



## Notice of a public meeting of

### Area Planning Sub-Committee

- To:** Councillors McIlveen (Chair), Gillies (Vice-Chair), Douglas, Watson, Semlyen, Looker, Fitzpatrick, Galvin, Cuthbertson, Hyman and Warters
- Date:** Thursday, 6 June 2013
- Time:** 2.00 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices

### AGENDA

Members are advised to note that if they are planning to make their own way to the Site Visits please could they let Democratic Services know by **5 pm** on **Tuesday 4 June 2013** on **(01904) 551078**.

#### **1. Declarations of Interest**

At this point in the meeting, Members are asked to declare:

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

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

- 2. Minutes** (Pages 5 - 20)  
To approve and sign the minutes of the East Area Planning Sub Committee held on 2 May 2013 and West and City Centre Planning Sub Committee held on 9 May 2013.

- 3. Public Participation**  
At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Planning Sub-Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is **Wednesday 5 June 2013 at 5.00 pm.**

- 4. Plans List**  
To determine the following planning applications:

- a) **Country Park, Pottery Lane, Strensall,** (Pages 21 - 28)  
**York. YO32 5TJ (13/00760/FUL)**  
Use of land for winter storage of up to 30 touring caravans.  
[Strensall] **[Site Visit]**
- b) **Country Park, Pottery Lane, Strensall,** (Pages 29 - 36)  
**York. YO32 5TJ (13/00761/FUL)**  
Siting of mobile home for use as wardens lodge. [Strensall] **[Site Visit]**
- c) **The Villa, Main Street, Elvington, York.** (Pages 37 - 50)  
**YO41 4AG (13/00769/FUL)**  
Removal of conditions 7 (Code for Sustainable Homes) and 8 (renewable heat and electricity) of planning permission 10/01265/FUL for the erection of a dormer bungalow.  
[Wheldrake]

- d) **Fellini's 11-12 Fossgate, York.YO1 9TA** (Pages 51 - 60)  
**(13/00742/FUL)**  
Change of use from restaurant (use Class A3) to public house (use Class A4) and replacement shop front. [Guildhall] **[Site Visit]**
- e) **Fellini's 11-12 Fossgate, York.YO1 9TA** (Pages 61 - 66)  
**(13/00743/LBC)**  
Replacement shop front and internal alterations. [Guildhall] **[Site Visit]**
- f) **St Trinity House, 3-4 Kings Square, York.** (Pages 67 - 76)  
**YO1 8BH (13/00626/FUL)**  
Change of use of estate agents (use class A2) to public house (use class A4) with manager's accommodation. New shop-front. [Guildhall] **[Site Visit]**
- g) **St Trinity House, 3-4 Kings Square, York.** (Pages 77 - 84)  
**YO1 8BH (13/00627/LBC)**  
Internal and external alterations in relation with conversion to a public house. [Guildhall] **[Site Visit]**
- h) **The Palace, Bishopthorpe Road, York.** (Pages 85 - 92)  
**YO32 2QE (13/00629/LBC)**  
Installation of 2no. chandeliers in Great Hall following removal of 2no. plaster rose details on ceiling. [Bishopthorpe] **[Site Visit]**
- i) **15 Moor Lane, Haxby, York. YO32 2PQ** (Pages 93 - 106)  
**(13/00455/FUL)**  
Erection of bungalow to side. [Haxby and Wigginton] **[Site Visit]**
- j) **Former Car Repair Garage, 70-72** (Pages 107 - 128)  
**Huntington Road, York. (13/00349/FUL)**  
Erection of 4no. dwellings (resubmission).[Guildhall]

- k) **64 Old Orchard, Haxby, York. YO32 3DT** (Pages 129 - 136)  
**(12/03602/FUL)**  
Two storey side and single storey rear extension. [Haxby and Wigginton]
- l) **The Co-operative Group, 1 Ryedale Court, The Village, Haxby, York.** (Pages 137 - 146)  
**(13/00802/FUL)**  
Change of use from shop (use class A1) to coffee shop (mixed use class A1/A3) and external air conditioning units to the rear. [Haxby and Wigginton] **[Site Visit]**
- m) **Royal Dragon, 16 Barbican Road, York.** (Pages 147 - 160)  
**YO10 5AA (13/00379/FUL)**  
Change of use of Upper Floors from Bed & Breakfast Accommodation (Class C1) to form Additional Dining Areas and Karaoke Rooms (Sui Generis) in association with Ground Floor Restaurant (resubmission). [Fishergate] **[Site Visit]**
- n) **36 Church Lane, Nether Poppleton, York.** (Pages 161 - 168)  
**YO26 6LB (13/01040/FUL)**  
Renovation and refurbishment of existing dwelling and associated barn. [Rural West York] **[Site Visit]**
- o) **36 Church Lane, Nether Poppleton, York.** (Pages 169 - 176)  
**YO26 6LB (13/01042/LBC)**  
Renovation and refurbishment of existing dwelling and associated barn. [Rural West York] **[Site Visit]**
- p) **Westholme, 200 York Road, Haxby,** (Pages 177 - 190)  
**York.YO32 3EX (13/00660/FUL)**  
Erection of 5no. detached two storey dwellings with associated garages, access and landscaping. [Haxby and Wigginton] **[Site Visit]**

- q) **Nicholas Associates Architects, 42** (Pages 191 - 198)  
**Oxford Street, York.YO24 4AW**  
**(13/00577/FUL)**

Change of use to B1 (offices) and D1 (therapeutic massage) on upper floors. [Micklegate] **[Site Visit]**

- r) **6 Tamworth Road, York. YO30 5GJ** (Pages 199 - 206)  
**(13/00972/FUL)**

Two storey side extension, single storey rear extension and porch to front. [Skelton, Rawcliffe, Clifton Without] **[Site Visit]**

- s) **3 Fourth Avenue, York. YO31 0UY** (Pages 207 - 216)  
**(13/00892/FUL)**

Change of use from residential (use class C3) to house in multiple occupation (use class C4). [Heworth] **[Site Visit]**

## 5. **Urgent Business**

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

### Democracy Officer:

Name: Judith Betts

Contact Details:

- Telephone – (01904) 551078
- E-mail – [judith.betts@york.gov.uk](mailto:judith.betts@york.gov.uk)

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

- Registering to speak
- Written Representations
- Business of the meeting
- Any special arrangements
- Copies of reports

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### Would you like to speak at this meeting?

If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

**A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088**

### Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

### Access Arrangements

We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an

interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

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### **Holding the Cabinet to Account**

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business following a Cabinet meeting or publication of a Cabinet Member decision. A specially convened Corporate and Scrutiny Management Committee (CSMC) will then make its recommendations to the next scheduled Cabinet meeting, where a final decision on the 'called-in' business will be made.

### **Scrutiny Committees**

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

### **Who Gets Agenda and Reports for our Meetings?**

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to;
- York Explore Library and the Press receive copies of **all** public agenda/reports;
- All public agenda/reports can also be accessed online at other public libraries using this link

<http://democracy.york.gov.uk/ieDocHome.aspx?bcr=1>



**AREA PLANNING SUB COMMITTEE****SITE VISITS****Wednesday 5 June 2013****Members using the mini-bus meet at Memorial gardens at 9.30 am**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
9:45	Royal Dragon, 16 Barbican Road	4m)
10:15	3 Fourth Avenue	4s)
10:45	Former Car Repair Garage Rear of 70-72 Huntington Road	4j)
11:15	Country Park, Pottery Lane, Strensall	4a) & 4b)
11:45	15 Moor Lane Haxby	4i)
12:15	1 Ryedale Court, The Village, Haxby	4l)
<b>BREAK FOR LUNCH</b>		
13:15	64 Old Orchard Haxby	4k)
13:45	Westholme, 200 York Road, Haxby	4p)
14:15	6 Tamworth Road	4r)
14:45	36 Church Lane, Nether Poppleton	4n) & 4o)
15:15	42 Oxford Street	4q)
15:45	The Palace Bishopthorpe Road	4h)
16:15	11-12 Fossgate	4d) & 4e)
16:45	3-4 Kings Square	4f) & 4g)

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City of York Council

Committee Minutes

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MEETING	EAST AREA PLANNING SUB-COMMITTEE
DATE	2 MAY 2013
PRESENT	COUNCILLORS GALVIN (CHAIR), DOUGLAS (VICE-CHAIR), FITZPATRICK, KING, MCILVEEN, CUTHBERTSON, WATSON, FIRTH, WARTERS AND BOYCE (SUBSTITUTE FOR COUNCILLOR FUNNELL)
APOLOGIES	COUNCILLOR FUNNELL

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Site Visited	Attended by	Reason for Visit
Harlestone, 14 York Road, Strensall	Councillors Cuthbertson, Douglas, Fitzpatrick, Galvin, McIlveen, Watson and Warters	To inspect the site given that it had been called in by the Ward Members on the grounds of overdevelopment in the Conservation Area.
Archbishop Holgate's School, Hull Road	Councillors Cuthbertson, Douglas, Fitzpatrick, Galvin, McIlveen, Watson and Warters	To inspect the site.
Biology Department, Wentworth Way, University of York	Councillors Cuthbertson, Douglas, Fitzpatrick, Galvin, McIlveen, Watson and Warters	To inspect the site.

## 65. DECLARATIONS OF INTEREST

At this point in the meeting, Members were asked to declare any personal, prejudicial or pecuniary interests not included on the Register of Interests that they might have had in business on the agenda.

Councillor Cuthbertson declared a personal interest in Agenda Item 4d (Biology Department, Wentworth Way, Heslington, York. YO10 5DD) as a current student at the University of York. He clarified that he did not study Biology.

No other interests were declared.

**66. MINUTES**

RESOLVED: That the minutes of the East Area Planning Sub-Committee held on 11 April 2013 be approved and signed by the Chair as a correct record.

**67. PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Committee.

**68. PLANS LIST**

Members considered a schedule of reports of the Assistant Director (City Development and Sustainability) relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and Officers.

**68a 96 Dodsworth Avenue, York. YO31 8UD (13/00001/FUL)**

Members considered a full application by Mr Tom Shepherd for the installation of a air source heat pump.

Officers provided an update that some additional information regarding noise was still required to satisfy Environmental Protection colleagues but in the interests of expediency asked that Members delegate authority to Officers to determine the application if the information proved to be satisfactory. If it did not, the application would be brought back to Committee.

Some Members expressed concerns about the lack of information regarding the level of noise that would be emitted by the heat pump and the potential impact on adjoining residents.

They requested that the application be considered by the Committee at a later date, following the receipt of the further information about the level of noise.

**RESOLVED:** That the application be deferred and brought back to Committee once the additional noise levels had been received.

**REASON:** So Members can assess the revised noise conditions to ensure that the proposals will not impact unacceptably on neighbours living conditions.

**68b Archbishop Holgate's School, Hull Road, York, YO10 5ZA (13/00293/FULM)**

Members considered a full major application by Archbishop Holgate's School for a two storey classroom block, relocation of cycle stores and a replacement car park.

In their update to Members, Officers reported that a response had been received from Highways Network Management.

They commented that large areas of the site had been used for car parking and that there was a large under utilised cycle shelter. In their opinion the reasons for the low take up of cycling in the 11-16 year age group was due to; insufficient perceived security, inefficient access (having to dismount at the gate), lack of promotion and having no set targets in the their existing travel plan. In addition the uncovered cycle spaces at the front of the school were heavily used as they were overlooked and because Sixth Formers were able to cycle through the school grounds to this parking area.

Officers informed Members that a number of revisions had been made to the application to improve the number and position of cycle spaces relocated by the new school building such as;

- The position of the cycle shelter would be moved to be alongside the new building, to provide a better relationship to the new building and natural surveillance.
- CCTV would be provided to cover the shelter, and a new section of path would connect to the existing access path
- The access gate to this part of the site would be locked at the end of school hours to provide better security.
- Permission would be granted for cyclists to use the path from the gate without having to dismount.
- There would be an additional 208 cycle spaces in addition to the existing 96 cycle spaces.
- The School Travel Plan would state that further spaces be made available in the future should there be a demand.
- That the proposed marked out car parking spaces satisfy CYC's Annex E Parking Standards.

It was reported that Highways Network Management would have no objections to an amended scheme subject to conditions ensuring the implementation of the cycle and car parking proposals and submission of a travel plan.

Members were informed that an objection to the application had been received from Sport England (SE) which remained concerned about the loss of grassed areas. SE suggested that the school's tennis courts could be used for overflow car parking. Members were also informed that if they were minded to approve the application as a result of SE's objection the application would have to be referred to the Government Office to decide whether the application would be called in to be determined by the Secretary of State.

In questions to Officers, some Members asked whether the proposals constituted an overprovision of cycle spaces. In response, Officers stated that the level of provision would be appropriate since the enlarged school would be expected to actively promote cycling to school and a significant uptake could be anticipated.

Representations were received from John Stone, the School Project Manager. He reported that the area which Sport England were objecting to the use of as a car park, was currently used as high jump and long jump pitch. He added that the school were happy to resite the cycle racks, and explained that there were not as many students using bikes to come to school as many parents viewed Hull Road as dangerous.

Members were informed that attenuation tanks had been introduced at the site as part of development in 2009 to reduce surface water run off, and that car parking spaces for staff had been minimised.

In response to questions from Members, the School's Project Manager reported that there was a small car usage amongst students and that there was a subsidised bus service to transport the students.

During discussion some Members felt that although there had been significant problems with flooding in the local area last year, that they felt that the school's flood management plan was sufficient to deal future situations.

**RESOLVED:** That the application be approved subject to referral to Government Office.

**REASON:** In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to :-

Policy background/ development principle, Design and landscape considerations, Traffic, highways and access issues, Playing field provision, Drainage, Sustainability, Impact on Residential amenity, Crime Prevention. As such the proposal complies with Policies ED1, GP1, GP4a of the City of York Development Control Local Plan and advice in the National Planning Policy Framework.

**68c Harlestone, 14 York Road, Strensall, York YO32 5UN  
(13/00474/FUL)**

Members considered a full application by Mr M Blacklee for the erection of a dormer bungalow to rear (resubmission).

In their update to Members, Officers reported the following;

- An error in their report regarding to an objection being made from 14 York Road, this was from **18 York Road**.

- An additional letter had been received from the occupants of 5 St Mary's Close who objected on the grounds of the impact on the conservation area, loss of light, outlook and privacy from neighbouring houses.
- The applicants had now offered to obscure glaze the only first storey window on the south elevation of the proposed house, to reduce overlooking of neighbouring houses. However, occupants of the bedroom would retain an outlook from the west. Members could add a condition for an obscured glazed window, if they were minded to approve the application.
- Objections from the Council's Flood Risk Engineer had been removed as suitable new drainage details had been provided. A new drainage condition could be added if Members were minded to approve the application to ensure that drainage details are approved and implemented.

Questions from Members to Officers related to the density of the building and surface water flooding, in particular whether the new drainage details would solve flooding in the vicinity.

Officers reported that the size and scale of the properties in the area were varied. They confirmed that the newly submitted drainage details from the applicant would not solve the problem for adjacent sites, but that it would release surface water run off at a slower rate than existing and should potentially be an improvement.

Representations in objection were received from the following people;

Jonathan Dyson, a local resident, expressed concerns regarding the overdevelopment of the site, the high density of properties in the Conservation Area and neighbouring properties suffering from surface water drainage problems.

Tracey Lyon, a local resident, stated that the application would have a detrimental on light and views from neighbouring properties, particularly on the summerhouse for 16 York Road. She reported that the summerhouse would be very close to the property's proposed garage.

Representations in support of the application were received from Mark Newby, the agent for the applicant.



He felt that the application satisfied Planning policy, was not harmful to the appearance of the Conservation Area, that there had been no objections on Highways grounds and that the drainage details were deemed to be suitable by Officers.

John Chapman from Strensall Parish Council felt that some of the gardens in the vicinity of the proposed building had eroded the character of the area, and had reduced the openness between dwellings.

Councillor Doughty, the Ward Member, also felt that the property would detract from openness and would lead to a feeling of cramming properties into a small area. He added that the National Planning Policy Framework excluded gardens as previously developed land. He felt that the access to the property was dangerous due to blind corners. He added that if Members approved the application that conditions relating to flood management be added to permission.

Discussion took place in which some Members felt that the development would impose and dominate neighbouring buildings, and felt that it should be refused. Others felt that the development was not overdevelopment and that traffic issues should not be considered. They added that they did not understand why residents' amenity would be detrimentally affected when the current residents had not previously used the space, but that the size of building was too large.

RESOLVED: That the application be refused.

REASON: (i) It is considered that the proposed development, by virtue of its siting, design, size and massing would harm the character and appearance of Strensall Conservation Area. The site is underdeveloped and provides an open character and sense of space around the existing dwellings which is considered the key characteristic of this part of Strensall Conservation Area. The proposed dwelling would erode this sense of space, particularly from views along West End, to the detriment of the character and appearance of the Conservation Area. Therefore, the application is considered to be contrary to Chapters 7 and 12 of the National Planning Policy Framework

and Development Control Local Plan Policies GP1 'Design' parts a), b) and c), GP10 'Subdivision of Gardens and Infill Development', H4a 'Housing Windfalls' part c) and HE2 'Development in Historic Locations'.

- (ii) It is considered that the proposed development, by virtue of its siting, design, size and massing would harm the amenity of occupants of the adjacent residential dwellings. The size of the proposed dwelling and its close relationship with neighbouring dwellings would result in a development which appears dominant and overbearing when viewed from neighbouring houses and gardens and would result in a loss of outlook to the detriment of the amenity of local residents. Therefore, the application is considered to be contrary to the Core Principles (bullet point 4 of paragraph 17) of the National Planning Policy Framework, and Development Control Local Plan Policy GP1 'Design' part i)

RESOLVED: That the application be refused.

**68d Biology Department, Wentworth Way, Heslington, York.  
YO10 5DD (13/00571/FULM)**

Members considered a full major application by University of York for the erection of a three storey Biomedical and Natural Sciences building.

In their update to Members, Officers reported that both Heslington Parish Council and the Foss (2008) Internal Drainage Board had no objections to the application. They suggested that if Members were minded to approve the application that an additional condition could be added in relation to the screening of the western boundary of the site with Walmgate Stray. In response to a question from a Member, Officers confirmed that the screening could include evergreen species.

The Council's Environmental Protection Unit (EPU) requested that if the application was approved that several conditions and a informative be added.

Representations in support were received from applicant's agent, Philip Holmes. He confirmed that;

- The building would house up to 420 students, but only a proportion of this number would use the facilities at a time.
- The University would be satisfied with an additional landscaping condition for boundary screening.
- No extra car parking spaces were proposed.
- 56 cycle spaces were proposed.
- There would be sufficient secure car parking for staff during Phase 1 of the development.

RESOLVED: That the application be approved with the following additional conditions;

1. 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	08:00-18:00
Saturday	09:00-13:00

Not at all on Sundays and Bank Holidays

Reason: To safeguard the residential amenity of nearby properties and to secure compliance with Policy GP1 of the York Development Control Local Plan.

2. Details of all machinery, plant and equipment to be installed or located on the use hereby permitted, which is audible outside of the site boundary when in use, shall be submitted to the Local Planning Authority for approval. These details shall include maximum sound levels (LA<sub>max</sub>(f)) and average sound measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the Local Planning Authority. The machinery, plant or equipment and approved noise mitigation measures shall be fully implemented and

operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To safeguard the residential amenity of nearby properties and to secure compliance with Policy GP1 of the York Development Control Local Plan.

3. Prior to the commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the residential amenity of nearby properties and to secure compliance with Policy GP1 of the York Development Control Local Plan.

4. In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken and where remediation (clean-up) is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the Council may consider taking action under Part 2A of the Environmental Protection Act 1990.

Reason: To secure the residential amenity of Neighbouring properties and to prevent land contamination.

5. Prior to the commencement of the development hereby authorised, details, including types and species, and a programme of planting and maintenance, of additional

landscape planting, along the western boundary of the site with Walmgate Stray shall be submitted to and approved in writing by the Local Planning Authority.

Any tree or shrub which dies or becomes diseased within a period of five years from the date of this permission shall be replaced with a specimen of similar size and species to the satisfaction of the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: To safeguard the setting of Walmgate Stray to secure compliance with Policy NE8 of the York Development Control Local Plan.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the Officer's report and above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the visual amenity of the wider street scene, impact upon the setting of Walmgate Stray and the Economic Benefits of the City of York Development Control Local Plan.

**68e 18 Alma Grove, York YO10 4DH (13/00657/FUL)**

Members considered a full application by Mrs Dorothy Evans for a single storey rear extension (resubmission).

RESOLVED: That the application be approved.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the Officer's report, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the residential amenity of neighbours or the impact upon the Conservation Area. As such the proposal complies with Policies H7, HE3 and GP1 of the City of York Development Control Local Plan; Paras 132 and 134 of the National Planning Policy Framework and City of York

Supplementary Planning Guidance to  
Householders (Approved March 2001).

Councillor J Galvin, Chair

[The meeting started at 3.30 pm and finished at 4.35 pm].

City of York Council

Committee Minutes

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MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	9 MAY 2013
PRESENT	COUNCILLORS WATSON (CHAIR), GALVIN, GILLIES (VICE-CHAIR), JEFFRIES, ORRELL, REID, SEMLYEN, WILLIAMS (AS A SUBSTITUTE FOR CLLR LOOKER ) AND DOUGLAS (AS A SUBSTITUTE FOR CLLR FUNNELL)
APOLOGIES	COUNCILLORS LOOKER AND FUNNELL

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**58. DECLARATIONS OF INTEREST**

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests they might have in the business on the agenda.

**59. MINUTES**

RESOLVED: That the minutes of the meeting of the West and City Centre Area Planning Sub Committee held on 18 April 2013 be approved and signed by the chair as a correct record.

**60. PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the committee.

**61. PLANS LIST**

Members considered a schedule of reports of the Assistant Director (Planning and Sustainable Development) relating to the following planning applications, outlining the proposals and

relevant policy considerations and setting out the views and advice of consultees and officers.

**61a Middleton House, 38 Monkgate, York, YO31 7PD  
(13/00177/FUL)**

Members considered a full application from Mr Philip Thake for the change of use from offices (Class B1) to five residential units together with the part demolition of a flat roofed and mono-pitched extension at the rear and the erection of a new single storey extension with roof terrace and a two storey extension.

Officers drew Members attention to an error in paragraph 1.1 of the report (Proposal) which refers to the erection of a two storey extension with roof terrace. They clarified that the roof terrace would in fact be on the single storey extension.

Representations were received from Mr Guy Bower, the agent, in support of the application. He explained he was acting for York Conservation Trust who owned the building. He provided the following information to Members:

- The Trust was set up in 1945 and now owns 85 properties including Middleton House.
- The Trust acts as responsible custodians of these buildings and ensures the buildings are occupied and put to best use.
- The Trust acquired and renovated the property in 1990/91.
- The building was used as a school in the 19<sup>th</sup> century, before changing to residential use, and had been used for commercial purposes for the last 30 years.
- The Trust have not been able to let the building for office accommodation and it has been vacant for three years.
- An application in 2010 for conversion to use as a drug treatment centre was withdrawn.

He explained that the Trust felt it was time to act to ensure a sustainable future for the building and believed that the change of use to residential was suitable. He assured Members that they had undertaken careful research regarding the design of building and confirmed there would be no alterations to the physical layout of the building. He advised that the proposed extension to the rear would help tidy up the rear of the building.



Members were satisfied that the building's features would be preserved and that the proposed use of secondary glazing would allow the original windows to remain in place. They expressed their support for the proposals.

**RESOLVED:** That the application be approved subject to the conditions listed in the report.

**REASON:** The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to: principle of conversion / loss of employment land; design / impact on the conservation area/archaeology; residential amenity and impact on existing open space provision. As such the proposal complies with the National Planning Policy Framework and Policies HE3, H4A, E3B, GP4A, GP1, H12 and L1C of the City of York Development Control Local Plan.

**61b Middleton House, 38 Monkgate, York, YO31 7PD  
(13/00178/LBC)**

Members considered an application for listed building consent from Mr Philip Thake for internal and external alterations including part demolition and new rear extension in connection with the conversion of the building into five flats.

**RESOLVED:** That the application be approved subject to the conditions listed in the report.

**REASON:** The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the character and appearance of the listed building. As such the proposal complies with the National Planning Policy Framework and Policy HE4 of the City of York Development Control Local Plan.

Councillor B Watson, Chair  
[The meeting started at 3.00 pm and finished at 3.15 pm].

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**COMMITTEE REPORT**

**Date:** 6 June 2013  
**Team:** Major and Commercial Team  
**Ward:** Strensall  
**Parish:** Strensall With Towthorpe Parish Council

**Reference:** 13/00760/FUL  
**Application at:** Country Park Pottery Lane Strensall York YO32 5TJ  
**For:** Use of land for winter storage of up to 30 touring caravans  
**By:** Miss Raquel Nelson  
**Application Type:** Full Application  
**Target Date:** 29 May 2013  
**Recommendation:** Refuse

**1.0 PROPOSAL**

1.1 The Country Park Pottery Lane Strensall comprises a 40 pitch touring caravan site subject to a seasonal occupancy restriction, currently in the process of development, occupying a prominent location within the York Green Belt to the north west of Strensall village. Planning permission is sought for the use of the southern section of the site for storage of touring caravans during the period when the site is closed for normal touring use between the end of October and March.

1.2 The application has been called in for consideration by the Local Member Councillor Sian Wiseman on the grounds of concerns in respect of its impact upon the open character and purposes of designation of the York Green Belt.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYGB1  
Development within the Green Belt

CYV5  
Caravan and camping sites

### **3.0 CONSULTATIONS**

#### **INTERNAL:-**

3.1 Integrated Strategy Unit object to the proposal on the grounds of being inappropriate development within and by definition harmful to the open character and purposes of designation of the Green Belt.

3.2 Highway Network Management raise no objection to the proposal.

#### **EXTERNAL:-**

3.3 The Foss Internal Drainage Board object to the proposal on the grounds that the surface water discharge from the site is unregulated and therefore any additional activity at the site would be potentially harmful to the level of flood storage capacity in the local area.

3.4 Strensall with Towthorpe Parish Council object to the proposal on the grounds that it would materially harm the open character and conflict with the purposes of designation of the York Green Belt, in addition to conflicting with the terms of the earlier planning permission for the site.

3.5 One letter of objection has been received in respect of the proposal expressing concern in relationship to the impact of the proposal upon the open character and purposes of designation of the York Green Belt.

### **4.0 APPRAISAL**

#### **KEY CONSIDERATIONS:-**

#### **4.1 KEY CONSIDERATIONS INCLUDE:-**

\* Impact upon the open character and purposes of designation of the York Green Belt.

#### **STATUS OF THE DRAFT LOCAL PLAN:-**

4.2 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-

4.3 Policy GB1 of the York Development Control Local Plan states that within the Green Belt planning permission will only be granted for development where the scale, location and design of such development would not detract from the open character of the Green Belt, would not conflict with the purposes of including land within the Green Belt and would be for one of a number of purposes deemed to be appropriate within the Green Belt including essential facilities for outdoor sport and recreation. Central Government planning policy in respect of planning in Green Belt areas outlined in paragraph 89 of the NPPF indicates that the provision of facilities for outdoor sport and recreation would constitute appropriate development within the Green Belt providing it would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. The current proposal envisages the usage of the southern section of the approved touring caravan site as storage for caravans outside of the normal period of operation of the site.

4.4 Secure winter storage of touring caravans is a concomitant of caravanning as a recreational activity as only a proportion of caravan owners are able or willing to store their caravans within their domestic property. The open storage of caravans is not uncommon at established sites through the Vale of York. However the storage of caravans can not be reasonably defined as an appropriate use within the Green Belt either in terms of the Draft Local Plan or the NPPF. As the proposal relates to what is inappropriate development, there is a need for the applicant to demonstrate "very special circumstances" in order to overcome the general presumption against such development. The applicant has indicated that the degree of landscaping around the southern and eastern boundaries of the site as presents a significant degree of mitigation for the proposal in terms of the impact on the openness of the Green Belt. However, no indication has been given of how the proposed storage activity would operate, where the caravans would be located and the likely density that would be adopted. In the absence of this information and a detailed justification as to why the storage activity could not be accommodated on a non-Green Belt site then the proposal is not considered to be acceptable on Green Belt grounds.

4.5 Notwithstanding any landscaping at the site boundaries, the concentration of caravans at the southern edge of the site would effectively constitute an open storage use, urbanising in nature, and the impact upon the open character of the Green Belt could not be entirely overcome. In any event, the fact that the site might be screened is not a defence when considering the impact of a proposal on the openness of the Green Belt. The proposal would, therefore, conflict with the terms of Policy GB1 and advice contained within the NPPF in relation to the Green Belt.

## **5.0 CONCLUSION**

5.1 The Country Park Pottery Lane Strensall comprises a 40 pitch touring caravan site subject to a seasonal restriction, currently in development, occupying a prominent location within the York Green Belt to the north west of Strensall village. Planning permission is sought for the winter storage of touring caravans within the southern area of the site outside of the main occupation season. Winter storage of touring caravans comprises a type of open storage use albeit one that is not uncommonly found in suitable areas of open countryside, further north in the Vale of York, for example. As an open storage use rather than a specifically recreational use, the proposal constitutes inappropriate development within the Green Belt and is, by definition, harmful to the Green Belt. In order to overcome the usual presumption against inappropriate development within Green Belt, the developer is required to present a case of “very special circumstances” to justify setting aside the usual presumption against inappropriate development within the Green Belt. No such compelling case has been forthcoming. The applicant has submitted significant detail in respect of the level of landscaping around the application site which it is argued would mitigate the impact of the scheme on the openness of the Green Belt. No detail has however been submitted in respect of how the storage would operate and the proposal is considered to be unacceptable in Green Belt policy terms.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1 The use of the site for the winter storage of touring caravans between November and March each year would amount to inappropriate development in the Green Belt and would therefore be harmful to its openness contrary to Policy GB1 of the York Development Control Local Plan and Central Government planning policy in respect to the Green Belt set out in paragraph 89 of the National Planning Policy Framework.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application.

The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

A detailed outline of how the storage operation would be managed was requested but was not forthcoming.

As such, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

**Contact details:**

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

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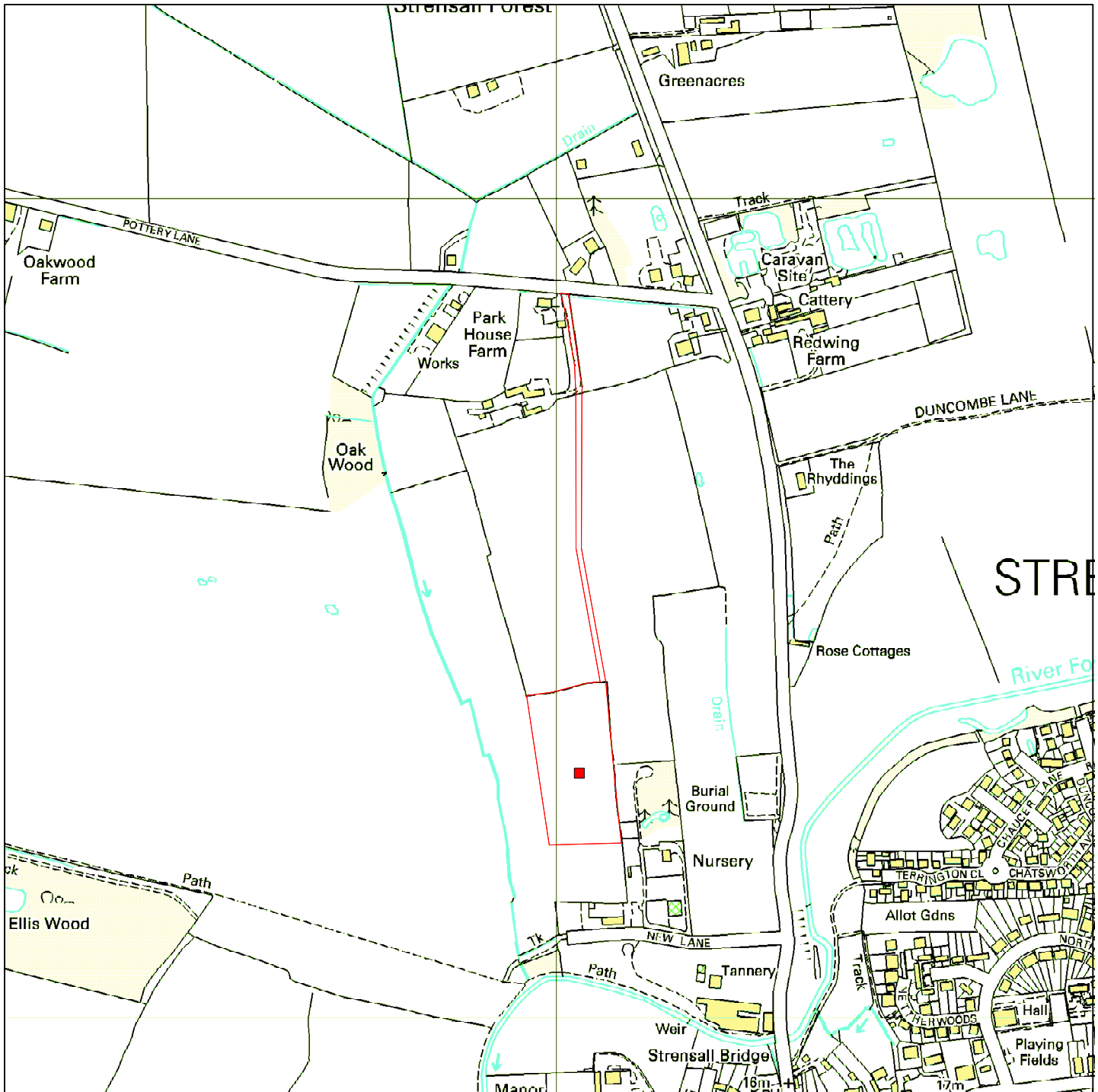


# 13/00760/FUL

## Country Park Pottery Lane Strensall



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Scale : 1:7023

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Strensall  
**Team:** Major and                      **Parish:** Strensall With Towthorpe  
Commercial Team                      Parish Council

**Reference:** 13/00761/FUL  
**Application at:** Country Park Pottery Lane Strensall York YO32 5TJ  
**For:** Siting of mobile home for use as wardens lodge  
**By:** Miss Raquel Nelson  
**Application Type:** Full Application  
**Target Date:** 29 May 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The Country Park Pottery Lane Strensall comprises a seasonal touring caravan site initially granted planning permission for 20 pitches (ref:- 04/01105/FUL) but recently expanded to cater for 40(ref:- 12/03270/FUL) lying within the York Green Belt to the north west of Strensall village. Planning permission is now being sought for the erection of a 3 bedroom manager's chalet (static caravan) at a location at the northern edge of the site to provide a degree of supervision and security to the site when in operation. The previous permission ref:- 04/01105/FUL was conditioned to prohibit the erection of static caravans at the site.

