

## COMMITTEE REPORT

**Date:** 16 August 2023      **Ward:** Heworth  
**Team:** East Area      **Parish:** Heworth Planning Panel  
**Reference:** 22/02349/FULM  
**Application at:** 12 Sturdee Grove York YO31 8FD  
**For:** Erection of two storey apartment building containing 10no. units, including associated landscaping, vehicle access with parking, following demolition of existing bungalow  
**By:** Joseph Rowntree Housing Trust  
**Application Type:** Major Full Application  
**Target Date:** 31 July 2023  
**Recommendation:** Approve

### 1.0 PROPOSAL

#### The Site

1.1. The application site is located off Sturdee Grove, a residential area located east of Huntington Road, approximately 1 mile north of the city walls.

1.2. The application site comprises a warden's bungalow and its parking area and curtilage, a communal car parking area for up to 6 cars, a communal car parking area for 2 cars, an area of landscaping around the car parking and a large part of a communal garden area associated with the flats in the two-storey building at 21-51 Fossway.

1.3. The site is within Flood Zone 1 (low risk). It is not within a Conservation Area

#### The Proposed Scheme

1.4. It is proposed to demolish the existing warden's bungalow and erect a two storey pitched roof building containing 10 one bedroom flats. 5 flats would be on the first floor and 5 on the ground floor. The drawings for consideration at Committee indicate that there would be a communal garden at the rear of the proposed flats for the use of the occupiers of the

development (this would also contain a building for cycle/mobility scooter parking). A car park for 10 cars is proposed to the side of the proposed building. The proposed building is set back from the pavement edge by around 5 metres with a proposed area of landscaping to the front.

1.5. The applicant (Joseph Rowntree Housing Trust (JRHT)) had stated in their application that the property would be occupied by the elderly and people with disabilities. However, in later discussions with the Local Planning Authority the applicant stated that they were unable to accept a condition restricting occupancy of the proposed flats to a certain age group or people with disabilities. This was stated as being related to the funding conditions of their lender. Although the applicant has confirmed that they intend to manage the occupation of the property so it would house the elderly or people with disabilities and one warden, because they cannot agree to a planning condition restricting occupancy the application must be dealt with on the basis that there are no restrictions in who could occupy the flats. As such the proposed development must be considered on the basis that it could be open market housing.

#### Planning history

1.6. There is no recent planning history on the application site. The bungalow that has served as warden accommodation, and is proposed for demolition, was part of a larger Joseph Rowntree approved scheme from 1985 for 28 flats (Planning Application Reference Number: 7/03/2762C/PA). This contains a planning condition (Number 5) that the flats shall be occupied by elderly people.

1.7. In the course of the application being considered there have been several revisions to the scheme. These include:

- A reduction in the number of proposed off-street car parking spaces from 15 to 10.
- Improved parking provision for cycles/mobility scooters.
- Enhanced landscaping to the front of the property.
- The building shifted approximately 2 metres forward towards Sturdee Grove.

- Revisions in the fenestration, cycle parking and porch details.
- Change in description to remove reference to occupation by the elderly or people with disabilities.

## **2.0 POLICY CONTEXT**

### National Planning Policy Framework

2.1. The National Planning Policy Framework (NPPF) sets out the government's planning policies for England and how these are expected to be applied. The NPPF is a material consideration in the determination of planning applications. Key chapters and sections of the NPPF relevant to this application are as following:

Chapter 2 – Achieving sustainable development

Chapter 5 - Delivering a sufficient supply of homes.

Chapter 4 – Decision making

Chapter 9 – Promoting healthy and safe communities

Chapter 12 – Achieving well designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change.

Chapter 15 – Conserving and enhancing the natural environment

### Draft Local Plan (2018)

2.2. The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in late 2023. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF.

D1 – Placemaking

D2 – Landscape and Setting

H2 - Density of Residential Development

H3 - Balancing the Housing Market

H9 – Older Persons Specialist Housing

H10 – Affordable Housing  
GI2 – Biodiversity and Access to Nature  
GI4 – Trees and Hedgerows  
GI5 – Protection of Open Space and Playing Fields.  
G6 – New Open Space Provision  
ENV2 – Managing Environmental Quality  
ENV3 – Land Contamination  
ENV5 – Sustainable Drainage  
CC2 Sustainable Design and Construction of New Development  
WM1 – Sustainable Waste Management  
T1 – Sustainable Access

### **3.0 CONSULTATIONS**

3.1. The application has been advertised via Site Notice, local press notice and neighbour notification letter.

#### **3.2. INTERNAL CONSULTEES**

#### **ECOLOGY**

3.3. No objections subject to conditions, requiring the provision of the proposed biodiversity enhancement features.

#### **PUBLIC PROTECTION TEAM**

3.4. No objections subject to conditions regarding the provision of vehicle recharging, submission of a Construction Environmental Management Plan (CEMP), assessment of ground contamination and dealt with if found, details regarding noise levels and sound proofing required for the ground source heat pumps.

