

COMMITTEE REPORT

Date: 13 October 2021 **Ward:** Guildhall
Team: East Area **Parish:** Guildhall Planning Panel

Reference: 21/00537/FULM
Application at: Castle Howard Ox Townend Street York YO31 7QA
For: Conversion of public house to 16no. student studio apartments with two storey extension to the side/east elevation, first and second storey extension to the rear/north elevation, and single storey rear/north extension following the demolition of the single storey projections
By: Alastair Cliffe
Application Type: Major Full Application
Target Date: 21 October 2021
Recommendation: Approve subject to s106 Agreement

1.0 PROPOSAL

1.1 Planning permission is sought for the conversion of the public house to 16 no. studio apartments for student accommodation. In addition there would be a two storey extension to the side/east elevation and rear/north elevation and a single storey extension to the north following. A communal room is proposed on the ground floor, there would be external cycle and bin store and outside communal space.

1.2 The site is within the Area of Archaeological Importance. The site is within Flood Zone 1. To the north, east and south of the site is residential development. To the west is former petrol station/garage used as a tool hire shop.

1.3 Officers understand that the public house has been closed since 2017.

2.0 POLICY CONTEXT

2.1 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005:

GP1 Design

GP4a Sustainability

GP6 Contaminated Land

GP15a Development and Flood Risk

NE7 Habitat Protection and Creation

HE2 Development in Historic Locations

HE10 Archaeology

T4 Cycle Parking Standards
T13a Travel plans and Contributions
ED10 Student Housing
C3 Change of Use of Community Facilities
MW7 Temporary Storage for Recyclable Material

2.2 The Publication Draft York Local Plan (2018)

H7 Student Housing
HW1 Protecting Existing facilities
D1 Placemaking
D4 Conservation Areas
D6 Archaeology
D7 The Significance of Non-designated Heritage Assets
D11 Extensions and Alterations to Existing Buildings
GI2 Biodiversity and Access to Nature
CC1 Renewable and Low carbon Energy generation and Storage
CC2 Sustainable design and Construction of New Development
ENV1 Air Quality
ENV2 Managing Environmental Quality
ENV3 Land Contamination
ENV5 Sustainable Drainage
WM1 Sustainable Waste Management
T1 Sustainable Access

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 Submitted cycle shelter drawings provide 3 Sheffield stands at 1200mm space resulting in the stands being too cramped requested revert to 2 no. Sheffield stands at 1200mm spacing. Request conditions: Removal of redundant crossings; Cycle parking details to be agreed; Car and cycle parking laid out; No gate, etc; Travel Plan. Condition/informative ensure development remains "car-free" in perpetuity; Seek S106 Contribution of £10,000 for City of York Council Travel Plan Support for a period of five years after first occupation.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (CONSERVATION OFFICER)

3.2 The amended scheme addresses concerns from a conservation and design perspective. If recommended for approval request following conditions: external materials for approval; a 1x1m brick panel to show brick, coursing, bond, mortar and pointing; scale constructional drawings for all external joinery including any alterations required to the retained historic sash window to ground floor west elevation (preferably to be retained as is with secondary glazing installed for acoustic and thermal enhancement); details of rooflights.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGY OFFICER)

3.3 No evidence of roosting bats or nesting birds was identified during the ecology survey, ecological enhancements have been recommended within associated report with the aim of providing biodiversity net gain post construction. The increased structural integrity of modern developments reduces the potential for birds and bats to utilise modern buildings for nesting and roosting therefore any new developments should integrate a variety of bird and/or bat boxes. If this application is approved request condition for a biodiversity enhancement plan

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ARCHAEOLOGY)

3.4 The Castle Howard Ox lies within the Central Area of Archaeological Importance. The building dates to the mid 19th century, with later additions. It is a non-designated heritage asset. A heritage statement has been submitted with the application as suggested at pre-application stage. The statement confirms that the main body of the building and the 1930s extensions are of some significance while the mid-late 20th century alterations are not. The statement does not describe the interior of the building. It is unknown whether the building contains any internal features worthy of recording.

3.5 The proposed works at the Castle Howard Ox includes extending the existing building. Despite the existing extensions this has the potential to reveal archaeological features and/or deposits. An archaeological watching brief should take place during groundworks to record the nature of any deposits which may survive on the site. The employed archaeologist should also include a brief photographic record of the exterior and any features of interest within the interior of the public house prior to conversion. Request condition for a programme of post determination archaeological mitigation

LEAD LOCAL FLOOD AUTHORITY

3.6 No increase of impermeable areas and there is no room/space to provide betterment the Flood Risk Management Team has no objections and therefore if planning permission is to be granted request details of the proposed means of foul and surface water disposal.