1.2 The application has been called in for consideration by Committee by Councillor Sian Wiseman in view of concerns in respect of its impact upon the open character and purposes of designation of the Green Belt.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (2) 0005

2.2 Policies:

CYGB1  
Development within the Green Belt

CYV5  
Caravan and camping sites

### **3.0 CONSULTATIONS**

#### **INTERNAL:-**

3.1 Nil.

#### **EXTERNAL:-**

3.2 Strensall with Towthorpe Parish Council object to the proposal on the grounds that it would contravene the restrictions on seasonal occupancy and location of static caravans contained within the earlier planning permission and would set a precedent for permanent residential occupation of the site.

3.3 One letter of objection has been received from a nearby residential occupier expressing concern with regard to the incremental nature of development at the site, the conflict with the requirements of the earlier planning permission for the site and the setting of a precedent for permanent residential occupation to the detriment of the open character and purposes of designation of the Green Belt.

### **4.0 APPRAISAL**

#### **KEY CONSIDERATIONS:-**

##### **4.1 KEY CONSIDERATIONS INCLUDE:-**

- \* Impact upon the open character and purposes of designation of the York Green Belt;
- \* Precedent for permanent residential occupation of the site.

#### **STATUS OF THE DRAFT LOCAL PLAN:-**

4.2 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations in arriving at Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

#### **IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-**

4.3 Policy GB1 of the York Development Control Local Plan states that planning permission for development in the Green Belt will only be forthcoming where the scale, location and design of such development would not detract from the open character of the Green Belt, would not conflict with the purposes of including land within the Green Belt and it is for one of several purposes deemed to be appropriate

within the Green Belt including essential facilities for outdoor recreation. Central Government Planning Policy in respect of planning in Green Belt areas outlined in paragraph 89 of the NPPF indicates that the erection of new buildings within the Green Belt should be considered as inappropriate and by definition harmful to the Green Belt unless they come within one of a number of categories including the provision of appropriate facilities for outdoor recreation. The current proposal envisages the erection of a three bedroom timber built chalet for occupation by a site manager for the caravan site which is in the process of development. As the proposal effectively relates to the siting of residential development the proposal would be inappropriate development within the Green Belt. Thus "very special circumstances" would have to be demonstrated to overcome the usual presumption against inappropriate development within the Green Belt.

4.4 The applicant has submitted a detailed written statement in support of the proposal which outlines a case for "very special circumstances" based upon the need for a regular presence to ensure the effective security and maintenance of the site and to secure compliance with the Central Government Planning Policy on Tourism outlined in the Good Practice Guide for Planning and Tourism. This states in paragraph 24 to Annex A that in respect of caravan and holiday parks the residential presence of a manager is sometimes considered necessary to ensure the security and health and safety needs of users of the site. It is indicated that priority should be given to using existing dwellings or using buildings suitable for conversion. In this particular case it is considered that a residential manager is necessary as a result of the intended level and intensity of use of the site and the need to secure its maintenance and security outside of the operating season from March to October. In terms of its relationship to existing suitable accommodation, the site is relatively remote from Strensall village and there are no buildings suitable for conversion within the environs of the site. Notwithstanding the restriction placed in the previous permission to location of static units on the site, the structure applied for is a timber chalet which would not have a significant impact on the surrounding landscape and could easily be removed in the event of no longer being required. The unit would be located at the north western edge of the site in close proximity to the site office/amenity buildings and on balance it is considered that a suitable case has been put forward for its location on the site.

4.5 A further requirement in respect of development within the Green Belt is to ensure that its openness is secured. The proposed timber chalet would be located at the north western edge of the site in close proximity to the recently established landscape belt. It would be single storey and timber walled which would reduce its impact in long and shorter distance views from outside of the site. It would be seen as visually closely related to the amenity/site office building to the south and the recently constructed agricultural building to the south west. Any impact upon the openness of the Green Belt is therefore considered to be acceptable.

**PRECEDENT FOR PERMANENT RESIDENTIAL OCCUPATION OF THE SITE:-**

4.6 Concern has been expressed that the proposed development setting a precedent for more permanent occupation of the site. Central Government Planning Policy as laid out in the Good Practice Guide on Planning for Tourism sets out a clear policy basis under which a residential presence for a manager on a caravan site or holiday park may be provided. The level of intensity of the proposed use and the relative remoteness of the site from centres of population provides a clear justification in the current circumstances. The Green Belt location of the site renders it unsuitable for permanent occupation and the principal permission for the site precludes the location of static caravans for holiday use as a consequence of their impact upon the openness of the Green Belt. It is considered that providing any permission is conditioned in line with the requirements of the Good Practise Guide to restrict its occupancy to the site manager and to secure the removal of the unit in the event of it falling out of use, then no precedent would be set for permanent residential occupation of the site.

**5.0 CONCLUSION**

5.1 The Country Park Pottery Lane Strensall comprises a 40 pitch touring caravan site with a seasonal restriction on use lying within the York Green Belt to the north west of Strensall village. The site is currently being developed and planning permission has been sought for location of a three bedroom single storey timber framed manager's chalet on land at the northern edge of the site. The proposal would not be appropriate within the Green Belt ordinarily. However, a case for " very special circumstances is advanced based upon the level of intensity of use of the site and its relative remoteness from Strensall village together with Central Government Planning Policy in respect of Tourism outlined in paragraph 24 to the Good Practise Guide on Planning for Tourism. On balance it is felt that the proposal would be acceptable and would not set a precedent for permanent residential occupation of the site providing any permission is restricted to occupation by the site manager and requiring the removal of the unit in the event of it no longer being required for occupation by the site manager. Approval is therefore recommended.

**COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years -

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

Drawing Refs: - A1304 06; and PB/13/08.Drawing 1 Rev A.

Application Reference Number: 13/00761/FUL

Item No: 4b

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

3 VISQ8 Samples of exterior materials to be app -

4 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 development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

5 No development shall take place 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, shrubs and hard landscaping. This scheme shall be implemented within a period of six 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.

6 The chalet hereby permitted shall be solely used to provide residential accommodation for the site manager of the associated caravan site and for no other purpose including any other within Class C3 to the 1987 Town and Country Planning(Use Classes) Order (as amended).

Reason:- To safeguard the open character and purposes of designation of the York Green Belt and to secure compliance with Central Government Policy in respect of Planning and Tourism outlined in paragraph 24 to the Good Practise Guide on Planning and Tourism.

7 In the event that the chalet hereby permitted is no longer required for occupation by the caravan site manager it shall be removed and the site reinstated to its previous conditions within three months of occupation ceasing.

Reason: - To secure the open character and purposes of designation of the York Green Belt and to secure compliance with Policy GB1 of the York Development Control Local Plan.

**7.0 INFORMATIVES:  
Notes to Applicant**

**1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the open character and purposes of designation of the York Green Belt and precedent for permanent residential occupation of the site. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policies GB1 and V5 of the City of York Development Control Local Plan and Government policy contained within paragraphs 79 - 92 of the National Planning Policy Framework.

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

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

A detailed statement of justification for the proposal was requested.

**Contact details:**

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

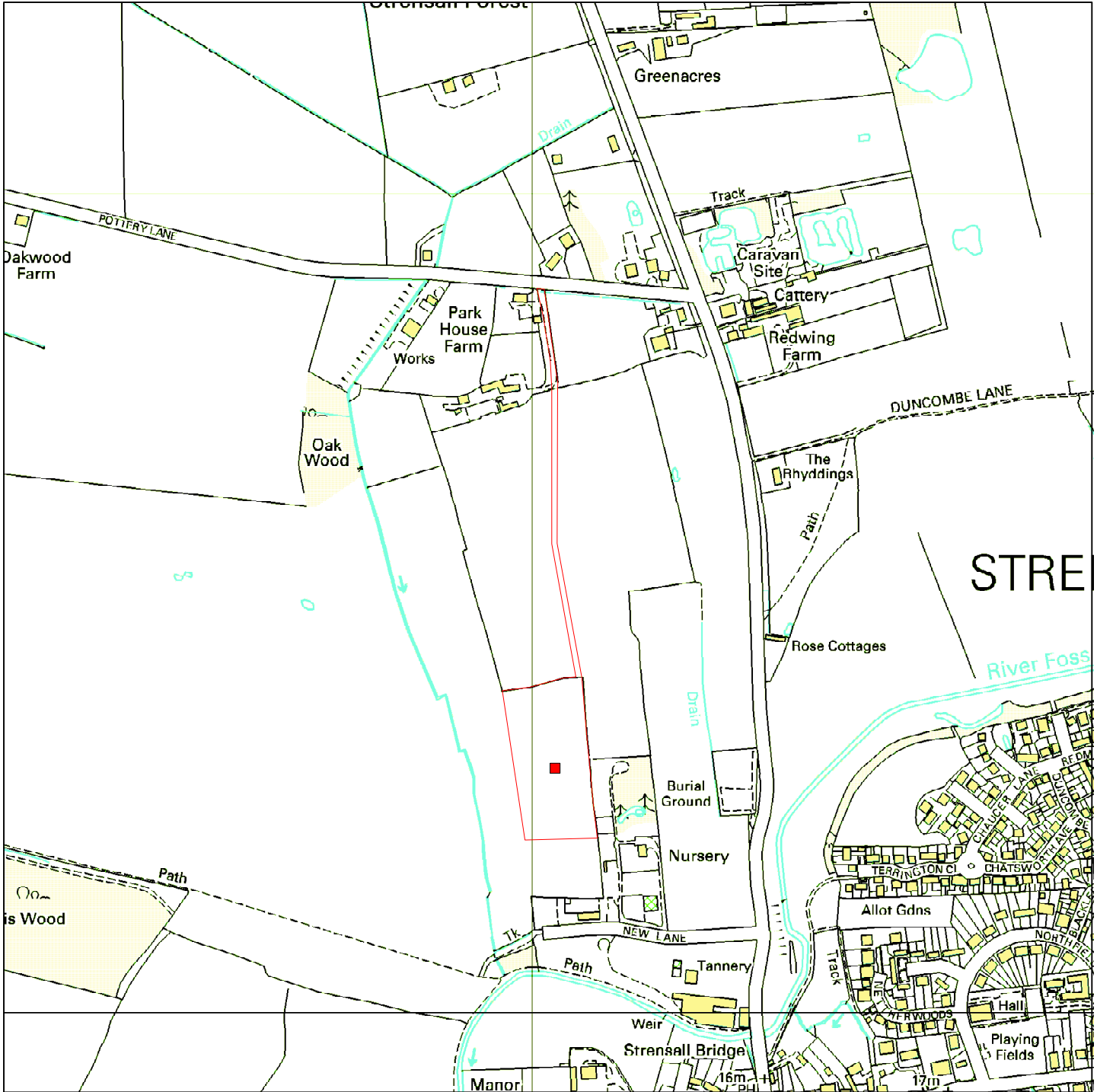


13/00761/FUL

Country Park Pottery Lane Strensall



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	24 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Wheldrake  
**Team:** Major and                      **Parish:** Elvington Parish Council  
                    Commercial Team

**Reference:** 13/00769/FUL  
**Application at:** The Villa Main Street Elvington York YO41 4AG  
**For:** Removal of conditions 7 (Code for Sustainable Homes) and 8  
(renewable heat and electricity) of planning permission  
10/01265/FUL for the erection of a dormer bungalow  
**By:** Mr Paul Lofthouse  
**Application Type:** Full Application  
**Target Date:** 13 June 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site is an area of land to the rear of the Villa in Elvington. In 2010 planning permission was granted for a new dwelling on the site (10/01265). The application is being brought to Committee to ensure consistency in decision making as the previous application for a dwelling was also determined at Committee.

1.2 The application seeks to remove two planning conditions that were attached to the original consent, as follows:

**CONDITION 7 - CODE FOR SUSTAINABLE HOMES**

Prior to the commencement of the development, the developer shall submit for the written approval of the Local Planning Authority an initial Code for Sustainable Homes (CSH) Design Stage assessment for the development. Unless otherwise agreed in writing with the Local Planning Authority, this shall indicate that at least the minimum code level 3 star rating will be achieved. This shall be followed by the submission of a CSH Post Construction Stage assessment, and a CSH Final Certificate (issued at post construction stage). These documents shall be submitted to the Local Planning Authority after completion and before first occupation of the building. Both documents submitted shall confirm that the code rating agreed in the initial CSH Design Stage assessment has been achieved.

Reason: In the interests of sustainable development.

**CONDITION 8 - ON-SITE RENEWABLES**

Unless otherwise agreed in writing by the Local Planning Authority, a minimum of 5% of the expected energy demand for the development hereby approved shall be provided through on site renewable generation for heat and/or electricity.

Application Reference Number: 13/00769/FUL

Item No: 4c

Prior to the commencement of development a statement outlining how this is achieved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved statement unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is sustainable and accords with Policy GP4a of the Draft City of York Local Plan and the City of York Interim Planning Statement on Sustainable Design and Construction.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

### 2.2 Policies:

CYGP1  
Design

CYGP4A  
Sustainability

CYGP10  
Subdivision of gardens and infill devt

CYGP15  
Protection from flooding

CYH3  
Sequential test for new housing

CYH4  
Housing devp in existing settlements

CYH5  
Residential densities over 25 per ha

CYT4  
Cycle parking standards

CYL1

Open spaces in new residential devts

### **3.0 CONSULTATIONS**

#### 3.1 Internal

None consulted.

#### 3.2 External

Neighbours:

3 letters of objection have been received from neighbours. The concerns raised are:

- 'Cherry Picking' of individual conditions should not be allowed.
- The proposal contravenes council policies on sustainable homes.
- Government policies on garden development have changed since the consent was granted. It is inappropriate to allow the sustainability elements to be removed from the consent, but not consider the principle of the acceptability of the scheme as a whole against more up to date policies and guidance.

Parish - Object on the following grounds:

All the original conditions should be met - or the application re-submitted and subject to current criteria.

Internal Drainage Board - No objections - the proposal has no negative implications on drainage.

### **4.0 APPRAISAL**

#### KEY ISSUES

- Change in policy direction since the original application was approved.

#### POLICY CONTEXT

4.1 The National Planning Policy Framework (NPPF) published 27 March 2012 puts an emphasis on sustainable development. One of its core principles is to support the transition to a low carbon future and encourage the use of renewable resources. The Framework states that local policies should set the requirements.

4.2 In respect to conditions the NPPF states (paragraph 206) that planning conditions should only be imposed where they are 'enforceable, precise and reasonable in all other respects'.

4.3 Policy GP4a 'Sustainability' of the City of York Council Draft Development Control Local Plan (2005) sets out the criteria to be considered with regard to the principles of sustainable development. The Local Plan has not been adopted, so weight can only be attached to policies that are in line with the National Planning Policy Framework.

4.4 The CYC Interim Planning Statement on Sustainable Design and Construction (IPS), published in 2007, gives more specific guidance for developments, such as constructing dwellings to a minimum of Level 3 of the Code for Sustainable Homes and provision of on-site renewable energy for all proposed dwellings. In January 2012, an addendum to the statement was published to reflect the transition towards the adoption of the then emerging Local Development Framework (LDF). The addendum, based on Policy CS21 of the LDF Core Strategy, removed the requirement for residential developments of less than 10 units to achieve Code for Sustainable Homes Level 3 or provide on-site renewable energy generation.

4.5 The Council's Local Development Framework Core Strategy was an emerging policy document that was submitted to the Secretary of State on 14 February 2012 to consider the soundness of the plan. As referred to above, Policy CS21 required only developments of 10 units or more to achieve a Code level 3 rating or provide on-site renewable energy generation. On 12 July 2012, the Local Development Framework Core Strategy was withdrawn for reasons unrelated to sustainability requirements.

## ASSESSMENT

4.6 As outlined above, the policy position at the local level has been subject of recent changes with regard to the requirement for Code for Sustainable Homes Level 3 compliance and on-site renewable energy generation.

4.7 Although the LDF has been withdrawn, in terms of shaping the Council's future policies, it is clearly more up-to-date than the Draft Local Plan of April 2005 and the 2007 IPS. The requirements of Policy CS21 are based on a viability study into renewable energy and on the national target of achieving zero carbon rated buildings by 2016 achieved through changes to Building Regulations. As a result of this change in policy direction, the Local Planning Authority prepared the addendum to the IPS and has subsequently not imposed the two conditions to applications under the threshold of ten dwellings and has approved the removal of these conditions on existing permissions on a number of occasions.

4.8 As the development under consideration relates to the erection of a single dwelling it clearly falls below the threshold set out in Policy CS21 of the withdrawn LDF and the addendum to the IPS.

4.9 The developer has submitted a revised sustainability assessment to support the current application. It confirms the intention to provide rain water recycling in the form of water butts and ensure that the driveway is permeable. Glazing and insulation for the roof and walls will comply with the latest requirements set out in the Building Regulations.

4.10 The comments made in the revised assessment are considered to be reasonable. The conditions would require documentation to demonstrate compliance that is prepared by a specialist to be submitted for approval by the Local Planning Authority. The intention to implement on-site renewable energy technology and other Code 3 requirements such as external drying space and recycling provision is noted. It is also noted that the original consent was granted prior to the October 2010 changes to Building Regulations which introduced Part L 'Conservation of Fuel and Power' that covers elements such as insulation and energy efficiency.

4.11 Central Government advice contained within Circular 11/95 states that a condition should not be retained unless there are sound and clear cut reasons for doing so. This is reaffirmed in the NPPF where it states that conditions should only be imposed where they are necessary, relevant to planning and the development, enforceable, precise and reasonable in all other respects. By virtue of the change in the Council's policy approach and the change to Building Regulations, it is considered that the two conditions in question can no longer be deemed necessary, reasonably applied or enforced and their removal is considered acceptable.

4.12 The comments of neighbours are noted. However, it is considered that the removal of the conditions would not invalidate the application since the principle of the redevelopment of a site in a sustainable location with a development that makes more efficient use of land and is visually acceptable, accords with national planning policy. It remains the same scheme as previously approved - the only difference would be the removal of conditions 7 and 8. It should also be noted that granting consent for the removal of the conditions does not extend the time limit for the commencement of development and as such it is not considered necessary to assess other aspects of the scheme. The application only relates to the removal of conditions.

4.13 Neighbours have stated that the application should be re-considered in its entirety. This is not considered appropriate for the reasons set out in the appraisal.

For information, however, it is the case that the consent for the dwelling which is subject to this application (10/01265/FUL) was granted on 12 August 2010 and post-dates the Governments re-definition of previously developed land to exclude private gardens (as set out in the now superseded Planning Policy Statement 3 - Housing).

4.14 Attention is drawn to the decisions to approve the removal of the same conditions by the East Area Planning sub-Committee in relation to the redevelopment of The Laurels, Brecks Lane, Strensall, for 8 dwellings (ref: 12/00148/FUL) and 4 Derwent Road (ref 12/02737) for 2 dwellings.

## **5.0 CONCLUSION**

5.1 This application seeks the removal of two conditions attached to a 2010 planning permission. Condition 7 relates to the need to comply, as a minimum, with Level 3 of Code for Sustainable Homes and condition 8 relates to the provision of 5% on-site renewable energy generation. Both conditions require the submission of documentation to demonstrate that the requirements have been met.

5.2 The request to remove the two conditions is based on the change in direction of Council policy with regards the size thresholds for compliance with Code for Sustainable Homes and the provision of on-site renewable energy sources.

5.3 Part L of the Building Regulations will ensure improved energy efficiency and levels of insulation for the new dwellings. The applicant has also indicated his commitment to following good practice in matters such as for example the use of water butts and permeable surfacing.

5.4 In light of the above, and taking into account advice on conditions outlined in Circular 11/95 and the National Planning Policy Framework, it is considered that the two conditions can no longer be deemed necessary, reasonably applied or enforced. As such, their removal is considered to be acceptable.

## **6.0 RECOMMENDATION: Approve**

1 The development shall be begun not later than 13 August 2013.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

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



Plans and elevations LO2/809/01 and LO2/809/04 received by the Local Planning Authority on 11 June 2010.

Or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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 the information contained on the approved plans, the height of the approved house shall not exceed 6.8 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

4 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 development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A to E of Schedule 2 Part 1 of that Order shall not be carried out to the dwelling house and within its curtilage without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no windows, doors or other openings shall be inserted within the external elevations, or the roof of the approved development other than those shown on the approved plans.

Reason: In the interests of the amenities of occupants of the adjacent residential properties.

7 No development shall take place 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 that exist around the site (including proposals for their retention/protection) along with new vegetation that will be planted. The plan should include the location of the proposed house and all access routes and turning areas. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which 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 otherwise 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.

8 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 development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

9 No part of the site shall come into use until turning areas have been provided for both the proposed new dwelling and the existing dwelling in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To enable vehicles to enter and leave the site in a forward gear thereby ensuring the safe and free passage of traffic on the public highway.

10 Any gates shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall open into the site.

Reason: To allow a vehicle entering or leaving the site to stand clear of, and thereby avoid obstructing the public highway, in the interests of road safety

11 Prior to the development coming into use, all areas used by vehicles shall be surfaced and drained, in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the egress of water and loose material onto the public highway and reduce surface water run-off.

12 The driveway shall be constructed at a minimum width of 3.7m and with a minimum height clearance of 4.5m throughout its length.

Reason: To ensure that the dwelling is accessible by emergency vehicles (fire tenders).

13 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) 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.

14 The hours of 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 workings on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

15 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1c of the Development Control Local Plan which requires that all new housing sites make provision for the open space needs of future occupiers.

#### INFORMATIVE:

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £3,006.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been agreed and you are reminded of the local planning authority's enforcement powers in this regard. The property shall not be occupied until the sum has been paid.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to principle of redevelopment, design, density, sustainability, character and amenity, residential amenity, flood risk and drainage, highway safety and impact on local facilities. As such the proposal complies with national advice contained in the National Planning Policy Framework and Policies SP6, H4A, H5A, GP1, GP4A, GP10, L1C and T4 of the City of York Draft Development Control Local Plan (incorporating 4th set of changes, April 2005).

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

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

Additional information requested to clarify the measures to be included to help encourage the sustainable development and use of the site.

### **3. INFORMATIVE**

If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a remediation scheme to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990. Information in respect to contamination assessments can be found at  
<[http://www.york.gov.uk/environment/Planning/guidance/contaminated\\_land/](http://www.york.gov.uk/environment/Planning/guidance/contaminated_land/)>

The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974.

In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

- (i) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".
- (ii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers' instructions.
- (iii) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.
- (iv) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.
- (v) There shall be no bonfires on the site.

**Contact details:**

**Author:** Neil Massey Development Management Officer (Mon/Wed/Fri)

**Tel No:** 01904 551352

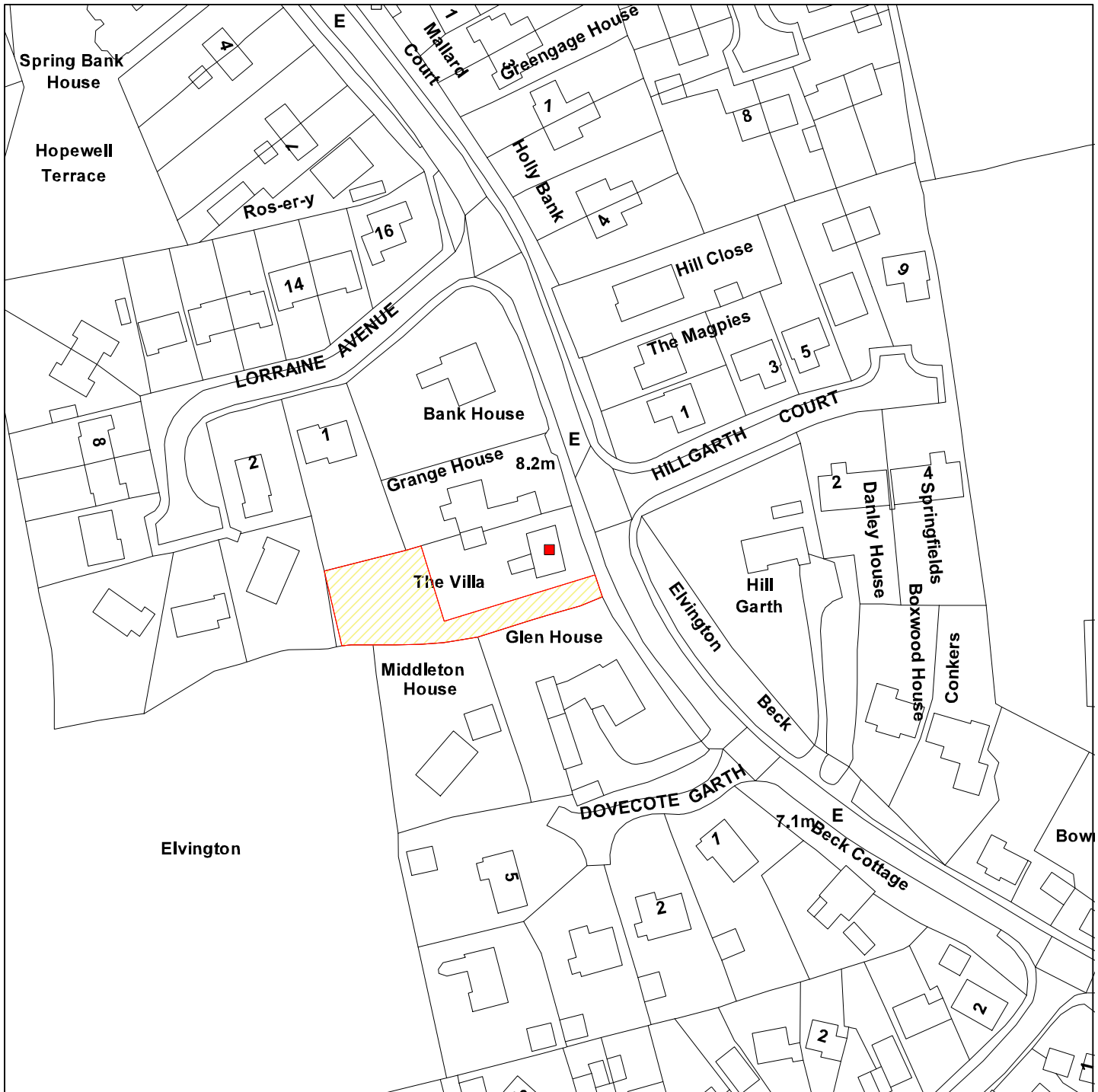
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13/00769/FUL

The Villa Main Street Elvington



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6.6.2013                      **Ward:** Guildhall  
**Team:** Major and                      **Parish:** Guildhall Planning Panel  
                Commercial Team

**Reference:** 13/00742/FUL  
**Application at:** 11 - 12 Fossgate York YO1 9TA  
**For:** Change of use from restaurant (use Class A3) to public house (use Class A4) and replacement shop front  
**By:** Mr Jamie Lawson  
**Application Type:** Full Application  
**Target Date:** 7 June 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application relates to 11-12 Fossgate, a two-storey building with basement and attic. The building was originally a fishmonger with accommodation above. The ground floor frontage was originally open and a shop front of basic design was inserted later in the C20. Towards the rear of the plot is a 2-storey outbuilding, which has been connected to the main building with a single storey link with glazed roof. The building dates from 1898 and is listed at grade 2.

1.2 The site is within the Central Historic Core Conservation Area and within the central shopping area, as defined in the Local Plan.

1.3 Planning permission is sought for a change of use from restaurant to public house. The scheme has been amended and now a manager's flat is proposed at first floor level in the frontage building. The proposals include a replacement shop front. There is a companion application for listed building consent for the changes to the building (13/00743/LBC).

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006  
Conservation Area GMS Constraints: Central Historic Core CONF  
City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: Central Area 0002  
Listed Buildings GMS Constraints: Grade 2;

- 13-14 Fossgate York YO1 2TA 0843
- 10 Fossgate York YO1 2TA 0841
- 11-12 Fossgate York YO1 2TA 0842

## 2.2 Policies:

CYS6	Control of food and drink (A3) uses
CYS7	Evening entertainment including A3/D2
CYS5	Non-retail uses in shopping streets
CYGP1	Design
CYHE3	Conservation Areas
CYHE4	Listed Buildings

## 3.0 CONSULTATIONS

### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 Officers support the scheme. Overall the proposed alterations, subject to agreement on detailed design, preserve the special architectural or historic interest of the building, and its value as an integral part of the street scene.

- The proposed shop front (revised drawing) adds visual interest and complements the ornamentation of the host building. Whilst the forward pair of double doors flatten the frontage to some degree, these will be in the open position for the majority of the day. There is a mix of shop front styles in the vicinity, and the incorporation of a traditional recessed entrance would create access and delivery difficulties.
- Addressing concerns over noise transmission through the large glazed canopy by the addition of secondary glazing can be achieved without detracting from the attractive appearance of the structure. Details of the secondary glazing could be required by condition.
- Officers do not object to the internal changes, which are detailed in the companion LBC application.

### ENVIRONMENTAL PROTECTION UNIT

3.2 Officers had asked for a noise assessment, to consider the potential impact on neighbours. Considering the assessment submitted, officers recommend that the proposal can be permitted, subject to conditions that the recommended works to reduce noise breakout are undertaken and that there are no other alterations to the building undertaken without permission that would affect the buildings noise

insulation capabilities. It is also asked that the kitchen has adequate equipment to deal with cooking smells/odours.

#### YORK CONSERVATION TRUST

3.3 Object to the scheme. The trust is concerned about noise affecting residential amenity, as they own flats above the premises at 14, 15 and 16 Fossgate.

#### GUILDHALL PLANNING PANEL

3.4 No objection.

#### POLICE ARCHITECTURAL LIAISON OFFICER

3.5 No objection. Officers have commented with regards crime and anti-social behaviour. Key comments are as follows –

- There are no grounds for objecting to this proposal, particularly when there is already a Premises Licence in place for the sale of alcohol.
- Fossgate is already used as a main arterial route into and out of the city for revellers, particularly for those living to the east of the city.
- There are already two public houses on Fossgate and there is no evidence that these have caused crime or anti-social behaviour on the street. If anti-social behaviour/crime were attributed to a premises, then the Police could request a review of the Premises Licence.
- A Dispersal Order is currently being applied for by the Police and Local Authority to cover a large part of the city, including Fossgate. This allows the police to disperse groups of two or more people from areas where there is persistent anti-social behaviour or take home any young person under 16 who is out on the streets in a dispersal zone between 9pm and 6am and not accompanied by a parent or responsible adult.

#### PUBLICITY

3.6 Nine objections have been received. Grounds of objection are as follows:

##### NOISE

- Residents at Morrell Yard and 13/14 Fossgate have objected on the grounds of noise disturbance. It has been noted there were noise issues with the restaurant that formerly occupied the site. It is inevitable this use will lead to more noise and disturbance. In particular noise has been raised as a concern due to the limited attenuation the glass roof will provide and as a function room was shown at first floor level, when there is a flat next door. Also the premises licence advises that there will be live music played.

Comments have been received since the noise report, that it is considered the insulation proposed (secondary glazing) will be inadequate.

#### CRIME AND DISORDER

- There are already problems with crime, litter, and anti-social behaviour in the street, which will escalate if there is another drinking establishment.

#### CHARACTER OF THE AREA

- There would be too many drinking establishments in the area, and there is a concern the character of the area is changing. There would be 6 licensed premises within close proximity to each other if this proposal and the former Army and Navy scheme were to be implemented. There is concern the street could become another 'Micklegate' which has been over-dominated by drinking establishments in the past.

### 4.0 APPRAISAL

#### 4.1 KEY ISSUES

- Principle of the proposed use
- Amenity of surrounding occupants
- Impact on heritage assets

#### PROPOSED USE

4.2 The application site is on a non-primary shopping street within the central shopping area. National and local planning policy advises that the proposed use is appropriate in principle in such areas provided there is no undue harm to the vitality and viability of the locality and the city centre.

4.3 The premises were previously a restaurant which predominantly traded during the evening, with a licence to operate until midnight. As such there would not be a material impact on vitality and viability between the proposed and previous use. Potentially the premises could attract more custom consistently through the day in comparison to the former restaurant use. There remains a healthy amount of retail premises in the street also. Overall the proposed use does not conflict with land use planning policy.

#### AMENITY OF SURROUNDING OCCUPANTS

4.4 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

This is explained in Local Plan policies GP1, S6 and S7 which require that the proposed use does not have an undue adverse impact considering noise disturbance and cooking smells/odour.

4.5 There are residential properties adjacent the site. There is residential on the upper floors at 13/14 Fossgate and Morrell Yard to the south comprises of a group of houses around a courtyard.