#### **FLOOD RISK MANAGEMENT TEAM**

3.5. The proposed revised drainage scheme complies with the Council's guidance in regard to managing surface run-off from development sites in a sustainable manner.

#### **HIGHWAY DEVELOPMENT CONTROL**

3.6. No objection subject to conditions. The scheme is acceptable in regard to the cycle and mobility scooter store, access to the store, space to provide visitor cycle parking, vehicle access and resident and visitor car parking.

3.7. A dropped crossing at the eastern end of the road would prevent cars from parking and in the context a turning head is not required to stop unduly long reversing from the end of the cul-de-sac. Additional pedestrian dropped kerbs should be provided between the site and the JRHT community building on Mistral Court.

3.8. Request funding for parking measures required to protect the junctions/ crossings and alleviate indiscriminatory parking (over footways). This contribution may be returned, dependant on the agreement, should the street not require these measures once the building has been occupied for a number of years. The contribution would be £6,000 and covers, consultation and implementation of the measures (may include traffic regulation parking restrictions or physical measures such as bollards).

### 3.9. HOUSING POLICY OFFICER

3.10. Supports the proposal as they consider it will provide a contribution to the local need for affordable housing and older persons specialist housing. However, the Housing Policy Officer acknowledges that the scale of the development (below 1000square metre floor area) is such that there is no Draft Local Plan Policy requirement, for a grant of planning permission for the flats to include a legal agreement requiring them to be affordable housing.

### LIFELONG LEARNING AND LEISURE

3.11. Because the homes have one bedroom no children's play space contribution will be required. A contribution to amenity open space and sports provision should be provided. This would amount to a contribution of £2,130 towards the improvement of sports and leisure provision within 2 kilometres of the development and a contribution of £1,510 towards improved seating provision at King George's Field.

### EXTERNAL CONSULTEES

#### YORKSHIRE WATER

Application Reference Number: 22/02349/FULM

Item No: 4a

3.12. No objection subject to drainage details being controlled by condition.

#### **4.0 REPRESENTATIONS**

4.1. Neighbours have been consulted on three occasions. This was in respect to the original submission (consulted on 22 November 2022), the revised layout (consulted on 4 July 2023) and the change in description (consulted on 17 July 2023). The latest consultation expires on 7 August 2023 and any additional responses received will be reported to Committee.

4.2. 14 residents objected to the original scheme consulted on 22 November 2022. The comments received are summarised below:

- The proposal will increase parking pressures. Parking on footpaths impacts particularly on people with limited mobility. Additional parking will impact on access by emergency vehicles. Parking is needed for residents as well as visitors including health workers and deliver drivers. Development of the car parks will mean residents will lose their designated car parking space. Photographs have been submitted indicating times when the area has been heavily parked including pavement parking and work persons' vans. A space on the site should be safeguarded for ambulances. A mobile library comes once a month.
- Use of the roads and paths will be hazardous during construction. There should be a construction management plan agreed.
- The proposal will lead to the loss of 14 trees and also hedges. It will decimate wildlife. The scheme is bad for wildlife, biodiversity and the environment generally. Occupiers of homes in the JRHT site have little access to green space.
- The scheme includes land to be sold to the developer by the Council – the Council have a vested interest in approving the scheme.
- There should be a gateway feature to demark the entrance to the area of Sturdee Grove that is sheltered housing.

