

**Notice of public meeting of  
Decision Session - Cabinet Member for Finance & Performance**

**To:** Councillor Williams  
**Date:** Thursday, 18 September 2014  
**Time:** 12:00 noon  
**Venue:** The King John Room (GO59) - West Offices

**AGENDA**

**Notice to Members - Calling In:**

Members are reminded that, should they wish to call in any item\* on this agenda, notice must be given to Democracy Support Group by **4:00 pm on Monday 22 September 2014.**

\*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 called in items will be considered by the Corporate and Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00pm on Tuesday 16 September 2014.**

**1. Declarations of Interest**

At this point, the Cabinet Member is asked to declare:

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

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

## **2. Exclusion of Press and Public**

To consider the exclusion of the press and public from the meeting during consideration of annex C of agenda item 5 (Pioneer Business Park – Application to remove restrictive covenant) on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). This information is classed as exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

## **3. Minutes**

(Pages 1 - 4)

To approve and sign the minutes of the meeting held on 17 July 2014.

## **4. 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 Wednesday 17 September 2014**. Members of the public can speak on agenda items or matters within the remit of the Cabinet Member.

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

### **Filming or Recording Meetings**

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 (whose 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

[http://www.york.gov.uk/downloads/download/3130/protocol\\_for\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings](http://www.york.gov.uk/downloads/download/3130/protocol_for_webcasting_filming_and_recording_of_council_meetings)

**5. Pioneer Business Park - Application to (Pages 5 - 28)  
remove restrictive covenant**

This report sets out details of an application to lift the restrictive covenant of an office site on the Pioneer Business Park for low-cost residential development.

**6. Urgent Business**

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

Democracy Officer:

Name: Jayne Carr

Contact Details:

Telephone – (01904) 552030

Email – [jayne.carr@york.gov.uk](mailto:jayne.carr@york.gov.uk)

For more information about any of the following please contact the Democratic Services 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 (Polish)  
własnym języku.

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

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Meeting	Decision Session - Cabinet Member for Finance & Performance
Date	17 July 2014
Present	Councillor Williams
In attendance	Councillor Cunningham-Cross

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## 5. **Declarations of Interest**

The Cabinet Member was asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which he may have in respect of the business on the agenda. None were declared.

## 6. **Minutes**

Resolved: That the minutes of the meeting of 29 May 2014 be approved and signed as a correct record.

## 7. **Public Participation**

It was reported that there were two registrations to speak under the Council's Public Participation Scheme and that a Member of Council had also registered to speak at the meeting. The registrations were in respect of agenda item 4 – "Applications for Community Right to Bid under the Localism Act 2011".

Mr Graeme Wilson spoke in support of Rawcliffe Parish Council's application for the Mitre Public House to be listed as an Asset of Community Value. He gave details of how public houses such as The Golden Ball could be successful by engaging with the community. He drew attention to national statistics on public house closures but stated that the issue was often related to mismanagement and the mark up by the pub operating companies on their tied products. Mr Wilson requested that the Cabinet Member supported the application for the public houses to be Assets of Community Value and

suggested that there should also be an Article 4 direction put in place.

Mr Paul Crossman detailed his involvement with several public houses within York. He stated his concerns regarding the stance taken by pub operating companies to leaseholders and the impact that this had on profitability. He explained the benefits of local ownership of public houses, including the impact on jobs and the local community. He expressed concern that the owners of the public houses were seeking to develop sites rather than retaining them as public houses. He requested that the Cabinet Member support the application for the public houses to be Assets of Community Value.

Councillor Cunningham-Cross stated that she was also speaking on behalf of Councillor McIlveen and the Rawcliffe Parish Council. She stated that she fully supported the points made by the Parish Council in their application. She stated that although there were other public houses in the area they were not part of the local community. Councillor Cunningham-Cross gave details of some of the community events held at The Mitre, including the Young at Heart Club. She stated that The Mitre was well supported by the local community and reiterated her support for the application by Rawcliffe Parish Council.

**8. Applications for Community Right to Bid under the Localism Act 2011**

The Cabinet Member considered a report which presented applications from Rawcliffe Parish Council to list the Mitre Public House, Shipton Road, Rawcliffe and the Save the Fox Inn Campaign to list the Fox Inn, 168 Holgate Road, York as Assets of Community Value.

The Cabinet Member was asked to determine whether to add the Mitre Public House and the Fox Inn should be added to the List of Community Assets.

The Cabinet Member stated that he was sympathetic to the points that had been raised regarding the role played in the community by these public houses.

Resolved: That the Mitre Public House, Shipton Road, York and The Fox Inn, Holgate Road, York be added to the register of assets of Community Value.

Reason: To ensure the Council meets its legislative requirements of the Localism Act 2011 and promotes community access to community facilities.

Councillor Williams, Cabinet Member  
[The meeting started at 3.00 pm and finished at 3.15 pm].