4.6 The plans have been revised since their original submission and the upstairs of the frontage building will now only be a manager's flat, rather than a function room. The use of this area can be restricted through a planning condition. The single storey link with a glazed roof between the original building and what was an outbuilding at rear is therefore the main area from where noise could potentially spill out of the premises. A noise report has been undertaken which estimates potential noise breakout from the building should live/amplified music be played. The report concludes that additional measures would be required to ensure no perceivable change in noise levels. It is recommended that secondary glazing be added to the single storey glass roof building, and this can be secured through a planning condition.

4.7 The application seeks opening hours of 00.30 through the week and 23.30 Sundays. This is comparable with the conditioned hours at 54-56 Fossgate opposite (midnight closing time), which have recently been given permission for a change of use to cafe/bar. Given the city centre location there are already evening uses nearby and associated noise/activity. The possibility that there would be more activity in the area late at night is not grounds to refuse the application as such activity is to be expected in the city centre. The applicants have applied to update the premises licence, and have proposed the closing times of 23.00 Sunday – Wednesday and midnight Thursdays, Fridays and Saturdays. The application is currently under consideration. At the time of writing (22 May), there had been no objections made to licensing.

4.8 There are two existing drinking establishments along Fossgate – The Terrace & The Blue Bell and the former Army and Navy store (54-56) has planning permission to be a drinking establishment. Given the city centre location there are already evening uses nearby and associated noise/activity. The possibility that there would be more activity in the area late at night is not grounds to refuse the application as such activity is to be expected in the city centre.

4.9 There was previously a kitchen to the restaurant at the rear of the premises. The kitchen location would be re-used and the extant flue duct that terminates above the roof. The flue may need some modification but a condition can require that it is fit for purpose. It can also be a condition that any additional internal plant that would be required does not cause unacceptable noise disturbance.

## IMPACT ON HERITAGE ASSETS

4.10 The National Planning Policy Framework advises it is desirable development proposals sustain or enhance heritage assets and put them to uses consistent with their conservation. Where proposals will have a harmful impact, in order to be acceptable, the harm must be out-weighted by public benefits.

4.11 The scheme involves a sympathetic restoration that retains fabric which is of interest and will have no adverse effect on the historic and architectural importance of the building. The replacement of the C20 shop front will improve the building's appearance. The works would have a positive impact on the listed building and the conservation area.

## 5.0 CONCLUSION

5.1 The proposed use is acceptable in principle, it would enhance the historic and architectural interest of the host building and the conservation area and there would be no undue impact on residential amenity. As such the proposals do not conflict with policy.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 PLANS1 Approved plans  
Proposed shop front 1306.5A and 9A  
Floor plans 1306.6A and 7A  
Section 1306.8A

3 The use hereby permitted shall not be open to customers outside the hours of 07.00 and 24.00 (midnight).

Reason: To protect the amenity of surrounding occupants.

4 Music emanating from the premises shall be inaudible outside the premises and within adjoining buildings.

The noise mitigation measures (secondary glazing to the roof), as proposed in the Dragonfly Noise Impact Assessment dated May 2013 shall be implemented in accordance with the assessment, prior to first use of the use hereby approved.

Reason: to protect the amenity of surrounding occupants and in the interests of the character of the conservation area.

5 Any kitchen extraction system fitted in association with the use hereby approved must be adequate for the treatment and extraction of fumes so that there is no adverse impact on the amenities of nearby occupants by reason of fumes, odour or noise. The following details of external plant/machinery shall be approved by Local Planning Authority and the equipment installed in accordance with the approved details:

a) Details of the extraction plant or machinery and any filtration system required. The extraction system shall be installed in accordance with the approved plans prior to first operation of the use hereby permitted, appropriately maintained thereafter and fully removed once its use has ceased.

b) Details of all machinery, plant and equipment, which would be audible outside the site, and any proposed noise mitigation measures. These details shall include maximum (L<sub>Amax</sub>(f)) and average (L<sub>Aeq</sub>) sound levels (A weighted), and octave band noise levels they produce. The report shall be undertaken by a specialist noise consultant or suitably qualified person and conducted in accordance with BS4142:1997. The report shall assess the impact of the additional noise sources on nearby properties and include any mitigation measures that are required.

c) If a replacement kitchen extract duct is proposed, the external appearance of the kitchen extract shall be provided (to ensure there would not be an adverse effect on the appearance of the conservation area).

Reason: in the interests of the amenity of surrounding occupants, visual amenity and the appearance of the conservation area.

6 The area shown as 'manager's flat' on drawing number 1306.6A shall not be used as a bar area, eating area or function area without the prior written permission of the local planning authority following the submission of a planning application.

Reason: To protect the amenity of surrounding occupants and in the interests of the character of the conservation area.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH  
In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application.

The Local Planning Authority took the following steps in order to achieve a positive outcome: pre-application advice and through the use of planning conditions.

## 2. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of the city centre, the impact on heritage assets and residential amenity. As such the proposal complies with Policies S3, S6, GP1, HE3, and HE4 of the City of York Development Control Local Plan.

### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323

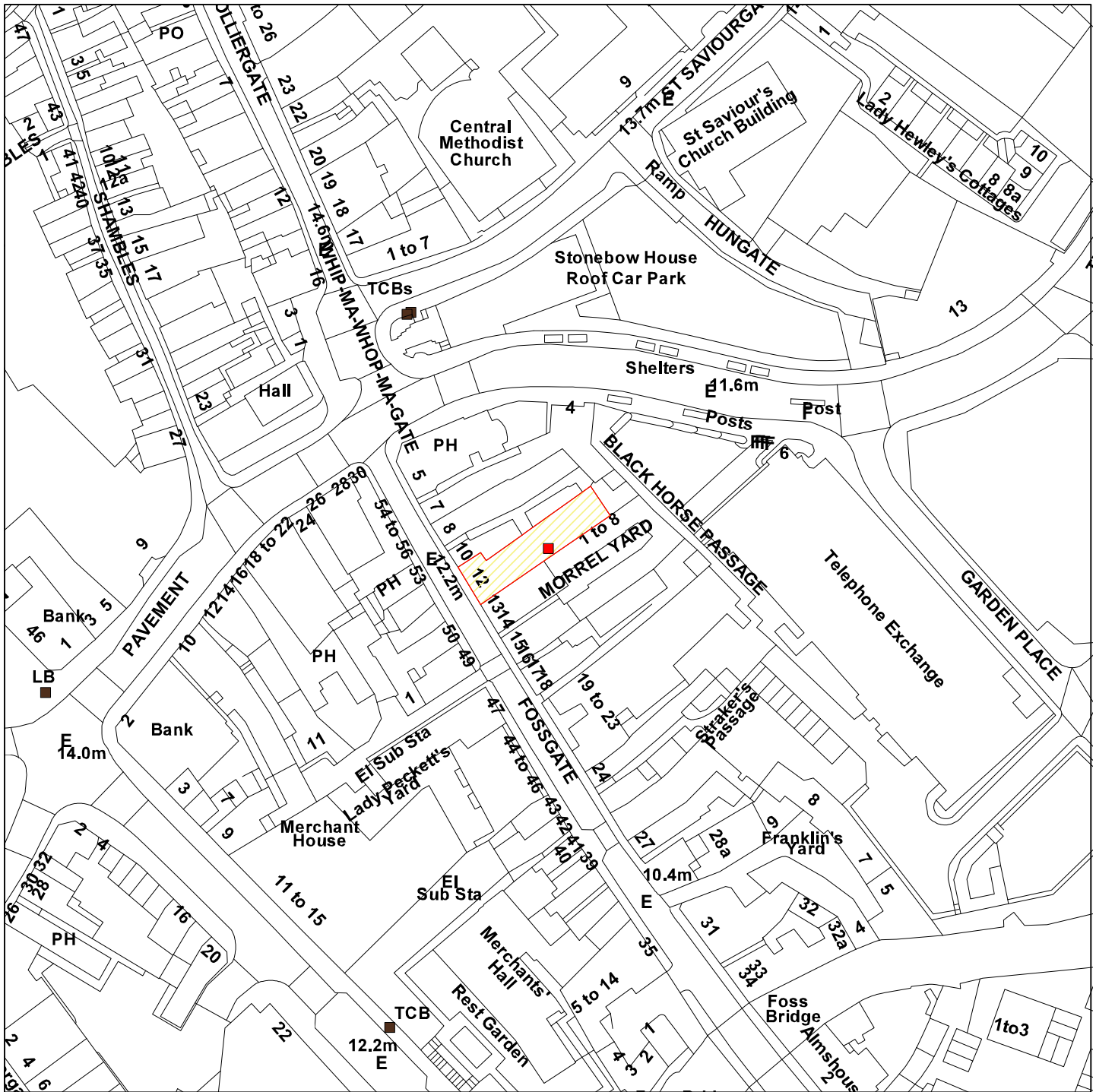


# 13/00742/FUL

## Fellinis 11 - 12 Fossgate



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Scale : 1:1250

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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## COMMITTEE REPORT

**Date:** 6.6.2013 **Ward:** Guildhall  
**Team:** Major and **Parish:** Guildhall Planning Panel  
Commercial Team  
**Reference:** 13/00743/LBC  
**Application at:** 11 - 12 Fossgate York YO1 9TA  
**For:** Replacement shop front and internal alterations  
**By:** Mr Jamie Lawson  
**Application Type:** Listed Building Consent  
**Target Date:** 28 May 2013  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application relates to 11-12 Fossgate, a two-storey building with basement and attic. The building was originally a fishmongers with accommodation above. The ground floor frontage was originally open and a shop front of basic design was inserted later in the C20. Towards the rear of the plot is a 2-storey outbuilding, which has been connected to the main building with a single storey link with glazed roof. The building dates from 1898 and is listed at grade 2.

1.2 It is proposed to use the premises as a drinking establishment. The listed building consent application proposes the following associated alterations -

- Replacement shop front & installation of lobby
- Removal of ground floor w/c & modern fireplace
- Replacement staircase & partition walls in rear building
- Partitions at first floor level to compartmentalise 'managers flat' and avoid heat loss into attic
- Secondary glazing to glazed roof

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

Listed Buildings GMS Constraints: Grade 2;

- 10 Fossgate York YO1 2TA 0841
- 13-14 Fossgate York YO1 2TA 0843
- 11-12 Fossgate York YO1 2TA 0842

2.2 Policies:

CYHE4  
Listed Buildings

**3.0 CONSULTATIONS**

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 Officers support the scheme. Overall the proposed alterations, subject to agreement on detailed design, preserve the special architectural or historic interest of the building, and its value as an integral part of the street scene.

ENGLISH HERITAGE

3.2 No response to date.

GUILDHALL PLANNING PANEL

3.3 No objection.

PUBLICITY

3.4 No objections made to LBC application.

**4.0 APPRAISAL**

KEY ISSUES

4.1 The National Planning Policy Framework advises it is desirable development proposals sustain or enhance heritage assets and put them to uses consistent with their conservation. Where proposals will have a harmful impact, in order to be acceptable, the harm must be out-weighted by public benefits.

ASSESSMENT

4.2 Overall the scheme involves a sympathetic restoration that retains fabric which is of interest and will have no adverse effect on the historic and architectural importance of the building. The replacement of the C20 shop front will improve the building's appearance.

Ground level

4.3 The removal of the ground floor toilet, a modern introduction that intrudes into the main floor-space and is positioned close to the front of the building, by the staircase, will be more sympathetic to the original plan form.

4.4 The fire place which will be removed is a modern fitting which does not relate to the age or architectural style of the building and is of no heritage value.

4.5 Secondary glazing to the roof is proposed to avoid noise pollution. It is justified and the area affected can be upgraded without harm to the setting.

4.6 It is proposed to replace the staircase situated at the rear of the building. The staircase is of simple, functional, appearance, and of modern construction. It is perhaps a replacement of an earlier stair, but not necessarily in the same location. Its removal would have a negligible impact on the heritage value of the building, and the loss would be outweighed by the benefit of a buildings regulations compliant stair allowing the use of the upper floor.

#### Upper floors

4.7 Covering the spiral metal attic stair at attic level preserves its visual interest whilst providing separation between the floors, which is required to provide insulation.

4.8 Partitions are required to separate the manager's flat from the customer toilets. The toilets are enclosed by low partitions, which would be added to. The works will allow comprehensive occupation of the building, in the interests of its viability and there will be no harm to the architectural and historic interest of the building.

### **5.0 CONCLUSION**

5.1 Externally the appearance of the host building will be enhanced. The internal changes would not harm the buildings historic and architectural interest. Approval is recommended.

### **6.0 RECOMMENDATION: Approve**

1      TIMEL2      Development start within 3 yrs (LBC/CAC) -

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

Proposed shop front	1306.5A and 9A
Floor plans	1306.6A and 7A
Section	1306.8

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

3 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.

a) Shop front (at a scale of 1:10) to include:

- Vertical cross sections through proposed shop front. Sections to show typical display windows, main entrance (including finial) and side entrance, pilaster, console brackets and cornice.
- Proposed external colour and finish for shop front

b) Indicative in-situ cross section of secondary glazing to covered yard area at 1:2 scale.

c) Door to manager's flat.

Reason: In the interests of the appearance of the listed building.

4 New partition walls and details shall be scribed around original walls and details.

Any repairs or refurbishment of existing architectural features shall be carried out to a high standard in materials, methods, finishes and details to match surrounding surfaces. Redundant pipework shall be removed and affected areas made good.

Reason: In the interests of retaining the character and appearance of the listed building.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the listed building. As such the proposal complies with Policy HE4 of the City of York Development Control Local Plan.

### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

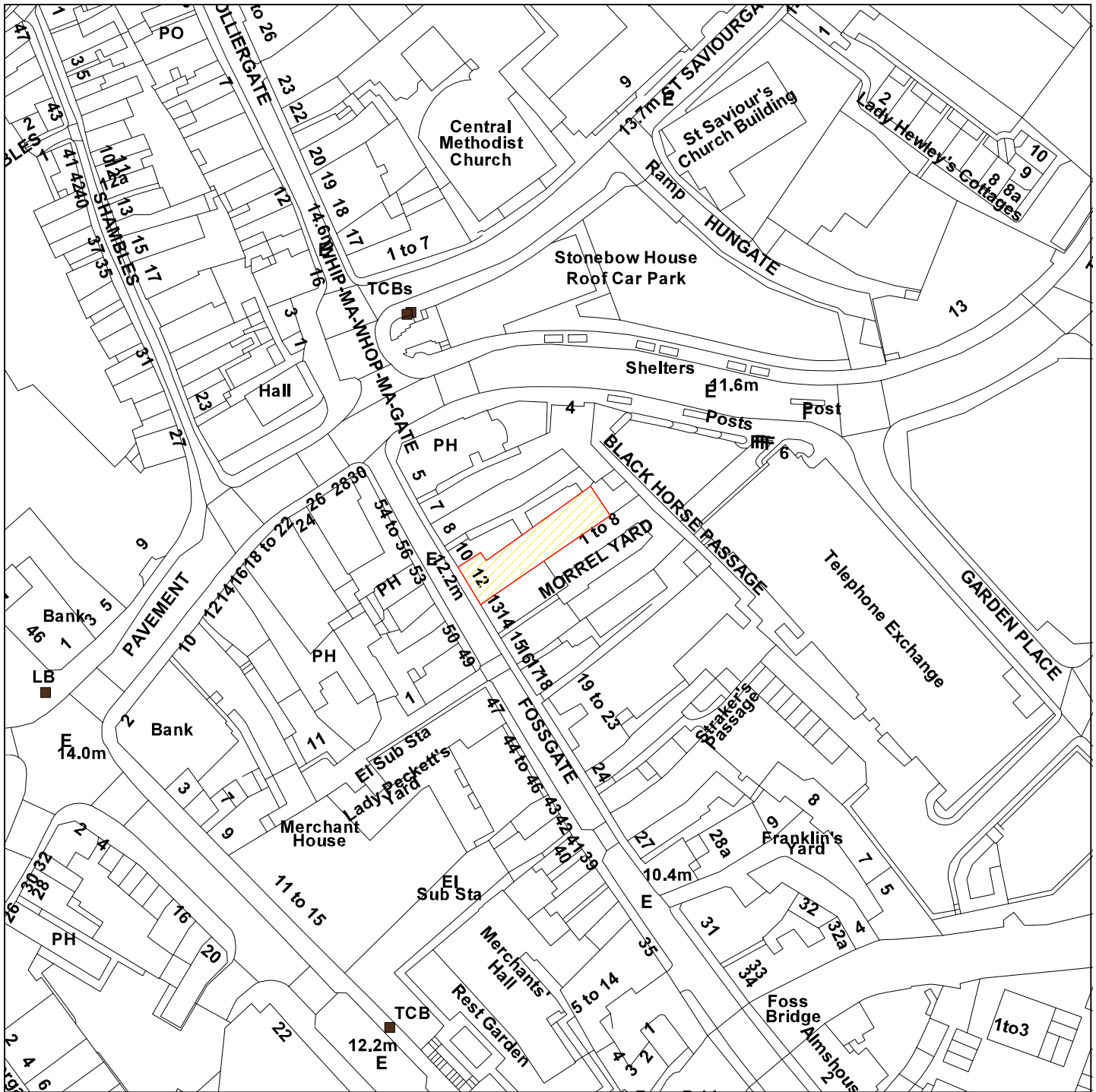
**Tel No:** 01904 551323

# 13/00743/LBC

## Fellinis 11 - 12 Fossgate



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Scale : 1:1250

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Guildhall  
**Team:** Major and                      **Parish:** Guildhall Planning Panel  
                    Commercial Team

**Reference:** 13/00626/FUL  
**Application at:** St Trinity House 3 - 4 Kings Square York YO1 8BH  
**For:** Change of use of estate agents (use class A2) to public house (use class A4) with manager's accommodation. New shop-front.  
**By:** Leeds Brewery Company Ltd  
**Application Type:** Full Application  
**Target Date:** 4 June 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

## APPLICATION SITE

1.1 The application relates to St Trinity House, which is located on the south east side of King's Square and consists of Nos. 3, 4 and 4a King's Square. The buildings are a mix of 2-storey buildings which were originally timber framed dating from the C15 and a 4-storey warehouse building which dates from the C20. The buildings have been subjected to alterations, in the C16, C17 and C18 and saw considerable alteration in the C20 to accommodate the previous office use.

1.2 The host building(s) are listed at grade 2. They were last occupied by an estate agent (A2 use). The site is on a primary shopping street (Kings Square/Colliergate) and is within the Central Historic Core Conservation Area.

## PROPOSALS

1.3 Planning permission is sought to use the premises as a bar. There would be a manager's flat on the upper floor and the commercial kitchen would be located in the back room at second floor level. A replacement shop-front is proposed within the 4-storey building (the existing shop front dates from the C20 and has metal framing) and this would be incorporated within the existing timber surrounds. Internal changes are proposed, which are the subject of application 13/00627/LBC.

1.4 The application has been called to committee by Councillor Brian Watson, in order to assess the impact of the proposed change of use.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area

Conservation Area GMS Constraints: Central Historic Core

Listed Buildings GMS Constraints: Grade 2;

- 1 Colliergate York YO1 8BP 0733
- 5 Kings Square York YO1 2BH 0732
- 1 Shambles York YO1 2LZ 0712
- 3 Colliergate York YO1 2BP 0734

### 2.2 Policies:

CYGP1 Design

CYS3 Mix of use in certain shopping streets

CYS6 Control of food and drink (A3) uses

CYHE3 Conservation Areas

CYHE4 Listed Buildings

## 3.0 CONSULTATIONS

### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 No objections.

### ENVIRONMENTAL PROTECTION UNIT

3.2 No response to date.

### GUILDHALL PLANNING PANEL

3.3 Object on the grounds that the proposed use would harm the amenity of surrounding residents and have a detrimental impact on the character and amenity of the area.

### PUBLICITY

3.4 Deadline for comment was 6.5.2013. Two representations have been made. Comments are as follows

- Support from occupants of 1 Shambles (which are offices).
- Ask that appropriate sound-proofing be installed so there is not noise disturbance in neighbouring businesses.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

- The principle of the proposed use on a primary shopping street
- The impact on the listed building and the conservation area
- Amenity of surrounding occupants

#### THE PRINCIPLE OF THE PROPOSED USE ON A PRIMARY SHOPPING STREET

4.2 The Local Plan designates King's Square and Colliergate as a primary shopping street. In determining planning applications for changes of use on primary shopping streets Local Plan policy S3a applies which seeks to maintain shopping as the primary activity on the street. The thrust of national planning policy is to promote/avoid harm to the vitality and viability of city centres.

4.3 This proposal would not conflict with policy as there would be no loss of A1 (retail) premises. The former use was A2 (estate agents). Potentially the proposed use could attract more activity and enhance the vitality and viability of the area. There would not be an over-concentration of bars in the area. There is only one other bar on the primary shopping street (i.e. King's Square and Colliergate).

#### THE IMPACT ON THE LISTED BUILDING AND THE CONSERVATION AREA

##### Character and appearance of the Conservation Area

4.4 The external alterations would be the replacement shop front and installation of a flue for the kitchen.

4.5 The shop front it is proposed to replace is modern and not of architectural merit. The replacement shop front would be of traditional, materials, design and appropriate proportions introducing a brick stall-riser, transom and fanlight windows. These works would enhance the appearance of the host building and the conservation area.

4.6 The kitchen flue will be within the C20 building, it would be routed internally and depart the building through the roof. A condition is necessary to control the final appearance, but the approach is sympathetic and one which would have the least visual impact.

##### Listed Building

4.7 In accordance with planning policy, the change of use can be incorporated without harm to the special historic and architectural interest of the building. The issue is appraised in the companion Listed Building Consent application.

## AMENITY OF SURROUNDING OCCUPANTS

4.8 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance. Policy S6 advises proposals for food and drink uses will only be granted provided:

- There is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter
- The opening hours are restricted where this is necessary to protect the amenity of surrounding occupiers
- Acceptable external flues and means of extraction have been proposed.
- Where security issues have been addressed

4.9 Although there are no flats immediately nearby the site (8 Colliergate being the closest) we would not want to compromise the possibility of the upper floors of premises nearby being converted to residential in future. The proposed development would cause no undue disturbance, considering noise & cooking smells because:-

- The proposals are only to open the premises until midnight.
- The kitchen will be on the second floor and the flue would discharge above eaves level.
- Noise levels within the host building can be reasonably controlled so neighbours are not disturbed.
- Security would be addressed through the Licensing Act

4.10 The site has a premises licence which allows trade until 23.30 Sunday to Wednesday and 00.30 Thursdays, Fridays and Saturdays. A copy of the licence is attached to the end of this report.

## 5.0 CONCLUSION

5.1 The proposed use is acceptable in principle as there would be no harm to the vitality and viability of the primary shopping street or the city centre as a whole. The proposals have an acceptable impact on heritage assets and the character of the area and amenity of surrounding occupants can be controlled through the imposition of conditions. Approval is therefore recommended.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans: - 1553-14D

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

3 The use hereby permitted shall not be open to customers outside the hours of 07.00 and 24.00 (midnight).

Reason: To protect the amenity of surrounding occupants.

4 Music emanating from the premises shall be inaudible outside the premises and within adjoining buildings.

Reason: to protect the amenity of surrounding occupants and in the interests of the character of the conservation area.

5 Kitchen extraction

Any extraction system fitted in association with the use and plans hereby approved must be adequate for the treatment and extraction of fumes so that there is no adverse impact on the amenities of nearby occupants by reason of fumes, odour or noise. The following details of external plant/machinery shall be approved by Local Planning Authority and the equipment installed in accordance with the approved details:

a) Details of the extraction plant or machinery and any filtration system required. The extraction system shall be installed in accordance with the approved plans prior to first operation of the use hereby permitted, appropriately maintained thereafter and fully removed once its use has ceased.

b) Details of all machinery, plant and equipment, which would be audible outside the site, and any proposed noise mitigation measures. These details shall include maximum (L<sub>Amax</sub> (f)) and average (L<sub>Aeq</sub>) sound levels (A weighted), and octave band noise levels they produce. The report shall be undertaken by a specialist noise consultant or suitably qualified person and conducted in accordance with BS4142:1997. The report shall assess the impact of the additional noise sources on nearby properties and include any mitigation measures that are required.

c) Any external plant shall be in accordance with the approved plans only. The appearance of the equipment that would be located externally (i.e. the extract flue) shall be approved by the Local Planning Authority and installed in accordance with the approved details (to ensure there would not be an adverse effect on the appearance of the listed building and the conservation area).

Reason: in the interests of the amenity of surrounding occupants, visual amenity and the appearance of the conservation area.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of the city centre, the impact on heritage assets and residential amenity. As such the proposal complies with Policies S3, S6, GP1, HE3, and HE4 of the City of York Development Control Local Plan.

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

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

### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323

LICENSING ACT 2003  
PREMISES LICENCE

### **Licensable activities authorised by the licence:**

Live Music

Recorded Music

Supply of Alcohol

**The times the licence authorises the carrying out of licensable activities:****LIVE MUSIC**

Indoors

Monday 11:00 - 23:00	Tuesday 11:00 - 23:00	Wednesday 11:00 - 23:00	Thursday 11:00 - 23:00
Friday 11:00 - 23:00	Saturday 11:00 - 23:00	Sunday 11:00 - 23:00	

**RECORDED MUSIC**

Indoors

Monday 09:00 - 23:00	Tuesday 09:00 - 23:00	Wednesday 09:00 - 23:00	Thursday 09:00 - 24:00
Friday 09:00 - 24:00	Saturday 09:00 - 24:00	Sunday 09:00 - 23:00	

**SUPPLY OF ALCOHOL**

Monday 11:00 - 23:00	Tuesday 11:00 - 23:00	Wednesday 11:00 - 23:00	Thursday 11:00 - 24:00
Friday 11:00 - 24:00	Saturday 11:00 - 24:00	Sunday 11:00 - 23:00	

**The Opening Hours of the Premises**

Monday 09:00 - 23:30	Tuesday 09:00 - 23:30	Wednesday 09:00 - 23:30	Thursday 09:00 - 00:30
Friday 09:00 - 00:30	Saturday 09:00 - 00:30	Sunday 09:00 - 23:30	

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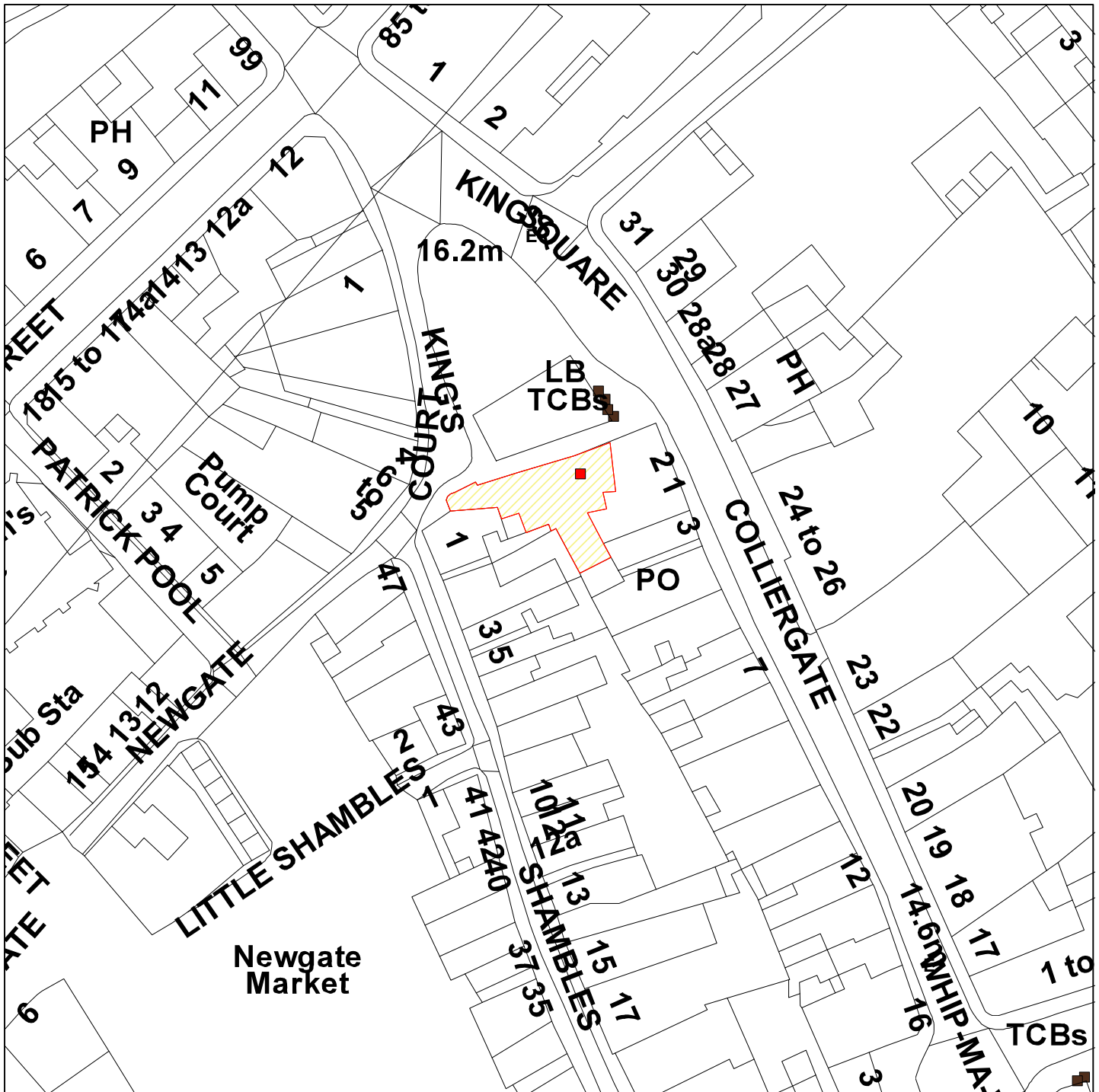


# 13/00626/FUL

## St Trinity House 3 - 4 Kings Square



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Guildhall  
**Team:** Major and                      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 13/00627/LBC  
**Application at:** St Trinity House 3 - 4 Kings Square York YO1 8BH  
**For:** Internal and external alterations in relation with conversion to a public house  
**By:** Leeds Brewery Company Ltd  
**Application Type:** Listed Building Consent  
**Target Date:** 4 June 2013  
**Recommendation:** Approve

**1.0 PROPOSAL****APPLICATION SITE**

1.1 The application relates to the grade 2 listed St Trinity House, which is located on the south east side of King's Square and consists of Nos. 3, 4 and 4a King's Square. The buildings are a mix of 2-storey buildings which were originally timber framed dating from the C15 and a 4-storey warehouse building which dates from the C20. The buildings have been subjected to alterations, in the C16, C17 and C18 and saw considerable alteration in the C20 to accommodate the previous office use.

1.2 Listed building consent is sought for the proposed alterations in association with changing the use of the premises to a drinking establishment. The external changes proposed are a replacement shop front and a flue for the commercial kitchen. The following internal changes are proposed -

**Ground floor**

- Removal of partitions, the creation of a servery hatch in the side wall between the 4-storey warehouse building and one of the originally timber framed 2-storey buildings, removal of stair and replacement stair within the 4-storey building. Removal of C20 stair in 2-storey timber framed building.

**First floor**

- Creation of 'gallery' area in 4-storey building, insertion and removal of walls, provide access to the escape stair to the side of the host building.

**Second floor**

- Commercial kitchen to be installed in back room of 4-storey building, dumb waiter to run down to ground floor, flue to run internally and depart through roof.

Third floor

- Space to be used as a manager's flat. Staircase to be compartmentalised (for fire safety).

1.3 The application has been called to committee by Councillor Brian Watson, in order to assess the impact of the proposed change of use.

## **2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

Listed Buildings GMS Constraints: Grade 2;

- 3 Colliergate York YO1 2BP
- 1 Colliergate York YO1 8BP
- 5 Kings Square York YO1 2BH
- 1 Shambles York YO1 2LZ

2.2 Policies:

HE4 Listed Buildings

## **3.0 CONSULTATIONS**

### **DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT**

3.1 No objection. The proposed change of use and associated alterations preserve the character of the building as one of special architectural or historic interest.

3.2 The proposed alterations as now set out have been guided by pre-application advice and the subsequent detailed assessment of the group. Major alterations are now largely confined to the 20<sup>th</sup> century building and preserve the special interest of the group, although it is noted that the design of the stair behind the front window will have to be carefully detailed so as not to be overly intrusive in views into the building. Of the other alterations officers advise -

- The proposed replacement shop front is of more pleasing appearance than the current aluminium framed frontage.
- The staircase to be removed from the timber framed building immediately to the west of the warehouse is modern and of no special interest.

- The serving hatch to be formed between the two buildings is formed through recent brick work and will not result in harm to the historic value of the structures (the FAS study confirms there is no framing below the timber beam). Enlarging an opening on the first floor of the building to the east of the warehouse preserves the cellular plan form of the building.

## ENGLISH HERITAGE

3.3 Officers do not object to the proposals. It is suggested a condition to agree the detailed treatment of the server hatch is imposed.

## GUILDHALL PLANNING PANEL

3.4 Object on the grounds that the proposed use would harm the integrity of the building.

## PUBLICITY

3.5 No representations have been made.

## **4.0 APPRAISAL**

### KEY ISSUES

4.1 Impact on the listed building

### RELEVANT POLICY

4.2 The National Planning Policy Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification/public benefits which outweigh the harm.

### ASSESSMENT

4.3 The works have been informed by an historic buildings assessment. The majority of the changes internally are confined to the 4-storey building which dates from the C20 and is of low historic interest. It is in this area where the new staircase up to first floor level and the first floor 'gallery' is proposed and also the commercial kitchen. The changes would not affect the special historic and architectural interest

of the building. The stair that is to be removed from one of the 2-storey buildings was installed as part of the C20 works when the offices were altered. The change would not affect historic interest. The first floor area is not useable due to the low floor-to-ceiling height (the space was originally single storey).