- The communal facilities and laundry on site are too small to serve the additional flats. This facility needs to be expanded and this should take place before the new flats are occupied.
- The land to the rear that will be lost is used by the occupants of the Fossway flats as an amenity space.
- The scheme is trying to squeeze in as many flats as possible. It is over-development.
- No provision for scooter parking and paths are uneven in the area.
- The development will harm the privacy, light and views for existing residents to the front and rear. Residents will look out on to a large building rather than trees and shrubs at present.
- Will be very close to the flats on Fossway. The communal garden was gardens for the first floor flats. Although the ground floor flats have small attached rear gardens, the first floor flats only have access to the small front gardens. The property will devalue the first floor flats and will be seeking compensation.
- The site should only be used for a replacement warden dwelling and perhaps an additional dwelling.
- The flats are too small for two people. They are poorly laid out, particularly for people with limited mobility in respect to access, circulation space, outlook and room and corridor sizes. The top floor flats have a tortuous route to the rear communal space.
- In respect to the design, the proposed building is unattractive. It should have a stepped house layout to reflect the local character. It should not have a hipped roof. It should also not read as a single block but a row of different terraced houses. This could be achieved by stepping the homes, using different materials within it and varying window positions//styles.

Comments received following re-consultation on 4 July 2023

- Consider there is inadequate car parking and losing access to existing designated parking spaces.
- Consider the loss of the trees and vegetation will detract from residents enjoyment of the area.

### Councillor Warters

4.3. JRHT's development of Dewenthorpe indicates poor standards and they should focus on finishing that. The proposal removes car parking and green space that should remain available to residents. There has been a failure to re-assure existing residents that new residents will be aged over 55.

## **5.0 APPRAISAL**

### Key Issues

5.1. The key issues are as follows:

- Principle of the proposed development.
- Affordable Housing Provision
- Impact of the loss of green space on the living conditions of the flats fronting Fossway.
- Impact on car parking and highway safety.
- Impact on neighbours living conditions.
- Impact on the streetscene.
- Quality of accommodation provided.
- Habitat and ecology.
- Sustainable Design.
- Flood Risk.
- Infrastructure and developer contributions
- Public Sector Equality Duty

## **PRINCIPLE OF THE PROPOSED DEVELOPMENT**

5.2. 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. Adopted



Neighbourhood Plans form part of the statutory Development Plan for the City of York. The site is not considered to be within the general extent of the greenbelt.

5.3. The NPPF requires local planning authorities to seek the efficient use of land in sustainable locations, focus development toward previously developed land and to deliver a wide choice of high quality homes. Within built up areas, the definition of previously developed land would not include residential gardens.

5.4. There is a strong imperative in favour of housing delivery in the NPPF. It states that a Council must always be able to demonstrate a five-year supply of housing land. It provides that where a five-year housing land supply is absent then relevant policies for the supply of housing should not be considered up-to-date and the determining authority should therefore make decisions in accordance with paragraph 11 of the NPPF. Paragraph 11 requires that authorities should grant permission for development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole, or where specific policies in the Framework indicate development should be restricted.

5.5. The site lies within an established residential area approximately a mile from the edge of the city centre, and as such the principle of the development of the site for 10 flats is considered to be acceptable in this location subject to an assessment of the key issues below.

#### AFFORDABLE HOUSING PROVISION

5.6. The applicant is a registered provider of Social Housing. The applicant states that all of the flats would be affordable housing with a mix of shared ownership and social rent. There is no legal agreement proposed with the application that would ensure that the accommodation would be affordable. In addition, if granted, the permission would not be restricted to the applicant. The floor area of the development is around 700 square metres. As this is less than 1,000 square metres there is not a planning policy requirement to provide affordable housing. This is consistent with advice in the City of York Draft Local Plan Policy H10 (Affordable Housing) and also reflects Central Government Guidance (Paragraph: 023 Reference ID: 23b-023-20190901) on Planning Obligations relating to the thresholds for development where contributions for affordable housing should not be sought.

## IMPACT OF THE LOSS OF GREEN SPACE ON THE LIVING CONDITIONS OF THE FLATS FRONTING FOSSWAY

5.7. The NPPF states that planning decisions should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. This is supported by Draft Local Plan Policies ENV2 and D11.

5.8. Policy GI5 of the Draft Local Plan relates to the protection of Open Space. The Policy is afforded moderate weight because it is subject to modification. It states that the loss of land of recreational importance will not be permitted unless it is replaced. The land is not identified as open space in the Draft Local Plan proposals map, however, Policy GI5 would not just relate to land identified on the proposals map. As the land will not be replaced, when assessing whether its loss would be acceptable it would need to be considered if it is 'recreationally important'. It is noted that around half of the land will remain undeveloped and is intended to be used as communal gardens for the proposed flats. In assessing its loss, the key issue to assess is its importance to the existing occupants and visitors to the 16 flats at Fossway.