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18 September 2014

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## **Notice of a Public Meeting**

### **Cabinet Member Finance and Performance Decision Session**

Report of the Assistant Director of Finance, Asset Management and Procurement

### **Pioneer Business Park – Application to remove restrictive covenant**

#### **Summary**

1. This report sets out details of an application to lift the restrictive covenant of an office site on the Pioneer Business Park for 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<sup>th</sup> July 2014 and a copy of this policy is attached at Annex A
3. An application has been received by the Helmsley Group to lift the restrictive covenant on a site on the Pioneer Business Park at Clifton Moor where the office buildings have 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.
4. The proposal is to create 21 single bedroom small apartments within the existing office building structure to be marketed as starter homes aimed at first time buyers or as an alternative rented at reasonable rates.
5. 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

6. Appropriate communal open space for clothes drying, secure cycle storage and bin storage etc.

The existing building is situated on a large site where there is already cycle and bin storage which will be retained. Each apartment will only have one parking space so a considerable area of the existing parking will be removed which will be landscaped with the rest of the site to provide a communal area for clothes drying and play provision etc.

Some play provision

See above comment

Suitable pedestrian access

A direct pedestrian only access will be created onto Clifton Moorgate which will allow easy access to leisure, retail and medical facilities without the need to go via the remainder of the office park

Appropriate acoustic treatment to limit road noise etc.

As well as being covered through building regulations this has been included as there will be a need make the specification attractive to successfully sell the apartments in a mixed use area

7. The proposals therefore meet 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. Details of this sum are contained in the confidential Annex C and it is considered that this amount is an adequate figure to recommend for acceptance.

## **Options**

8. If this proposal is not accepted then the Helmsley Group have indicated they will not proceed to the next stage of looking at detailed design in conjunction with planners at the Council which would lose the potential for 21 low-cost apartments to be made available on the market.
9. The other option is for the restrictive covenant to be challenged in the Lands Tribunal and Legal Services have previously indicated there is a reasonable chance of success although it will be costly and take a considerable length of time and Helmsley have indicated they have no desire to go down this route.

10. The option to accept the capital sum offered, is therefore recommended, as it provides a capital receipt for the Council, and also potentially 21 apartments for first time buyers.

### **Council Plan**

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

### **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 sum, the Council wishes to make the release of the covenant subject to the matters referred to in paragraph 6 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**

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

**Recommendations**

- 13. The Cabinet Member is asked to agree to the request to remove the restrictive covenant in return for the capital sum detailed in the confidential annex.

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

**Contact Details**

**Author:** Chief Officer Responsible for the report: Ian  
Floyd  
Director Customers and Business Support

Tim Bradley  
Asset Manager

**Report**  **Date** 10 September  
**Approved**  2014

**Specialist Implications Officer(s)**

*Implication Legal*  
*Name Gerry Allen*  
*Senior Solicitor - Property*  
*Tel No. 552004*

**Wards Affected:** *Clifton Without, Rawcliffe and Skelton* **All**

**For further information please contact the author of the report**

**Annexes**

- Annex A - Asset Management Policy on lifting of restrictive covenants at Clifton Moor.
- Annex B – Site Plan.
- Annex C – Confidential details of the proposed transaction.