4.4 Where the servery and cellar are proposed two openings would be created in the walls and there would be a partition to enclose the cellar. The wall where the cellar entrance is proposed is C20 construction. In the side wall a servery hatch is proposed. This wall has C15 timber framing and later brick infill. A hatch is proposed here, rather than a full height opening so that only modern fabric will be affected. The timber framing would remain in-situ.

4.5 At first floor level it is proposed to increase the width of the opening into the front room where the dining/function room is proposed. This brickwork dates from the C18. The intervention will be kept to a minimum which will strike a balance between providing comfortable space for circulation and retaining evidence of the original plan form.

4.6 The external changes proposed would not detract from the buildings historic/architectural interest. The shop front works will enhance, replacing a modern door and window with a shop front of traditional detailing and materials. The kitchen extract will be in a discreet location and on the C20 building.

## **5.0 CONCLUSION**

5.1 The proposals comply with the requirements in the NPPF and are welcome. They will allow the building to be brought into comprehensive use, in a manner that is consistent with its conservation. The internal changes will not unduly affect historic fabric and the shop front changes will enhance the building's appearance. As such it is recommended consent be granted.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Approve**

1 TIMEL2 Development start within 3 yrs (LBC/CAC)

2 The development hereby permitted shall be carried out in accordance with the following plans: - 1553-14D

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

3 Large scale details (at a scale of 1:10) of the items listed below shall be

Application Reference Number: 13/00627/LBC

Item No: 4g

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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.

- a) Shop front and surrounds to include sections through (both of stall riser/shop front and entrance door and surrounds).
- b) New staircase between ground and first floor and detail of guarding to gallery
- c) New opening and surrounds into first floor dining/function room and into fire escape stair.
- d) Service hatch. To include statement on measures to protect the timber framing during works.

Reason: In the interests of the appearance of the listed building.

4 New partition walls and details shall be scribed around original walls and details.

Any repairs or refurbishment of existing architectural features shall be carried out to a high standard in materials, methods, finishes and details to match surrounding surfaces. Redundant pipework shall be removed and affected areas made good.

Reason: In the interests of retaining the character and appearance of the listed building.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the listed building. As such the proposal complies with Policy HE4 of the City of York Development Control Local Plan.

#### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer  
**Tel No:** 01904 551323

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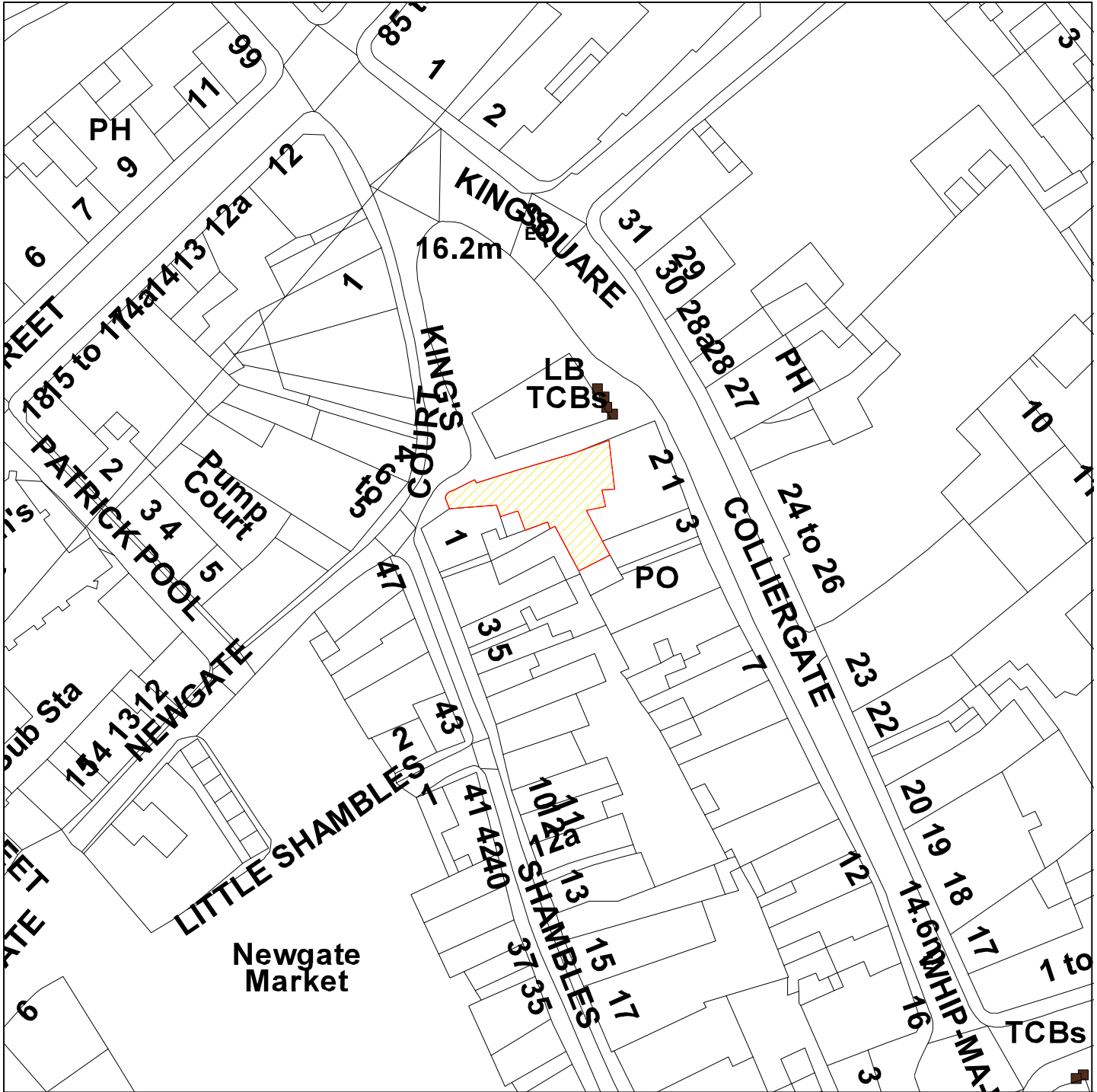


# 13/00627/LBC

## St Trinity House 3 - 4 Kings Square



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Bishopthorpe  
**Team:** Major and                      **Parish:** Bishopthorpe Parish  
                    Commercial Team                      Council

**Reference:** 13/00629/LBC  
**Application at:** The Palace Bishopthorpe Road York YO23 2QE  
**For:** Installation of 2no. chandeliers in Great Hall following  
                    removal of 2no. plaster rose details on ceiling  
**By:** Church of England Church Commissioners  
**Application Type:** Listed Building Consent  
**Target Date:** 15 May 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The Palace at Bishopthorpe is a building of high historic and architectural value dating from the 13th century and listed at grade I. It is situated within its own grounds close to the River Ouse in the Bishopthorpe conservation area. The building exhibits successive phases of construction and remodelling from the C13th to the present day.

1.2 It is proposed to introduce additional lighting into the Great Hall to enable the room to be used more effectively for conferences, other 'round table' meetings and by residents.

1.3 This application has been called in to Committee with a site visit by Councillor Brian Watson as he is concerned with the possible harm caused to the building by the proposal.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Bishopthorpe CONF  
Listed Buildings GMS Constraints: Grade 1; Bishopthorpe Palace and Chapel  
Bishopthorpe Road

2.2 Policies: CYHE4Listed Buildings

### **3.0 CONSULTATIONS**

#### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 There is strong justification for improving the lighting in the hall and alternative schemes would be considered less effective and more harmful to the historic fabric. Proposals would cause minor harm to two of the altered C19th pendants by the removal of the bud terminals and there is the possibility of harm through general disturbance during fixing. In addition the general appearance of the ceiling would be adversely affected if the chandelier itself was hung too close to the ceiling. These issues should be covered through conditions. There are examples of similar schemes in houses with C17th interiors which have been successfully implemented and do not adversely affect aesthetic appreciation of the space eg Sudbury Derbyshire. Indeed improved lighting should better reveal the qualities of the interior.

#### ENGLISH HERITAGE

3.2 We regret that it is considered necessary to intervene in this elaborate ceiling in this manner, and we would have preferred a free-standing lighting arrangement, clear of the ceiling, to have been used. However it is our understanding that this is not considered to deliver the kind of lighting required in this case. We recommend that the bud details which are to be removed are carefully stored (as proposed) for future re-instatement.

#### BISHOPTHORPE PARISH COUNCIL

3.3 The Parish Council have no objections to the scheme.

#### PUBLICITY

3.4 The application was advertised by site notice and press advert. No comments have been received.

### **4.0 APPRAISAL**

#### KEY ISSUES

- Impact on visual amenity and historic character of the listed building

#### RELEVANT PLANNING POLICY

4.1 Development Control Local Plan Policy HE4 states with regard to listed buildings that consent will only be granted for development where there is no adverse effect on the character, appearance or setting of the building.

4.2 NATIONAL PLANNING POLICY FRAMEWORK (NPPF), MARCH 2012, CHAPTER 12, PARAGRAPH 132 - National Planning Policy is now contained in the National Planning Policy Framework ( 2005) states that considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed by or lost through alteration or destruction of the heritage asset or development within its setting.

#### IMPACT ON VISUAL AMENITY AND HISTORIC CHARACTER OF THE LISTED BUILDING

4.3 The proposal to introduce additional lighting into the Great Hall is considered to be necessary as the existing lighting comes from the perimeter of this large room which results in low ambient light levels. In addition there is no 'task lighting' at all. Conditions for reading paperwork etc. in the central area are extremely poor and this limits the use of the wonderful space. The proposal is to hang two chandeliers from the ceiling in a manner similar to the single chandelier in the drawing room. To be effective the chandeliers would need to be located at two intersections of the beams rather than in the middle of the panels (as in the C18th drawing room) and their attachment would affect the decorative pendants as well as the appearance of the ceiling as a whole.

4.4 The Great Hall and Chapel formed the heart of the medieval palace building complex and therefore the Great Hall is of high evidential value, especially in its plan form, location and structural fabric. However the interior was entirely remodelled in the C17th after rebuilding of the east wall (facing the river) around 1660 by Archbishop Frewen (ref Historic Buildings Assessment, FAS Report July 2006). Although there have been further C18th and minor C19th alterations within the Hall, the highly ornate plaster ceiling with its irregularly spaced spine and cross beams and decorative panels is a C17th scheme, although the pendants themselves were reduced in size in the C19th. The room interior is of high aesthetic value and of historical importance.

4.5 To avoid making the proposed alterations to the ceiling, the agent has explored other options with the electrical contractors. Using additional perimeter sockets instead would require a new lighting circuit to be installed; this would affect the wood panelled walls and is likely to result in unsatisfactory surface cabling across the floor. Alternatively the introduction of floor sockets would damage the wide C18th floor boards and still lead to trailing cables. These measures would be regarded as being more invasive than the proposed scheme and the result would be less satisfactory in terms of the objectives.

4.6 There is strong justification for improving the lighting in the hall and alternative schemes would be considered less effective and more harmful to the historic fabric.

It is acknowledged that proposals would cause minor harm to two of the altered C19th pendants by the removal of the bud terminals and there is the possibility of harm through general disturbance during fixing. In addition the general appearance of the ceiling would be adversely affected if the chandelier itself was hung too close to the ceiling. These issues can be covered by condition if the application is approved. There are examples of similar schemes in houses with C17th interiors which have been successfully implemented and do not adversely affect aesthetic appreciation of the space e.g. Sudbury Derbyshire. Also it is felt that improved lighting would better reveal the qualities of the interior.

## 5.0 CONCLUSION

5.1 The proposal may cause minor harm to the historic fabric of the building; however it is the least invasive method for improving the lighting and in turn, the use of the room. Approval is recommended.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1      TIMEL2      Development start within 3 yrs (LBC/CAC) -

2      PLANS1      Approved plans - Drawings G3781-101 and 102 dated February 2013.

3      Prior to works commencing on site, a method statement shall be submitted to and approved in writing by the Local Planning Authority explaining how the work would be carried out step by step to minimize damage to the floor and the ceiling. This shall be developed in association with the contractor after preliminary investigations e.g. opening up from above using hand tools. The implications of any additional light switching arrangements shall also be described in the statement.

Reason: To protect the historic fabric of the listed building.

4      The existing bud detail shall be carefully removed by an experienced craftsman and stored on site in suitable conditions where it would not be damaged.

Reason: In the event of future re-instatement.

5      The fixing plate shall be masked by a specially designed cover plate which would replicate the form and detail of the original terminal so that the pendants appear complete. A large scale drawing of the fixing detail and cover plate (showing it in context) shall be submitted to and approved in writing to the Local Planning Authority.

Reason: To protect the historic fabric of the listed building.

6 The chandelier shall be hung well below the ceiling on slim hangers or chains concealing the wiring (in a similar manner to the chandelier in drawing room) so that visual separation is achieved.

Reason: To protect the appearance of the listed building.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the historic fabric of the listed building. As such the proposal complies with Policies GP1 and HE4 of the City of York Development Control Local Plan.

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

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

Discussing alternative lighting schemes with the contractor  
Use of appropriate conditions

### **Contact details:**

**Author:** Elizabeth Potter Development Management Assistant

**Tel No:** 01904 551477

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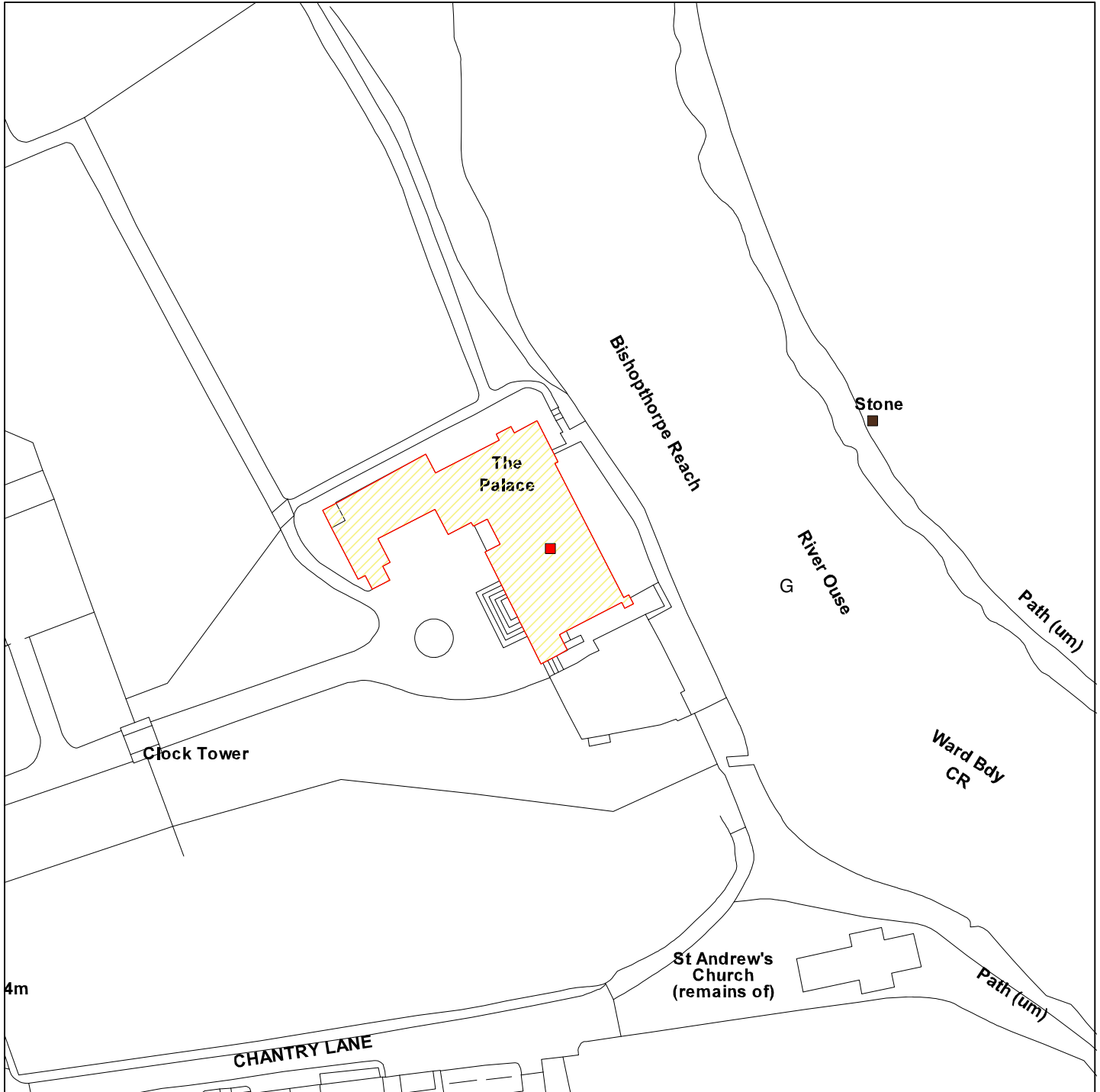


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The Palace Bishopthorpe Road



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Haxby and Wigginton  
**Team:** Major and                      **Parish:** Haxby Town Council  
                    Commercial Team

**Reference:** 13/00455/FUL  
**Application at:** 15 Moor Lane Haxby York YO32 2PQ  
**For:** Erection of bungalow to side  
**By:** Mr Jacob Verhoef  
**Application Type:** Full Application  
**Target Date:** 10 May 2013  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 Planning permission is sought for the erection of a detached bungalow within the side garden area of 15 Moor Lane, Haxby.

1.2 The site is located to the north side of Haxby village within Haxby parish; the parish boundary is located approximately 70 metres to the west of the site so that the site is also close to the parish of Wigginton.

1.3 The application site forms part of the garden/amenity area at 15 Moor Lane. It is a triangular plot with a maximum length of 30 m and a maximum width of 17.5 m. Moor Lane lies parallel with the eastern boundary, and the site's western boundary abuts a private access leading to 9 and 11 Moor Lane. The southern tip of this triangular site is where the private access meets Moor Lane. The main dwelling at 15 Moor Lane is situated to the north. It is a dormer bungalow with two large windows in the side elevation facing the application site. The site is a relatively open gravelled space set lower than the adjacent footpath along Moor Lane.

1.4 The proposal is to erect a detached bungalow measuring 9 metres by 6.2 metres with a floor to ridge height of 5 metres. The scheme provides for a distance of 4 metres between the existing and proposed dwellings with a fence separating the existing property from the new plot located 1 metre from the side elevation of the bungalow. The ground floor side window is shown as being removed from the existing bungalow.

1.5 The application has been called into committee by Cllr Richardson and Cllr Cuthbertson.

## PLANNING HISTORY

1.6 09/01479/FUL: Erection of 1no. new dwelling. Application withdrawn in January 2010.

1.7 10/00940/FUL: planning permission was refused for the erection of a two storey dwelling in June 2010. The reasons for refusal were:

1. It is considered that the proposal would result in a development that would appear unduly cramped, overbearing and out of proportion in relation to the size and shape of the plot, in particular when viewed from Moor Lane to the east and the private access to the west. The proposal would thus unduly affect the visual appearance and amenity of the area, contrary to policies H4a and GP1 of the City of York Draft Local Plan.

2. Insufficient drainage details have been submitted to show how foul and surface water generated by the proposal would be properly attenuated and how flood risk from all sources to the development itself and to others will be managed. The application therefore conflicts with Central Government advice contained within Planning Policy Statement 25 "Development and Flood Risk", policy GP15a of the Draft Local Plan and the Council's adopted Strategic Flood Risk Assessment.

3. The development makes no provision for open space to meet the needs of future residents and the local community. The development therefore conflicts with Policy L1c 'Provision of New Open Space in Development' of the City of York Draft Local Plan, which requires a commuted payment towards off-site provision.

## 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYH4  
Housing devp in existing settlements

CYGP1  
Design

CYGP4  
Environmental sustainability

CYGP9  
Landscaping

CYGP10  
Subdivision of gardens and infill devt

CYL1  
Open spaces in new residential devts

### **3.0 CONSULTATIONS**

#### INTERNAL

3.1 Highways Network Management - No objections subject to conditions

3.2 Environmental Protection - No objections. A demolition and construction informative is requested.

3.3 Life Long Learning and Leisure - A contribution towards to provision of off-site open space is required in accordance with policy L1c of the Draft Local Plan

3.4 Flood Risk Management Team - object to the scheme as sufficient information has not been submitted to show that the site can be adequately drained.

#### EXTERNAL

3.5 Haxby Town Council - strongly objected to the application on the following grounds:

- Overdevelopment of the site due to the mass of the proposed dwelling.
- Concerned about the impact on residential amenity.
- Development would have a detrimental visual impact on the street scene.
- Concerns about an increase in flooding from surface water as the surrounding area is known to flood. In particular the driveway belonging to house nos 9 and 11 Moor Lane.
- Concerned about the impact on the access to the existing properties from a safety aspect.

The application should be called in to the City of York Council East Area Planning Sub-Committee to determine the outcome. A site visit should be carried out.

3.6 Wigginton Parish Council - No objections

3.7 Foss Internal Drainage Board - The site is in an area where drainage problems exist and development should not be allowed until the Authority is satisfied that surface water drainage has been satisfactorily provided for.

3.8 Eight letters of objection have been received covering the following points:

- Concerned about flooding at 17 Moor Lane. Moor lane is frequently flooded and the traffic along the road pushes the water down the driveway. Furthermore the rear garden is at zero water table level with no soakaway capacity and is frequently under water from October to April. The development will result in further strain on drainage capacity and will lead to flooding at no.17.
- The foul drainage system has limited capacity and suffers from blockage which has had to be cleared by the Council
- No. 15 is already prone to ground water flooding which drains into the sewerage system which causes sewerage to come up from the drain in their drive.
- 15 Moor Lane will be left with no garden at all
- Footprint of the building will be very cramped on this small site
- The public footpath is between 0.5 and 1.2 metres higher than the plot the area adjacent to the site regularly floods and the area acts as a natural drainage area hence the gravel surface.
- The development would spoil the visual amenity of the rear garden of 7 Moor Lane
- Proposed development would be out of keeping with the area and would overlook and shadow the rear garden of 7 Moor Lane, which since 1955 has gradually been surrounded by development.
- The access and egress is on to a busy road
- The sustainability statement is full of inaccuracies the bus stop is 150 metres away and is not served by the no.13 bus
- Land adds to the open aspect of a road of individual character properties. The proposed development has no less impact than the previously refused scheme
- Development will block views from 9 Moor Lane which adds to its prime position and value. Open aspect also aids security of property and safety of the rear access road
- Concerned about the access point on a bend and the position of the Turing area which is considered to be unusable
- The development would have a negative impact on the existing property 15 Moor Lane but as the property is tenanted there will be no objections raised.
- If permission is granted no vehicles associated with the development will be able to use the private lane to the rear of the site.

## **4.0 APPRAISAL**

### **4.1 Key Issues**

- Principle of the development
- Design and Landscaping

- Highways, access and parking
- Residential Amenity
- Open Space
- Drainage

4.2 The National Planning Policy Framework (NPPF) states there are three dimensions to sustainable development, namely economic social and environmental. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. (Para. 7 and 8)

4.3 At the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means:-

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate development should be restricted. (Para.14)

4.4 The core principles set out in paragraph 17 include the expectation that development will always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.5 Section 6 of the NPPF addresses the delivery of a wide choice of high quality homes. Housing applications should be considered in the context of the presumption in favour of sustainable development (Para. 49). Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area (Para 53).

4.6 Section 7 of the NPPF requires good design. Paragraph 56 says good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment (Para 61). Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (Para.64).

4.7 To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should among other things plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments and ensure an integrated approach to considering the location of housing, economic uses and community facilities and services (Para.70).

4.8 Policy H4a of the draft City of York Development Control Local Plan (DCLP) supports the principle of development on unallocated sites where these are within urban areas, on vacant, derelict or underused land or it involves infilling, redevelopment or conversion of existing buildings and the site has good accessibility provided it is appropriate to the scale and density of its surroundings.

4.9 Other DCLP policies relevant to the consideration of the detail of this application are:-

- Policy GP1 'Design' includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

- Policy GP4a 'Sustainability' states that proposals for all development should have regard to the principles of sustainable development.

- Policy GP9 requires where appropriate developments to incorporate a suitable landscaping scheme

- GP10 planning permission will only be granted for the sub-division of existing garden areas to provide new development where this would not be detrimental to the character and amenity of the local environment.

- Policy L1c requires that all housing sites make provision for the open space needs of future occupiers. For sites of less than 10 dwellings a commuted payment will be required towards off site provision.

## PRINCIPLE OF THE DEVELOPMENT

4.10 Both local plan policy and advice within the NPPF support the principle of new residential development within sustainable locations. The site is considered to be such a location.



## DESIGN AND LANDSCAPE

4.11 The NPPF states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Policy GP10 of the DCLP is consistent with this aim in stating that permission should only be granted for sub-division of existing garden areas to provide new development where this would not be detrimental to the character and amenity of the local environment.

4.12 The site is triangular in shape and is located at the junction of Moor Lane and the private access serving nos 9 and 11 Moor Lane and is thus in a highly visible location, particularly when viewed from the south. The site is between 0.5 and 0.75 metres lower than the footpath along Moor Lane and is approximately on a level with the private drive that runs to the rear. The site has a depth adjacent to the existing bungalow of approximately 17.5 metres, narrowing to a point where Moor Lane and the private access meet. The boundaries of the plot have been planted with small trees/ shrubs and the area is gravelled. The submitted plans show that the building would be sited 4 metres from the side wall of the existing bungalow. At its closest the building would be 1.5 metres from the rear private lane and about 2 metres from the footpath along Moor Lane. The bungalow has been pegged out on site to these dimensions. The bungalow is designed with an eaves height of 2.6 metres and a ridge height of 5 metres and is to be constructed from the existing level of land thus the difference in level between the site and the footpath would remain. The driveway between the existing and proposed dwellings is delineated by a 2 metre high fence. No garage is to be provided with the unit as this would be difficult to achieve within the restrictions of the site, however cycle and bin storage is proposed along the rear boundary accessed via the driveway. The property is a two bedroom unit with a breakfast kitchen and lounge. Access to the outside space is via patio doors from bedroom 1.

4.13 The previous scheme for this site proposed a dwelling that was both higher and had a larger footprint than that now proposed. That development was considered to be unacceptable as it was considered that the dwelling would appear unduly cramped, overbearing and out of proportion in relation to the size of the plot. The NPPF takes a balanced approach to new development seeking good design and development that functions well within its location against the need to provide new housing. The emphasis where gardens are to be developed is to ensure that inappropriate development in terms of character and amenity is resisted. The immediate area is characterised by a variety of house types, plot sizes and locations such that it would not necessarily be inappropriate to introduce a bespoke design and layout where such a design and layout could function well within its surroundings.

The boundary hedge and landscaping within the garden to the west, the hedged boundaries to properties on the east and the general maturity of frontages provides a pleasant aspect to Moor lane and it is these features that, in the opinion of officers, provide the character and quality of the area. The open space provided by the application site adds to the overall visual quality of the area. The siting of the proposed bungalow would provide a good separation between the existing and proposed dwellings. Furthermore the ground floor window to the existing bungalow that faces the site is to be removed so that the positioning of the fence and the car parking area are not overlooked by that property. The new bungalow will be reasonably tight to the south eastern and south western boundaries but sufficient space is retained to incorporate landscaped boundaries, this boundary treatment will provide a similar setting to the building as those developments adjacent to it. The height of the building is lower than the adjacent house so that the development could not be said to be unduly dominant; in fact its scale and massing being on land lower than the Moor Lane frontage will appear small when approaching the site from the south. Taking all of these factors into account, it is considered that the development will have an acceptable relationship to its surroundings and will not detract from the character and quality of the area.

#### HIGHWAYS ACCESS AND PARKING

4.14 A number of the letters of objection raise concerns about the level of traffic along the road and the position of the new access point close to a bend in the road. Highways Network Management considers the visibility at the access point to be acceptable and do not raise any objections to the scheme. The previous application was not refused on highway grounds and there is no basis to introduce such an objection at this stage.

#### RESIDENTIAL AMENITY

4.15 The previous scheme showed a separation distance of 3.7 metres between windows in the side elevation of the existing bungalow at 15 Moor Lane and the proposed dwelling. In relation to that scheme it was considered that whilst the proposal would block sunlight entering into the ground floor side window, the living room also has the benefit of two additional windows, one to the west and the other to the east. Thus any reduction of daylight was not considered to be unduly harmful. The scheme now submitted provides a distance of 4 metres between the dwellings and removes the ground floor lounge window to 15 Moor Lane from the gable end elevation, and with these amendments the scheme is acceptable in this respect. The bedroom window on the first floor would be directly facing the gable of the proposal at a distance of 4 metres. Whilst there may be some loss of light to this window, the reduced height of the new dwelling over the original proposal, the additional distance between plots and the addition of a roof light to provide additional light to the bedroom space would be sufficient to off set any loss of light to this window.

Overall the gable to gable relationship between the proposed and existing development is considered to be acceptable.

4.16 There would be a distance of more than 25.0m between the proposal and 9 and 11 Moor Lane. Given these distances, it is considered that the scheme would have an acceptable relationship to these properties.

## OPEN SPACE

4.17 A developer contribution of £1,172 would be required for the provision of public open space in accordance with policy L1c of the DCLP. The requirement for a financial contribution would normally be sought through a Section 106 Agreement or Unilateral Undertaking. The applicant's agent has confirmed his willingness to pay the contribution. Were members to approve the scheme a unilateral undertaking could be sought, there is no longer a need to introduce a reason for refusal on this basis.

## DRAINAGE AND FLOOD RISK

4.18 The previous application included a reason for refusal relating to drainage of the site. The committee report however acknowledged that it was likely a technical solution could be found to the drainage issue and that this could be resolved during the appeal process if the application were to be appealed. The Flood Risk Management Team maintain their objection to this scheme and a number of the letters of objection refer to concerns about flooding and the difficulties of draining the site. The applicant has now commissioned the appropriate work to establish the method of drainage for the site. This information will be available and an update will be provided to committee on this issue.

## 5.0 CONCLUSION

5.1 The site is considered to be sustainably located such that the principle of the development can be supported and for the reasons discussed above the proposed scheme is considered to acceptably relate to the character and quality of the area and would accord with the requirements of the NPPF and GP10 of the DCLP.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

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

(To be confirmed at committee)

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

3 VISQ8 Samples of exterior materials to be app -

4 LAND1 IN New Landscape details -

5 Prior to the development coming into use, the initial 10m of the vehicular access, measured from the back of the public highway, shall be surfaced, sealed and positively drained within the site. Elsewhere within the site all areas used by vehicles shall be surfaced and drained, in accordance with the approved plans.

Reason: To prevent the egress of water and loose material onto the public highway.

6 HWAY19 Car and cycle parking laid out -

7 HWAY25 Pedestrian visibility splays protected -

8 Prior to the occupation of the dwelling hereby approved the ground floor window in the gable end of 15 Moor Lane shall be removed and the velux roof light to the first floor bedroom shall be installed in accordance with the submitted details shown on Drawing no. ( to be confirmed)

Reason: In the interests of the residential amenity of the occupier of 15 Moor Lane

9 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A to F of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of visual amenity and because of the restricted size of the site Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

## **7.0 INFORMATIVES: Notes to Applicant**

## 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:-

- Principle of the development
- Design and Landscaping
- Highways, access and parking
- Residential Amenity
- Open Space
- Drainage

As such the proposal complies with Policies GP1, GP10, L1c of the City of York Development Control Local Plan and advice within the National Planning Policy Framework.