5.9. The area of the grass land behind the Fossway flats that is within the application site is approximately 50 metres by 13 metres. It is laid to grass and surrounded on three sides by hedges and small trees. There is one tree on the grass area itself. It reads as a communal garden to serve the flats and contains a number of washing lines within it. A strip of the land approximately 2.3 metres by 50 metres is indicated to remain for use by the occupants of the flats on Fossway. The land is owned by the City Council. On 15 April 2021 it was agreed by the Executive Member for Housing and Safer Neighbourhoods that it be sold to JRHT to enable new affordable housing to be provided subject to planning permission being granted for the development. The report stated that a strip of communal land would remain with the flats which could include raised beds, seating and space for drying clothes.

5.10. It is understood that the land has not functioned as public open space available to the wider community, however, residents have said that on occasions people, from outside the site have entered the site and used it for, for example, play and dog walking.

5.11. The vast majority of objections to the development of the land have been received from the occupants of homes on Sturdee Grove and Mistral Court. However, two objections have been received from residents of the flats at Fossway. These state that the loss of the space would be detrimental to the health and wellbeing of the occupants of the first floor flats and also devalue the flats. It is understood that two of the 16 flats have been sold. The ground floor flats at Fossway have small rear gardens, however, the first floor flats only have access to the small shared front gardens and the communal area of grass to the rear. No details have been submitted indicating how the strip of land to the rear of the site will be laid out. It would only be 2.3 metres wide (3.8 metres when including the adjacent footpath). It could be used for cycle storage and wall fixed clothes dryers could be provided, though clearly its recreational value would be very limited.

5.12. In assessing the acceptability of the loss of the communal land it should be considered whether it is needed for the wellbeing of the occupants of the flats at Fossway to serve their day-to-day requirements. The Council's Housing Department undertook consultation with residents in regard to the sale of the land and concluded that the land is surplus to requirements providing a small strip were retained for occupants' needs.

5.13. The 8 ground floor flats at Fossway have small enclosed rear gardens capable of meeting their needs. If the communal space were lost it is considered that the occupants of the ground floor flats could continue utilising the small front gardens for storing waste. Provision could also be made for clothes drying within the narrow remaining communal strip that would be retained to the rear. The key consideration in assessing the acceptability of the loss of the open space is whether it would unacceptably harm the living conditions of the occupants of the flats through loss of access to open space – particularly the 8 first floor flats at Fossway which do not have a rear garden.

5.14. All of the 16 flats at Fossway that currently have private access to the land contain one bedroom. It would not be expected as such that the land is regularly needed for children's play. In respect to play, for visiting children, the site is located close to the equipped play area at King George's Field. There is an adjacent zebra crossing that can be used to cross to the field.

5.15. In respect of adult recreation, it would be expected that the occupiers of the ground floor flats at Fossway would use their rear gardens for recreation and have minimal need for the additional land to the rear. The individual rear gardens of the ground floor flats can be accessed directly from the properties. To access the part of the area of communal private space that is proposed to be lost, the occupiers of the first floor flats at Fossway would have to exit from the front of the properties, and travel along the path between the two blocks of flats, or the path around the side to reach the open space. Measured from the ground floor front doors this would entail a walk of around 30 metres. The walk to the entrance to King George's Field is around 70 metres to 115 metres depending on the location of the particular flat.

5.16. Because of the proximity of the park to the flats at Fossway it would be difficult to conclude that the loss of access to the open space would significantly impact on the ability of the occupants' of the first floor flats to access green space. In respect to a qualitative consideration, although King George's Field covers a large area it does not have the intimate quality of the communal gardens and would not be expected to be as popular for sitting out, although it is noted that the communal gardens contain no fixed seating. The flats at Fossway do have small front gardens enclosed by a hedge around 1.3 metres high. One contains a bench and there is scope for the occupiers of the first floor flats to sit within them, though they would only be suitable for small scale quiet recreation given the proximity of the space to the living room window of the ground floor flats.

5.17. On balance, taking account of the position of the communal gardens detached from the first floor flats at Fossway, the existence of small front gardens by the main entrance door and the very close proximity of the flats to King George's Field it is considered that even if the communal garden space were no longer available the occupiers of the flats at Fossway would retain reasonable access to external open space. Accordingly, its partial loss would not conflict with the guidance in the NPPF or the advice in Draft Local Plan Policy GI5 regarding the protection of recreationally important space.