**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.

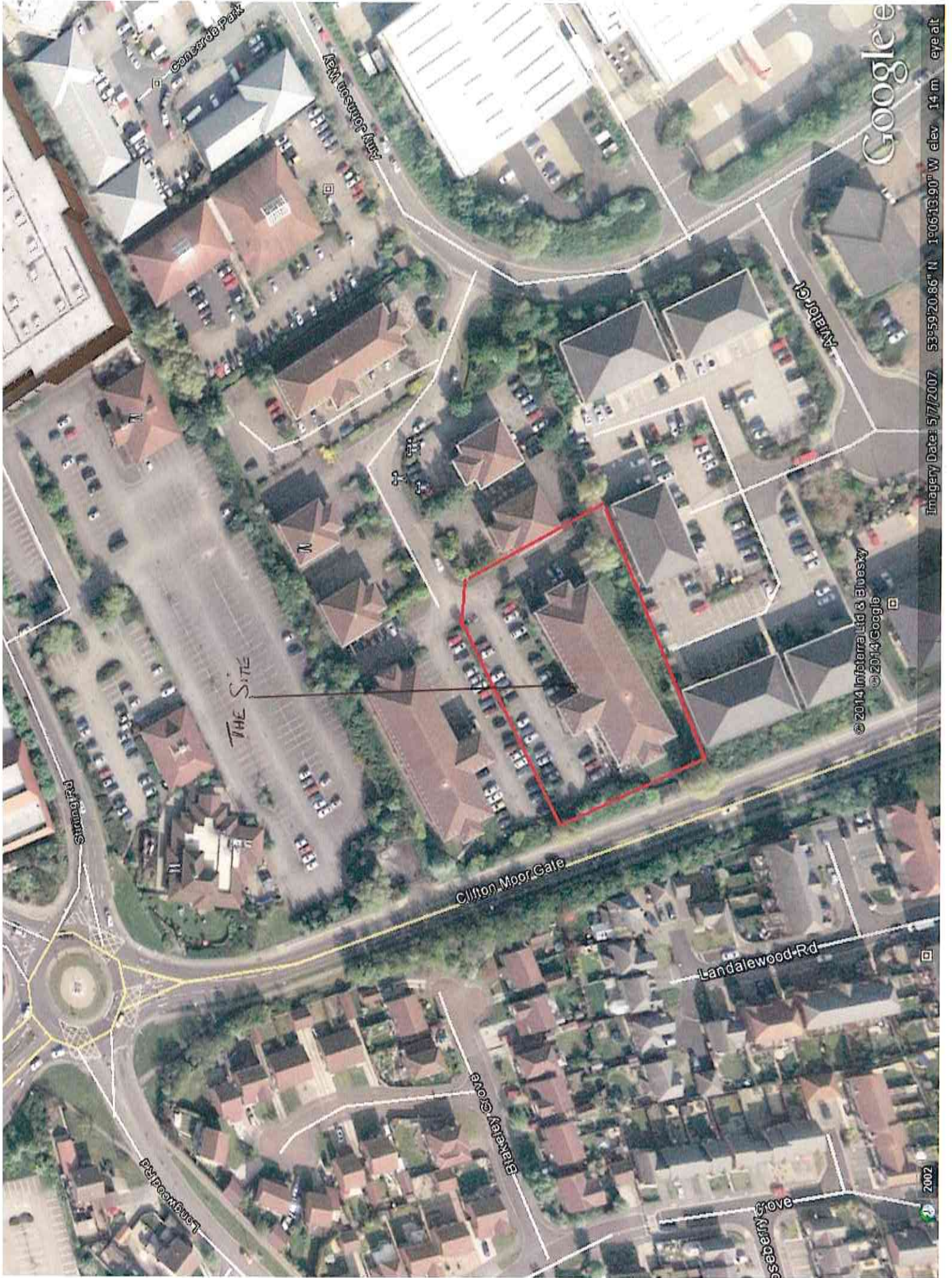
In more recent years a number of these offices have had only partial tenancies and are considered by their owners to be difficult if not impossible to let. The market for office accommodation in York is oversupplied with the quality of office accommodation that exists at Clifton Moor which is by and 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.

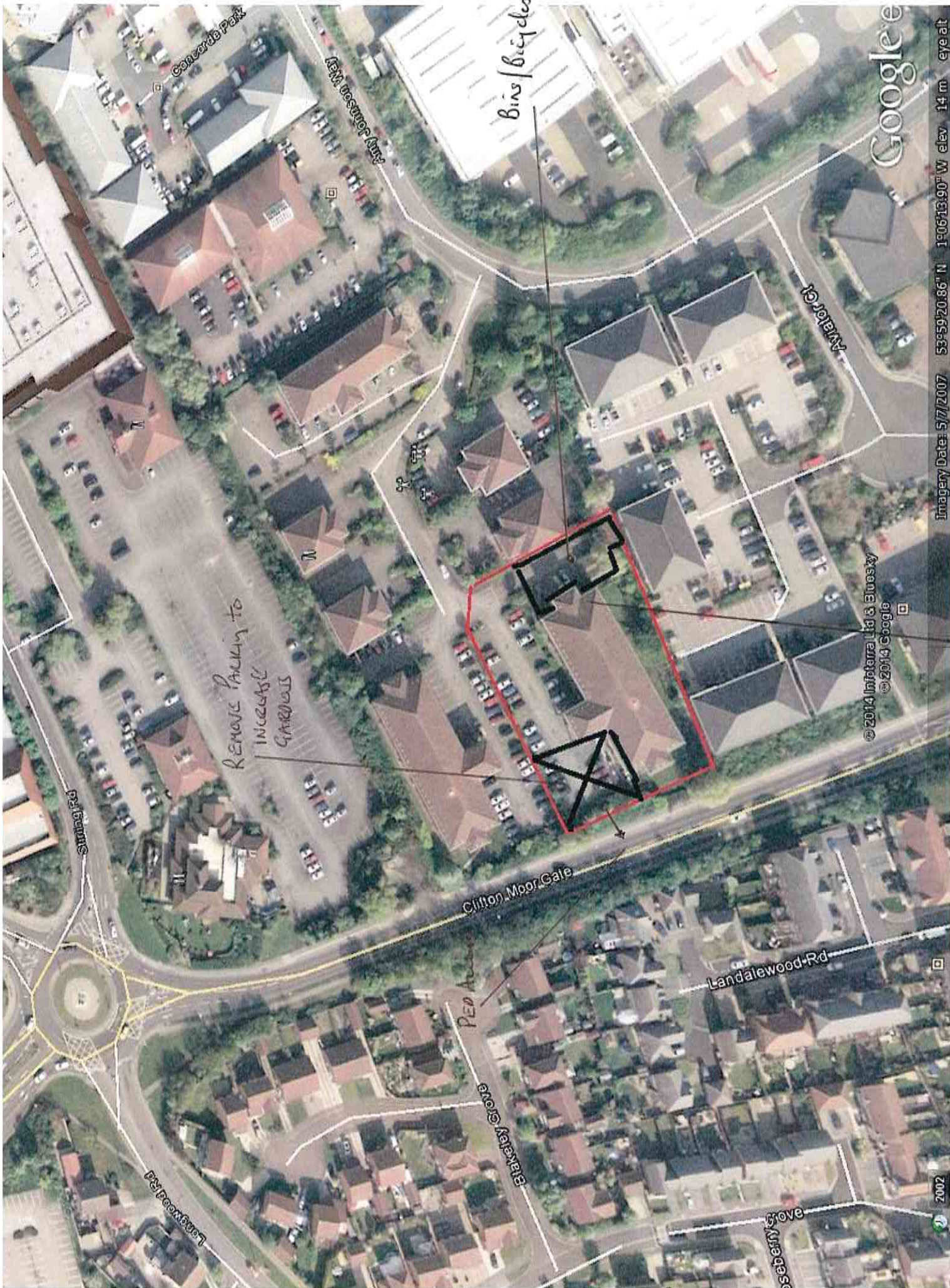
Other restrictive covenants will still exist on land sales made in the past in different parts of the city. As the circumstances and the drivers around these will all be very different these should be treated on a case by case basis but the volume of these at Clifton Moor requires a specific policy framework.