PUBLIC PROTECTION

3.7 The applicant has submitted a Lithos Preliminary Ground Investigation ref 3655/1 dated December 2019. In addition to this investigation, public protection team has records of previous industrial uses adjacent to the site that could have caused land contamination within this area e.g. garage/motor engineers etc request following condition: submission of investigation and risk assessment; submission of a remediation scheme; submission of verification report; reporting of unexpected contamination; submission of Construction Environmental Management Plan.

3.8 The development is close to commercial activities therefore the developer should demonstrate that internal and external noise levels within the dwellings can be achieved. Request condition for detailed scheme of noise insulation measures.

3.9 The development for student accommodation will be close to existing residential dwellings. Therefore in order to ensure that the occupants of the existing dwellings are not adversely affected by noise from the student accommodation request a condition requiring the applicant to submit a noise management plan for the operation of the development.

PUBLIC REALM

3.10 Seeking £2,416 which would be used to improve the amenity open space within the nearby Clarence Gardens, specifically towards the transformation of the disused bowling green into a more robust area of amenity grassland.

AFFORDABLE HOUSING

3.11 If the development is considered acceptable request that a condition is added that it could only be used for student accommodation and no other type of accommodation, otherwise an affordable housing obligation would be required.

WASTE SERVICES

3.12 The site is not acceptable for CYC refuse collections as there is not a suitable collection point for the refuse collection vehicle. The site does not have vehicle access or a turning point, is very close to a busy junction and the street immediately next to the proposed development has double yellow road markings.

EXTERNAL CONSULTATIONS

GUILDHALL PLANNING PANEL

3.13 Object, overdevelopment of the site. There is a lack of outside storage for bins and bikes and a shortage of outdoor communal space for the number of units proposed.

3.14 Support the reuse of the pub.

YORKSHIRE WATER

3.15 No comments received.

FIRE AND RESCUE PREVENTION OFFICER

3.16 No objections, will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the Fire Authority.

4.0 REPRESENTATIONS

NORTH YORKSHIRE POLICE

4.1 An analysis of police recorded incidents in the area of the proposed development highlights the presence of crime and antisocial behaviour which could impact upon the security of the scheme. The analysis covers a period from the 1 March 2020 to the 28 February 2021. In summary, there were 321 crimes and 314 antisocial behaviour incidents recorded during this twelve month period. Noted that the Covid 19 pandemic has resulted in a lower burglary count due to people staying and working at home. Higher levels of antisocial behaviour are due to breaches of Covid 19 guidance being recorded as antisocial behaviour. Any new development has the potential to increase these levels if the designing out of crime is not considered and implemented.

4.2 Consideration should be given to fitting the communal entrance door with an electronic door release mechanism connected to a videophone in each apartment. The door should also have a self-closing mechanism with a lock which engages automatically. External windows on the ground floor should be fitted with opening restrictors to prevent sneak-in burglaries when a window is left open.

4.3 The crime analysis showed that the theft of cycles is prevalent in the area. Consequently, it is recommended that the cycle store should be: Open to surveillance by having walls constructed from materials such as welded mesh, grilles or bars, polycarbonate or other secure glazing such as glass composites; Lit after dark using vandal resistant, dedicated energy efficient light fittings and energy efficient lamps; Access controlled with an electronic fob key that only gives access to the store by those that require it; The design of the stands within the store should enable the cycle to be secured at two separate parts of the cycle, for example a 'Sheffield Bar'

CONSERVATION AREAS ADVISORY PANEL (comments or original scheme)

4.4 Whilst the building is not in a conservation area nor a listed building it is within an historic streetscape and a locally significant / none designated heritage asset.

4.5 The Panel consider the information supporting the application was of poor quality, e.g. the 'as existing' plans contained no room titles. However there is no basic objection to the proposal and the size of the bedrooms was commented upon favourable. The appearance of the proposed building appears to be bland. The heritage of this former public house could be acknowledged by the replacement of the existing upvc windows with timber set correctly within reveals. Noted that there appears to be no level access to the property.