## IMPACT ON CAR PARKING AND HIGHWAY SAFETY

5.18. 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 Draft 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.

5.19. The proposed scheme for 10 flats indicates 10 off-street car parking spaces and secure covered space for at least 10 cycles or mobility scooters. The internal layout of the ground floor flats also indicates a potential storage space for a small mobility scooter in the hallway. The communal car parking is intended to serve the warden, future residents of the flats and off-set the impacts of the loss of the existing off-street car parking on the site.

5.20. The proposal involves the loss of two existing communal car parking areas allocated for use by the residents of the existing JRHT flats. The larger car park can accommodate 6 cars if users park considerately, and their vehicles are not large. The other car park is effectively a driveway for two cars. The bungalow that will be lost also contains 2 parking spaces (potentially 4 if parked in a tandem fashion).

5.21. It is considered that the proposed cycle and/or mobility scooter parking is acceptable. It is not considered that the loss of the larger communal car parking for turning will be unacceptable taking account of traffic levels and the short distance to the junction with Mistral Court. A number of objections have been received from residents in the existing JRHT flats expressing concerns that the provision of a total of 10 car parking spaces in the new development to meet the needs of existing residents, new residents and the warden is unacceptable given the scheme will in itself be built on land containing 10 existing car parking spaces and these existing spaces will be lost. A number of residents state that the scheme will create unacceptable parking pressures which will inconvenience residents and lead to hazardous parking, including the obstruction of footpaths. This is seen as particularly problematic given residents in the existing development are elderly.

5.22. Highway Development Control are satisfied that the car parking provision is acceptable taking account of the proposed one bedroom nature of the flats and existing local parking levels. This applies whether the flats are occupied by the elderly or no occupancy restrictions are applied. JRHT have stated that the car parking will be managed to enable use by occupiers of the proposed flats as well as to compensate for the loss of the existing car parking areas used by existing residents. They state that generally JRHT sheltered housing schemes have parking provision of one space per 2 dwellings.

5.23. In the light of neighbour objections, Officers have visited the site on a number of occasions during the evenings and noted that generally the area is lightly parked and communal off-street car park spaces not fully utilised. Because of some residents on-going concerns that officers had not fully understood the local parking conditions overnight, the site was visited at 05:20 on Tuesday 25 July 2023. This would be a time when the vast majority of residents would be at home. At this time only 3 of the 8 off-street car parking spaces marked for JRHT residents use were occupied. It is understood the warden's accommodation is vacant and none of the associated car parking spaces were in use. Within the small communal parking areas within the Mistral Court area of the JRHT development there were 4 free spaces. There was also on-street car parking available on Sturdee Grove within the proximity of the proposed development and there were numerous on-street parking spaces available on the adjacent housing development (Montrose Avenue).

5.24. It is accepted there will be times when parking will be heavier than what has been witnessed by officers, including visits by for example, work people or family, however, it is considered the level of parking proposed in the development is acceptable taking account of local parking conditions and expected car ownership levels. Because three separate parking areas will be replaced by one larger car park, the proposal will increase the availability of space for on-street parking on Sturdee Grove near the proposed flats.

Given the development is in part, designed for people with limited mobility, and is in a location with a large number of existing units occupied by the elderly, it is important to ensure that the proposal does not increase pavement parking and impede safe and convenient access to the community building in Mistral Court or residents' movement along Sturdee Grove to local bus stops. A £6,000 contribution towards Traffic

Regulation Order measures has been agreed with the applicant. This funding will be returned, if once the occupation of the building is established, parking conditions are such that restrictive measures to stop pavement parking or other parking that impacts significantly on highway safety are not considered necessary.

5.25. A condition is also included requiring improved dropped kerbs between the new flats and the existing residents' community building on site. A Construction Environmental Management Plan condition is included which will require the developer to address the parking of vehicles related to the site's construction.

## IMPACT ON NEIGHBOURS' LIVING CONDITIONS

5.26. One of the core principles of the NPPF is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. This is supported by Policy ENV2 and Policy D11 of the Draft Local Plan.