## 2. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

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

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

- requested that the proposed dwelling be pegged out on the site
- sought clarification and amendments to ensure an acceptable relationship with the surrounding area
- discussed and clarified the level of information required to achieve acceptable drainage and open space requirements

### **Contact details:**

**Author:** Diane Cragg Development Management Officer (Mon/Tues/Wed)  
**Tel No:** 01904 551351

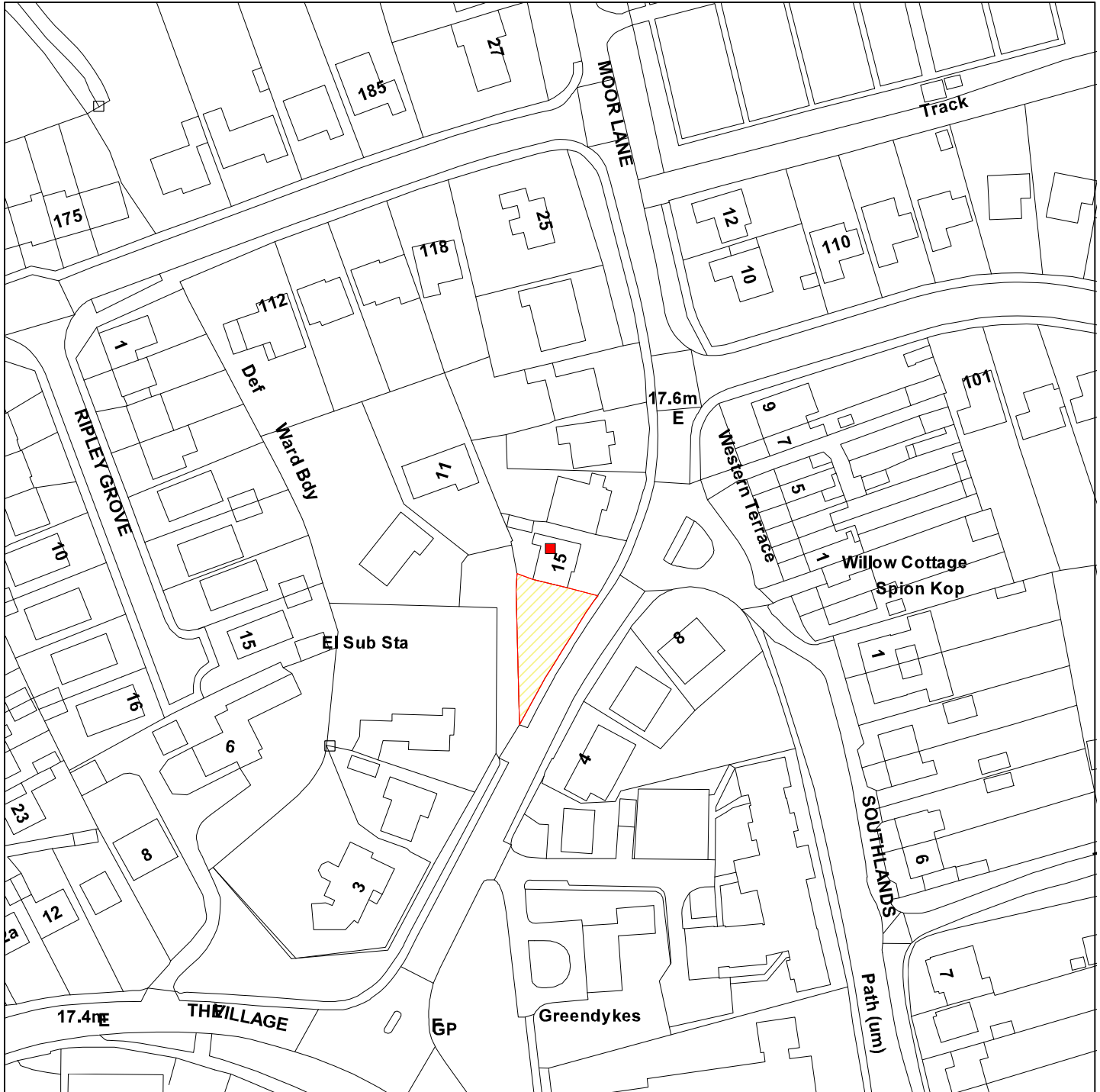
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# 13/00455/FUL

## 15 Moor Lane Haxby



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Guildhall  
**Team:** Major and                      **Parish:** Guildhall Planning Panel  
                    Commercial Team

**Reference:** 13/00349/FUL  
**Application at:** Former Car Repair Garage to Rear Of 70 - 72 Huntington Road  
                    York  
**For:** Erection of 4no. dwellings (resubmission)  
**By:** Mr Alan Wrigglesworth  
**Application Type:** Full Application  
**Target Date:** 26 April 2013  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 Full planning permission is sought for the erection of four dwellings on an area of land formerly occupied by Wrigglesworth Motors, Gladstone Street, York.

1.2 The application site is to the north end of land which formerly accommodated Minster Engineering, now redeveloped for housing. To the north of the site is the residential garden of 74 Huntington Road; to the west are existing properties along Huntington Road and to the south vehicular access from Gladstone Street, the garden area to 68 Huntington Road and the redeveloped engineering site.

1.3 The land is immediately adjacent to the Heworth/Heworth Green/East Parade/Huntington Road conservation area which was designated in 1975. The conservation area encompasses the Huntington Road frontage and the River Foss corridor. The site itself is a former industrial area, which officers understand was last used as a car repair garage. The site retains a number of single storey structures, is a hard surfaced area and is surrounded by brick walls some of which formed the walls of former single storey structures. The entrance to the land is via a single width access from Gladstone Street. The entrance is currently gated. The plot is 21 metres deep (north to south) and between 20 and 40 metres wide (west/east) with an area of 0.065 of a hectare

1.4 The proposal is for the erection of four 4-bedroomed houses with associated garage, parking and amenity area. The houses are designed in a single terrace fronting the River Foss. The dwellings are designed with three levels of accommodation in units 1 and 4 and four levels of accommodation in units 2 and 3 by utilising the roof space. The development includes the raising of floor levels to 9.7 AOD, approximately 700mm above existing ground levels, and the raising of land around to allow entrance to the structures.

The houses are of varying overall heights. The highest part of the development stands 12m above existing ground level.

1.5 The application has been called into Committee by Cllr Brian Watson in order that the impact of the proposal on adjacent residents can be considered.

#### Planning History

1.6 An application for the erection of five dwellings on this site was withdrawn in January 2013.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Heworth Green/East Parade CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

### 2.2 Policies:

CYH4A  
Housing Windfalls

CYGP1  
Design

CYGP4A  
Sustainability

CGP15A  
Development and Flood Risk

CYL1C  
Provision of New Open Space in Development

## **3.0 CONSULTATIONS**

### INTERNAL

3.1 Highway Network Management - No objections subject to conditions. Traffic levels are likely to be less than the previous garage use of the site.

A unilateral undertaking is requested to ensure, through amendments to the traffic orders adjacent to the site, that the new development is excluded from the residents parking scheme.

3.2 Environmental Protection - Full contaminated land condition requested. A demolition and construction informative is suggested.

3.3 Communities Culture and Public Realm - A contribution to off-site open space is required. As a general comment officers would prefer to see the riverside boundary matching that of the development to the south of this site, and would be happy to see a reduced amenity open space contribution in exchange for a widening of the tow path.

3.4 Conservation Officer - The massing presumably is intended to reduce the impact on neighbouring properties, but appears contrived and fussy. Reducing the number of changes in ridge height, while abandoning the forced symmetry may address this comment. Whilst there is a mix of materials used in the vicinity, brick remains predominant. The extensive use of render proposed here is anomalous with the prevailing materials in the area. In contrast, the proposed panels of timber cladding will sit more comfortably with the building's natural and built context. Whether or not the above issues can be addressed, concern is expressed that the development will be an overbearing presence in the river corridor, detracting from its pleasant, tranquil quality. The unbroken line of the very high brick flood wall adds a further oppressive element, which contrasts with the more organic development of boundaries currently seen. Moving the development back within the site, away from the wall, would reduce the visual impact of the building. It would also allow the flood wall to be articulated in sections to add visual interest, in contrast to the monotony of the current proposal.

3.5 Flood Risk Management Team - In principle the application is not supported however in light of the recent appeal decision for 22a Huntington Road, some 100m away from this site and the adjacent development by Barrett Homes which by granting planning permission has set a precedent makes it difficult to oppose this application. Conditions are requested in relation to the drainage of the site.

## EXTERNAL

3.6 Guildhall Planning Panel - No objections

3.7 Conservation Area Advisory Committee - The panel felt that this was a disappointing scheme for this site, surrounded as it is by the conservation area. The design, detailing and materials are poor. However the panel felt that simplifying the roof line would partially improve the scheme.

3.8 Environment Agency - The development will only meeting the requirements of the National Planning Policy Framework if conditions are applied. The conditions require that the development is carried out in accordance with the submitted flood risk assessment and ensuring that floor levels are raised to 9.7 AOD in accordance with the submitted plans.

3.9 Police Architectural Liaison Officer - All ground floor windows should be secured to British standards, appropriate lighting should be installed to the area access ways should be gated. The site should be secure during construction to prevent theft.

3.10 Eight letters of objection have been received covering the following points:-

- Concerns about windows overlooking gardens on the northernmost house
- The development is unnecessarily high, higher than the properties on Huntington Road, a maximum height of two and half storeys should be accepted on this site
- The relationship between the dwellings and the river frontage is unclear, cross sectional information is required
- The Barratt's site had to cut back the scheme to increase the river frontage to increase the public amenity area and the area available for flood water
- The flood evaluation conveniently ignores the recent flood alerts
- The design reflects neither the context nor the timing of the development
- The development will starve the rear area of no. 70 of natural light, the occupant is a wheelchair user and the back room which is a bedroom will be overlooked by the new houses
- Concern about whether the development provides the right amount of private garden space for the family dwellings
- Concern about the impact of flood water and its course as a result of the development
- If development is to be passed the window sizes should be reviewed to reduce overlooking
- Overdevelopment of a small site
- If site becomes open access there will be an increased risk of burglary to properties on Huntington Road
- Rear of 72 Huntington Road will lose all privacy
- Views of the skyline and willows along the River Foss will be lost
- The area should be returned to gardens; the site would have originally been gardens to properties on Huntington Road
- Concerned about the position of the balcony on Unit 1
- Conditions should be attached to ensure car parking and garages are used to prevent over spilling on to the adjacent site and highway
- The entrance access should not be gated.
- Concerns about the additional flooding to existing properties caused by the raising of the land on the site and the introduction of flood gate

## 4.0 APPRAISAL

### 4.1 Key Issues

- Principle of the development
- Design and Landscaping
- Highways, access and parking
- Flood Risk and drainage
- Residential Amenity
- Open Space

## POLICY BACKGROUND

4.2 The National Planning Policy Framework (NPPF) says there are three dimensions to sustainable development economic social and environmental. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. (Para. 7 and 8)

4.3 At the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means:-

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate development should be restricted. (Para.14)

4.4 The core principles set out in paragraph 17 include the expectation that development will always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.5 Section 6 of the NPPF addresses the delivery of a wide choice of high quality homes. Housing applications should be considered in the context of the presumption in favour of sustainable development (Para. 49). Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area (Para 53).

4.6 Section 7 of the NPPF requires good design. Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations.

Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment (Para 61).

4.7 Section 10 paragraph 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessments and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change.

4.8 The technical guide to the NPPF says at paragraph 2 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.'

4.9 Policy H4a of the draft City of York Local Plan (DLP) supports the principle of development on unallocated sites where these are within urban areas, on vacant, derelict or underused land or it involves infilling, redevelopment or conversion of existing buildings and the site has good accessibility.

4.10 Other Local plan policies relevant to the consideration of the detail of this application are:-

- Policy GP1 'Design' includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

- Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development.

- Policy GP9 requires where appropriate developments to incorporate a suitable landscaping scheme

- GP15a 'development and flood risk' requires it to be demonstrated that flood risk can be managed with the minimum environmental effect and that the site can be developed, serviced and occupied safely.
- Policy L1c requires that all housing sites make provision for the open space needs of future occupiers. For sites of less than 10 dwellings a commuted payment will be required towards off site provision.

## Principle of the Development

4.11 The site is a former employment site. It was formerly adjacent to the engineering works that has since been redeveloped for housing. The use of the application site ceased following a fire. The land has limited usefulness as an employment site due to its proximity to housing and it is not considered appropriate to retain the employment use of the site. Such a stance is considered to accord with the general thrust of NPPF advice which seeks to deliver sustainable development.

4.12 Policies in the NPPF and the DCLP support new residential development on previously developed land in sustainable urban locations. On these grounds the principle of the development is considered to be acceptable.

## DESIGN

4.13 The former engineering works to the south of the site has been densely redeveloped for residential purposes.

To the north and west of the site are residential gardens and houses facing Huntington Road. The site is adjacent to the Huntington Road Conservation Area which includes the river corridor and houses along the Huntington Road frontage. The scheme takes many of its design references from the adjacent Barratt's scheme and given the height and massing of these structures this is a difficult principle to resist. The main differences between the site and that adjoining are the relatively constrained nature of the site with one narrow access point, its close relationship to residential boundaries to the north, west and south and its location adjacent to a relatively narrow stretch of the river bank, there being only a depth of about 1.5 metres between the site and the Foss. Amendments have been sought to the scheme which address these tight relationships.

4.14 The land has a frontage to the river of approximately 29 metres. Along this frontage the centre 15 metres of the built development is located 1.5 metres back from the frontage with a 300mm over-sailing wall so that at first floor level the building will be 1.2 metres from the boundary and the balconies will bring the development within 300mm of the wall. The northern part of the river elevation is slightly further from the boundary and the southern section is turned in the site and set further back and at an angle to the boundary.

The height of the building along the frontage varies between 11.4 metres and 12 metres with approximately 0.7 metres of this height being necessary to build the site up to the minimum floor levels required by the Environment Agency. The dwellings would appear substantial along the frontage however the design in its siting is not unlike that of the adjacent development to the south and the variation in the building line and height of structures will break up the length of the development. The elevations are designed to be contemporary with large windows and doors leading onto balconies and using render, brick work and timber cladding materials. This elevation treatment is not like any on the adjacent sites however there is no defining design within the area that would preclude that being proposed. It is considered that the brick work and surrounding wall detail as well as the height makes sufficient reference to adjacent development. The wall along the river frontage will be rebuilt to match the height of the wall around the Barratts site (approximately 10.8 AOD). The remaining walls will be retained and made good. The wall improvements in themselves improve the visual quality of the immediate area and will be beneficial to adjacent residents.

4.15 Within the site hard surfacing is to be removed to provide amenity space, permeable parking areas and landscape strips. These new soft areas will improve the appearance of the site and if appropriately detailed improve the outlook for adjoining dwellings. A landscape condition is proposed.

4.16 The development will change the impression of the site from the river frontage and hence the setting of the Conservation area. Overall the design of the scheme is considered to have a neutral impact on the conservation area which provides some improvements in terms of the boundary treatment whilst extending the housing frontage in line with the adjacent site. The details of windows, eaves, balconies etc. are conditioned to ensure a quality finish to the development.

#### Highways Access and Parking Arrangements

4.17 The historic/existing use of the site was for a car repair garage and as such it is likely to have generated a greater level of vehicular movements than that which could be expected from the proposed redevelopment. Access to the site is via a narrow lane suitable for one-way traffic off Gladstone Street. The length of the access is approximately 28m and given the likely reduction in traffic from the lawful existing use the access is considered suitable. Turning space for cars is provided within the development. 2 car spaces (1 garage/1 allocated space) are provided per dwelling. This level of provision is in accordance with DCLP Annex E Parking standards.

4.18 The site falls within the R26 residents parking scheme. Officers are seeking a contribution of £2k to enable the modification of the existing traffic order to exclude the site from the residents parking scheme.



This would mean that residents of the proposed development will not be eligible to apply for parking permits thus ensuring no further pressure is placed on existing parking provision in the local area.

## Flood Risk and Drainage

4.19 The application site falls within Flood Zone 3a where the risk of flooding is high. The Council's Strategic Flood Risk Assessment of April 2011 shows the site to be within Flood Zone 3a and is protected up to a 1 in 50 year flood event. Within such areas dwellings are classified as 'more vulnerable' within the Technical Guidance to the NPPF. The NPPF refers to the Sequential Test, the aim of which is to steer new development to areas with the lowest probability of flooding. A sequential approach should be used in areas known to be at risk from any form of flooding. In this case Officers consider that the proposal satisfies the Sequential Test on the basis that there is an identified need for housing in the city, and the Strategic Housing Land Availability Assessment identifies an insufficient supply of deliverable sites. The site is considered appropriate for housing, is sustainably located, is a previously developed site and the development would be deliverable. The NPPF indicates that if the Sequential Test is satisfied then the Exception Test can be applied, if appropriate. For this test to be passed two specified criteria must be satisfied. First, it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared.

4.20 In terms of the wider sustainability benefits, the site is a disused former industrial site in very close proximity to residential development, and is in a dilapidated condition. The introduction of residential development on to the site is considered to be a use that is compatible with its adjacent neighbours. The development will have a neutral effect on the adjacent conservation area and is in a sustainable, accessible location close to city centre.

4.21 The second element of the Exception Test is that a site-specific Flood Risk Assessment (FRA) must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. The application is supported by an FRA. The Environment Agency state that the development will only be acceptable with the conditions they propose which cover the scheme being carried out in accordance with the details in the FRA and submitted plans, ensuring no bedrooms are on the ground floor and finished floor levels are 9.7 AOD. The Council's flood risk management team have very strong reservations about the scheme based around the fact that Flood protection of areas of York along the Foss are highly dependent on the operation of the Foss Barrier and associated pumps preventing water from the River Ouse backing up the Foss.

4.22 The assessed flood level of a 1 in 100 year event, taking into account climate change and assuming failure of the Foss barrier, is 11.16m AOD. Current site ground levels are approximately 9.00m AOD with the proposal indicating that finished floor levels would be set at 9.7m AOD. To that extent any new development in the Foss flood plain only adds to the possibility of flooding, increases the number of potential victims, and reduces the chances of the Council being able to achieve its aims of evacuation in times of such flooding within reasonable time. However in the light of the recent appeal decision at 22a Huntington Road, some 100m away from this site, and the adjacent development by Barratt Homes a precedent has been set that makes it difficult for the flood risk management team to oppose the proposal. The appeal inspector's view on the appeal site was that there was no substantive evidence to suggest that the emergency services could not cope in an emergency and that the flood mitigation measures proposed in the application would in any case reduce the need for evacuation. Conditions are suggested to secure acceptable drainage of the site.

4.23 With regard to the potential to increase flood risk elsewhere the Environment Agency state that the development would not alter the flow route of flood water and is surrounded by a wall and the development offers gains in terms of permeable areas within the site. The Inspectorate came to a similar view on 22A Huntington Road.

4.24 In light of the appeal decision and for the reasons set out above officers consider that the proposal would not result in a development that would be unsafe for its occupants in terms of flooding. Any potential additional burden for the emergency services that might result from the occupation of the proposed dwellings is outweighed by the advantages of the beneficial redevelopment of the site. The scheme would not conflict with the thrust of Policy GP15a of the DCLP. This requires the demonstration that flood risk can be managed with the minimum environmental effect and that the site can be developed, serviced and occupied safely. Nor would the proposal run contrary to advice in the Framework which seeks to ensure that through the sequential and exception Tests development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed.

#### Residential Amenity

4.25 The garden area and properties of no. 74, 72, 70 and 68 Huntington Road share a common boundary and are located to the north, west and south of the application site. The site boundaries are delineated by existing boundary walls which in some cases have previously formed the wall to a building within the site. Much of the area adjacent to these boundaries is to be left open and arguably enhanced by the introduction of new planting. There are two main areas where the new development will abut boundaries.

On the southern boundary adjacent to 68 and 70 Huntington Road it is proposed to replace existing portable structures with a new pitched roof double garage. In its footprint the garage is much smaller than the existing structures and in this respect the garage will improve outlook from no.70 Huntington Road. However the garage as originally proposed is a double garage with pitched roof set above the level of the adjacent site. The siting of the garage is acceptable however the design of the building with high eaves and high pitch roof was not. The design of the garage has now been amended to provide an asymmetric roof which is low adjacent to the boundary and rises sufficiently to achieve entrance to the garage. The amended details of the garage are considered to be acceptable.

4.26 The garden of no.74 Huntington Road is approximately 30 metres long extending down to the river bank frontage. The lower end of the garden is used for sitting out and in one corner of the garden adjacent to the site is a shed behind which are self seeded trees and plants. The scheme as designed shows the new built development extending 7m along the boundary with a blank elevation at a distance of 1 metre from it. The dwelling has a height of 7.5 metres to eaves and 10.5 to apex ( the apex is set 4 metres back from the boundary). Being to the north of the site the garden will experience some loss of light as a result of the new structure and the dwelling will appear substantial. However, as the building is set off the boundary and is set predominantly against the area where the existing shed is located it will not dominate or detract from the dwelling house, Officers consider the siting in relation to 74 Huntington Road to be acceptable, particularly when balanced against the open aspect that will be secured along the remainder of the boundary through the development and landscaping of the site. A condition is proposed to ensure no windows are placed in the elevation facing the garden area.

4.27 The orientation of the main elevation of the dwellings towards the Huntington Road properties is angled because of the shape of the site, meaning that although the Huntington Road houses are west of the site the house elevations will be facing south-west. Furthermore there will be a minimum separation distance of 25 metres between the building and the nearest rear off-shot of existing properties and a greater distance to main rear elevations. The relationship of the main elevation towards the properties on Huntington Road is considered to be acceptable.

4.28 The proposed dwelling closest to the southern boundary is set 1 metre from the boundary and presents a side elevation standing 8.5 metres to eaves and 11 metres to apex. This part of the southern boundary is defined by a wall about 3 metres high beyond which is the new development on the former engineering works. The height of the existing wall and the orientation of the site means that the relationship between new and existing development on this part of the southern boundary is acceptable.

4.29 The site is a former industrial site which has always had a very close relationship to the adjacent residential development.

The scheme will change the outlook from properties and restrict views over to the willow trees on the opposite side of the river Foss banking. However within the site the scheme will provide an opportunity to improve boundary treatment and to provide a landscape backdrop to areas of the site which, it is considered, would be beneficial to the houses on Huntington Road and on the adjacent new development to the south.

4.30 The proposal provides 4 four bedroom houses. Plot 1 and 4 include private garden space however plots 2 and 3 have minimal garden area but do have balconies and roof terraces. An area of amenity space separate from the units in the north west corner of the land is provided as an open area for these units. There are no policies in the DCLP which require a specific level of provision for outdoor amenity space however the general requirement within the NPPF that developments should take opportunities to improve the character and quality of an area and the way it functions is relevant. Private outdoor space can provide important social opportunities and external storage. It can also be used for drying and airing clothes, which reduces energy consumption. On this site the level of provision for outside space including balconies and garden areas is considered to provide for the requirements of the proposed houses.

#### Open Space

4.31 In accordance with policy L1c the application requires a contribution towards offsite amenity, play and sports facilities. The required contribution is £11344 and will be sought through a unilateral undertaking or section 106 agreement.

## **5.0 CONCLUSION**

5.1 Policies in the NPPF and the DCLP support new residential development on previously developed land in sustainable urban locations. The principle of the development is considered to be acceptable.

5.2 The details of the scheme are considered to be acceptable for the reasons set out above.

5.3 The scheme would not conflict with the thrust of Policy GP15a of the DCLP. This requires it to be demonstrated that flood risk can be managed with the minimum environmental effect and that the site can be developed, serviced and occupied safely. Nor would the proposal run contrary to advice in the Framework which seeks to ensure that through the sequential and exception tests that development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed.

5.4 A unilateral undertaking or section 106 agreement will be sought for the alteration to traffic regulation order for the exclusion of the site from the residents parking scheme (£2000) and for a contribution towards off site open space facilities (£11344)

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement

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:-

to be confirmed at committee

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

3 VISQ8 Samples of exterior materials to be app -

4 LAND1 IN New Landscape details -

4 HWAY18 Cycle parking details to be agreed -

5 HWAY19 Car and cycle parking laid out -

6 HWAY40 Dilapidation survey -

7 No gates shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

8 Prior to the commencement of the development a detailed plan showing all proposed works ( new build or repair and alterations) to boundary walls shall be submitted to and approved by the Local Planning Authority. Thereafter the approved detail shall be implemented before any dwelling is first occupied.

Reason: To ensure the scheme complies with the flood risk Assessment requirements and in the interest of visual amenity and the residential amenity of adjacent residential dwellings.

9 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts a to c of this condition have been complied with:

Application Reference Number: 13/00349/FUL

Item No: 4j

a. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be

produced. The written report is subject to the approval in writing of 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:

- human health,

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- adjoining land,

- groundwaters and surface waters,

- ecological systems,

- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

b. Submission of Remediation Scheme

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 must be prepared, and is

subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The

scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of 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.

10 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the previous condition, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the previous condition.

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 The development shall be carried out in accordance with the submitted Flood Risk Assessment (by Yew Tree Associates, dated 9/11/12) and the following mitigation measures it details:

1. Finished floor levels will be set no lower than 9.7m above Ordnance Datum (AOD).

2. The development should incorporate the flood proofing measures detailed on pages 8, 9 & 10.

3. Permeable surfaces will be used parking and footpath areas; there will be a reduction in the impermeable surfacing area from 100% of the existing site to approximately 40%.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to reduce the overall amount of surface water runoff by the introduction of permeable surfaces.

12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development of the type described in Classes A to F of Schedule 2, Part 1 of the Order shall be erected or provided.

Reason: The site is closely related to adjacent residential properties and provides close relationships within the site. Any further development would need to be considered in this context and taking into account the introduction of further impermeable areas into an area of flood risk.

13 The ground floor area of the dwellings hereby approved shall not be used for bedroom accommodation.

Reason: To reduce the impact of flooding on the proposed development and future occupants.

14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the proposed garage shall not be externally altered or converted to living accommodation.

Reason: To ensure that there is adequate car parking/ cycle parking/storage space at the site and any proposals to increase living accommodation can be assessed on their merits

15 Large scale details at a scale of 1:20 ( and were appropriate cross sections) of the following shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Development shall be carried out in accordance with the approved details.



- a) Roof cappings/flashings, edge details, soffits and rooflight structures (shown in context).
- b) Windows, and external doors.
- c) Timber cladding and the relationship between cladding panels and solid walls.
- d) Balconies.

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

17 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows or other openings shall be inserted in the rear elevation of unit 1 facing the garden area of 70 Huntington Road without the prior written approval of the Local Planning Authority.

Reason: To protect the residential amenity of the occupants of 70 Huntington Road.

18 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Details to include:

- (i) Calculations and invert levels to ordnance datum of the existing surface water system should be provided together with details to include calculations and invert levels to ordnance datum of the proposals for the new development. This will enable the impact of the proposals on the downstream watercourse to be assessed.
- (ii) The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties. Where existing ground levels are to be raised to satisfy the EA's minimum ground floor level requirements then details should be provided to prevent surface water discharging onto nearby properties.

Additional surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

- (iii) An appropriate assessment should be carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to except surface water discharge from the proposed permeable paving, and to prevent flooding of the surrounding land and the paving itself.

Please note that City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

(iv) If the above permeable paving proves to be unsuitable then In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

Please note that the introduction of landscaped areas within the scheme only provides a 20% reduction in surface water run-off.

(v) Construction details of the proposed flood protection wall to the eastern boundary tied into the wall from the adjacent development by Barrett Homes and constructed to 10.81m AOD.

(vi) Construction details of the proposed proprietary flood gate to be erected at the site entrance.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site and adequate flood protection measures have been provided.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of the development, highways parking and access arrangements, residential amenity, flood risk and drainage and open space provision. As such the proposal complies with Policies H4a, GP1, GP15a, L1c of the City of York Development Control Local Plan and advice within the National Planning Policy Framework.

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

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

- Meetings on site to discuss character and quality of the area following withdrawal for a scheme for 5 houses
- Requested amendments to the scheme to improve its detail
- Amendments to correct Flood Risk Assessment
- Requested the pegging out of the site to consider the overall foot print

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:**

**Author:** Diane Cragg Development Management Officer (Mon/Tues/Wed)

**Tel No:** 01904 551351

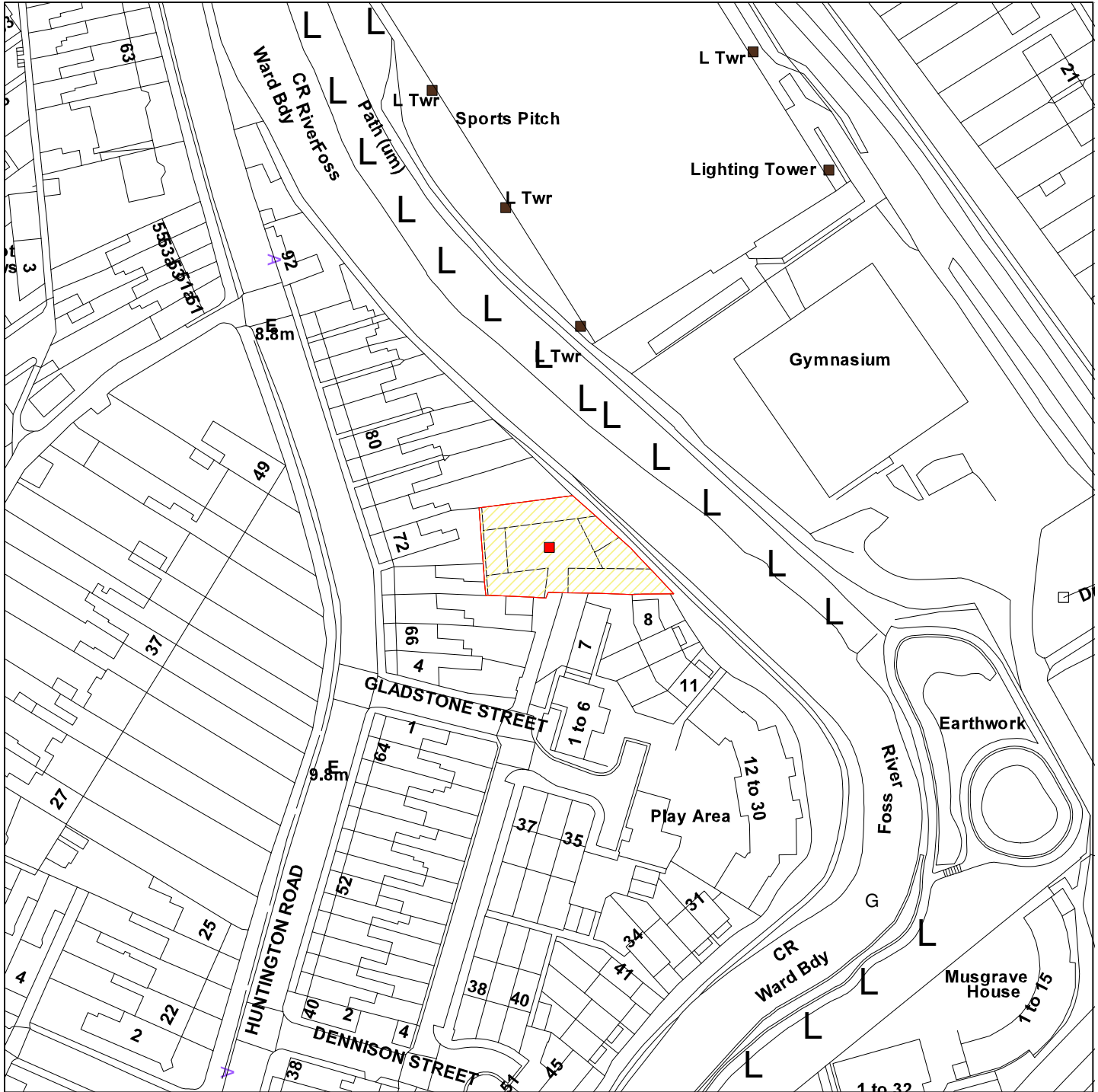
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13/00349/FUL

Former Car Repair Garage To Rear Of 70 - 72 Huntington Road



GIS by ESRI (UK)



Scale : 1:1250

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Haxby and Wigginton  
**Team:** Householder and            **Parish:** Haxby Town Council  
Small Scale Team

**Reference:** 12/03602/FUL  
**Application at:** 64 Old Orchard Haxby York YO32 3DT  
**For:** Two storey side and single storey rear extension  
**By:** Mr Stuart Haliday  
**Application Type:** Full Application  
**Target Date:** 21 January 2013  
**Recommendation:** Householder Refusal

**1.0 PROPOSAL**

1.1 The application property is a semi-detached house located on a residential housing estate in Haxby.

1.2 It is proposed to demolish the detached garage to the side of the property and erect a two-storey side extension. The extension would be set off the side garden boundary by around 1m. It is also proposed to erect a small single storey extension to the rear elevation.

1.3 It is noted that a two-storey extension was approved at the property in 1980, but was not constructed. As this was granted at a time when planning policies and guidelines differed significantly from today, it is not considered it can have a bearing on the assessment of the application.

1.4 The application has been brought to Committee at the request of Cllr Firth. The stated reason is that although the extension is slightly closer to the rear of 1 Cherry Paddock than would normally be allowed, the fact that the neighbour is content with the application throws a different light on to the proposal and a site visit is requested.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

## 2.2 Policies:

CYH7

Residential extensions

CYGP1

Design

## 3.0 CONSULTATIONS

### 3.1 Internal

None consulted.

### 3.2 External

Neighbours - No comments received.

Town Council - No objections.

## 4.0 APPRAISAL

### 4.1 The key issues in assessing the proposal are:

The impact on the streetscene.

The impact on residential amenity

Parking and highway safety.

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of 12 principles set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. The NPPF states that there are three dimensions to sustainable development - an economic role, a social role and an environmental role.



In considering proposals for new or improved residential accommodation, the benefits from meeting peoples housing needs and promoting the economy will be balanced against any negative impacts on the environment and neighbours' living conditions.

4.4 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.5 Policy H7 'Residential Extensions' of the City of York Local Plan Deposit Draft sets out a list of design criteria against which proposals for house extensions are considered. The list includes the need to ensure that the design and scale are appropriate in relation to the main building; that proposals respect the character of the area and spaces between dwellings; and that there should be no adverse effect on the amenity that neighbouring residents could reasonably expect to enjoy.

4.6 Local Plan Policy GP1 'Design' states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and vegetation. The design of any extensions should ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

The impact on the streetscene

4.7 The original dwelling has timber cladding to the first floor. The extension is intended to be constructed wholly of brick. This is considered acceptable. It is noted that the existing two-storey side extension to number 66 is also constructed of brick. The design of the extension is sensitive to the main house. As it is adjacent to the rear garden of 1 Cherry Paddock it will not make the site appear over-developed when viewed from the street.

The impact on residential amenity

4.8 The 1.2m long rear extension will have little impact on the occupiers of number 66. They have a conservatory adjacent to the extension.

4.9 The key consideration is the impact that the two-storey side extension will have on the living conditions of 1 Cherry Paddock. This property was visited. It has been extended approximately 2m to the rear on part of the ground floor to provide a larger lounge. The proposed flank wall of the two-storey extension would be approximately 9m away at the closest point to the lounge window. This differs from the existing separation distance of around 12.2m.

As the side of number 64 is not 'square' to the rear of number 1 the average distance from the ground floor rear openings of number 1 to the side wall of the proposed extension would be approximately 11m.