NEIGHBOUR NOTIFICATION AND PUBLICITY

4.6 Five representations of objection:

- Student accommodation not required
- The area requires something that would bring the community together, the Groves had 4 pubs now reduced to 1
- Lack of parking, each flat should have a parking space otherwise will result in further parking within the Groves, there are existing parking issues in the area.
- No space for loading and unloading
- The accommodation should be able to accommodate people with disabilities
- Question whether studio accommodation is required
- Overdevelopment
- request that the work requires by the application is undertaken by people/firms based within York
- Local community has not been consulted
- would like the building to be used as a community centre
- Insufficient outside space for the future occupants
- Lack of council tax so adding to burden of the council, question if the commercial rates could be paid
- Would result in noise disturbance

- Concerned there maybe water management issues

4.7 One letter of objection (to the revised scheme)

- The rooms are far too small, resulting in mental health issues. The shared space is not large enough to accommodate all the residents
- Lack of outdoor amenity space, poor living conditions
- No parking has been provided
- The accommodation should be able to accommodate people with disabilities
- The bin storage is located furthest from the road, should be located close to the road

5.0 APPRAISAL

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

PUBLICATION DRAFT YORK LOCAL PLAN (2018)

5.2 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF as revised in February 2019, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

DEVELOPMENT CONTROL LOCAL PLAN (2005)

5.3 The Development Control Local Plan Incorporating the Fourth Set of Changes was approved for development management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications. Where policies relevant to the application are consistent with those in the NPPF, the weight that can be afforded to them is very limited.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

5.4 The revised National Planning Policy Framework (NPPF) and its planning policies are a material consideration in the determination of planning applications. The NPPF sets out the presumption in favour of sustainable development in paragraph 11.

LOSS OF COMMUNITY FACILITY

5.5 Paragraph 93 of the NPPF sets out, among other things, that planning decisions should guard against the unnecessary loss of valued facilities (including pubs), particularly where this would reduce the community's ability to meet its day to day needs. This stance is echoed by policy HW1 (Protecting Existing Facilities) of the emerging local plan. It states that development proposals that involve the loss of a community facility will not be supported unless: equivalent or greater facilities are provided on or off site; the facilities no longer serve a community function; or are no longer financially viable. Policy D3 (Cultural Provision) states, among other things, that development proposals will be supported where they do not cause the loss of cultural facilities.

5.6 No financial information has been submitted about the profitability of the pub. The narrative to Policy HW1 states that a loss of community facilities will only be permitted when they have been marketed for a minimum of a year without success, thereby demonstrating that they are unviable. The site had previously been acquired by Star Pubs & Bars in August 2017, the public house was closed on completion of the sale. The supporting information sets out that the public house was unviable and they decided to sell the site in November 2018. The supporting information sets out that the site was marketing online and a sale board was erected, pub companies, owner occupiers, developers and local builders were targeted. During this time the owners did not open/operate the venue. The supporting information sets out that the public house was closed for a two reasons: high turnover of tenants; and struggles to compete with the neighbouring Punch Bowl public house. The supporting information sets out that the impact of Covid 19 would further exacerbate the viability issues. The public house was advertised for £250,000 freehold. During the marketing over 80 enquires were received. Best and final bids were invited (April 2019) and a total of 12 bids were received. None of these bids were to run the site as a public house or restaurant. All were received from developers or investors. The sale was completed in May 2019. Since that time the public house has been closed. The marketing period lasted a total of 7 months. Requiring the applicant to advertise the pub differently or for a longer period is unlikely to give the council a better insight into the viability of the Castle Howard Ox. Furthermore, bearing in mind the close proximity of other public houses, offering a similar, but a wider range of services

than the application site can or could provide, officers do not consider that the loss of the pub would result in undue harm to the local community.

IMPACT ON THE LOCAL ECONOMY

5.7 The NPPF states that local planning authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development (paragraph 81).

5.8 No information has been submitted regarding the turnover when the public house was open. However as set out above there were struggles to compete with neighbouring public houses together with high turnover of tenants. The site is tightly constrained by the adjacent properties, highway frontages. The opportunities for expansion or diversification are very limited. The impact on the local economy of the loss of the pub is therefore likely to be small.

STUDENT ACCOMMODATION

5.9 Policy ED10 of the DCLP (2005) and Policy H7 (Student Housing) of the draft Local Plan 2018 sets out that proposal for new student accommodation should demonstrate: there is a proven need for student housing; and. it is in an appropriate location for education institutions and accessible by sustainable transport modes; and the development would not be detrimental to the amenity of nearby residents and the design and access arrangements would have a minimal impact on the local area. Policy is in general supportive of Purpose Built Student Accommodation (PBSA) as a means of freeing up housing suitable for wider general housing needs. Policy H7 requires the University of York and York St John University to address the need for any additional student housing which arises as a result of their future expansion, taking into account the capacity of independent providers; this is an acknowledgement that privately built PBSA is an important part of the student housing market.