5.27. The key considerations are the impact of the development on the light, outlook and privacy of nearby homes. There is adequate separation to the front and rear to avoid unacceptable harm. The distance between the rear of the proposed flats and habitable room windows of properties directly behind on Fossway is around 22 metres and complies with normal minimum back to back distances (21 metres). Separation to rear gardens (around 12 metres) is also acceptable. Distances to habitable rooms on the front of properties on Sturdee Grove are around 18 metres to 19 metres. This is considered acceptable between the fronts of homes and the building line of the proposed flats reflects that of existing properties in the area. The scale of the proposed cycle store in the rear garden is not considered to be such that it would harm amenity. Planting is proposed to both the front and rear boundaries of the development and this will help soften the visual impact of built development. The indicative landscaping scheme suggests that the chosen trees proposed to the front boundary will grow to around 3.5m and those to the rear up to around 6 metres.

5.28. The proposal will increase vehicle movements to the side of 10 Sturdee Grove, however, the level of activity is not considered to be so intensive to cause unacceptable harm. Details of the boundary around the parking area can be controlled by condition.

5.29. In view of the above it is considered that the proposed development would not result in any unacceptable impact on the amenity of neighbouring residents.

## IMPACT ON THE STREETSCENE

5.30. Chapter 12 of the NPPF gives advice on design. Paragraph 130 of the NPPF states that planning decisions should ensure that development, will add to the overall quality of the area, be visually attractive and sympathetic to local character. This advice is reflected in Policy D1 and Policy D2 of the 2018 Draft Local Plan.

5.31. The bungalow and car parking that will be lost does not have a positive impact on the existing streetscene. The proposal will lead to the loss of a number of trees and hedgerows – mostly surrounding garden boundaries. Although the greenery as a whole creates a relatively verdant backdrop to the south side of the street, it is not considered that individually or cumulatively the vegetation is of such visual importance in the locality that it should be protected. The proposed flats will include a belt of planting to the front including small trees – this will run along an area 35 metres by 3.5 metres. Although different in scale and character than the existing planting it will provide a landscaped frontage to the development.

5.32. The proposed flats are of a conventional design and read as a terrace of 5 homes. They are fairly contemporary in respect of the proposed fenestration. The height of the new flats reflects the local character. The proposed building would differ from the nearby 1980's development in that it has a hipped roof form and contains no step within its frontage, however, it is considered that it would sit comfortably within the street. The key attractive visually characteristic of the JRHT development in Mistral Court and the immediate area of Sturdee Grove is the generous and well maintained planting to the front and sides of the properties and largely discrete car parking provision. The proposed development respects this important characteristic of the local area.

5.33. In view of the above it is considered that the proposed development will not have an adverse effect on the streetscene and character of the local area.

## QUALITY OF ACCOMMODATION PROVIDED



5.34. Paragraph 60 of the NPPF states that the needs of groups with specific housing requirements should be addressed. Policy H3 of the Draft Local Plan states that homes should be provided with features attractive to older people.

5.35. The flats have been designed with circulation space and room designs to help support occupation by the elderly and people with disabilities. The ground floor flats have level access and also direct access to the landscaped shared communal garden.

5.36. If the flats were occupied without restrictions and no warden was on site it might be more applicable to divide the communal gardens so that the land to the rear serves as individual gardens for each of the ground floor flats. It is not considered the Local Planning Authority would need to control this matter. Even if the garden were subdivided, all flats in the site would still retain access to the cycle stores, bin stores and parking area. King George's field is around 130 metres away from the development.

5.37. There is a detached laundry and meeting room around 65 metres away in Mistral Court for use by the occupiers of the existing JRHT development. In March of this year planning permission was granted to extend the building (Planning Application Reference: 23/00139/FUL). It is not clear if occupiers of the proposed flats will be allowed washing and drying facilities to be housed in the building. This is considered to be a matter best dealt with by JRHT. Improved access between the proposed flats and community building will be provided by inserting additional dropped kerbs.

## HABITAT AND ECOLOGY

5.38. 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, minimising impacts on and providing net gains for biodiversity. Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats.

5.39. The proposed development will see the loss of hedgerow and a number of trees. Although the trees individually or as a group are not

considered to be of such value to be protected using a Tree Preservation Order, regard should be given to the impact of the proposed application on matters of habitat and biodiversity. The applicant has submitted studies looking at the existing ecological value of the site and that of the proposed scheme following the provision of new landscaping. A bat survey has also been undertaken. It is considered that subject to new landscaping being provided and retained along with the ecological enhancements, such as the provision of bat boxes, the proposed development will provide an overall gain in the ecological value of the site.