4.10 The extension is to the south of number 1. It would restrict additional winter and autumn sunlight from the rear openings of number 1 and would also impact on sunlight reaching the garden. In addition to the impact on direct sunlight it is considered that the proposed expanse of brickwork at closer proximity would appear oppressive when viewed from inside the house and the garden.

4.11 Typically a minimum separation distance of 12m is required between the side of a two-storey extension and neighbouring windows. In this instance it is approximately 9m at its closest point and the average distance would be around 11m. It is not considered there are any local circumstances that should override this requirement. In addition, the structure of the proposed extension (gable roof form) and its orientation (to the south) of the impacted house would only serve to exacerbate the impact. The only tangible benefit to the neighbour would be the removal of the landing window that overlooks their garden.

4.12 It is noted that the occupiers of number 1 Cherry Paddock have not submitted representations in respect to the proposals. It is not considered that this is a reason for the Council not to seek the protection of their reasonable living conditions. In addition, when determining planning applications, the key consideration is the impact of the extension on the neighbouring properties in a generic sense, rather than the impact on an individual occupier. Consistency is also an important factor in the decision making process. It was requested of the applicant that part of the rear section of the first floor extension be removed to reduce the height of the structure and its impact closest to the rear lounge windows of number 1. The applicant is unwilling to do this as this would make it impractical to create a double bedroom and associated bathroom on the first floor.

#### Parking and highway safety

4.13 The property has parking for one car on the drive and one car in the garage. Additional car parking could be created in the front garden if deemed necessary.

## **5.0 CONCLUSION**

5.1 The application is recommended for refusal due to the unacceptable impact on the living conditions of the occupiers of 1 Cherry Paddock.

## **6.0 RECOMMENDATION:    Householder Refusal**

1 The side elevation of the proposed two-storey extension would be approximately 9m from the closest rear ground floor habitable room windows of 1 Cherry paddock and the structure would be in close proximity to much of the rear boundary of the garden. It is considered that this proximity is unacceptable in the suburban location and the gable roof form and orientation to the south of number 1 would further exacerbate its impact. It is considered, therefore, that the proposal conflicts with guidance contained within the National Planning Policy Framework, which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17), and policies GP1 (criterion i) and H7 (criterion d) of the 2005 City of York Development Control Local Plan.

## **7.0 INFORMATIVES: Notes to Applicant**

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

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

It was requested of the applicant that part of the rear section of the first floor extension be removed to reduce the height of the structure and reduce its impact on the rear lounge windows of number 1 Cherry Paddock. The applicant was unwilling to do this as it would make it impractical to create a double bedroom and associated bathroom on the first floor.

As a result of the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reason stated.

#### **Contact details:**

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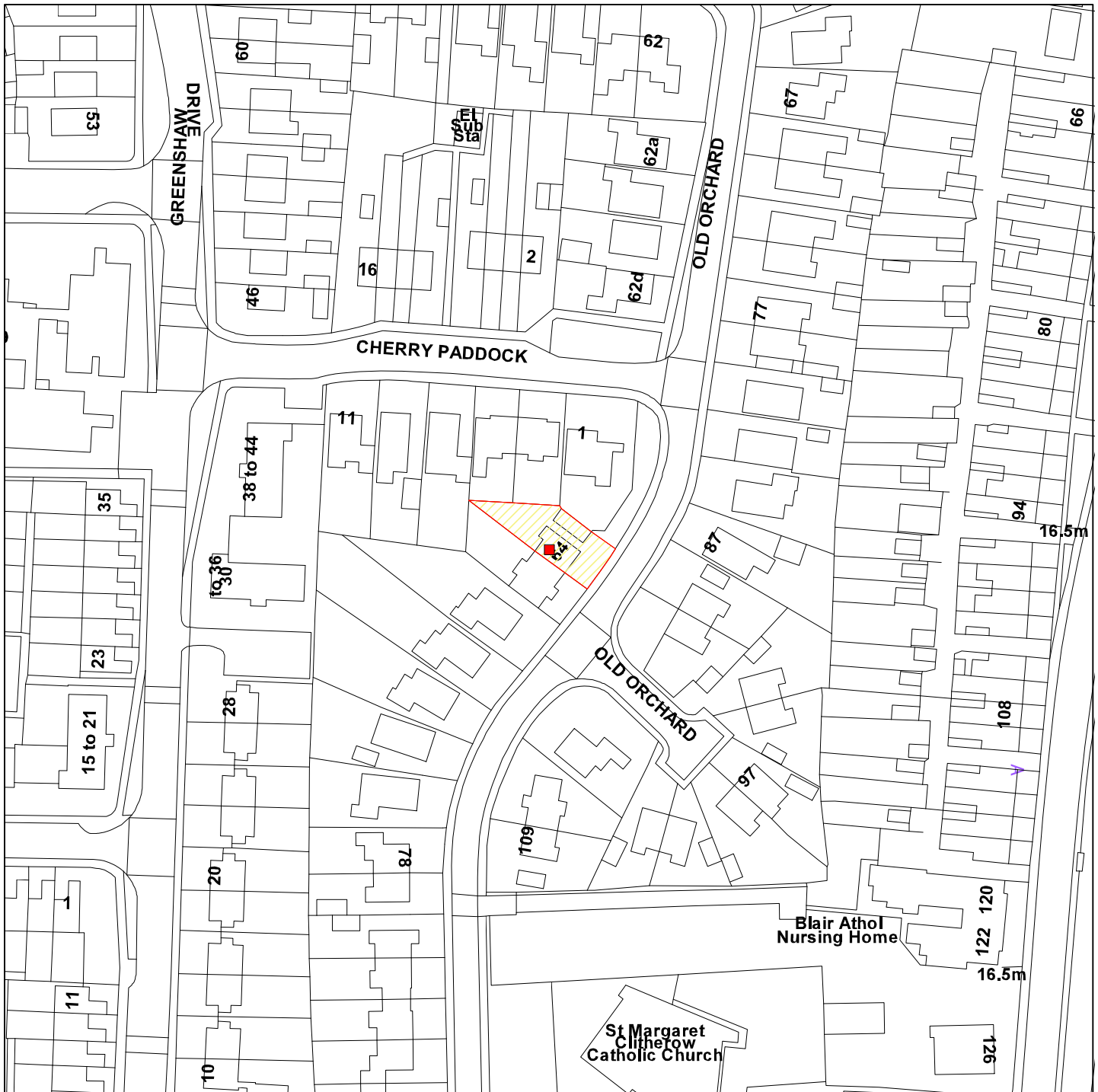
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12/03602/FUL

64 Old Orchard Haxby



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	24 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013  
**Team:** Major and Commercial Team  
**Ward:** Haxby and Wigginton  
**Parish:** Haxby Town Council

**Reference:** 13/00802/FUL  
**Application at:** The Co-operative Group 1 Ryedale Court The Village Haxby York  
**For:** Change of use from shop (use class A1) to coffee shop (mixed use class A1/A3) and external air conditioning units to the rear  
**By:** Tamp 'n' Swirl  
**Application Type:** Full Application  
**Target Date:** 4 June 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 This application seeks planning permission for the change of use of 1 Ryedale Court in Haxby from an A1 retail unit into a mixed use A1/A3 coffee shop. The original application included an external seating area under the covered canopy; this has now been removed from the proposed development. There would be two air conditioning units located at low level on the rear of the building.

1.2 It is understood that the property has been vacant for approximately two years. The unit is located within a parade of commercial outlets which are primarily retail in nature but also include hot food takeaways. Ryedale Court is a two storey building set back approximately 20m from "The Village". A car parking area is located between the building and roadside. The application site unit is at the eastern edge of the building. The site is within Haxby District Centre as defined by the Development Control Local Plan. The site is within Haxby Conservation Area.

1.3 This application has been called in by Councillor Cuthbertson due to the amount of concern expressed by local residents and other community groups and organisations. A site visit is recommended to understand the objections of local residents within the context of the application site.

1.4 The proposed change of use would create five full time and four part time jobs.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Haxby CONF

City Boundary GMS Constraints: York City Boundary 0001

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DC Area Teams GMS Constraints: East Area (2) 0005

## 2.2 Policies:

CYS6

Control of food and drink (A3) uses

CYHE3

Conservation Areas

CYS3

Mix of use in certain shopping streets

## 3.0 CONSULTATIONS

### INTERNAL

3.1 Environmental Protection Unit - No objections to the application, an informative is recommended to be added to any approval to ensure that the developers are aware of relevant demolition and construction legislation.

3.2 Design, Conservation and Sustainable Development (Conservation Officer) - Modest seating area well set back from Main St. No signage should be displayed on the barriers. Air-conditioning units located at low level to the rear of the building.

### EXTERNAL

3.3 Haxby Town Council - strongly object to this application on the following grounds:

- The current car parking facilities throughout the village are inadequate to cope with the proposed new café.
- There are concerns regarding the proposed outdoor seating area in respect of the limited space on the pavement and its proximity to the traffic using the already busy car park.
- Major concerns on the additional noise impact on local residents emanating from air conditioning and delivery wagons.
- Strongly supports the objections from numerous residents concerning the potential detrimental impact on local businesses.

3.4 Police Architectural Liaison Officer - No issues or concerns.

3.5 Local Residents and Response to Site Notice - Three letters of support have been received from local residents.



The letters state that the silent majority would welcome Costa with open arms and Haxby would become a destination for shoppers, families, and elderly alike. People will walk to the coffee shop and pick up local groceries on the way home. There is sometimes difficulty in getting a seat in one of the other local coffee shops and the proposal would allow for takeaway coffee which currently is not available in the village. The proposal would provide local residents with choice and this shop unit has been closed for a long time and no local businesses have come forward to take it over in that time.

One letter has been received from a local resident who neither objects nor supports the application. Costa would open on Sunday which would be a welcome facility. There are already numerous chain shops in Haxby so objections based on the end user are not grounds for objection. The proposal would serve a demographic in Haxby which is currently unrepresented.

144 letters of objection have been received from local residents who object to the application. Many of the letters make very similar points, a summary of the comments received are below:

- Haxby does not need another coffee shop; there are already three in the area;
- Haxby does not need or want a large corporate chain, it should be free to retain its unique character, the independent retailers in Haxby are valued;
- Existing small local businesses support other small local businesses in the area, Costa would not;
- Existing food and drink outlets in the area will suffer a loss of trade at a time when many are already struggling;
- The corporate name of Costa would give them an unfair advantage over local shops which in the long term would result in other shops being empty;
- There are not sufficient customers in Haxby to warrant an extra coffee shop, the introduction of Costa would kill the trade and life of The Village;
- There is a Costa at Clifton Moor less than two miles away;
- The existing car park is already busy, this proposal would add more demand and reduce availability;
- The proposal will result in more litter in the area from takeaway food and drink;
- Aroma coffee shop is owned and managed by Haxby and Wigginton Methodist Church which is a charitable organisation and puts any profits back into the community, approving this application would adversely impact on this;
- The plans for outdoor seating will impede pedestrian flow and access for those with mobility problems;
- The plans include two large air conditioning units which will generate noise for the residents of South Lane;

A petition signed by 1267 people has also been submitted. The petition objects to the opening of a Costa shop in Haxby.

## 4.0 APPRAISAL

### 4.1 Key issues:

- Impact of the change of use on the primary shopping function of Haxby District Centre
- Impact on the character and appearance of the Conservation Area
- Impact on Residential Amenity

4.2 Development Control Local Plan Policy S3a 'Mix of Uses in Shopping Streets' states that within Haxby District Centre (amongst others) that proposals for the change of use of ground floor premises from retail to other uses will only be permitted where it does not detract from the primary shopping function and the proposal contributes to the vitality and viability of the area. The assessment of proposals for the change of use of a shop shall be guided by the following factors:

- a) The location and prominence of the frontage;
- b) The floorspace and frontage of the premises;
- c) The number (a maximum of 35%) distribution and proximity of other ground floor premises in use as A2 or A3 uses;
- d) The particular nature and character of the proposed use; and
- e) The proportion of vacant ground floor property in the immediate area.

4.3 Unit 1 at Ryedale Shopping Centre is not the most visually prominent of the units within this parade. The unit is larger than a number of other units within this row, however its frontage does not directly face The Village. Ryedale Court itself is set back from the roadside and Unit 1 is tucked into the corner. It is therefore considered to be one of the least prominent frontages of the commercial units within Haxby District Centre. The unit has a larger footprint than units 2 to 8, however is significantly smaller in size to the double unit at numbers 9 and 10.

4.4 Within the parade of units at Ryedale Court are two hot food takeaways, a bakery and deli, off-license, dry cleaners, opticians, funeral care, with the double unit containing food retail. Of the 9 units currently in use at Ryedale Court, it is understood that 7 of them fall within the A1 retail use class. The proposed development is a mix of A1 and A3 use and would add to the mix of active retail use available within this parade. More widely, Haxby District Centre contains a variety of retail and non-retail commercial uses which have created a centre which is active and vibrant and has a very low vacancy rate. The area functions as a retail area for local residents but also by providing other services. Policy S3a above seeks to retain a good balance between retail and non-retail uses. District centres provide more than simply a retail function.

4.5 The application site is understood to have been vacant for more than two years. Supporting information submitted by the applicant states that there has been some interest in this building over this time; however the unit has proved to be too large for those interested. The fact that another A1 occupier has not taken on the unit despite it being vacant for 2 years is considered to be a strong justification for allowing a new use which retains some element of retail whilst adding an A3 use. The need to give the unit an economic use after a long period of inactivity has to be given significant weight in the determination of this application. The proposal would create 5 full time and 4 part time jobs.

4.6 It is considered that the proposed use has the potential to increase footfall within the district centre. Cafes can complement surrounding retail uses and are generally now considered as part of the retail experience. Such a use has the potential to not only increase the amount of people visiting the centre but also to increase the amount of time which customers spend in the area. This can create additional linked trips to surrounding units. The proposed use would provide day time activity which is compatible with a vibrant shopping area. There are a high percentage of retail units in the area and it is not considered that the proposed mixed A1/A3 use would have a significantly adverse impact on the primary retail function of Haxby District Centre.

4.7 A number of letters of objection from local residents have commented on the fact that the applicant wishes to open a "Costa". Members should be aware that the potential end user of the unit is not a material planning consideration and should not be taken into account when considering this application. Members are asked to consider a change of use from an A1 retail unit to a mixed use A1 and A3 unit, and any permission granted would not be limited to a certain operator. Other objections relate to the impact that the proposed A1 and A3 unit would have on existing cafes in the area. When a proposed unit is within a defined and designated retail area, issues of competition are not a planning consideration. Competition between users within District Centres is not a material consideration. Competition is only important when considering the impact of a proposed development outside of a city or district centre on those within it. Therefore weight should not be given to the issue of competition or the potential end user in determining this application.

4.8 Policy HE3 'Conservation Areas' of the 2005 Development Control Local Plan allows external alterations to buildings where there is no adverse impact on the character and appearance of the Conservation Area. The alterations proposed in relation to the proposed development consist of the addition of two air conditioning units to the rear of the building.

4.9 The proposed air conditioning units are modest in scale measuring 0.9m in width and 1.3m in height. The units would be at ground level and be attached to the external rear wall of the building.

The air conditioning units would not be visually prominent as the building is set back 10m from South Lane behind a 6 foot high wall. The rear area acts as a bin storage, delivery and service area where there are a number of other similar wall mounted pieces of equipment. For this reason the air conditioning units would not harm the character and appearance of the Conservation Area.

4.10 Development Control Local Plan Policy S6 states that residential amenity and the means of extraction need to be considered when assessing applications for new food and drink uses. The hours of operation proposed for the coffee shop are 06:30 to 19:00 hours Monday to Saturday and 08:30 to 17:00 hours on Sundays and Bank Holidays. Given the level of activity associated with a coffee shop, the low potential for noise generating activities, and the distance between the unit and residential dwellings, it is not considered that there would be any significant impact on residential amenity. The Environmental Protection Unit have assessed the application and raise no concerns about the proposed use. Two external air conditioning units would be placed on the rear of the building. There is similar plant along the rear of other commercial units within Ryedale Court. It is not considered that these air conditioning units would harm residential amenity.

4.11 Some local residents and the Town Council have expressed concerns about the impact that the coffee shop would have on parking demand. Concern is raised that there is not sufficient space to accommodate the additional demand. Officers cannot find any justification for this argument. The application site is an empty existing retail unit which the applicants are looking to bring back into use. It could re-open as a shop and create additional parking demand without requiring planning permission. Additionally it is not considered that a coffee shop of the scale proposed would generate significant additional traffic movements in the area. It is the case that District Centres often attract large numbers of visitors who arrive on foot. It is not considered that the proposed development would have any significant impact on highway safety or the availability of car parking spaces.

## **5.0 CONCLUSION**

5.1 It is considered that the proposed change of use would add to the vitality and viability of Haxby District Centre. The application site has been vacant for 2 years and the proposed use is considered compatible and appropriate in this location. The proposal would retain an element of A1 use within Haxby District Centre.

5.2 The proposed change of use and rear wall mounted air conditioning units would not harm the character and appearance of Haxby Conservation Area. It is not considered that the proposed use would harm the amenity of local residents. It is considered that there are no planning policies at a local or national level which would justify refusal of this application. The application is therefore recommended for approval subject to conditions.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

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

Rear Elevation Drawing Number 0709-Haxby/10

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

### 7.0 INFORMATIVES: Notes to Applicant

#### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the:

- Impact of the change of use on the primary shopping function of Haxby District Centre
- Impact on the character and appearance of the Conservation Area
- Impact on Residential Amenity.

As such the proposal complies with Policies S3a, S6, and HE3 of the City of York Development Control Local Plan.

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority provided pre-application advice and has sought the implementation of appropriate conditions to ensure the development protects interests of acknowledged importance.

#### Contact details:

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**Tel No:** 01904 551339

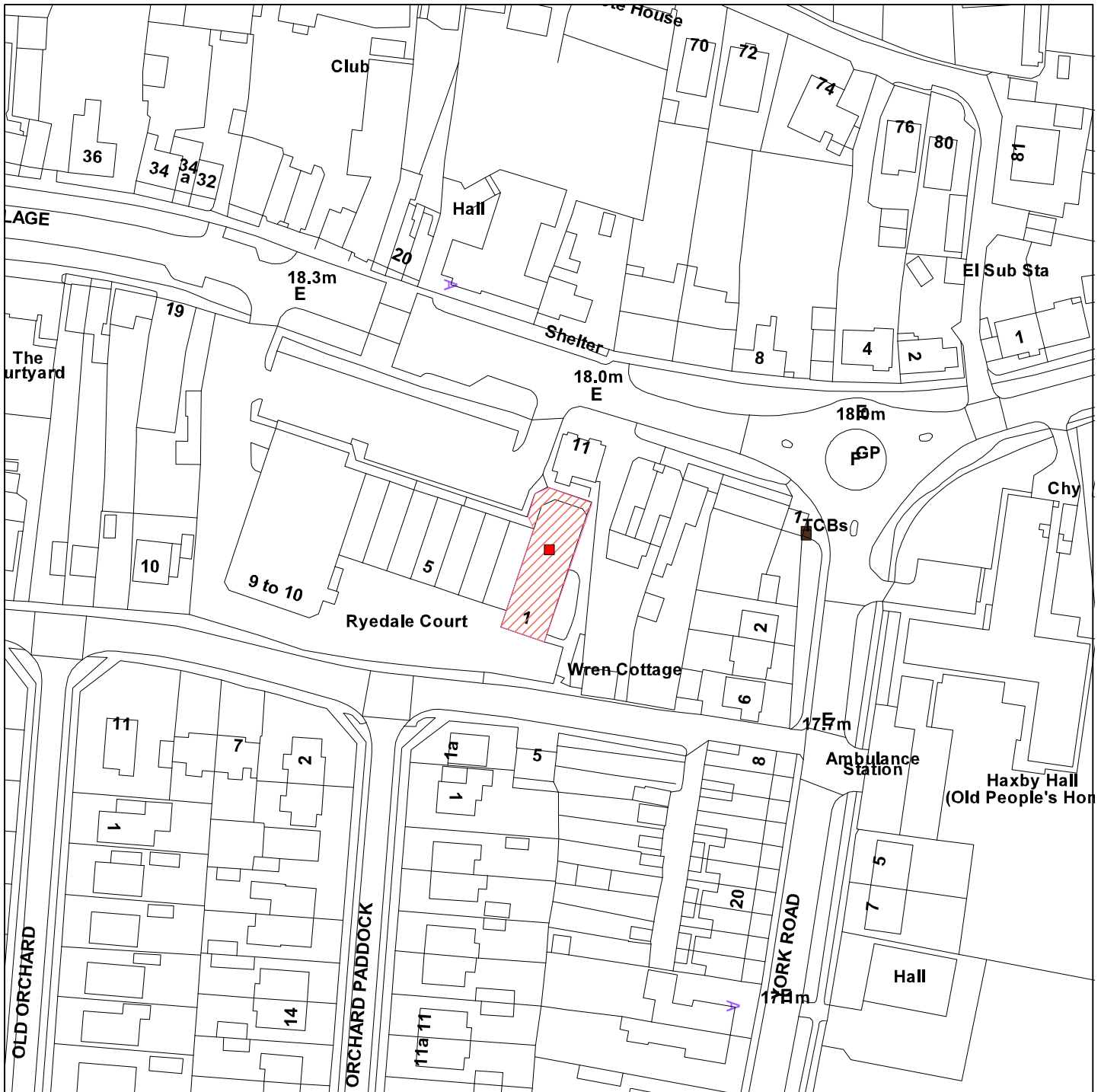
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13/00802/FUL

The Co-operative Group 1 Ryedale Court



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013  
**Team:** Major and Commercial Team  
**Ward:** Fishergate  
**Parish:** Fishergate Planning Panel

**Reference:** 13/00379/FUL  
**Application at:** Royal Dragon 16 Barbican Road York YO10 5AA  
**For:** Change of use of Upper Floors from Bed & Breakfast Accommodation (Class C1) to form Additional Dining Areas and Karaoke Rooms (Sui Generis) in association with Ground Floor Restaurant (resubmission)  
**By:** Mr Z. L. Chen  
**Application Type:** Full Application  
**Target Date:** 23 April 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 Planning permission is sought for the use of the first and second floors of 16 Barbican Road as karaoke rooms and additional dining facilities, to be used in connection with existing ground floor restaurant.

1.2 The site is prominently located on the Barbican Road frontage facing the city walls, located within the Historic Core conservation area. The building is not listed but is identified as a building of merit in the Walmgate Character Appraisal. The building is a three storey structure with restaurant to the ground floor and bed and breakfast accommodation to the upper levels and private living accommodation within the north east rear part of the building. To the rear of the site is a private car park associated with the site and a separate pay and display car park.

1.3 The proposal will provide 3 separate dining rooms for pre-booked parties on the first floor with reception area, 5 karaoke rooms and toilet facilities and 6 further karaoke rooms on the second floor with separate utility space. The proposals do not include any external works to the property, or any significant internal changes to the room compartments. The hours of operation sought are 10:00hrs to 01:30hrs

1.4 The application is supported by an acoustic report and a planning support statement covering sustainability, planning considerations, the licensing regime and heritage issues.

**Planning History**

1.5 A certificate of Lawfulness in respect of the pay and display car park to the rear of the site was granted in 2007. (Planning ref: 07/01082/CLU)

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1.6 Planning permission was granted in 2008 and subsequently renewed in 2012 for the erection of a three storey building providing ten flats and two maisonettes to the rear of the site. Planning ref: 08/02081/FULM and Planning ref: 11/03261/FULM.

1.7 A certificate of Lawful Development in relation to the establishment of the current use of the buildings was granted in 2012 planning ref: 12/02657/CLU. The certificate of lawfulness established the site to be in mixed use (Sui Generis) which included restaurant, bed and breakfast, managers accommodation and separate living accommodation to the north east side of the buildings.

1.8 An application for the karaoke rooms was withdrawn in December last year to allow further noise monitoring to be undertaken.

1.9 A premises licence has been granted for the karaoke use. The licence was granted for Monday to Sunday 10:00hrs to 3:30hrs. The licence is subject to operational restrictions.

## **2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYS7

Evening entertainment including A3/D2

CYGP1

Design

CYGP3

Planning against crime

CYHE3

Conservation Areas

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### 3.0 CONSULTATIONS

#### INTERNAL

3.1 Environmental Protection - No objections subject to conditions including closing time to be 01:30 and no noise to be audible outside the building.

#### EXTERNAL

3.2 Ten letters of objection have been received covering the following points:-

- The noise monitoring submitted used small room with few windows which is unrepresentative of all other rooms, who controls the volume of the machine.
- The noise report states interior noise levels will be 70 db - this is less than the interior of a BMW travelling at 80 MPH - who sings karaoke at less than the interior noise of a car.
- The adjacent guest house will be badly affected by late night revellers - the proposal is effectively a night club.
- Hotel guests maybe intimidated by groups of people smoking on the pavement.
- Proposal to have door person after midnight to prevent blocking of the pavement will be inadequate. What will happen before midnight?
- The noise that smokers and those arriving and departing make has not been addressed
- There is a church and bible school near the site which will be subject to noise and disturbance
- The Royal Dragon has not had a fire risk assessment since 2006
- Astounded that licence has been granted until 4am
- Good to see building used again but remember closing time was 11pm not 4am
- Light in new downstairs restaurant is already bright colours; they are next to traffic lights and could be a hazard.
- This is a totally residential area and the use is unsuitable to such an area.
- Kitchen window of adjacent flat and lounge and bedroom are alongside the boundary of the site - concerned about noise in the property. The noise report gives no comfort dates for monitoring within it are muddled and the monitoring relates to one room with minimal external walls. The approval could be for 11 karaoke rooms working simultaneously
- Concerned about people and traffic movements close to adjacent flat late at night
- Concerned about people looking into flat from rooms in the first floor of the building
- Purchased flat in 1996 has only been a restaurant never a pub in this time
- Other flats in block are rented out so unlikely to get an objection.
- The karaoke rooms are already in use and concerns are raised about the noise from the karaoke facility in the restaurant below

## 4.0 APPRAISAL

### 4.1 key Issues:-

- Policy background
- Principle of the development
- Impact on residential amenity
- Impact on the conservation area

### Policy Background

4.2 The site is located outside the city centre inset identified in the development Control Local Plan (DCLP) but within the built up area. The site is located within the Central Historic Core Conservation Area.

4.3 At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development. Paragraph 14 states that for decision taking this means approving proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the framework indicate development should be restricted.

4.4 Paragraph 17 of the NPPF sets out the core land use planning principles which should underpin decision taking; these include the principle that planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; take account of the different roles and character of different areas, promoting the vitality of our main urban areas; take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

4.5 Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development including through the use of conditions; recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason. (Paragraph 123)

4.6 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation (para.132). Where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (para134)

4.7 Relevant policies in the DCLP are:-

Policy S7 'evening entertainment' states that new leisure uses that complement York City centre will be permitted provided that there is no adverse cumulative effect on the vitality and viability of the centre, there is no unacceptable effect on residential amenity, and the public order and safety aspects have been addressed.

Policy GP 1 'Design' includes the expectation development should ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

Policy GP3 'Planning Against Crime'

4.8 Policy HE 3 'Conservation Areas' states that within conservation areas demolition, external alterations and changes of use that are likely to generate environmental or traffic problems will only be granted where there is no adverse effect on the character and appearance of the area.

4.9 The Central Historic Core Conservation Area character assessment for Walmgate Bar notes the Royal Dragon as a building of merit and a building at risk. The opportunities section of the character appraisal says that the building is not listed but is in need of a new tenant and some maintenance.

Principles

4.10 The site has a history as commercial premises. The building has been a public house with first floor accommodation and more recently restaurant with hotel or bed and breakfast accommodation at upper levels. The commercial operations at the site pre-date much of the new residential accommodation adjacent to it. The building itself is in a prominent location along a main route into York and the use and maintenance of the building is clearly beneficial to maintaining the quality and appearance of this part of the historic core conservation area. The re-opening of the restaurant at ground floor level and the general repairs that have taken place to the exterior of the structure have already improved the appearance of the building and it is in the interests of the visual quality of the area and the commercial viability of the site that a new use is sought for the upper parts of the building. The principles of achieving a viable commercial use for the site and maintenance of the quality of the conservation area are fully supported by advice within the NPPF.

4.11 The recent Certificate of lawfulness established that the building is a mixed use. The proposal is to use the upper levels for karaoke in connection with the restaurant this will result in a larger proportion of the building being used for 'entertainment' as opposed to the previous uses which has involved pub or restaurant at ground floor and hotel or similar at the upper levels. Given the connection between the use of the restaurant and the use of the karaoke rooms, officers consider that the proposed use as a whole would form one planning unit and would be a "sui generis use" (of its own kind, not falling within any category specified within the Use Classes Order 1987). Officers also consider that the proposed development will lead to an intensification of the use of the site for entertainment purposes. Whilst the principle of the reuse of the site for an entertainment use is supported the acceptability of the proposal largely depends upon whether the operation of the karaoke rooms can be adequately conditioned to protect the amenity of adjacent residential properties.

### Residential Amenity

4.12 The premises licence for the use of the site was granted in November 2012. The licensing hours are 10:00hrs to 03:30hrs. The licence application sought to extend the licensing hours from 00:30 to 3:30 for selling of alcohol and for live and recorded music and associated activities. The licence was granted subject to a number of restrictions, these include:-

- Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly.
- After 24:00hrs the only door to be used to enter the premises shall be the main door onto Barbican Road.
- Last public entry into the premises shall be 24:00hrs
- After 24:00hrs customers who have left the venue to smoke shall be monitored by a door supervisor who shall ensure noise is kept to a minimum
- Two door supervisors shall be provided at the venue from 24:00hrs until the close of business
- A refusals register and an incidents register shall be kept
- Sorting and disposal of waste at the rear bin storage area will only be undertaken during sociable hours
- Users of the karaoke rooms must have had a meal in the restaurant before moving upstairs
- The capacity of the venue is limited to 100 persons with a maximum of 30 on the first floor and 20 on the second floor
- Fire exits and openings shall be kept shut during hours of operation.

4.13 Licensing decisions are made under a different statutory regime than planning. Decisions under the Licensing Act can only be made on the basis of four licensing objectives set out in the Act, which are the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. It is also important to note that the licensing system is much more flexible than the planning system. Licences can be reviewed on the application of a responsible authority or a member of the public which can result in conditions being altered. By contrast planning conditions can only be imposed for land use planning reasons and there is far less flexibility for them to be reviewed once planning permission has been granted.

4.14 The main concern this application raises is the impact of the use on adjacent residential properties. The potential for impact in Officers view can be split in to two areas, i.e. concerns about the noise generated by the karaoke activities and the more general concerns about the coming and goings of users of the site

#### Noise generated by the karaoke operation

4.15 The application is supported by a noise report. The report concludes that there is likely to be a significant increase in the average ambient sound levels in the nearest residential properties due to the karaoke rooms. Mitigation measures are therefore advised. A system of sound insulation has been trialled in situ and it is considered that the noise with the mitigation measures will be inaudible. The Environmental Protection Officer has considered the submitted report and does not raise any objections to the application but requires a number of conditions including details of mitigation measures to be submitted and implemented before the use commences, restrictions on the opening times of the premises and the use of the karaoke rooms and restriction on delivery times to the site. On the issue of noise from the karaoke rooms it appears that Environmental Protection are satisfied that the noise levels can be made inaudible to the surrounding properties provided the use ceases at 01:00am.

#### Comings and goings

4.16 Members will note that the hours sought within the application are 01:00am for the cessation of the music and 1:30am for the closure of the building. These times are advised by the Environmental Protection Unit based on the noise report submitted by the applicant.

4.17 The area immediately adjacent to the site is predominantly residential. Permission was granted in the car parking area to the rear of the site for the construction of a three storey residential building for 10 flats and two maisonettes in 2011. This permission remains extant. To the front of the site is one of the main roads into the city and this road remains busy throughout the day and in to the evening. The location of the site is edge of city centre.

There is some commercial activity in the locality and the adjacent main roads are obvious walking routes to and from the city centre for those living in the Heslington Road Hull Road, Lawrence Street areas. One might expect then that there will be some late night movement in the area from those coming home from the city centre but on the whole the area is considered to be relatively quite once the road to the front of the site becomes less busy later in the evening. The building is set against the back edge of the footpath, whilst houses to the east (Lawrence Court) are set back from the road and those to the south west are closer to the footpath frontage but are set away from the front door of the building and slightly round the corner. The flats to the south west have kitchen windows facing the access road into the Pay and Display car park and the private car park to the rear of the site.

4.18 Users of the restaurant can park to the rear resulting in some pedestrian and vehicular movement down this access whilst the premises are open. However it is anticipated that the majority of users of the site will arrive and leave either in taxis or on foot. The conditions required by the premises licence restrict the number of people within the karaoke rooms to no more than 50, none of whom can arrive after midnight. All people leaving after midnight must do so by the front door, and there are various other controls to monitor activities at the site. Under the terms of the license, it will be the responsibility of the supervisors on the doors and within the site to require customers to respect the needs of local residents and leave the premises and area quietly. Officers are satisfied that the conditions on the license that control the need for supervision and signage can be controlled within the licensing regime.

4.19 In planning terms, it is considered that with a restriction on the hours of operation of the use, a requirement that the karaoke rooms shall only be used by people who have eaten in the restaurant first and the use of the front entrance only after midnight will limit the amount of activity adjacent to residential boundaries. Officers consider that with these restrictive conditions and other conditions including restricting delivery times and sorting and disposal of glass at the rear bin storage area the application can be supported.

#### Impact on the Conservation Area

4.20 The building is identified in the conservation area appraisal for Walmgate as being a building which needs a viable use and is prominent within the area. The proposed use will provide an economic use for the building and with the conditions suggested above it is considered that the activities around the site can be sufficiently controlled so that there will be no detrimental impact on the visual quality of the site and its surroundings.