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.





© 2014 Inferral 10 & BlueSky © 2014 Google

Imagery Date: 5/7/2007 53°59'20.86" N 1°06'13.90" W elev 14 m eye alt

Common 5,000m

2002





[www.blacksproperty.com](http://www.blacksproperty.com)



**UNIT 3 PIONEER BUSINESS PARK  
CLIFTON MOOR, YORK  
YO30 8TN**

- ❖ Modern and impressive 2-storey office premises of 12,500 sq.ft. (1161.25 sq.m.) approx. with passenger lift.
- ❖ Located on York's major Business Park north of the City Centre on the edge of the City's outer ring road (A1237).
- ❖ 48 marked parking spaces to the front and side of the building and a cycle store on a well landscaped site.
- ❖ Favoured location for many businesses with major retail, office, leisure, and motor trade occupiers near-by.

**FREEHOLD OPPORTUNITY - GUIDE PRICE £650,000**

**Offering Office Space in York and  
North Yorkshire**

**01904  
679733**

### DESCRIPTION

The property forms part of a late 1980's development of seven two-storey office buildings in a cul-de-sac location between Amy Johnson Way and Clifton Moorgate - a main route through the business park. Access is gained from Amy Johnson way.

The office comprises two floors of open plan space which have been partitioned by the present occupier to provide a combination of private offices and open plan working areas. In addition there is a staff kitchen/dining facility and locker room/shower on ground floor. The building has an impressive entrance atrium forming the stairwell. Male and female W.C.'s are located on each floor with a disabled W.C. in addition on ground floor.

Specification includes an 8 person passenger lift, raised floor at first floor level, gas-central heating (radiators) and air conditioning are further features. Current occupier uses skirting and dado trunking on ground floor and floor boxes/dado trunking on first floor.

Approx. net internal floor areas are:-

Ground Floor:	Offices (partitioned):	6,115 sq.ft.	(565.08 sq.m.)
First Floor:	Offices (partitioned):	6,385 sq.ft.	(593.16 sq.m.)
<b>Approx. Total:</b>		<b>12,500 sq.ft.</b>	<b>(1,161.25 sq.m.)</b>

### ACCOMMODATION

#### Ground Floor

Entrance Lobby:	-	-
Entrance Atrium/Foyer:	-	-
Plant Cupboard:	-	-
Inner Lobby:	-	-
Disabled W.C.:	-	-
Gents W.C.:	-	-
Ladies W.C.:	-	-
Passenger Lift:	-	-
Offices (partitioned including Kitchen/Dining and Lockers/Shower):	6,115 sq.ft.	(568.08 sq.m.)