5.10 The Council's Strategic Housing Market Assessment 2016 acknowledges that the student rental market remains strong and that demand for purpose built student accommodation is high, particularly from international students. The Applicant has submitted a report on the need for student accommodation.

5.11 The SHMA also analyses the needs of specific groups within the population, such as older people and students. The student population in York (22,269 at the time of the 2011 Census of which 19,002 were full time students) grew significantly by around 7,400 between 2001 and 2011, and is projected to continue to grow,

albeit at a slower rate. Higher Education Student Statistics (HESA) data referenced in the SHMA shows 23,095 student in the City by 2014, with most significant growth in numbers of full-time students. The SHMA acknowledges that the student rental market remains strong and that demand for purpose built student accommodation is high, particularly from international students. Latest HESA data (2018/19) shows 26,090 students enrolled at York St John University and the University of York.

5.12 The applicants provide a summary of approved PBSA since 2015. Officers consider the record of recently approved and completed schemes is reasonably consistent with that provided by the applicant, albeit that we note the omission of St Joseph's Convent, Lawrence Street (+526 units, completed 2016/17). The Planning Statement does not provide analysis of current levels of provision/vacancy. Officers are not aware of concerns around Purpose Built Student Housing vacancies, and would suggest that applicants operating in a competitive market are well placed to determine capacity in that market.

IMPACT ON HERITAGE ASSETS

5.13 The site is within Area of Archaeological Importance, and whilst just outside of the Central Historic Conservation Area (Character area 1: Bootham Park Hospital) it is considered to fall within the setting of the conservation Area. The site is considered to fall within the setting of Grade II listed former Groves Chapel, Union Terrace. The building is also considered to be undesignated heritage asset.

5.14 In accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990 ("the 1990 Act"), the Local Planning 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 1990 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 the avoidance of such harm should be afforded considerable importance and weight.

5.15 The legislative requirements of Sections 66 and 72 of the 1990 Act are in addition to government policy contained in Section 16 of the NPPF. The NPPF classes listed buildings, conservation areas and scheduled monuments as 'designated heritage assets'. Section 16 of the NPPF advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 197, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset's

significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness.

5.16 The Draft Local Plan (2018) policies D4, D6, D7 and Development Control Local Plan (2005) policies HE2, HE3, and HE10 reflect legislation and national planning guidance that development proposals should preserve or enhance the special character and appearance and contribution to the significance and setting of the heritage assets and respect important views. Impact on undesignated heritage asset

5.17 The National Planning Policy Guidance sets out that non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets. Local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications. Policy D7 of the Draft Local Plan (2018) set out the criteria for assessing potential non-designated heritage assets

5.18 Paragraph 203 of the NPPF states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Policy D7 of the Draft Local Plan (2018) sets out that Development which would remove, harm or undermine the significance of such assets, or their contribution to the character of a place, will only be permitted where the benefits of the development outweigh the harm having regard to the scale of the harm and significance of the heritage asset.

5.19 The Castle Howard Ox is a purpose-built public house of the first half of the nineteenth century, with later alterations and additions, built abutting Bootham stry on the corner of Townend Street and Clarence Street. There is evidence to suggest a build date in the 1830s/40s era which accords with the laying out of Penley Grove Street/Townend Street in that period. The heritage appraisal accompanying the application charts the development of buildings on the site and identifies the contribution the building makes to settings of the central historic core conservation area and the Groves Chapel which faces the site across Clarence Street. As identified by the appraisal the earliest built form is the southern block with its gable entrance to Townend Street.

5.20 The building retains a number of attractive architectural features. The south gable is of characteristic symmetrical nineteenth century arrangement, with arched head window to the apex, and the front door is flanked by shallow arched windows with brick quoined surrounds and projecting moulded brick drip over the lintel and similar sills, elements of which are replicated in the brick door surround. The latter features suggest a remodelling of the early decades of the twentieth century which accords with photographic evidence potentially dating from 1906. Windows are mainly replaced PVC frames, but whilst poor quality they replicate the layout of the earlier sashes to the upper floors and the three-light mullion and transom windows to the ground floor. To the west elevation is a three-light timber sash window set in an impressive corbelled and dentil-corniced surround within a decorative brick projection which probably dates to the latter decades of the nineteenth century; and a bracketed and dentilled timber gutter support which may be to the original design. Substantial chimney stacks and a coped verge also contribute to a characterful historic building.