## 5.0 CONCLUSION

5.1 The principles of achieving a viable commercial use for the site and maintenance of the quality of the conservation area are fully supported by advice within the NPPF.

5.2 The site is the subject of a premises licence which places restrictions on the use under that regime. A planning permission runs with the land and therefore if there is land use planning reasons why a particular condition should be applied a condition should be applied to the planning permission because the licensing terms may change in the future. In planning terms it is considered that with a restriction on the hours of operation of the use, the requirement that the karaoke rooms shall only be used by people who have eaten in the restaurant first and the use of the front entrance only after midnight will limit the amount of activity adjacent to residential boundaries. Officers consider that with these restrictive conditions applied and other conditions including restricting delivery times and sorting and disposal of glass at the rear bin storage area the application can be supported.

5.3 The development is acceptable within the conservation area subject to conditions.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

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

Drawing no. B.R. (16)/01 rev E

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

3 Deliveries to and despatch from site shall be restricted to the following hours:

Monday - Saturday 09.00 hrs to 18.00 hrs  
Sundays/Bank Holidays not at all

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan and advice within the National planning Policy Framework.

Application Reference Number: 13/00379/FUL

Item No: 4m

4 The opening hours of the premises shall be restricted to the following hours:

Monday - Sunday 10.00 hrs - 01.30hrs

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan and advice within the National Planning Policy Framework.

5 All windows of rooms to be used for karaoke shall have mitigation measures implemented, to ensure that noise from the karaoke is inaudible at the exterior of the building. A detailed scheme of mitigation shall be submitted to and approved in writing by the Local Planning Authority and fully implemented to the satisfaction of the Local Planning Authority prior to the implementation of the use hereby approved. Thereafter all mitigation to the windows of the karaoke rooms shall be maintained in such a way that its efficiency does not deteriorate.

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan and advice within the National planning Policy Framework.

6 The use of the karaoke rooms shall be restricted to the following hours:

Monday - Sunday 12:30hrs - 01.00 hrs

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan and advice within the National planning Policy Framework.

7 The karaoke rooms hereby approved shall only be used by customers who have first dined within the restaurant.

Reason: To restrict the numbers of people coming to the site and to ensure that the principle use of the site as a restaurant with ancillary facilities is maintained, in order to protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan and advice within the National Planning Policy Framework.

8 Last entry into the premises shall be 24:00hrs (midnight).

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan and advice within the National planning Policy Framework.

9 Bottles and glass shall not be placed into bottle bins between the hours of 24.00 hours (midnight) and 08.00 hours on any day.

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan and advice within the National Planning Policy Framework.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of the development, the impact on residential amenity, and the impact on the character and appearance of the Central Historic Core Conservation area. As such the proposal complies with Policies S7 and GP1 of the City of York Development Control Local Plan and advice within the National planning Policy Framework.

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

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

- Clarification regarding the content of the noise monitoring report
- Clarification of the details of the proposal

#### **Contact details:**

**Author:** Diane Cragg Development Management Officer (Mon/Tues/Wed)

**Tel No:** 01904 551351

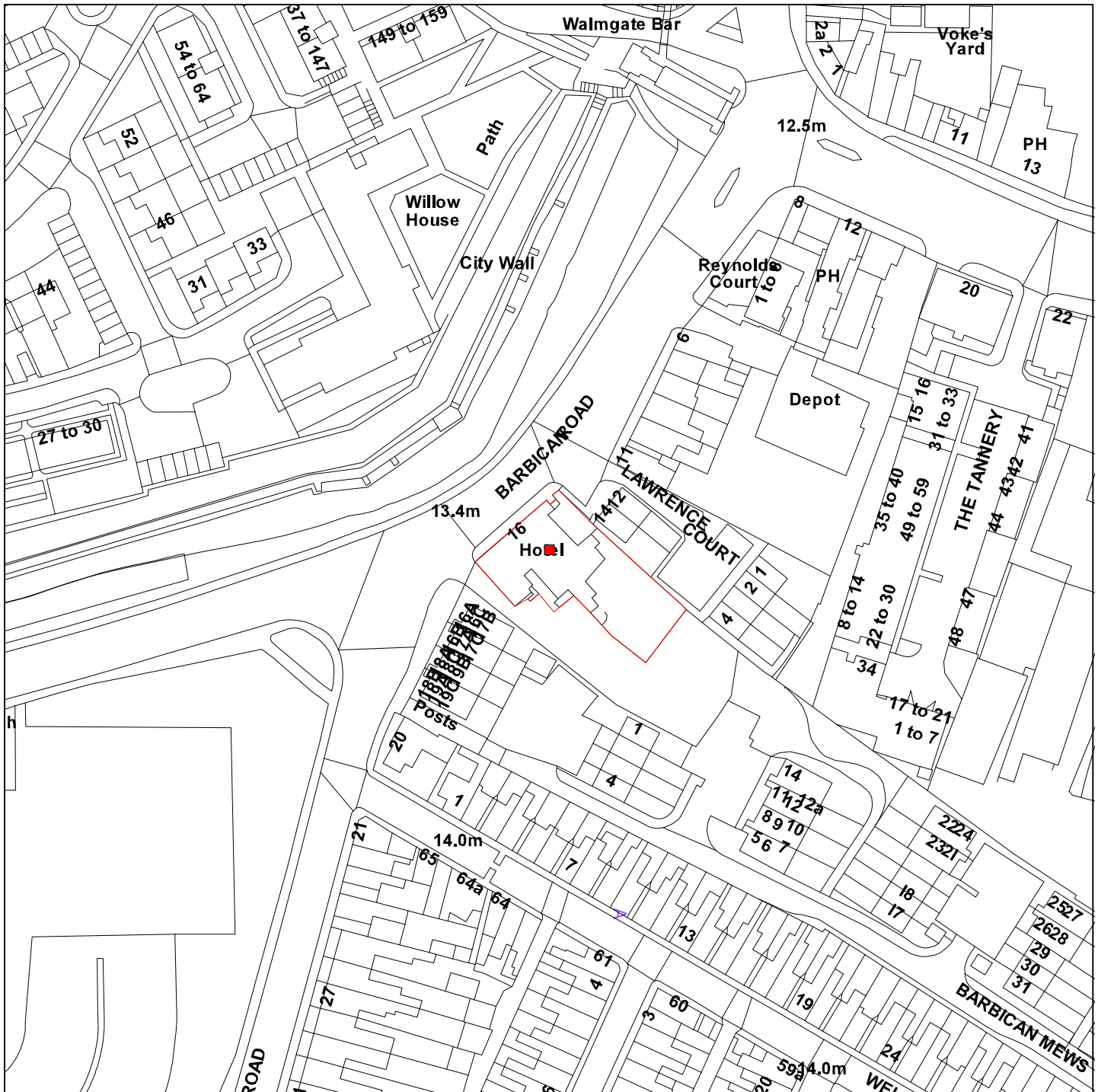
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# 13/00379/FUL

## Royal Dragon 16 Barbican Road



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	24 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Rural West York  
**Team:** Major and                      **Parish:** Nether Poppleton Parish  
                    Commercial Team                      Council

**Reference:** 13/01040/FUL  
**Application at:** 36 Church Lane Nether Poppleton York YO26 6LB  
**For:** Renovation and refurbishment of existing dwelling and  
                    associated barn  
**By:** Mrs M Van Tol  
**Application Type:** Full Application  
**Target Date:** 25 June 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site comprises a substantial two storey Grade II Listed brick built farm house dating from the mid 18th Century but with earlier origins occupying a visually prominent location within the Nether Poppleton Conservation Area. Planning permission is sought for a series of external alterations to facilitate the refurbishment of the property back into a single family home including the conversion of the attached disused barn into a children's playroom and guest bedroom with kitchen/dining area below. A parallel Listed Building Consent application ref:- 13/01042/LBC has also been submitted in respect of the scheme and is considered elsewhere on this agenda.

1.2 Councillor Brian Watson has called the application in for consideration by Committee as a result of concerns with respect to its impact upon the special character and appearance of the Listed Building.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Nether Poppleton CONF  
Listed Buildings GMS Constraints: Grade 2; 36 Church Lane, Nether Poppleton

2.2 Policies:

CYHE2 Development in historic locations  
CYHE3 Conservation Areas

### **3.0 CONSULTATIONS**

#### **INTERNAL:-**

3.1 Design, Conservation and Sustainable Development – support the revised application subject to conditions.

#### **EXTERNAL:-**

3.2 Nether Poppleton Parish Council raise no objection to the proposal.

3.3 Two letters of support have been submitted in respect of the proposal, one suggesting that the removed rooflights could be re-instated with no harm to the appearance of the dwelling or conservation area.

### **4.0 APPRAISAL**

#### **KEY CONSIDERATIONS:-**

##### **4.1 KEY CONSIDERATIONS INCLUDE:-**

\* Impact upon the character and appearance of the Nether Poppleton Conservation Area.

4.2 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations in arriving at Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework

4.3 Policy HE3 of the York Development Control Local Plan sets out a firm policy presumption that within a Conservation Area planning permission will only be permitted for development involving external alterations where there would be no adverse impact upon the character and appearance of the area. Central Government Planning Policy in respect of Planning and Conservation Area control outlined in paragraph 131 of the NPPF urges Local Planning Authorities to give significant weight to the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation along with the desirability of new development making a positive contribution to local character and distinctiveness. The current proposal envisages a series of external alterations consisting of the insertion of an additional window on the main street elevation at ground floor level within a former opening, the removal of a modern porch and door canopy on the rear elevation, the insertion of a new sliding sash window and sun pipe on the rear elevation, the insertion of timber framed glazed bi-fold doors, refurbishment of two existing doors with inserted glazing and the insertion of two roof-lights on the rear roof slope.



The application details have been amended to delete two additional rooflights from the rear elevation following on from Conservation concerns.

4.4 The building comprises a two storey brick built farmhouse of traditional plan lying within a long plot and with a conjoined barn on the south eastern frontage of Church Lane. The building is built close up to the street frontage and a further more substantial barn lies behind which is now in a separate ownership. Alterations to the main street elevation are extremely modest consisting of an additional window to light a former "cheese" room which would be utilised as a utility room. Alterations to the rear of the building would be somewhat more significant. Additional light would be provided to the first floor on the rear elevation by means of a sun pipe along with an additional timber sash window of traditional directly above the rear door. This would facilitate the creation of an internal corridor and additional bathroom to update the living accommodation on the first floor. Two Conservation Style roof-lights would be provided within the rear roof slope of the former conjoined barn to allow for its conversion into a guest bedroom and children's play area. The disused "taking in door" within the rear wall of the conjoined barn would also be glazed to facilitate its use as a children's play room and guest bedroom. The ground floor extension of recent origin adjacent to the conjoined barn would be provided with glazed bi-fold doors facing into the garden to facilitate its use as a kitchen/dining area and the existing doorway from the conjoined barn into the garden area would be part glazed also. The window in the eastern elevation of the rear ground floor extension would at the same time be extended to full height. Taken as a whole the level of external alteration associated with the proposal would be proportionate to the need to bring the property back into use as a family house. Subject to the number and design of the rear roof lights being amended the impact upon the Listed Building and the character and appearance of the Conservation Area are felt to be acceptable and the terms of Policy HE3 of the Draft Local Plan as well as the NPPF have been complied with.

## **5.0 CONCLUSION**

5.1 Greystones 36 Church Lane Nether Poppleton comprises a substantial two storey brick built, Grade II Listed former farm house occupying a prominent location within the Nether Poppleton Conservation Area. Planning permission is sought for a series of external alterations to facilitate the refurbishment of the property into a family home with a modern standard of accommodation. The nature of the external alterations, comprising the removal of a modern porch and door surround from the rear elevation, the re-opening of a window on the front elevation, the glazing of a kitchen/dining area on the rear elevation and the insertion of a new sash window on the rear elevation are modest in extent and considered the minimum necessary to secure the refurbishment of the property to provide family living accommodation of a modern standard. The proposal is considered acceptable and would secure compliance with both Central Government and Local Planning Policy in respect of Conservation Area control. Approval is therefore recommended.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

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

Drawing Refs: - EL/PL(0)004 Rev A; EL/PL(0)007 Rev A. EL/PL (0)003 Rev A;

EL/PL (0)006 Rev A; EL/PL(0)007 Rev A; EL/PL(0)002 Rev A; EL/PL(0) 005 Rev A and EL/PL (0)008 Rev A.

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

3 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.

i) Full details of the roof lights to be inserted in the rear roof slope of the building, including design, colour, mode of opening precise location and cross sectional detail at 1:20;

ii) Full details including cross sectional detail at 1:20 of the sun pipe to be inserted in the rear roof slope of the property;

iii) Full details including cross section at 1:20 of the additional sash window to be inserted in the rear elevation of the property at first floor level;

iv) Full details of the proposed full height glazing to be in the eastern elevation of the ground floor extension and the former taking in door at first floor level in the rear south facing elevation including faceting;

v) Full details of the bi-fold doors to be inserted in the rear south facing elevation including material, colour and mode of opening;

vi) Full details of the window to be restored to the principal street elevation including cross sectional detail at 1:20.

Reason: To safeguard the character and appearance of the Nether Poppleton Conservation Area and to ensure that the Local Planning Authority may be satisfied with these details.

4 The additional windows to be inserted on the ground floor street elevation of the property and the first floor rear elevation shall be constructed in timber and painted to match the existing adjoining windows.

Reason: - To safeguard the character and appearance of the Nether Poppleton Conservation Area and to secure compliance with Policy HE3 of the York Development Control Local Plan.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the character and appearance of the Nether Poppleton Conservation Area. As such the proposal complies with Policies HE2 and HE3 of the City of York Development Control Local Plan.

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

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

Submission of an amended scheme reducing the number of roof lights on the rear elevation.

#### **Contact details:**

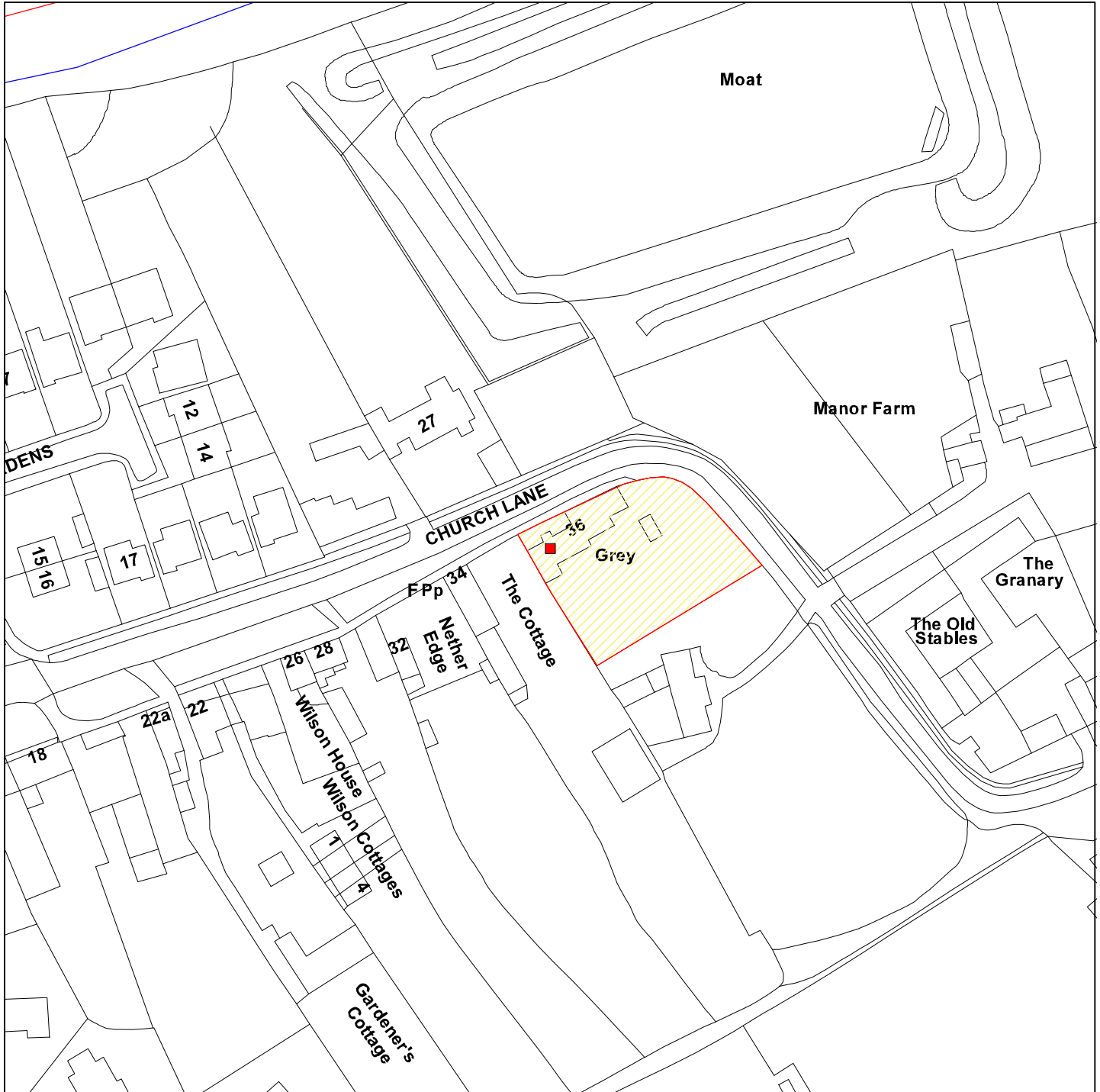
**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

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# 13/01040/FUL

## 36 Church Lane



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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3.2 Nether Poppleton Parish Council raise no objection to the proposal subject to any internal features of historical and architectural interest being adequately safeguarded.

3.3 One letter of support has been received from an adjacent property in respect of the proposal.

#### **4.0 APPRAISAL**

##### **4.1 KEY CONSIDERATIONS INCLUDE:-**

\* Impact upon the historic character and integrity of the Listed Building.

4.2 The 2005 Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations in arriving at Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

4.3 Policy HE4 of the York Development Control Local Plan sets out a clear policy presumption that consent will only be forthcoming for work involving internal or external alterations where there would be no adverse effect upon the character, appearance or setting of the building. Central Government Planning Policy in respect of Listed Building Control outlined in paragraph 131 of the NPPF urges Local Planning Authorities to afford significant weight to the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The current proposal envisages a series of external and internal alterations to facilitate the refurbishment of the property as a family home.

4.4 The proposal envisages the re-opening of a window within a ground floor extension to the main street elevation to enable it to be used as a utility room. The extension dates from the early 19th Century and was designed as a "cheese room". The re-opening of a window previously blocked in the 1950s would have a minimal impact upon the special character and appearance of the Listed Building providing the replacement window is appropriately designed and conditioned as part of any approval. The proposed external works to the rear south facing aspect of the property are more significant and relate to the need to convert the former conjoined barn into living accommodation and the creation of an internal corridor and bath room on the first floor.

4.5 An additional timber sash window to match the existing would be created on the first floor to light a circulation corridor to be created along the southern elevation of the property. An additional bath room would be created within the bedroom at the western side of the property which would be lit by a sun pipe within the rear roof slope. This is felt to be acceptable providing its details are reserved by condition for further approval as part of any permission.



Other works to the rear elevation of the principal existing building comprise the removal of a Modern door case from the rear door in to the main house and the removal of a Modern porch serving the rear extension bridging between the principal building and the conjoined barn. Taken as a whole the proposed alterations to the rear elevation of the principal building are felt to be acceptable and the minimum necessary to secure the refurbishment of the property into a family house with a Modern standard of accommodation.

4.6 The conjoined barn with associated single storey rear extension would be converted into a kitchen/dining area with a children's play area and guest bed room above. It is envisaged that full height glazed bi-fold doors would be inserted into the rear south facing wall of the single storey extension with a full height window occupying its north facing side wall. These elements of the proposal are felt to be acceptable providing large scale details of the glazing are reserved by condition as part of any permission. The scheme as initially submitted envisaged the introduction of two roof lights to the rear roof slope of the extension. However these have been deleted following on from concerns in terms of the level of clutter on the rear roof slope.

4.7 In terms of work to the former conjoined barn a door on the ground floor of the rear elevation would be converted to incorporate an upper glazed panel and the former "taking in" door at first floor level would be de-commissioned and replaced with a glazed panel to give additional light to the upper floor. It is envisaged that two Conservation Style roof lights would also be added to the rear roof slope to increase the level of natural light entering the play room and guest bed room. Concern has been expressed in relation to their relative size. Their principle and location is however felt to be acceptable and it is recommended that their design be conditioned for further approval as part of any permission in order to secure an appropriate solution.

4.8 In terms of internal alterations to the principal building any work to the ground floor would be confined to up-grading of the decorative finishes and the refurbishment of two fireplaces to remove unsightly 20th Century additions. In terms of work to the first floor a new bathroom would be created within the westerly bedroom separated by a new stud work partition. At the same time a linking corridor would be created inside the rear south facing separated by a timber stud work partition from the adjacent room. An existing opening to the easterly bedroom would be blocked and an additional opening would be created from the new corridor. Existing decorative finishes and fixed cupboards would be refurbished to allow for reuse. The proposed internal alterations to the first floor are felt to be acceptable and the minimum necessary to secure its continued use as a family home.

4.9 In terms of the proposed internal works to the area of the former conjoined barn a section of rear wall would be removed with a 30cm knob retained giving access in to the dining area within the rear extension.

The remainder of the works to the ground floor would comprise fitting out works to provide a kitchen and living room area. On the first floor a guest bedroom would be created with an en-suite bathroom separated from the remainder of the upper floor by a new stud work partition. The work is felt to be appropriate and the minimum necessary to secure refurbishment of the property to provide a domestic family living space.

## **5.0 CONCLUSION**

5.1 Greystones, 36 Church Lane Nether Poppleton comprises a two storey Grade II Listed, former farmhouse occupying a prominent location within the street frontage of the Nether Poppleton Conservation Area. Listed Building Consent along with a parallel planning permission is sought in respect of a number of internal and external alterations to secure the return of the property to domestic use as a family home. The alterations comprise an element of internal re-ordering primarily to the first floor of the principal building and the interior of a former conjoined barn, which has most recently been used for domestic storage; along with the up-grading of existing decorative finishes to an acceptable Modern standard. The proposals are felt to be appropriate in terms of their impact upon the historic character and integrity of the Listed Building and the minimum necessary to secure its productive re-use as a family home. The proposal is therefore felt to be appropriate in planning terms and approval is therefore recommended.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 TIMEL2 Development start within 3 yrs (LBC/CAC) -

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

Drawing Refs:-PL(0)003 Rev A; PL(0)002 Rev A; PL(0)006 Rev A; PL(0)010 Rev A; PL(0)0011; EL/PL(0)004 Rev A; EL/PL(0)005 Rev A; PL(0)012 Rev A; PL(0)009 Rev A; EL/PL(0)007 Rev A; EL/PL (0)008 Rev A.

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

3 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.

- i) Full details of the roof lights to be inserted in the rear roof slope of the building including design, colour, mode of opening and cross sectional detail at 1:20;
- ii) Full details including cross sectional detail at 1:20 of the sun pipe to be inserted in the rear roof slope of the property;
- iii) Full details including cross section at 1:20 of the additional sash window to be inserted in the rear elevation of the property at first floor level;
- iv) Full details of the proposed full height glazing to be inserted in the eastern elevation of the ground floor extension and the former taking in door at first floor level in the rear south facing elevation, including faceting;
- v) Full details of the bi-fold doors to be inserted in the rear south facing elevation including material, colour and mode of opening;
- vi) Full details of the window to be restored to the principal street elevation including cross sectional detail at 1:20.

Reason: To safeguard the historic character and integrity of the Listed Building and to ensure that the Local Planning Authority may be satisfied with these details.

4 The additional windows to be inserted on the ground floor street elevation of the property and the first floor rear elevation of the property shall be constructed in timber and painted to match the existing adjoining windows.

Reason: - To safeguard the historic character and integrity of the Listed Building and to secure compliance with Policy HE4 of the York Development Control Local Plan.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the historic character and integrity of the Listed Building. As such the proposal complies with Policies HE4 of the City of York Development Control Local Plan.

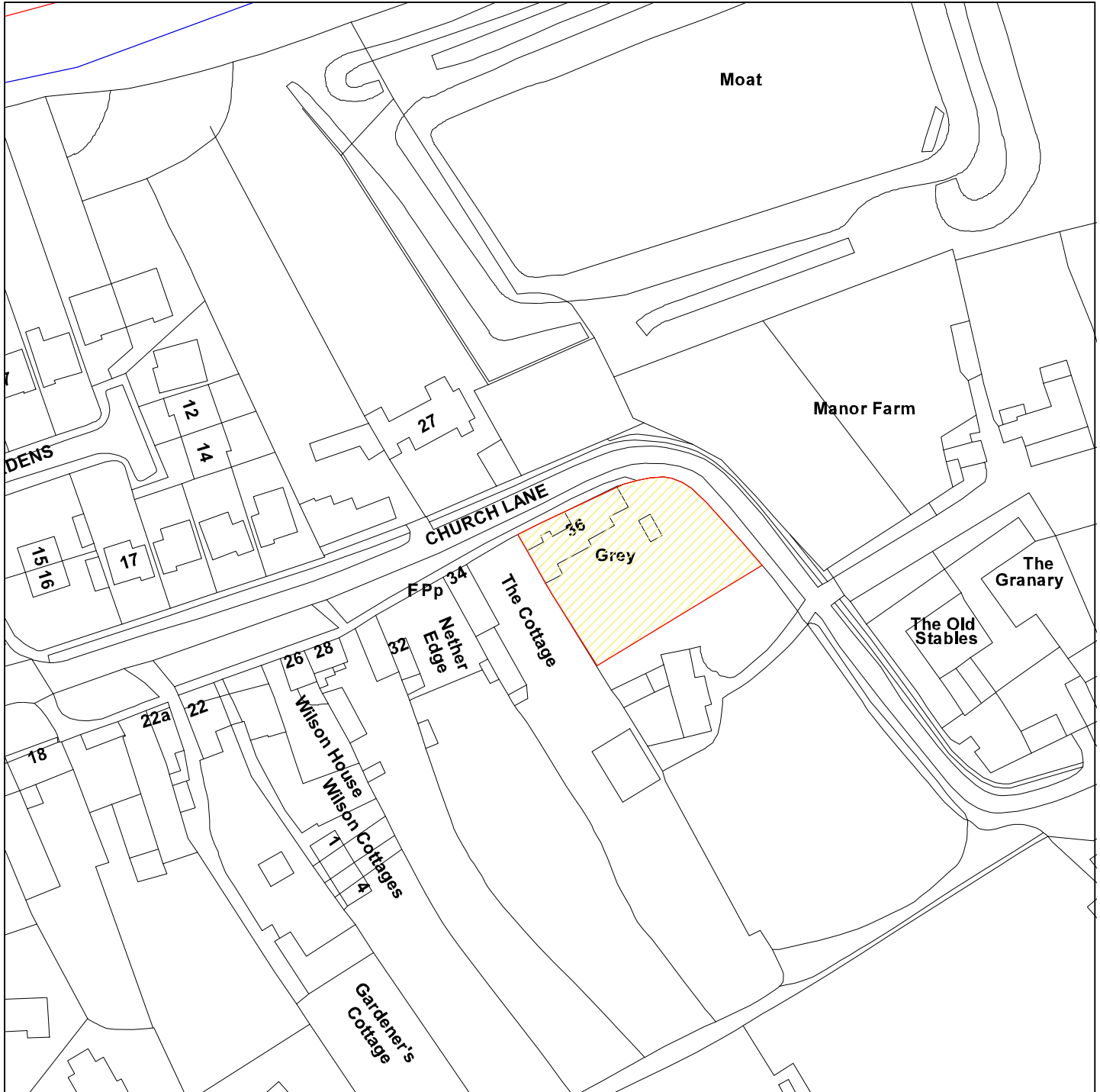
### **Contact details:**

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

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# 13/01042/LBC

## 36 Church Lane



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Haxby and Wigginton  
**Team:** Major and                      **Parish:** Haxby Town Council  
                    Commercial Team

**Reference:** 13/00660/FUL  
**Application at:** Westholme 200 York Road Haxby York YO32 3EX  
**For:** Erection of 5no. detached two storey dwellings with associated  
                    garages, access and landscaping  
**By:** Mr Daniel Gath  
**Application Type:** Full Application  
**Target Date:** 18 June 2013  
**Recommendation:** Refuse

**1.0 PROPOSAL**

1.1 This application seeks planning permission for the erection of five detached houses within the rear garden of 200 York Road in Haxby. The site is approximately 0.3 ha in size. Access to the proposed dwellings would be between the existing dwelling at 200 York Road and an electricity substation to the south. The access point would be off a lay-by which is accessed at two points along York Road.

1.2 The application site is bounded by an electricity sub-station and the residential garden 198 York Road as well as the rear gardens of a number of dwellings along Eastfield Avenue, Sunnydale and Pinelands. The application site is not within a Conservation Area and no buildings in the immediate vicinity are listed. The whole of the application site is within Flood Zone 1 which is the lowest flood risk category.

1.3 The proposed development consists of three no. 3/4 bedroom houses and two no. 4/5 bedroom houses. Two of the houses would contain integral garages with the other three having detached single garages. An additional garage is proposed to serve the host house.

1.4 This application has been brought before Planning Committee at the request of Cllr. Cuthbertson due to the concerns raised by local residents. Additionally the application has been brought before Committee because the applicant's agent is married to a Council employee. A site visit is recommended so that Members can assess the visual impact of development, the access arrangements and the impact on neighbouring residential amenity.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

### 2.2 Policies:

CYGP1  
Design

CYGP10  
Subdivision of gardens and infill devt

CYH4A  
Housing Windfalls

CYGP15  
Protection from flooding

CYL1C  
Provision of New Open Space in Development

CYED4  
Developer contributions towards Educational facilities

## **3.0 CONSULTATIONS**

### INTERNAL

3.1 Highway Network Management - No objections to the proposed development in highway terms. The site is currently a large rear garden to a house fronting on to a lay by arrangement on York Road adjust north of the junction with Eastfield Avenue. The proposed access is on to the lay-by off York Road. The proposal is for 5 new dwellings in the grounds of the existing house which is to be retained. The 6 dwellings are proposed to be served from a private drive which accommodates single lane traffic flow before opening and allowing passing places. Each dwelling has a garage capable of accommodating both cars and cycles.

Access to the site is from an adopted highway lay-by which has two in/out accesses on to York Road.



The lay-by currently provides access to 4 properties including a cycle shop business. The level of traffic generated by these proposals will not have a material impact on the adjacent highway network. Adequate visibility is achievable at the access on to the highway.

3.2 Design, Conservation, and Sustainable Development (Landscape Architect) - The rear garden area is exceptionally large relative to the surrounding neighbouring gardens. Formerly there was a sizeable pond in the centre that has recently been filled in and seeded, with tell tale signs of irises re-emerging from their rhizomes, and young willows around the old margins and centre. Otherwise the majority of the vegetation is confined to the garden perimeter. The northern boundary is marked by a mixed hedge including Elder and Holly. The western boundary is marked by a loose privet hedge. Random trees around the perimeter include of a mix of young conifers, willow, fruit trees, laurels and a large hazel adjacent to a poorly formed Ash. A larger group of older trees, some in poor condition, remains in the western corner of the site. The latter form good seasonal screening between properties but are not in themselves worthy of enforced retention. The former vegetation breaks up the boundaries nicely, though the conifers could become problematic closer to their mature size. A mature weeping birch in the rear garden of 198 York Road overhangs the site; its spread could easily be accommodated within a propose rear garden. None of the trees at the rear of 200 York Road are worthy of protection by way of a tree preservation order (TPO) but some of the young trees are suitable for incorporation into a final landscape scheme.

There are concerns however that the proposal represents over development of the site due to short garden lengths relative to the size and number of the proposed dwellings and their proximity to neighbouring properties. Whilst it would be possible to physically protect and retain the vegetation as shown in the submitted plans it is unlikely that they would be retained by future owners due to the space they take up within the limited garden sizes; thus the trees should not be considered as contributing towards effective, long-term screening.

3.3 Education - £11,984 is sought towards the provision of one primary school place at Headland Primary which is currently at capacity.

3.4 Leisure - A commuted sum should be sought towards off-site open space provision/upgrade given that no communal open space is provided on site.

3.5 Flood Risk Management - Insufficient information has been provided by the Developer to determine the potential impact the proposals may have on the downstream watercourse because the suitability and connection to the existing site outfall should be proven. Should the above be proven then the Flood Risk Management Team would have no objections to the development in principle. A condition is recommended to be added to any approval if the application is approved.

3.6 Environmental Protection Unit - A contaminated land screening assessment is required to be submitted.

## EXTERNAL

3.7 Haxby Town Council - strongly object to this application on the following grounds:

- Overdevelopment of the site due to the number of new dwellings being proposed.
- Concern about the limited access to the site.
- This development would have a detrimental impact on the site and in particular on the mature trees currently there.
- Concern about drainage issues because the land being built on was the site of a former pond. Houses in the vicinity are believed to be already subject to flooding.

3.8 Local Residents - Two letters of support have been received. One letter states that Haxby needs more family sized housing. Another states that the drainage problems in the area are not the fault of the applicant and that residents do not have a right to a view.