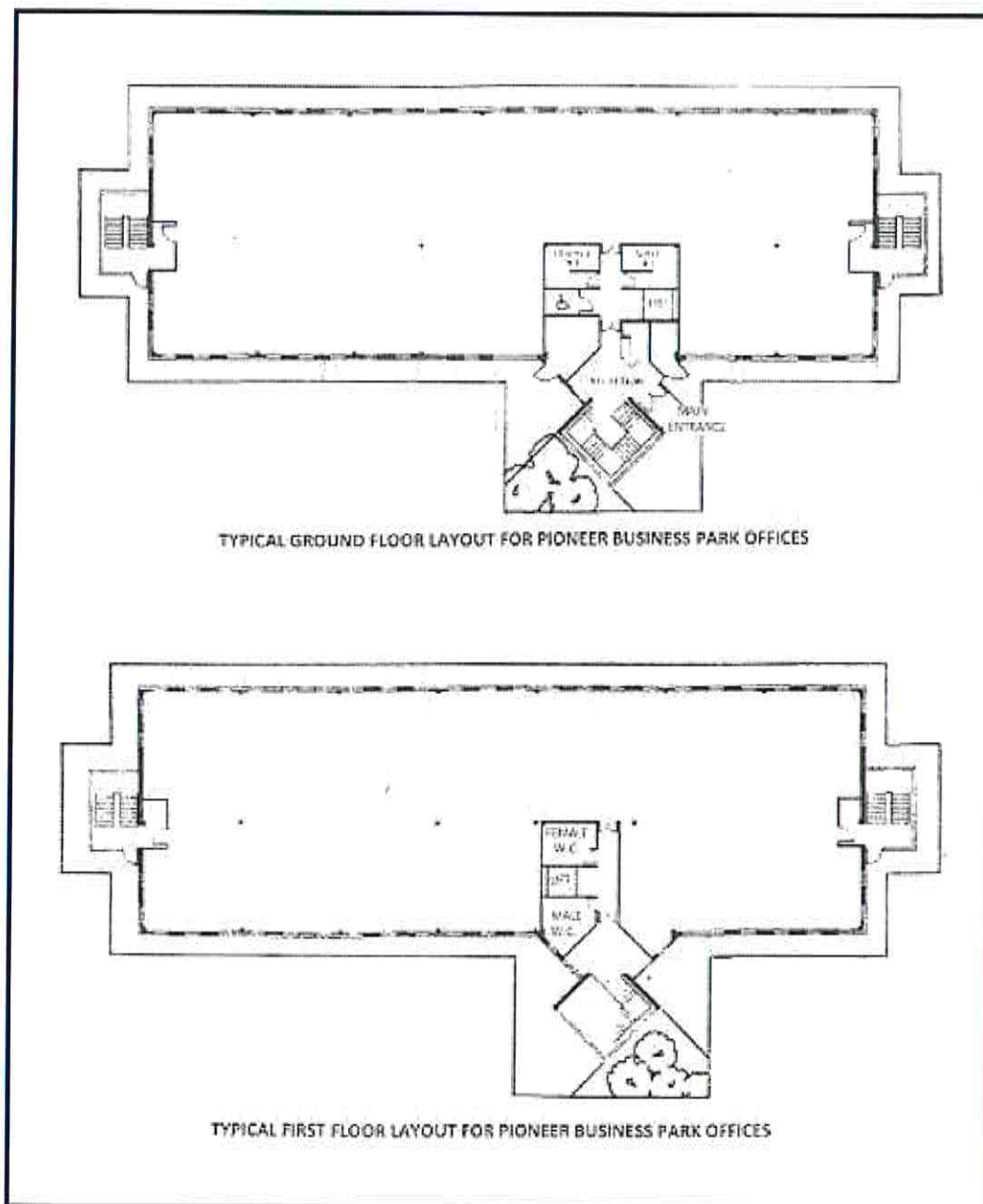
#### First Floor

Landing:	-	-
Plant Room/Cleaner's Cupboard:	-	-
Ladies W.C.:	-	-
Inner Lobby:	-	-
Gents W.C.:	-	-
Passenger Lift:	-	-
Offices (partitioned to include Server Room):	6,385 sq.ft.	(593.16 sq.m.)

#### Outside

Timber cycle store. Integral lift room and integral boiler room. Landscaped site with 48 marked parking spaces.

