms of;
 - Supporting and enabling individuals and our communities
 - Being ambitious for our communities and our city
 - Delivering on our commitments

Implications

Financial – The variation of the covenant realises a capital receipt which reflects the uplift in value of the site after the covenant has been lifted.

Human Resources (HR) – None

Equalities, Crime and Disorder and IT – Decent quality housing is fundamental to the creation of healthy, sustainable communities and due consideration needs to be given to avoid the indirect creation of sub-standard housing.

Legal – The refusal to lift a covenant can be subject to further legal challenge if it can be proved that the grounds for the original covenant no longer apply.

It is noted that, in addition to receipt of the financial sums, the Council wishes to make the release of the covenant subject to the matters referred to in paragraph 7 above. This can be included in the formal deed releasing the covenant or, if this is objected to by

the applicants, controlled through the planning process by way of conditions to any planning permission and/or the provisions of any S106 agreement which the developer would be required to enter into.

Property – Contained within the Report.

Other – None

Risk Management

13. There is still a risk of legal challenge if the Council refuses to lift restrictive covenants.

Recommendations

14. The Executive Member is asked to agree to the request to remove the restrictive covenant on
- a) St. Christopher House, George Cayley Drive for a capital sum of £21,180

Reason: To enable the provision of apartments at reasonable cost in an area of surplus office accommodation.

Contact Details

Author: Valerie Inwood
Property Surveyor
Ext: 3358

Chief Officer Responsible for the Report: Neil Ferris
Director, Economy and Place

Report Approved ✓
Date: 3/7/18

Specialist Implication Officer(s)

Implication: Legal
Gerrard Allen
Senior Solicitor – Property
Ext: 2004

Wards Affected: Clifton Without, Rawcliffe and Skelton

For further information please contact the author of the report

Annexes

Annex A Asset Management Policy on lifting restrictive covenants at Clifton Moor

Annex B Site Plan

Annex C St. Christopher House Proposal Plans

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June 2014

City of York Council

Asset Management Policy on lifting of restrictive covenants at

Clifton Moor

When York District Council sold parcels of land to create office developments at Clifton Moor in the 1980's, the authority added a number of restrictive covenants onto the sale deeds to limit the use to office only.

In more recent years a number of these offices have had only partial tenancies and are considered by their owners to be difficult if not impossible to let. The market for office accommodation in York is oversupplied with the quality of office accommodation that exists at Clifton Moor which is by and large moderate to poor. We are experiencing increasing demand for city centre high quality office accommodation which is currently in short supply. With regard to Clifton Moor the market has voted with its feet and there are a number of sites where CYC is being asked to vary or lift the covenants to convert them into residential schemes. CYC has now developed a policy to set out the principles that we will apply to these requests when we receive them.