5.21 The building survives from the small-scale 2-storey terraced form of the wider area which was developed as the city expanded in the 1840s. Although much demolition in the Groves took place in the '60s/'70s for redevelopment by the Local Authority, the historic "gateways" to the area were maintained so they still preserve the small scale 19th century character of the main streets (Clarence St, Haxby Road, Monkgate, Huntington Rd). The building has always had a dual aspect as indicated on the 1852 map, facing Clarence St over former Stray land (now the former garage forecourt)

5.22 The building has previously been identified as a non-designated heritage asset as a consequence of its architectural and historic interest. As a public house it also has communal value.

5.23 The proposed development would retain the original part of the building, the revised design of the proposed extension is simple and is not considered to result in harm to the designated heritage asset. The use of different materials whilst complimenting the existing building give a clear understanding that the extensions are latter additions. The proposed extension are considered to have a neutral impact on the heritage asset. The conditions requested by the Conservation Officer are considered to be reasonable and necessary to ensure a development that respects the host building and the surroundings.

Setting of Conservation Area and Listed Building

5.24 No identified harm to the conservation area as a consequence of the revised proposals has been identified. The scheme respects the townscape and

streetscape. The development would not materially impact the setting of any listed buildings.

Archaeology

5.25 The site is within the City Centre Area of Archaeological Importance. NPPF paragraph 194 states that “where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”. NPPF footnote 68 states non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

5.26 The Castle Howard Ox lies within the Central Area of Archaeological Importance. A heritage statement confirms that the main body of the building and the 1930s extensions are of some significance while the mid-late 20th century alterations are not. The statement does not describe the interior of the building. It is unknown whether the building contains any internal features worthy of recording. The proposed works have the potential to reveal archaeological features and/or deposits. The Archaeologist has requested the following condition: an archaeological watching brief should take place during groundworks to record the nature of any deposits which may survive on the site, it should include a brief photographic record of the exterior and any features of interest within the interior of the public house prior to conversion. This condition is considered to be necessary and accords with paragraph 205 of the NPPF.

VISUAL AMENITY AND CHARACTER

5.27 Chapter 12 of the NPPF gives advice on design, placing great importance to that design of the built environment. In particular, paragraph 130 of the NPPF states that planning decisions should ensure that development, inter alia, will add to the overall quality of the area, be visually attractive, sympathetic to local character and history and have a high standard of amenity for existing and future users. This advice is reflected in Draft Local Plan policies GP1 and GP9 of the 2005 Draft Local Plan and D1 and D2 of the 2018 Draft Local Plan and, therefore, these policies can be given weight.

5.28 The proposed flat roofed two storey extension is set back from the Townend Street elevation and uses different materials (brick) to the host building (render). The proposed extension would be viewed as a latter additional and they appears subservient to the host building. The proposed extensions are considered to be of neutral appearance and are not considered to result in harm to the visual amenity of

the host building or the character and appearance of the streetscene when travelling along Townend Street. Conditions for the materials, rooflights, and joinery are considered to be necessary.

RESIDENTIAL AMENITY

5.29 The NPPF seeks a good standard of amenity for all existing and future occupants, and that developments 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; are sympathetic to local character and history, including the surrounding built environment and landscape setting. Policy GP1 of the 2005 Development Control Draft Local Plan and policies D1 and ENV2 of the 2018 Draft Local Plan seek to ensure that development proposals do not unduly affect the amenity of nearby residents in terms of noise disturbance, overlooking, overshadowing or from overbearing structures.

5.30 The site is considered to be within a sustainable location close to York St Johns and close to public transport for other educational establishments the site is close to local amenities. The surrounding area contains a number of residential streets with restricted parking controlled by the Respark scheme.

5.31 The proposal represents an intensification of use of the site combined with the acknowledged impacts from noise and disturbance, parking pressures, and accumulation of rubbish that can be associated with student accommodation. Officers consider that the amenity concerns about the development can be split into two main areas; the first being the impact of the structures themselves and second being the concern about the intensity of the development, the behaviour patterns of students and the impact of this behaviour on the residential amenity of existing residents.

5.32 The proposed two storey extension would have windows in the side/east and rear/north elevation. The proposed ground floor windows would be screened by the existing boundary wall. The first floor windows in the side/east elevation would face the front garden and side elevation of No. 3 Townend Street. No 3. Townend Street has private outside amenity space to the rear of the property and a car port between the side of the property and the application boundary, there are no windows at first floor level in the side elevation. The proposed two storey extension (6.5 metres in height) is set back from the shared boundary by 4 metres. For these reasons the proposed development is not considered to result in a loss of privacy or overlooking to the occupants of 3 Townend Street. The proposed extensions are not considered to result in a loss of light or overshadowing.