**ORIGINAL FLOOR PLANS (BOTH FLOORS CURRENTLY PARTITIONED)**



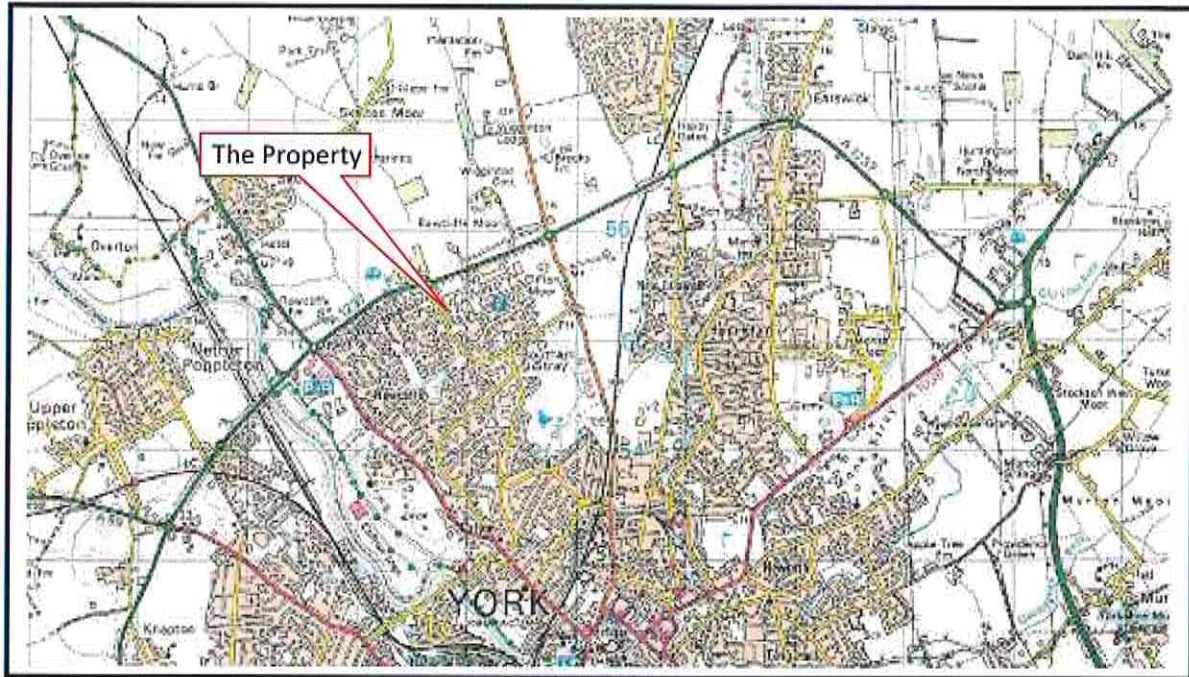
**BUSINESS RATES**

Enquiries with City of York Council and an inspection of the Valuation Office Agency's website ([www.voa.gov.uk](http://www.voa.gov.uk)) revealed the following information:-

Rateable Value:	£150,000	(2010 Valuation List)
General Rates:	£68,700	(2012/2013 Financial Year)

Enquiries regarding the above can be made to City of York Council (Business Rate Section - 01904 551140). Rateable Values can change at any stage and advice should be sought.

LOCATION



General View



Meeting Room



Kitchen/Dining Room



Reception

**95 Main Street, Fulford, York. YO10 4PN - enquiries@blacksproperty.com**

**IMPORTANT NOTICE**

These particulars which were prepared on 26<sup>th</sup> January 2011 and amended 19<sup>th</sup> September 2011 and 16<sup>th</sup> July 2012 are provided subject to the following terms:- 1.They are for general guidance only and do not constitute the whole or any part of an offer or contract. No employee of Blacks has any authority to make or give any representation or warranty or enter into any contract in relation to the property. 2. Dimensions are approximate only and descriptions are given without responsibility on the part of Blacks or the vendors or lessors. Reference to plant, machinery, services, etc., does not constitute a representation of the condition, or that it is capable of fulfilling its intended function. 3.All references to prices, rent, etc., exclude VAT which may apply and any offer made will be assumed to be VAT exclusive unless stated otherwise. 4.Certain aspects such as dimensions, rating assessments, occupancy of the subject or adjoining property, etc., may from time to time change. Information contained has been collated as a result of verbal inquiries only. Personal inspection and enquiry including the taking of independent advice is imperative before a contract is entered into. 5.The current availability of this property should be checked particularly if a party is travelling some distance.

**Energy Performance Certificate**  
Non-Domestic Building



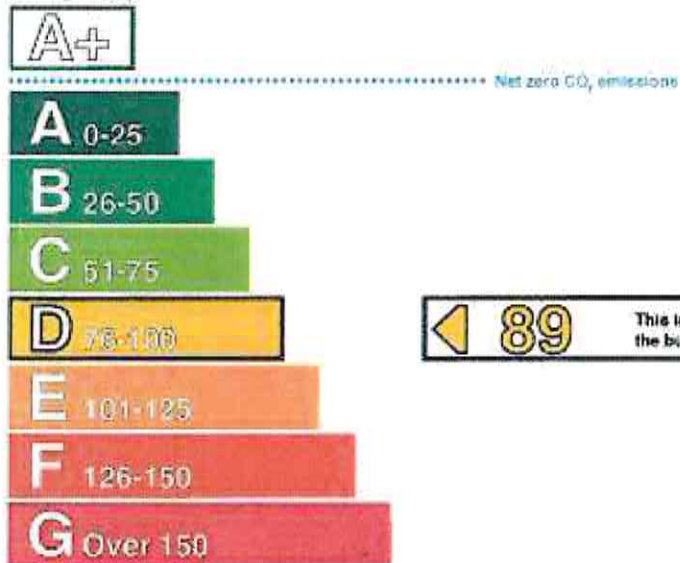
3 Pioneer Business Park  
Amy Johnson Way  
York  
YO30 4GJ

**Certificate Reference Number:**  
0020-6935-0359-6210-7024

This certificate shows the energy rating of this building. It indicates the energy efficiency of the building fabric and the heating, ventilation, cooling and lighting systems. The rating is compared to two benchmarks for this type of building: one appropriate for new buildings and one appropriate for existing buildings. There is more advice on how to interpret this information on the Government's website [www.communities.gov.uk/epbd](http://www.communities.gov.uk/epbd).