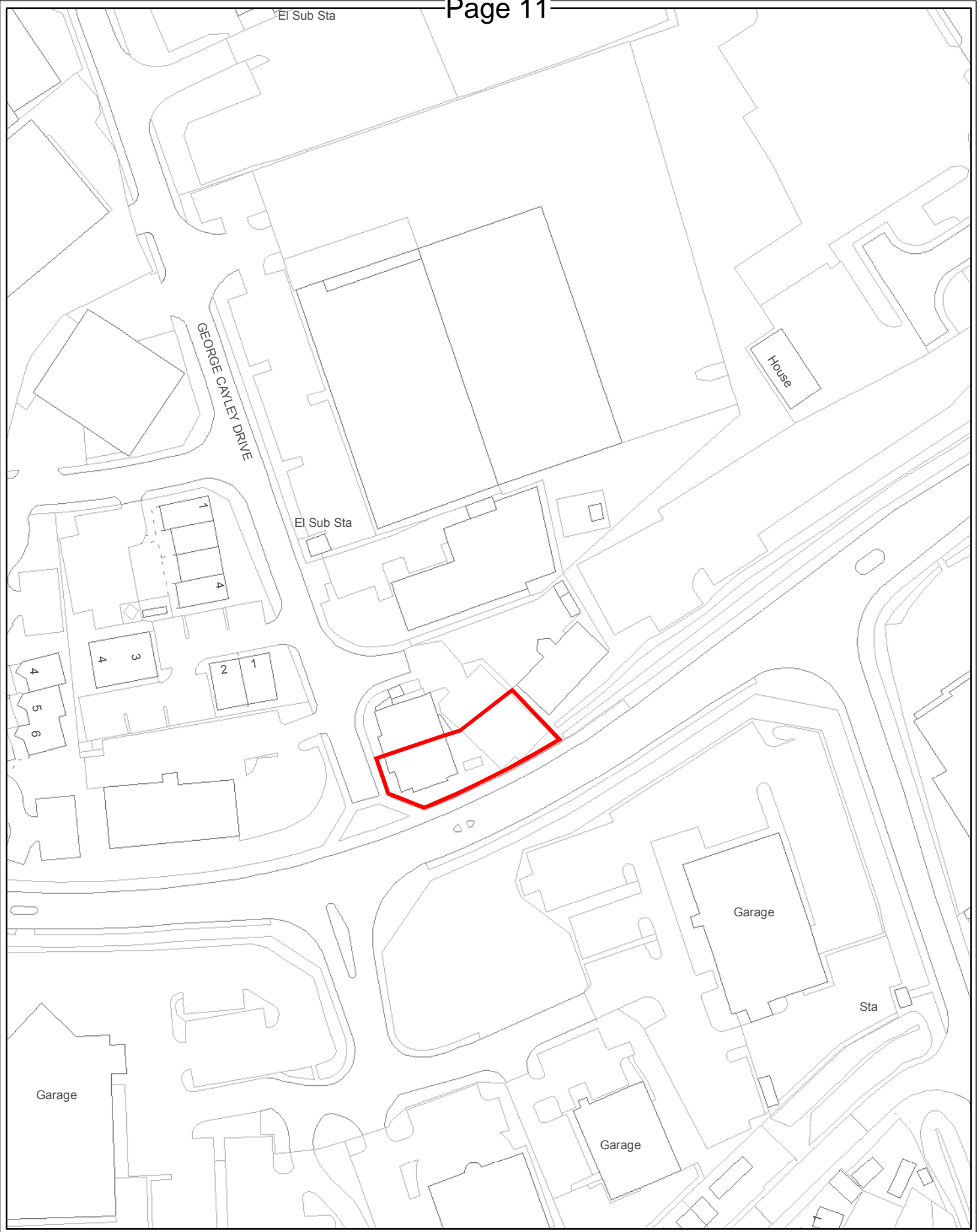
Other restrictive covenants will still exist on land sales made in the past in different parts of the city. As the circumstances and the drivers around these will all be very different these should be treated on a case by case basis but the volume of these at Clifton Moor requires a specific policy framework.

Individual decisions will be made by the Cabinet Member for Finance and Performance. The following principles will be applied to those decisions:-

1. CYC will agree to lift restrictive covenants on Clifton Moor which restricted future use to office accommodation, to enable them to be used for residential accommodation, but we will only do so when there is a package of facilities to support reasonable quality of housing.
2. Future housing schemes must include

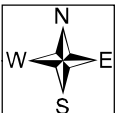
- a. appropriate communal open space for clothes drying, secure cycle storage and bin storage etc,
 - b. Some play provision
 - c. Suitable pedestrian access,
 - d. Appropriate acoustic treatment to limit road noise etc
3. We will consider lifting the covenant without a charge for schemes that deliver affordable housing as defined in the affordable housing policy in place at the time of the request.
 4. If schemes do not deliver affordable housing in accordance with our policy, we will consider the suitability of the development for housing and if we believe that it will provide accommodation units that are a reasonable standard then we will make a charge for removing the restrictive covenant and will seek to work with developers to ensure that developments consider the requirements set out above eg. acoustic treatment, proper pedestrian access, sound proofing, links through to other residential areas.
 5. Overage clauses may be considered as part of any negotiations regarding the sum to be paid to lift a restrictive covenant. Where we decide to lift the covenant for free we will seek an overage clause to ensure CYC gains a share of the uplifted market value should affordable housing be sold on.
 6. We will not support the lifting of the restrictive covenants where we believe that the accommodation being provided is of low or substandard quality or where the scheme creates a single isolated block of housing in an otherwise commercial or industrial setting.
 7. Consideration will be given to the prevailing economic conditions and the state of the market for office accommodation across the city and specifically in Clifton Moor.
 8. Developers should make a formal request to the Head of Asset Management, setting out the details of their scheme and how it meets the criteria set out above, along with a proposed financial value where appropriate.