5.33 No. 1 Lowther Mews stands to the rear/north of the proposed development, it has a first floor window in the side elevation which appears to be a staircase/hallway window. The proposed rear/north elevation windows of the two storey extension would be 7.5 metres from the staircase window. As the staircase is not considered to be a primary room it is not considered that the proximity of the windows would result in a loss of privacy. Furthermore it is considered that the proposal will not result in a harmful loss of light or impact overshadowing.

5.34 The previous use would have had some impact on the local environment and residential amenity but reason of general activity during the day and evening. The agent has confirmed that the proposed development would be managed, and a condition could be imposed that requires a management plan to be submitted to and approved by the Local Planning Authority. The plan could address issues such as: refuse collection; change over days, security measures, maintenance, fire safety, student liaison and community involvement etc. The introduction of 16 student studio flats in this location is not considered to be a significant concentration that would be potentially harmful to local residential amenity.

5.35 The access gates of the proposed development have been set into the site which allows for refuse bins to be presented on the day of collection and not block the pavement. In addition is it considered necessary to ensure that the refuse storage area within the site is retained as such and complies with Policy WM1 (Sustainable Waste Management).

5.36 It is considered necessary to condition the occupancy of the building to only students engaged in full-time or part-time further or higher education in the city as the application does not propose affordable housing. Officers are awaiting comments from the Public Realm team regarding open space contributions, if required these would be sought via a Section 106 legal agreement, Officers will provide an update at the Committee meeting.

BIODIVERSITY

5.37 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard, in the exercise of the functions, to the purpose of conserving biodiversity. Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity. Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats.

5.38 The NPPF advises that if significant harm to biodiversity from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. A Bat, Breeding Bird and Barn Owl Survey

has been submitted to support this application. The Ecology Officer is satisfied with the submitted ecology information and that there are no protected species in the building. It is considered that the recommendations of the report (e.g. bat and bird boxes) can be sought via condition.

SUSTAINABILITY

5.39 Policy CC1 'Renewable and Low Carbon Energy Generation and Storage' requires that all new buildings must achieve a reasonable reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable. The supporting information sets out that a reduction of 32.3% can be achieved.

5.40 Policy CC2 'Sustainable Design and Construction of New Development' states that developments which demonstrate high standards of sustainable design and construction will be encouraged. Development proposals will be required to demonstrate energy and carbon dioxide savings in accordance with the energy hierarchy and water efficiency. The policy requires that change of use to residential should achieve bream domestic refurbishment 'very good'. The Local Plan policy CC1 and CC2 are considered to have moderate weight given the evidence base that supports it. The submitted BREEAM report demonstrates sets out that the proposed extension and change of use of the existing building would achieve BREEAM 'Excellent' based on a BREEAM New Construction 2014 with a score 76.05% or BREEAM Refurbishment and Fit Out 2014 with a score of 72.93% (minimum score level for BREEAM 'Excellent' rating is 70%).

HIGHWAYS

5.41 The NPPF encourages development that is sustainably located and accessible. Paragraph 110 requires that all development achieves safe and suitable access for all users. It advises at paragraph 111 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Further, paragraph 112 requires development to give priority first to pedestrians and cycle movements and create places that are safe, secure and attractive thereby minimising the scope for conflicts between pedestrians, cyclists and vehicles. Policy T1 of the 2018 emerging Local Plan supports the approach of the NPPF in that it seeks the safe and appropriate access to the adjacent adopted highway, giving priority to pedestrians and cyclists.

5.42 The site is considered to be in a sustainable location. No vehicle parking is proposed as part of the development and the surrounding area is restricted to residential permit parking. Covered and secure cycle parking for 18 cycles is

provided within a store on the site. The proposals are considered to be acceptable in terms of principle of development and their impact on the surrounding highway network. It is considered necessary to condition the submission of a travel plan. The Highway Network Management team have requested that contribution of £10,000 towards the City of York Travel Plan support, however given the scale of the development proposed this is not considered to be reasonable in terms of the statutory tests in CIL Regulation 122 that requires that obligations must 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.

DRAINAGE

5.43 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan Policy GP15a (Development and Flood Risk) and Publication Draft York Local Plan (2018) Policy ENV5 (Sustainable Drainage) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced. There would be no increase in impermeable areas, it is considered that the details of the means of the surface water drainage can be sought via condition.

SAFE ENVIRONMENTS

5.44 Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and do all they reasonably can to prevent crime and disorder". Paragraphs 92 and 130 of the NPPF require developments should create safe places and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. The requirements for secure cycle park, secure external doors and opening restrictors on first floor can be achieved by condition

OPEN SPACE CONTRIBUTION

Public Realm has confirmed that an open space contribution is required in this case. This can be secured through a Section 106 agreement. The contribution of £2,416 would be used to improve the amenity open space within the nearby Clarence Gardens, specifically towards the transformation of the disused bowling green into a more robust area of amenity grassland. This obligation is considered to comply with CIL Regulation 122.