## SUSTAINABLE DESIGN

The proposal makes effective use of land whilst providing appropriate areas of soft landscaping. It is located within an established residential area. The submitted drawings indicate the provision of solar panels on the southern roof slope and the use of ground source heat pumps. The building has good provision for cycle parking and/or the parking of mobility scooters. Suitable provision is also made for the recycling and collection of waste materials. It is considered that the proposal suitable addresses matters relating to sustainable development.

## FLOOD RISK

5.40. 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.

5.41. All of the site is within Flood Zone 1 (low risk) and as such the development should not be at risk from flooding from watercourses.

5.42. The applicant has submitted information to indicate that surface water and foul water can be discharged from the site in an acceptable manner, and this will be the subject of a condition.

## INFRASTRUCTURE AND OTHER DEVELOPER CONTRIBUTIONS

5.43. To seek to ensure that any potential costs in the near future required for traffic regulation order measures required to stop parking on pavements or across dropped kerbs are not borne by the City Council, a contribution of £6,000 is required for this should it be considered necessary following occupation. Unspent funds would be re-funded.

5.44. A contribution of £2,130 is required towards the improvement of sports and leisure provision within 2km of the development. A contribution of £1,510 is required towards improved seating provision at King George's Field.

5.45. These proposed planning obligations to be secured by means of a Section 106 Agreement would meet the statutory tests set out in Regulation 122(2) of The Community Infrastructure Levy Regulations 2010 (as amended).

## PUBLIC SECTOT EQUALITY DUTY

5.46. Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.47. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.48. The PSED does not specify a particular substantive outcome, but ensures that the decision made has been taken with “due regard” to its equality implications. Officers have given due regard to the equality implications of the proposals in making its recommendation. The issues with regard thereto are noted above in relation to this application but do not raise any matters that would outweigh the material planning considerations.

## **6.0 CONCLUSION**

6.1. The proposal is to construct a two storey pitched roof building containing 10 one bedroom flats. It would be located on a mix of land uses including a communal garden serving two blocks of flats on Fossway, a warden’s bungalow and communal off-street car parking serving JRHT homes on Sturdee Grove. The accommodation would be built to enhanced access standards to support use by the elderly and disabled people.

6.2. The applicant has indicated that the homes will be affordable and occupied by the elderly or people with disabilities, however, there is no policy requirement to provide affordable housing for a development of the size proposed. The applicant is unwilling to accept a condition restricting the ‘groups’ who can occupy the flats - they state that this would undermine their ability to gain a loan to develop the scheme. Although it might be likely that the property is occupied as affordable accommodation by older people and is suited for occupation by people who are elderly or disabled, it must be assessed on the basis that it is open market accommodation with no occupancy restrictions.

6.3. If approved the scheme will see the loss of most of the communal garden space associated with 16 flats on Fossway. The communal land is owned by the Council’s Housing Department and they do not object to the proposals given they consider it will enable sites in different ownerships to be combined to bring forward new affordable housing. It is

considered that the communal land that will be lost serves a relatively modest role in terms of meeting the day to day needs of the occupants. In terms of access to open space, King George's Field is within close proximity.

6.4. It is considered that the proposed development would sit comfortably in its surroundings and would not have an unacceptable impact on neighbours living conditions. Subject to the proposed new landscaping being conditioned it is not considered that the loss of existing trees and vegetation on the site would detract from the streetscene, or the ecological value of the site. Taking account of existing parking conditions in the vicinity and the fact that the proposed flats would contain 1 bedroom, it is considered that ten off-street parking spaces when coupled with available on-street parking provision will allow the development to be constructed without having an unacceptable impact on highway safety or local parking needs.

6.5. On balance the proposal is considered acceptable and approval is recommended subject to conclusion of a Section 106 Agreement securing commuted payments towards off site open space and leisure improvements in the locality and funding towards a Traffic Regulation Order should it be required following occupation.

## **7.0 RECOMMENDATION:**

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

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

Traffic Regulation Order

£6,000 should it be considered necessary following occupation to stop parking on pavements or across dropped kerbs. Unspent funds would be re-funded.

## Sport & Leisure

Improvement of sports and leisure provision within 2 kilometres of the development

£2,130

## Open Space

Improved seating provision at King George's Field

£1,510

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

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

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:-

Proposed site plan - STURD-WBA-SI-XX-DR-AL-PL\_004 Rev. P10

Proposed floor plans - STURD-WBA-NB-XX-DR-AL-PL\_100 Rev. P7

Proposed elevations - STURD-WBA-NB-XX-DR-AL-PL\_101 Rev. P7

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, with the exception of the demolition of the bungalow. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices sample materials should be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

4 Notwithstanding the details shown on the approved drawings details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the installation of such means of enclosure to the site boundaries and shall be provided in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties.