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**Asset & Property
Management**

St. Christopher House, George Cayley Drive (ANNEX B)



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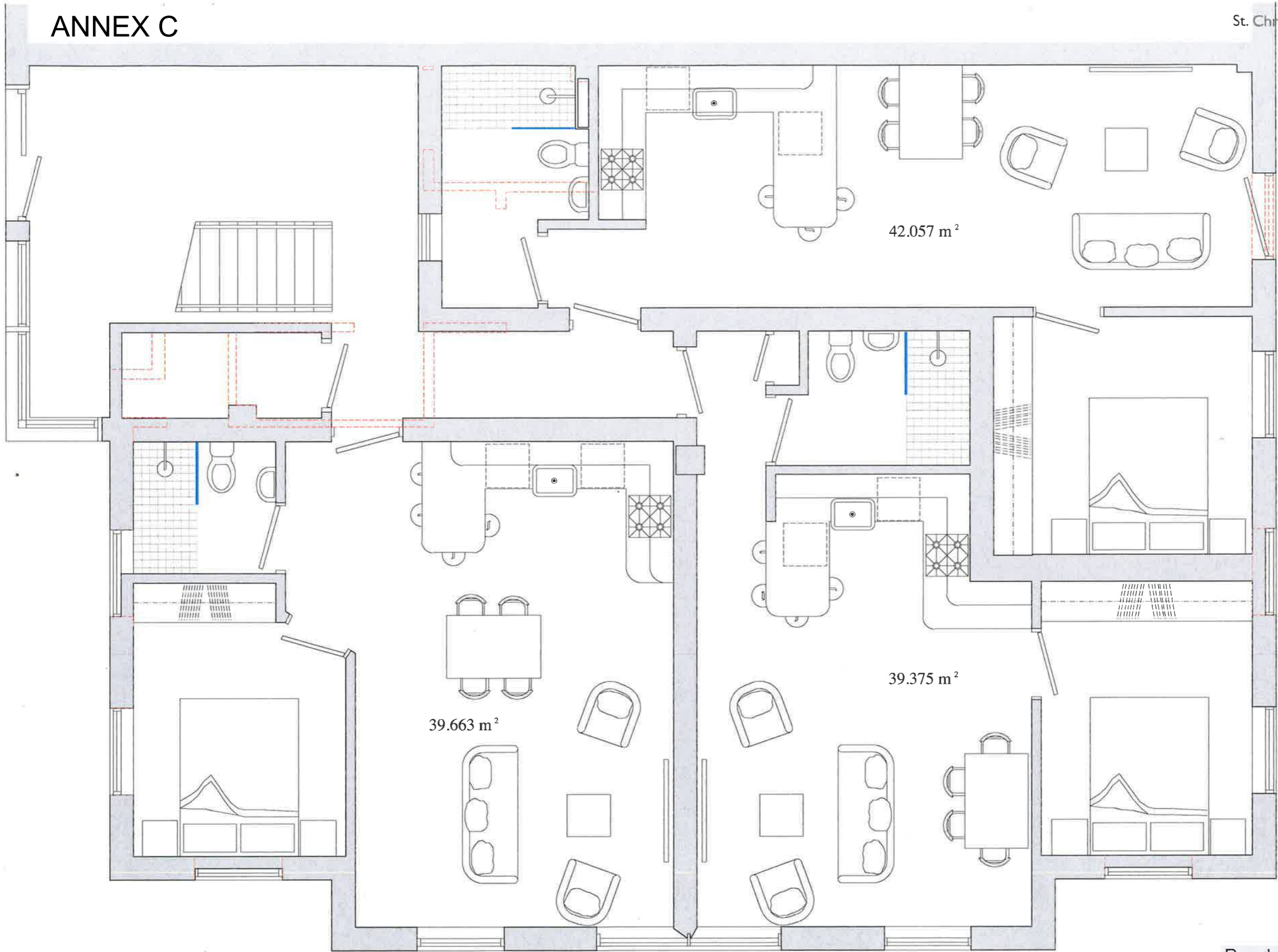
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Originating Group:

Asset & Property Management

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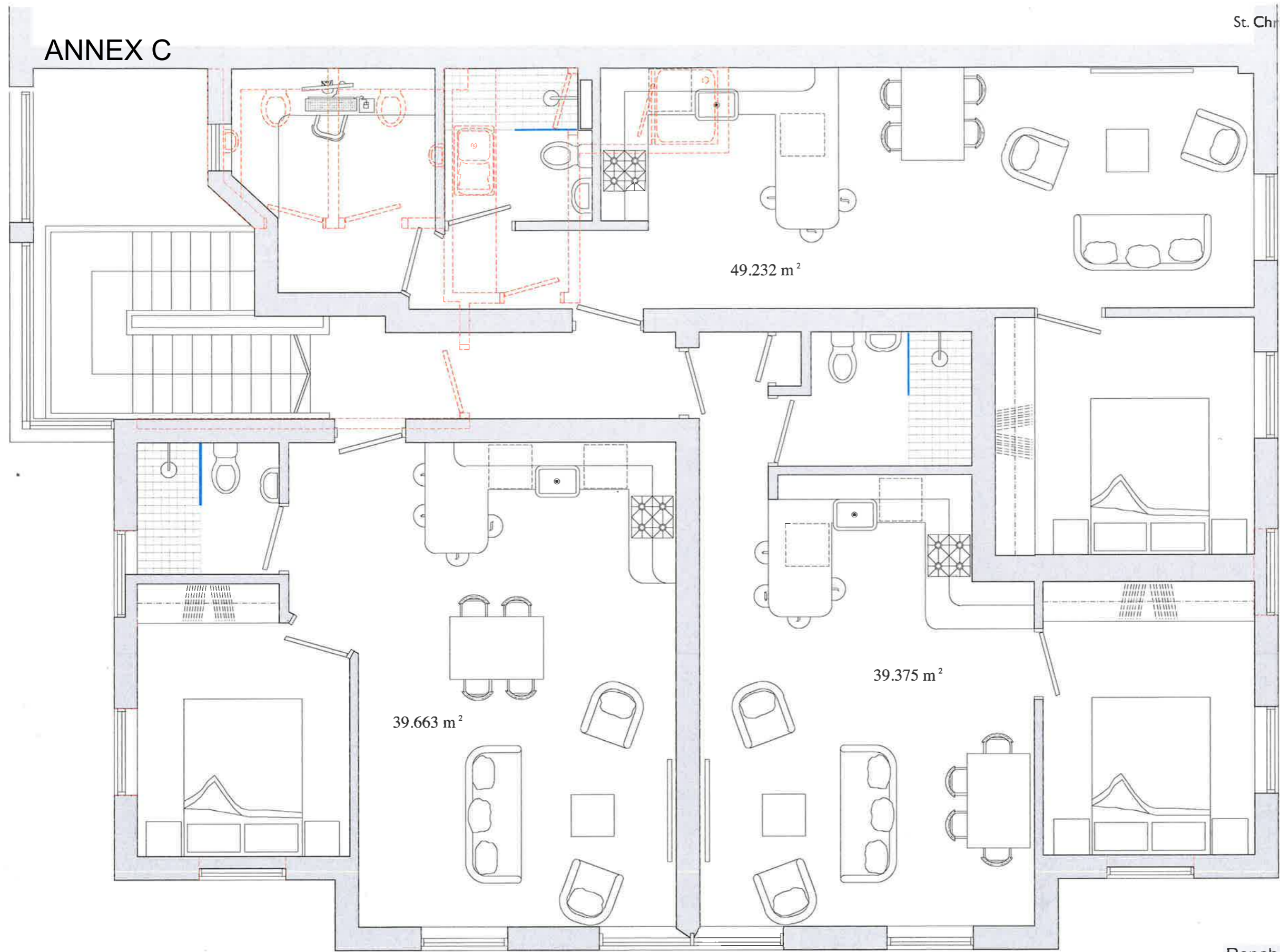
Bench Mark Designs

1 Montague Walk Upper Poppleton York YO26 6JG
 Telephone / Fax : 0 1904 782 803 ~ Mobile / Text : 07759 054 683
 E-mail : bobmarks@benchmdesigns.com
 Website : www.benchmdesigns.com © All drawings copyright held

Title:- **Ground Floor Plan ~ Revised Sketch (red lines)**
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ANNEX C



Bench Mark Designs
 1 Montague Walk Upper Poppleton York YO26 6JG
 Telephone / Fax :- 01904 782 803 ~ Mobile / Text :- 07759 054 683
 E-mail :- bobmarks@benchmdesigns.com
 Website :- www.benchmdesigns.com © All drawings copyright held

Title:-
First Floor Plan ~ Revised Sketch (red lines)

Scale:- 1:50 **Date:-** 10/16 **Drg N°:-** B/106-PL-21C

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