**Energy Performance Asset Rating**

More energy efficient



◀ 89 This is how energy efficient the building is.

Less energy efficient

**Technical information**

Main heating fuel:	Natural Gas
Building environment:	Air Conditioning
Total useful floor area (m <sup>2</sup> ):	1434
Building complexity (NOS level):	3
Building emission rate (kgCO <sub>2</sub> /m <sup>2</sup> ):	58.26

**Benchmarks**

Buildings similar to this one could have ratings as follows:

- 54 If newly built
- 123 If typical of the existing stock

**Administrative information**

This is an Energy Performance Certificate as defined in S2007:991 as amended

**Assessment Software:** SBEM v3.6.0 using calculation engine: SBEM v3.6.0.0  
**Property Reference:** 020307160000  
**Assessor Name:** Stan Howel  
**Assessor Number:** 6TH0001610  
**Accreditation Scheme:** Stroma Accreditation Ltd  
**Employer/Trading Name:** Future Energy Surveys Ltd  
**Employer/Trading Address:** Clifford Chambers, 4 Clifford Street, York, YO1 6HD  
**Issue Date:** 04 Feb 2011  
**Valid Until:** 03 Feb 2012 (unless superseded by a later certificate)  
**Related Party Disclosure:** Not related to the owner

Recommendations for improving the property are contained in Report Reference Number: 9662-4012-0305-0730-2535

**If you have a complaint or wish to confirm that the certificate is genuine**

Details of the assessor and the relevant accreditation scheme are on the certificate. You can get contact details of the accreditation scheme from the Government's website at [www.communities.gov.uk/epbd](http://www.communities.gov.uk/epbd), together with details of the procedures for confirming authenticity of a certificate and for making a complaint.



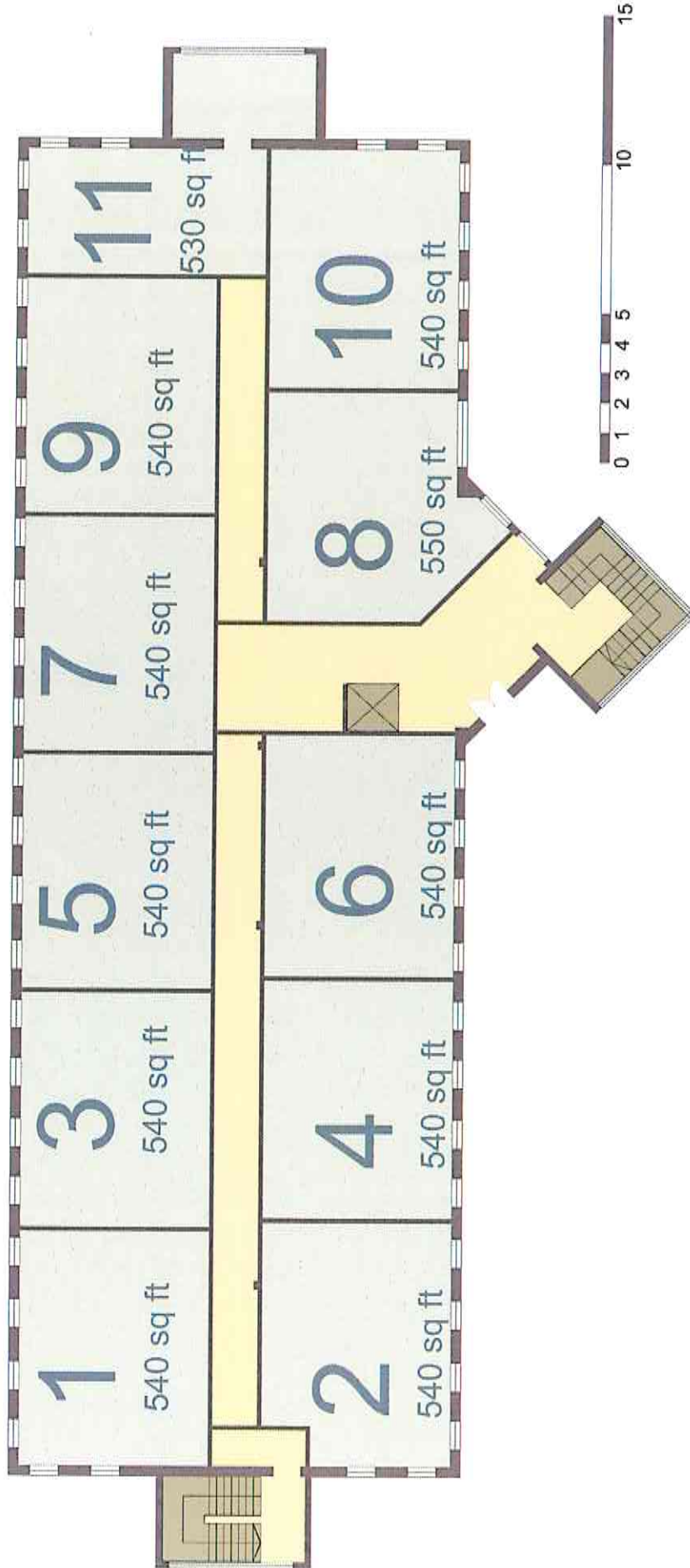
For advice on how to take action and to find out about technical and financial assistance schemes to help make buildings more energy efficient visit [www.carbontrust.co.uk](http://www.carbontrust.co.uk) or call us on 0800 085 2005