6.0 CONCLUSION

6.1 The proposed development is considered to be within a sustainable location. In assessment of Heritage Assets, the scheme would preserve the character and appearance of the conservation area, and the setting of listed buildings within it, in addition the proposed would be of appropriate scale, form and materials and is not considered to result in harm or loss of an undesignated heritage asset. Impacts on archaeology are considered to be acceptable and can be mitigated by planning condition. The proposed development is not considered to result in harm to residential amenity or highway safety, nor would the proposal have an unacceptable impact on ecology on or adjacent to the site.

6.2 The presumption in favour of sustainable development, as set out in NPPF paragraph 11 therefore applies. There is evident demand for purpose built student accommodation and the NPPF requires planning decisions give “substantial weight” to the value of using suitable brownfield land within settlements for housing (which includes student accommodation). The proposals are acceptable in principle when applying NPPF and local plan policy.

7.0 RECOMMENDATION:

i That delegated authority be given to the Head of Planning and Development Services to APPROVE the application subject to:

- a. The completion of a Section 106 Agreement to secure the following planning obligations:

Open Space

£2,416 to improve the amenity open space within the nearby Clarence Gardens, specifically towards the transformation of the disused bowling green into a more robust area of amenity grassland.

- b. The conditions set out below

ii The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.

iii The Head of Planning and Development Services be given delegated authority to determine the final detail of the planning conditions

Conditions

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1 TIME2 Development start within three years

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

Drawing Number 19023-S100 Revision A 'Site Location Plan' received 17 March 2021;

Drawing Number 19023-S103 'Proposed Demolition Site Plan' received 17 March 2021;

Drawing Number 19023-P200 Revision F 'Site Plan Proposed' received 09 September 2021;

Drawing Number 19023-P210 Revision H 'Ground Floor Plan Proposed' received 24 September 2021;

Drawing Number 19023-P211 Revision J 'First Floor Plan Proposed' received 01 June 2021;

Drawing Number 19023-P212 Revision G 'Second Floor Plan Proposed' received 01 June 2021;

Drawing Number 19023-P212 Revision C 'Roof Plan Proposed' received 01 June 2021;

Drawing Number 19023-P220 Revision D 'Elevations Proposed' received 02 June 2021;

Drawing Number 19023-P221 Revision B 'Street Scene Elevation Existing & Proposed' received 01 June 2021;

Drawing Number 19023-P222 Revision C 'Bike Store Proposed' received 09 September 2021;

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

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development. The development shall be carried out using the approved materials.

A 1 metre by 1 metre sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, coursing, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

4 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- Constructional drawings for all external joinery including any alterations required to the retained historic sash window to ground floor west elevation (preferably to be retained as is with secondary glazing installed for acoustic and thermal enhancement)

Reason: So that the Local Planning Authority may be satisfied with these details.

5 Notwithstanding the approved plans, product details of the roof lights to be installed on the front roof plane of the building shall be submitted to and approved in writing by the local planning authority prior to their installation. The works shall be in accordance with the approved details.

Reason: To preserve the special architectural or historic interest of the building and its setting.

6 The development hereby approved shall be used only as student housing accommodation. No person other than a student registered with, and engaged in, a course of full time further or higher education or a delegate registered with and attending a part time educational course within the City of York administrative boundary shall occupy any part of the development at any time.

The owner, or site operator shall keep an up to date register of the name of each person in occupation of the development together with course(s) attended. The register shall be available for inspection by the local planning authority on demand at all reasonable times.

Reason: For the avoidance of doubt and in order to control the future occupancy of the development, as otherwise the development would involve other requirements in order to be NPPF compliant, such as the inclusion of affordable housing.

7 A programme of post-determination archaeological mitigation, specifically an archaeological watching brief and photographic record is required on this site.

The archaeological scheme comprises 3 stages of work. Each stage shall be

completed and agreed by the Local Planning Authority before it can be approved.

A) No development shall take place until a written scheme of investigation (WSI) for a watching brief and limited photographic record has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report and images shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 2 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site lies within an Area of Archaeological Importance and the development may affect important archaeological deposits which must be recorded prior to destruction. This condition is imposed in accordance with Section 16 of NPPF.

8 No development shall take place until details of the proposed means of surface water drainage, have been submitted to and approved by the Local Planning Authority. The development shall be constructed in accordance with these approved details.