5 Notwithstanding the details shown on the approved drawings the development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of nine months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of the area.

6 The development shall be carried out in accordance with the details shown on the approved Proposed Drainage Layout - Re: P20-00516-MET-M2-C-003 Revision 04 dated 27th July 2023, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of satisfactory and sustainable drainage

7 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

8 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

9 The flats shall not be occupied until the cycle parking and mobility scooter enclosure and waste and recycling enclosures have been provided within the site in accordance with such approved details, and these areas and enclosures shall be retained and used only for their prescribed purpose.

Reason: To promote use of cycles and mobility scooters and for the effective storage of waste and recycling and in the interests of the amenity of neighbours.

10 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 plan shall include a minimum of two bat boxes/features and two boxes for nesting birds. The plan/drawing shall also include details of where native planting is to be incorporated into landscape design, and provide planting schedules. The approved works shall be carried out in accordance with details shown on the approved enhancement plan/drawing.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 d) of the NPPF (2021) to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

11 Details of the proposed heat pump equipment to be installed on the site, which is audible outside of its boundaries, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15



minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014+ A1 2019, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

12 Prior to the occupation of the flats details of recharging provision for cars, cycles and mobility scooters shall be submitted to and approved in writing by the Local Planning Authority and shall be installed as agreed.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy and the National Planning Policy Framework.

13 The development shall not be occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating them to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

14 The development hereby permitted shall not come into use until the following highway works have been carried out in accordance with the approved plans, or arrangements entered into which ensure the same.

The Provision of 3 pairs of Tactile pedestrian crossings as indicated on the proposed site plan.

Reason: In the interests of the safe and free passage of highway users.

15 The development (excluding demolition) shall not commence until a detailed remediation strategy relating to land contamination has been submitted to and approved by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works.

Reason: To ensure that the proposed remediation works are appropriate and will remove unacceptable risks to identified receptors.

16 Prior to occupation of any of the flats contamination remediation works shall be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which

demonstrates the effectiveness of the remediation carried out) must be submitted to and approved by the Local Planning Authority.

Reason: To ensure that the agreed remediation works are fully implemented and to demonstrate that the site is suitable for its proposed use with respect to land contamination. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990.

17 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

18 A detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The development shall be undertaken in accordance with the approved details. The statement shall include at least the following information:

- measures to prevent the egress of mud and other detritus onto the adjacent public highway;
- a dilapidation survey jointly undertaken with the local highway authority;
- the routing for construction traffic that will be promoted;
- a scheme for signing the promoted construction traffic routing;
- where contractors will park; and
- where materials will be stored within the site.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

19 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of

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

NOTE: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise

impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) and [planning.enforcement@york.gov.uk](mailto:planning.enforcement@york.gov.uk)

Reason: To protect the amenity of the locality

20 All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday	0800 to 1800 hours
Saturday	0900 to 1300 hours

Not at all on Sundays and Bank Holidays

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (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:

Sought re-location of building, improved landscaping and improved storage for cycles and mobility scooters.

#### **2. Informative - nesting birds**

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or

destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Buildings, trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Suitable habitat is present on the application site and is to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess nesting bird activity.

### 3. Informative - wildlife and lighting

When designing external lighting its potential impacts on light sensitive species should be considered. Direct lighting and light spill should be avoided where new bat roosting and bird nesting features are installed, on trees, soft landscaping and 'green' linear features, such as hedges. Advice on lighting design for light sensitive species is available from the Bat Conservation Trust (2018) Bats and artificial lighting in the UK guidance

### 4. INF1 Consent for highway works

You are advised that prior to starting on site, consent will be required from the Highways Authority for the works being proposed under the Highways Act 1980 (or legislation/ regulations listed below). For further information, please contact the section(s) named

Works in the highway (Section 171) - [streetworks@york.gov.uk](mailto:streetworks@york.gov.uk)

Vehicle crossing (Section 184) - [streetworks@york.gov.uk](mailto:streetworks@york.gov.uk)

### 5. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development.

### 6. For Information - Drainage

The applicant should be advised that the Yorkshire Waters prior consent is required (as well as planning permission) to make a connection of foul and surface water to the public sewer network.

### Contact details:

**Case Officer:** Neil Massey

**Tel No:** 01904 551352