# Design Options

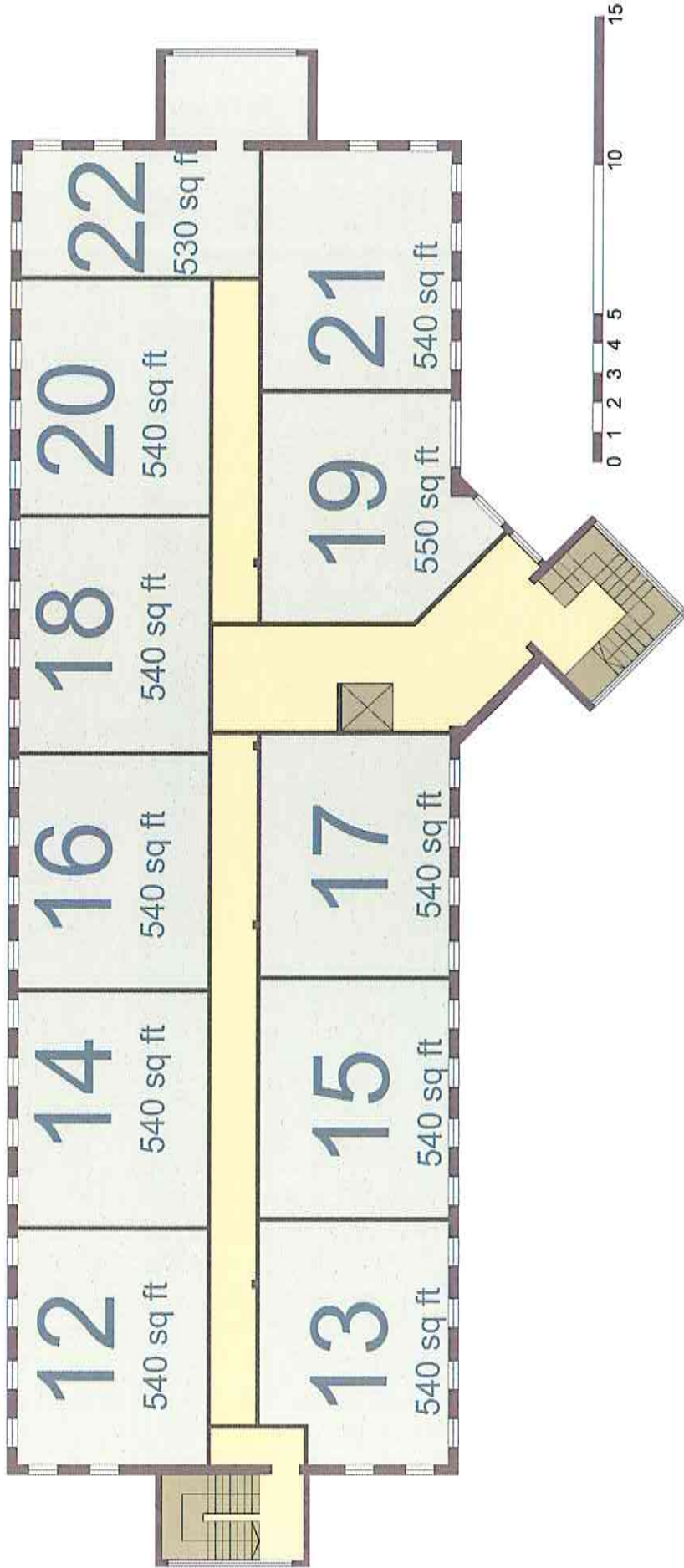


New Residential Development Unit, 3 Pioneer Business Park.





New Residential Development Unit, 3 Pioneer Business Park.



New Residential Development Unit, 3 Pioneer Business Park.



New Residential Development Unit, 3 Pioneer Business Park.



New Residential Development Unit, 3 Pioneer Business Park.

Notes  
The scheme shown are based on scaled PDF's and will be subject to a full dimensional survey.

# Thank You



*Simon Carrington*  
Linked Design @ LHL Group

LHL Group Limited, The Chocolate Works, Bishopthorpe Road, York, YO23 1DE  
Tel 01904 690699; Fax 01904 690208

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

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