Reason: In the interest of satisfactory and sustainable drainage

9 A biodiversity enhancement plan/drawing shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of works. The content of the plan shall include the recommendations set-out in Chapter 10 (Recommended Ecological Enhancement) of the Bat, Breeding Bird and Barn Owl Survey Report, MAB Environmental & Ecology Ltd. (May 2021), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. The development shall be constructed in accordance with these approved details.

INFORMATIVE: To discharge this condition the applicant will need to provide a

detailed drawing showing the proposed locations and product specifications of the proposed features/boxes.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 180 of the NPPF to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

10 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and agreed in writing by the Local Planning Authority. The report of the findings must include:

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

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

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

11 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives

and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

12 Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

13 In the event that unexpected contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be submitted to and agreed in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be shall be submitted to and agreed in writing by the Local Planning Authority.

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

14 The hours of demolition, construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

15 No development shall take place 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 LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (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.

16 The amenities for the occupants of the development (communal living areas, laundry) shall be provided in accordance with the approved floor plans prior to first occupation of the development and shall be retained for the lifetime of the development.

Reason: In the interests of good design and the living conditions of the occupants of the development.

17 The cycle parking storage and refuse bin storage shall be provided in accordance with the approved plans (drawing numbers 19023-P200 Revision F and 19023-P222 Revision C, both received 09 September 2021) prior to first occupation. The facilities shall be retained for such use at all times.

Reason: To promote sustainable transport and in the interests of good design in accordance with sections 9 and 12 of the NPPF. To ensure there is suitable cycle storage and refuse storage areas of the life of the development. So as to achieve a visually cohesive appearance.

18 Prior to first occupation of the development hereby permitted a management and occupation plan for the site shall be submitted to the Local Planning Authority for approval. The development shall operate in accordance with the approved management and occupation plan at all times. The plan shall detail the following -

- Single occupancy only for the studio rooms as shown in the approved scheme.
- Management of the outside amenity space in the interests of avoiding noise

- disturbance.
- Waste management including arrangements for placing bins for collection.
- Arrangements for management of student arrivals and departures at the beginning and end of term. To ensure that private car travel does not have an adverse effect on the highway network.
- Information and advice to occupants about noise and consideration to neighbours. student liaison and community involvement.
- Property maintenance
- security measures,
- Dealing with anti-social behaviour,

Reason: In the interests of amenity and highway safety.

19 Waste and recycling bins shall be stored in the refuse store at all times except for collection days.

Reason: In the interests of good design and visual amenity, in accordance with section 12 of the NPPF.

20 The development hereby approved shall not be occupied until a travel plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan should be developed and implemented in line with local and national guidelines. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of approved Travel Plan.

Within 12 months of occupation of the extension building a first year travel survey shall have been submitted and approved in writing by the Local Planning Authority.

Results of yearly annual travel surveys carried out over period of 4 years from the first survey shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with advice contained in local and national transportation and planning policy, and to ensure adequate provision is made for pedestrians, cycles and other modes of transport to and from the site, together with provision of cycle parking on site for these users. To promote the usage of sustainable means of transport.

21 Prior to occupation the following security measures shall be employed at the site:

- fitting the communal entrance door with an electronic door release mechanism connected to a videophone in each apartment. The door should also have a self-

closing mechanism with a lock which engages automatically.

- External windows on the ground floor should be fitted with opening restrictors

Reason: In accordance with sections 8, 9 and 12 of the NPPF; to promote sustainable travel and to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

22 The development hereby permitted shall achieve a reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations 2013. Prior to commencement of construction, details of the measures undertaken to secure compliance with this condition shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018

23 The building shall be constructed to a BREEAM standard of 'Excellent'. A formal Post Construction assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate shall be submitted to the Local Planning Authority within 12 months of first use (unless otherwise agreed). Should the development fail to achieve an 'Excellent' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'Excellent' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.'

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018

24 VISQ4 Boundary details to be supplied

25 No gate shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

8.0 INFORMATIVES:

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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 (paragraph 38) 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:

- Request additional information
- Request revised plans
- Use of conditions

2. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

3. The applicant is asked to note that the development/property (as proposed), is not considered eligible for inclusion within the Residents Parking Zone, and it will be removed from such under the Traffic Regulations 1984. Upon commencement of development on the site the applicant is requested to contact the Council's Network Management Section (tel 01904 551450), in order that the amendments to the Residents Parking Scheme can be implemented prior to the occupation of the development.

Contact details:

Case Officer: Victoria Bell
Tel No: 01904 551347