19 letters of objection have been received. Below is a summary of the comments made:

- The plot is not large enough for the number of houses proposed, the application would overdevelop the site;
- The development would harm the character and visual amenity of the area and the local environment;
- The proposed houses are close to boundaries and would harm residential amenity through loss of privacy, light and by being overbearing;
- The proposal would result in a loss of outlook from neighbouring houses and gardens;
- The proposed development would result in the loss of the landscaping which is remaining;
- The proposed garages have high pitched roofs and are close to boundaries;
- This application has been submitted very recently after a pond was filled in which contained wildlife including Great Crested Newts;
- The access isn't safe for the number of houses proposed;
- There are drainage problems in the area and the proposal would add to this;
- The application is backland development and the level of development is unacceptable;
- The proposed access driveway would create noise and disturbance to existing residents;
- The proposal would further reduce the environmental habitat of the area;
- There may be potential for some new development on this site but not of this level;

## 4.0 APPRAISAL

4.1 The key issues are:

- The principle of development
- The impact on the character and appearance of the area
- The impact on neighbouring residential amenity
- Highway safety, car and cycle parking
- Drainage
- Ecology
- Open space and education requirements

### PRINCIPLE OF DEVELOPMENT

4.2 Paragraph 49 of the National Planning Policy Framework (NPPF) states that 'housing applications should be considered in the context of the presumption in favour of sustainable development.' However, Paragraph 53 requires local planning authorities to consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Whilst written significantly before the NPPF the Development Control Local Plan Policy GP10 'Subdivision of Gardens and Infill Development' follows this theme by stating that planning permission will be granted for sub-division of existing garden areas or infilling where this would not be detrimental to the character and amenity of the local environment. Policy H4a 'Housing Windfalls' sets more detailed criteria for assessing applications for residential development on non-allocated sites (such as the application site) by stating that developments will be granted where:

- the site is in the urban area and is vacant or underused; and
- the site has good accessibility to jobs, shops and services by non-car modes; and
- it is of an appropriate scale and density to surrounding development; and
- it would not have a detrimental impact on existing landscape features.

4.3 The application site is within the settlement limit of Haxby. It is therefore considered to be within a sustainable location and has good access to services and facilities by non-car modes. Whilst the site is used as a domestic garden, its size in relation to the host house is very large. The addition of some new residential development on this site would make more efficient use of this sustainable site. York has a shortage of housing, particularly family sized housing. Given the need for new housing, the size and sustainability of the site and the NPPF's presumption in favour of sustainable development, it is considered that the broad principle of new residential development on this site is acceptable.

## IMPACT ON THE CHARACTER AND APPEARANCE OF THE AREA

4.4 The application site is within a residential area. However, within this area are a number of different forms of development. York Road is defined by large detached frontage houses with substantial green undeveloped garden spaces. To the south along Eastfield Avenue are semi-detached houses set within smaller plots but with rear gardens which are 25-30m in length. To the west is a more modern higher density suburban type development of smaller cul-de-sacs off the main circulation roads. There are public and private views into the site from the east, south, and west and private views across gardens from the north. The size and scale of the gardens of houses along this part of York Road help to create clearly defined character areas and give York Road much of its visual quality. The substantial green garden areas provide a sense of openness and relief from more recent higher density residential development. The garden of the application site is the most substantial in the area and significantly contributes to the character of the area given that it is the first house along York Road after Eastfield Avenue.

4.5 The proposed development is not of high density in relation to a typical urban development, however with the context of this site and its surroundings would appear as an overdevelopment of the site which would significantly harm the character and appearance of the area. Existing open public views from the east, south, and west would be altered and hindered by the level of development proposed. The five houses proposed for this site are significant in size, are located around the site, and have little space between them. The character and form of the area would therefore be substantially affected. The proposed houses are approximately within 1m of the boundary of houses along Pinelands and Eastfield Avenue, the sense of space to the rear of these dwellings would be lost and in the case of Pinelands the houses would appear somewhat cramped in given that they do not have large gardens.

4.6 Views from York Road to the west would be significantly altered. At present one looks over and between the electricity substation to the south of the host house at 200 York Road towards an undeveloped and green area. Significant landscaping and a pond have been removed from the site in recent times, however the site has retained its sense of being undeveloped and open. The proposed development would introduce an access road along a substantial length of the application site. This would serve five substantial houses with plot 5 sitting only 19m from the main rear elevation of the existing house. Between these two structures would be a large single garage adding to the appearance of a high density development within this context. At present there are open views from York Road of over 100m from York Road to the end of the site. The vast majority of this view is green and undeveloped. It is Officer opinion that had a development been submitted which allowed greater separation distances between proposed houses and also retained a significantly larger space between the rear of the host house and proposed new development, then the important character and qualities of the area could be

retained. Such a lower density scheme set back further from York Road would have allowed a much more significant landscaping scheme to help to retain the open and green undeveloped character and form of the site.

4.7 The proposed plans include the retention of some landscaping within the site. However, the relationship between much of the retained landscaping and the proposed houses is such that it is considered future occupants of the houses would be likely to remove or reduce it. The level of development including houses, access road, car parking areas, and garages does not provide scope for significant additional planting. New planting on the site could soften the appearance of the development whilst retaining a sense of the area retaining some of its green appearance. A development of lesser density could achieve this, which is considered important in terms of protecting the character and appearance of this backland open garden area and its setting as viewed from surrounding areas.

4.8 Paragraph 53 of the NPPF states that 'Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.' Paragraph 61 states that '...decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.' Paragraph 64 states that 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.' It is considered that the proposed development fails to take the opportunities available for successfully integrating a new development into the site which takes account of the character and form of the area. The development imposes itself on the area and does not successfully integrate with the existing natural and built environment. Therefore, it is considered that the proposal would represent an overdevelopment of this back garden area which is contrary to the aims of the 2005 DCLP and the NPPF.

#### IMPACT ON NEIGHBOURING RESIDENTIAL AMENITY

4.9 There are considered to be two key considerations in this respect, the first is the impact of the proposed access on the amenity of the residents of the host house. The second is the impact of the proposed new houses on the living conditions of neighbouring residents. 2005 DCLP Policy GP1 'Design' seeks to protect neighbouring residents from development which is overbearing, overshadows, or results in a significant loss of privacy or outlook.

4.10 The proposed access would pass to the side of the host house which contains two secondary windows. There would be a separation distance of approximately 3m. Between the access and host house would be a new brick wall and an area of landscaping.

A revised plan has been received which reduces the width of the access point and as such cars are not passing as close to the front windows of the host house as was the case on the originally submitted plan. It is considered that the access arrangement shown on the revised plan is acceptable and would not result in a significant loss of amenity through noise or disturbance for residents of the host house.

4.11 The proposed development includes houses close to site boundaries. A number of garden areas back onto the application site and therefore any development would have some impact on amenity. Plots 4 and 5 would face towards the rear gardens and rear of houses along Eastfield Avenue with the rear of the houses facing towards the garden of 198 York Road. Whilst these dwellings will be visible from the gardens of these neighbouring houses and windows would be visible, it is considered that the level of separation is sufficient to not cause a loss of privacy or appear so dominant as to justify refusal of the planning application.

4.12 The relationship between the proposed houses at plots 1-3 and houses along Eastfield Avenue, Sunnydale, and Pinelands is tight. At their closest point plots 1 and 3 are only 1m off the shared curtilage boundary. Therefore the buildings will appear dominant from some areas of the neighbouring gardens. However, the houses have been aligned so as to not sit directly behind houses at Pinelands and an acceptable separation distance has been provided between the proposed houses and neighbouring house windows. Subject to appropriate conditions requiring side elevation windows to be obscure glazed and not allowing new openings to be inserted, it is not considered that there would be a loss of privacy or outlook sufficient to justify refusal of the application.

#### HIGHWAY SAFETY, CAR AND CYCLE PARKING

4.13 The proposed development would be served by a single road access off a lay-by adjacent to York Road. This access would serve the five new dwellings as well as the host house. Highway Network Management considered that the proposed access arrangement is acceptable and it would not cause significant highway safety issues. There would be a passing place approximately 35m into the site. Highways consider that the level of use of this access would be low. Should a vehicle want to enter the site but have to wait within the lay-by until a car exiting the site has pulled out, it is considered that this would not cause a significant safety problem.

4.14 Each dwelling has two car parking spaces as well as a garage. Whilst this is a little above maximum standards, in this instance no objections are raised given the lack of other space for visitor car parking. The amount of car parking provided on site should ensure that there is no off-site car parking which could cause an obstruction. The proposed garages are large enough to be able to store a car as well as bicycles.

The site is within a sustainable urban location and cycle parking provision helps to encourage sustainable transport choice. It is considered that the level of car and cycle parking is acceptable in this location.

## DRAINAGE

4.15 The application site is within Flood Zone 1 and should therefore not suffer from river flooding. A substantial amount of drainage information has been submitted with this application which has been considered by the Council's Flood Risk Engineer. At present the site is green and undeveloped and therefore any development has the potential to increase the amount and speed of surface water runoff unless it is adequately controlled. The applicants are proposing the use of underground storage tanks which would collect surface water and would then release this at a controlled rate into the existing drainage system. This principle is considered acceptable by the Flood Risk Engineer. Additional information was requested about the connection point to the sewer. However, it is considered that the applicants have demonstrated that the site can be properly drained and should the application be approved a condition could be added to any approval requiring full drainage details to be agreed prior to starting work on site.

## ECOLOGY

4.16 Draft Local Plan policies NE6 and NE7 seek to protect and enhance existing natural habitats, particularly on sites where there are protected species. A number of objections from local residents make reference to the fact that a substantial pond on this site was drained and filled in. Some objections state that the pond contained Great Crested Newts which are a protected species. However, the Local Planning Authority has no evidence that the pond contained Great Crested Newts. The pond had not been surveyed for a number of years, however the last time it was surveyed there was no evidence of Great Crested Newts on site.

4.17 The Council's Ecologist/Countryside Officer is aware of this application and has not raised any concerns or objections to what is proposed. There is no specific wildlife value on the site which is worthy of protection.

## OPEN SPACE AND EDUCATION REQUIREMENTS

4.18 The applicant is not proposing to provide on site communal open space. Therefore in line with Policy L1c of the 2005 Development Control Local Plan and the supporting planning guidance (July 2011) a commuted sum payment is required to fund the provision or improvement of children's equipped play space, informal amenity open space, and outdoor sports facilities. The required commuted sum payment is £11,684 which the applicant has confirmed they are willing to provide through a Section 106 agreement.

4.19 Policy ED4 of the 2005 DCLP seeks financial contributions towards local education facilities to meet the additional demand created by a new residential development. The consultation response from Adults, Children and Education confirmed that the development needs to fund one primary school place at the Headland Primary. The requested sum is £11,984 which again would be secured through a Section 106 agreement if the application is approved.

## **5.0 CONCLUSION**

5.1 The application proposal is considered to be an overdevelopment of a green and open backland garden area causing harm to the character and appearance of the area. The application is therefore recommended for refusal.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1 The application site is currently green, undeveloped and open and plays an important part in defining the attractive frontage development which characterises this part of York Road whilst providing an important space visually between developments to the south and west. Views are afforded across the site from numerous public vantage points in the surrounding area. The proposed development is considered to be of high density within this backland garden setting resulting in a cramped and overdeveloped appearance which does not respect the character and appearance of the area. The level of hardstanding combined with the amount of built development is at odds with the existing character and form of the application site and surrounding area. In the long term it is considered that the proposed development would result in the loss of existing green landscaping, which contributes to the character and appearance of the area, given the density of development and the lack of space around the proposed dwellings. The proposed development fails to take the opportunities available for successfully integrating a new development into the site which takes account of the character and form of the area. The development imposes itself on the area and does not successfully integrate with the existing natural and built environment. The application is therefore considered to be contrary to the 2005 Development Control Local Plan Policies GP1 'Design' parts a), b), and c), GP10 'Subdivision of Gardens and Infill Development' and H4a 'Housing Windfalls' parts c) and d) as well as advice contained within the National Planning Policy Framework particularly paragraphs 53, 61, and 64.



**7.0 INFORMATIVES:  
Notes to Applicant**

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

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

- discussions with the applicants about concerns and sought amendments to reduce the number of houses within the proposal which, subject to design, may have resulted in a positive recommendation.

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

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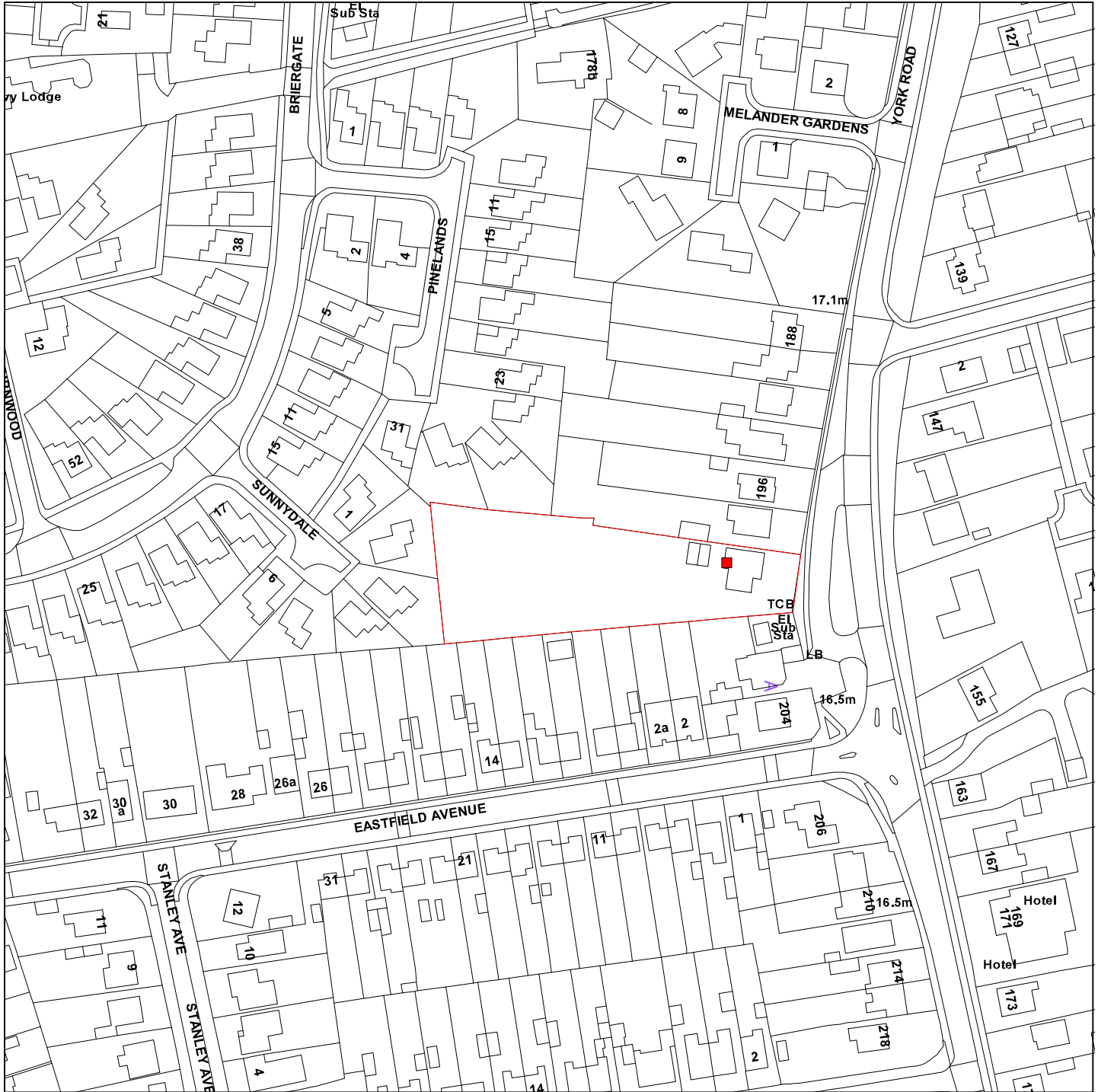
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# 13/00660/FUL

## Westholme 200 York Road Haxby



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	24 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Micklegate  
**Team:** Major and                      **Parish:** Micklegate Planning  
Commercial Team                      Panel

**Reference:** 13/00577/FUL  
**Application at:** Nicholas Associates Architects 42 Oxford Street York YO24  
4AW  
**For:** Change of use to B1 (offices) and D1 (therapeutic massage)  
on upper floors  
**By:** Mr Martin Walker  
**Application Type:** Full Application  
**Target Date:** 9 May 2013  
**Recommendation:** Approve

**1.0 PROPOSAL****APPLICATION SITE**

1.1 The application site, 42 Oxford Street, is located at the end of a terrace and fronts onto Holgate Road. The building is 2.5 storey; the room within the roof-space has windows on the end gable and a rear dormer that was added in the late 1980's. The premises is in use as offices. Parking is available to the forecourt at the front and the hard-standing behind the host building. The garages behind the premises are not owned by the applicants. Residential uses surround the application site; at 50 and 52 Holgate Road and the 3-storey flats to the north at Catesby House, Cambridge Street.

**PROPOSALS**

1.2 Planning permission is sought for a mixed use of offices and D1 use (therapeutic massage) on the upper floors.

**PLANNING HISTORY**

1.3 Planning permission was granted to change the ground floor of the premises to offices in 1988. The ground floor had been a shop previously, with living accommodation above. Earlier in 1988 permission was refused to use the entire building as offices. The proposals were dismissed at appeal, on the grounds that the loss of the upper flat would be an unacceptable loss to the required housing stock in the city (application 7/09/4416B/PA).

Despite the appeal decision we understand the upper floors have been used as office space since the late 1980's.

## **2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Central Historic Core CONF

York North West Boundary York North West Boundary CONF

2.2 Policies:

CYC1 Criteria for community facilities

## **3.0 CONSULTATIONS**

### **HIGHWAY NETWORK MANAGEMENT**

3.1 No objection. Officers consider the site has adequate car parking and adequate cycle parking can be provided.

### **MICKLEGATE PLANNING PANEL**

3.2 The panel were advised on the 8 April of the proposed mixed use. The clerk of the panel was also contacted by an objector to the scheme. As this was after the meeting, the panel cannot change its previous comments (which were that these were no objections), but the clerk would like to clarify that the panel had understood when looking at this application that this was a regularization of the existing use as architects' offices, not a proposal for a new "business centre" or additional offices/consulting rooms for new businesses.

### **PUBLICITY**

3.3 The deadline for comment was 30 April. Four objections have been made on the following grounds

- The increased level of commercial activity within the building would be inappropriate in what is now a residential area.
- There is a lack of car parking in the area, and inadequate parking for the proposed use. The proposed occupation of the building would add more staff and also visitors. There are only 5 or 6 parking spaces on site and 4 of these are already in use on a daily basis. The junction of Holgate and Oxford Street has limited visibility and additional traffic could lead to accidents.

- Proposals would lead to increased activity within the host building and undue overlooking of neighbouring buildings. The side elevation has multiple windows which overlook the rear yard opposite and there will be overlooking into windows on dwellings to the rear.
- Noise disturbance from persons coming and going and increased traffic in the road. Also the proposed use would open on weekends and evenings, causing additional disturbance.
- Inadequate facilities within the proposed building (toilet facilities and means of inclusive access).

## **4.0 APPRAISAL**

### **4.1 KEY ISSUES**

- Principle of the proposed use
- Amenity of surrounding occupants
- Highway safety

## **ASSESSMENT**

### **PRINCIPLE OF THE PROPOSED USE**

4.2 The National Planning Policy Framework advises that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. The NPPF also seeks to boost housing supply. Local Plan policy C1 advises that community facilities will be permitted where they are of appropriate scale and where there is a need for the use.

4.3 The NPPF advises proposals should be approved unless they conflict with policies within the framework or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

4.4 Local Plan policy H9 relates to the loss of dwellings. The thrust of the policy is to avoid the loss of housing, it advises that where this is proposed individual site circumstances will need to be considered, including the character of the area and what uses are desirable. The need to provide community services can be ground to allow the loss of housing. Although an appeal was dismissed in 1988 to use the upper floor of the premises as offices, we understand this has been the use of the area since then.

The upper floors are laid out as, and have the character of, offices. A mixed use of offices and independent flat is not suited to the building layout because of the location of the staircase which is between the front rooms and those at the rear. As such if the access to the upper floors were independent, the office and the ancillary facilities rooms at the rear of the premises would be inaccessible. It is logical to have the entire building within the same use, be it offices/consultation rooms or residential.

4.5 To use the building as offices and the D1 use proposed will allow comprehensive use of the building, in the interests of its economic viability, preventing such without good reason would be contrary to the National Planning Policy Framework. There is no material loss of housing stock, because the premises have not been in residential use for over 10 years and given that typically the current trend is for offices to be converted back to residential use rather than the opposite approach in this instance.

4.6 The proposals do not unduly conflict with Local Plan policy C1 as the health facility will be of a small scale and therefore can serve the locality. The proposal is a change of use only and therefore there would be no visual impact.

## AMENITY OF SURROUNDING OCCUPANTS

### Overlooking

4.7 The premises have been occupied as offices for sometime with unrestricted opening hours. The gable end elevation looks towards the rear yard of 52 Holgate Road which is enclosed by an approx 2m high wall. Because of the height of the side wall and width of the yard, views into the yard are limited. Due to the juxtaposition of the two properties a level of overlooking is inevitable if both properties are occupied. There would not be a material difference in overlooking between an office use and a mixed use of offices and consultancy/therapeutic massage. Residential use could also lead to overlooking. The applicants have agreed to apply a film to the inside of the windows which will alleviate overlooking.

### Noise disturbance

4.8 The application site fronts onto a main road and is in a mixed use area, at the edge of the city centre. Although the D1 use would lead to more visits from members of the public than the office use, there would not be a material impact on the character of the area and nor would there be a material change in noise level, considering existing noise levels due to traffic and activity.

## HIGHWAY SAFETY

4.9 There are numerous commercial properties which face onto Holgate and are reliant upon trade from the public.



This site has 5/6 off street car parking spaces which can be accessed from Oxford Street, it is within walking distance from the city centre and public transport links and a condition can require that secure cycle parking is provided on site. There are no objections to the proposals on highway safety grounds.

## 5.0 CONCLUSION

5.1 The proposals are deemed to be in compliance with national planning policy within the NPPF and do not conflict with local planning policy, considering the principle of the proposed use, the amenity of surrounding occupants and highway safety.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The premises shall only be used as offices on the ground floor and for therapeutic massage and/or offices on the upper floor.

Reason: To ensure the premises are not used for any other D1 use, which would, need to be assessed considering the impact on residential amenity.

3 The opening hours of the D1 use shall be restricted to the following times:

07.00 and 21.00 Mondays to Fridays

07.00 and 17.00 Saturdays

07.00 and 13.00 Sundays

Reason: In the interests of the amenity of surrounding occupants.

4 Prior to first use of the use hereby permitted the means of preventing overlooking from the upper floor windows on the side elevation shall be approved by the Local Planning Authority and the development occur in accordance with the approved details.

INFORMATIVE: The requirements of this condition could be met by applying an internal obscure film to the bottom half of the windows, or similar.

Reason: In the interests of residential amenity.

5 Prior to implementation of the use hereby approved at least two secure cycle parking spaces shall be provided on site.

Reason: To ensure adequate space for, and to encourage cycle use in accordance with policies GP1, and T4 of the City of York Draft Local Plan and section 3 of the National Planning Policy Framework.

6 The use hereby approved shall not come into use until a travel plan (for employees and visitors, setting out measures to promote sustainable travel and reduce dependency on private car journeys) has been approved in writing by the Local Planning Authority. The travel plan shall be developed and implemented in line with Department of Transport guidelines and be updated annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Reason: To reduce private car travel and promote sustainable travel in accordance with paragraph 36 of the National Planning Policy Framework and policy T13a of the City of York deposit Draft Local Plan.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of the proposed use residential amenity and highway safety. As such the proposal complies with Policies GP1, H9 and C1 of the City of York Development Control Local Plan.

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

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

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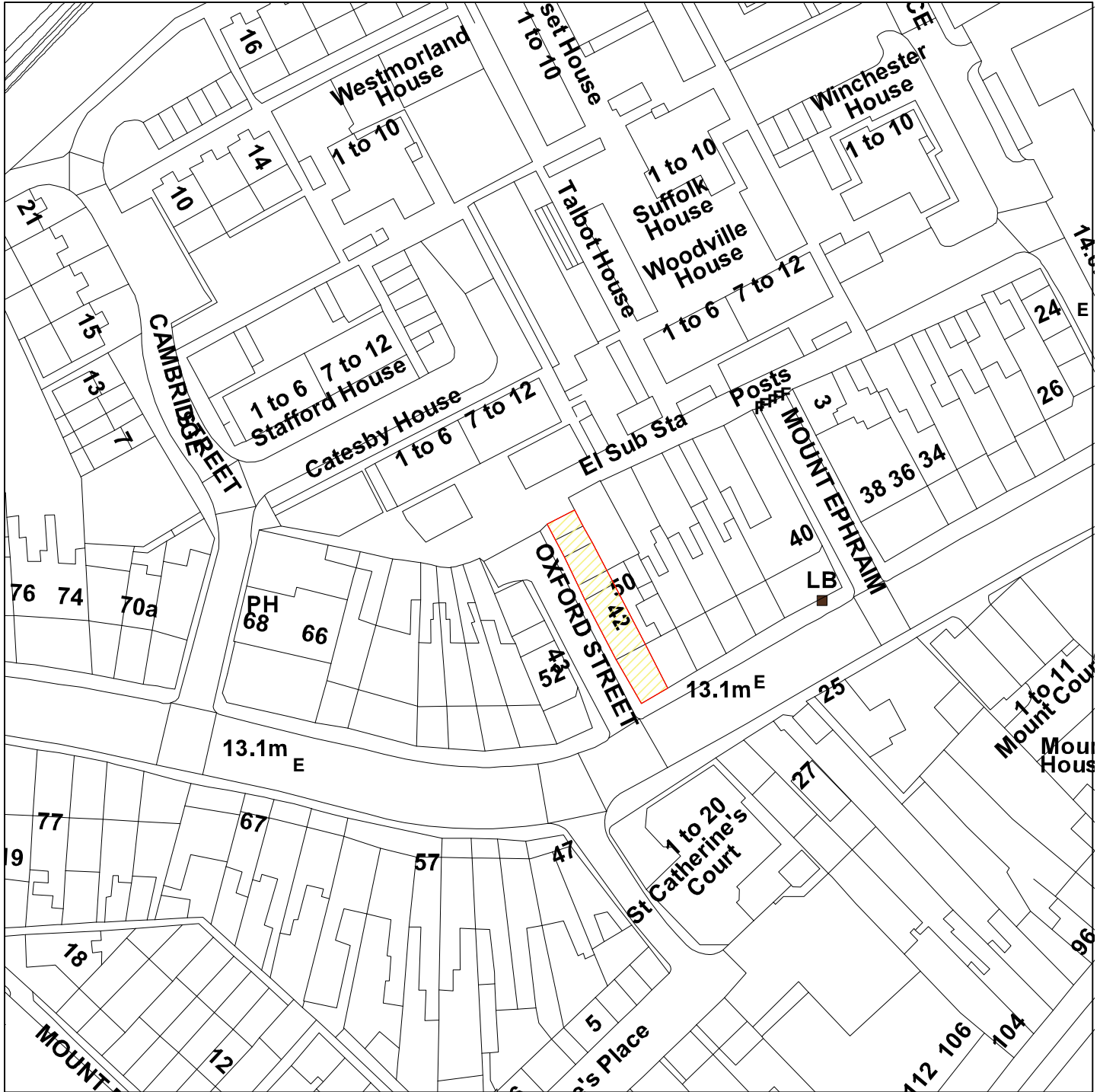
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13/00577/FUL

Nicholas Associates Architects 42 Oxford Street



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	22 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Skelton, Rawcliffe, Clifton  
Without  
**Team:** Householder and              **Parish:** Clifton Without Parish  
Small Scale Team                      Council

**Reference:** 13/00972/FUL  
**Application at:** 6 Tamworth Road York YO30 5GJ  
**For:** Two storey side extension, single storey rear extension and porch  
to front  
**By:** Mr and Mrs McCormick  
**Application Type:** Full Application  
**Target Date:** 21 June 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site is a semi-detached modern dwelling set back from the public highway and screened by an established hedge. The property is situated within an area of mixed residential development and occupies an ample size plot with an enclosed rear garden and driveway to the side.

1.2 The application is to be considered at the East Area Planning Sub - Committee because the applicant is an employee of City of York Council.

1.3 This application seeks planning permission to erect a two-storey side extension set down by approx 500mm from the existing ridge and set back from the principal elevation, incorporating a canopy at ground floor level over the existing front entrance and a pitched roof porch. The proposal is subject to revised plans submitted on Thursday 23rd May 2013 (drwg no AS.1AA) which has reduced the length of the extension at first floor level, in order to reduce the impact on the neighbouring dwelling at 4 Tamworth Road. All new openings to the extension would be positioned to the front and rear of the extension. The rear elevation would include an additional single storey extension with a depth of approx 3.0 metres adjacent to the shared boundary.

**SUPPORTING INFORMATION:**

1.4 A Daylight and Sunlight Assessment has been submitted in order to determine effects of over shadowing and loss of light.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

### 2.2 Policies:

CYGP1  
Design

CYH7  
Residential extensions

## **3.0 CONSULTATIONS**

### 3.1 INTERNAL:

3.11 None

### 3.2 EXTERNAL:

3.2.1 Clifton Without Parish Council - No objections subject to the support of the neighbours.

3.2.2 Neighbour consultation letters were sent out on 2nd May 2013 . An additional letter was sent to the occupiers of 4 Tamworth Road on 20th May 2013 due to the property being recently sold. The estate agent handling the sale was unable to confirm whether the new occupiers were aware of the proposed development. No replies have been received at the time of writing. Any correspondence received will be reported at the committee meeting.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES:

- Impact on amenity of neighbours.
- Impact on street scene.

## **THE RELEVANT POLICES AND GUIDANCE**

4.2 Planning Policy Frame Work (2012) sets out the Government's overarching planning policies.

As one of 12 core planning principles, it states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17). It states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56). It states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64).

4.3 Draft Local Plan Policy CYH7 - states that residential extensions will be permitted where (a) the design and materials are sympathetic to the main dwelling and the locality (b) the design and scale are appropriate to the main building (d) there is no adverse effect upon the amenities of neighbours and (e) proposals respect the spaces between dwellings.

4.4 Draft Local Plan Policy CYGP1 - sets out a series of criteria that the design of development proposals are expected to meet. These include requirements to (a) respect or enhance the local environment, (b) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials; (c) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (e) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape features which make a significant contribution to the character of the area, and take opportunities to reveal such features to public view; and (i) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.5 SUPPLEMENTARY PLANNING GUIDANCE 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 states that the basic shape and size of the extension should be sympathetic to the design of the original dwelling and should also appear subservient. The appearance of the side extension will be improved if it is set back from the main building. The scale of the new extension should not dominate the original building and should have pitched roofs and the materials should match those of the main property.

#### DESIGN & VISUAL AMENITY:

4.6 The proposed two-storey extension to the host dwelling would be situated on the side driveway along the north west boundary adjacent to the property at 4 Tamworth Road. The modest set back from the principal elevation is enhanced by the introduction of a forward canopy over the front entrance and proposed garage door and additional porch extension.

The extension would incorporate an appropriate degree of subservience and would not detract from the appearance of the dwelling or streetscene.

4.7 In terms of visual amenity the design is in accordance with the Council's Supplementary Planning Guidance in relation to house extensions. Furthermore, the applicant intends to use materials consisting of brick and render that match the host dwelling, as well as the character and appearance of the street scene.

4.8 The single storey rear extension would have a projection of 3.0 metres, incorporating a mono -pitched roof which is situated on the shared neighbouring boundary. The size and scale is in proportion with the host property and rear garden, therefore considered acceptable.

#### RESIDENTIAL AMENITY:

4.9. The main issue is the impact on the property at 4 Tamworth Road which is situated forward of the application site. This property is located to the north west of the proposed extension and is separated by the side driveway . The originally submitted proposal would have projected beyond the rear elevation of (no.4) by approximately 4.2 metres, incorporating a separation distance in the region of approximately 2.3 metres. It was considered that this would have resulted in the extension appearing unduly dominant and overbearing when viewed from the rear of the adjacent property. The revised plans have reduced the length of the extension by approximately 1.5 metres in order to overcome the dominance and potential loss of light for the occupiers of no4. It is considered that the reduced length of the extension at first floor level would not have an unduly detrimental impact on the principal rooms and garden areas of this property. It is also the case that by virtue of its design the windows proposed on the rear elevation would not create any additional loss of privacy or overlooking than the present situation. This is due to the fact that the rear first floor window would serve a shower room, and neighbouring boundaries are separated by a six foot wooden fence providing ample screening for habitable windows at ground floor level.

4.10 The single storey extension would be located on the shared boundary with the dwelling at 8 Tamworth Road. The closest window to the extension is a pair of external patio doors, which are screened by a six foot wooden fence. On the basis of the moderate projection and the established boundary treatment, it is not considered that the proposal would have a detrimental impact on this property in terms of loss of light or over shadowing . As such the proposed extensions would comply with polices H7(Residential Extensions) and GP1 (Design) of the Draft Local Plan.



## 5.0 CONCLUSION

5.1 It is considered that the revised proposal would not unduly harm the living conditions of nearby neighbours with particular reference to nos. 4 and 8 Tamworth Road or appear incongruous in the street scene. As such approval is recommended.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

- 1 TIME2 Development start within three years -
- 2 PLANS1 Approved plans - Revised plans (drwg no AS.1AA)
- 3 VISQ1 Matching materials -

## 7.0 INFORMATIVES:

### Notes to Applicant

#### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on the amenity and living conditions of adjacent occupiers and the impact on the street scene. As such the proposal complies with Policies GP1 and H7 of the City of York Development Control Local Plan and the 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance.

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority had discussions with the applicant which resulted in the submission of revised plans for an extension with a reduced length at first floor. This enabled a positive recommendation to be made.

### Contact details:

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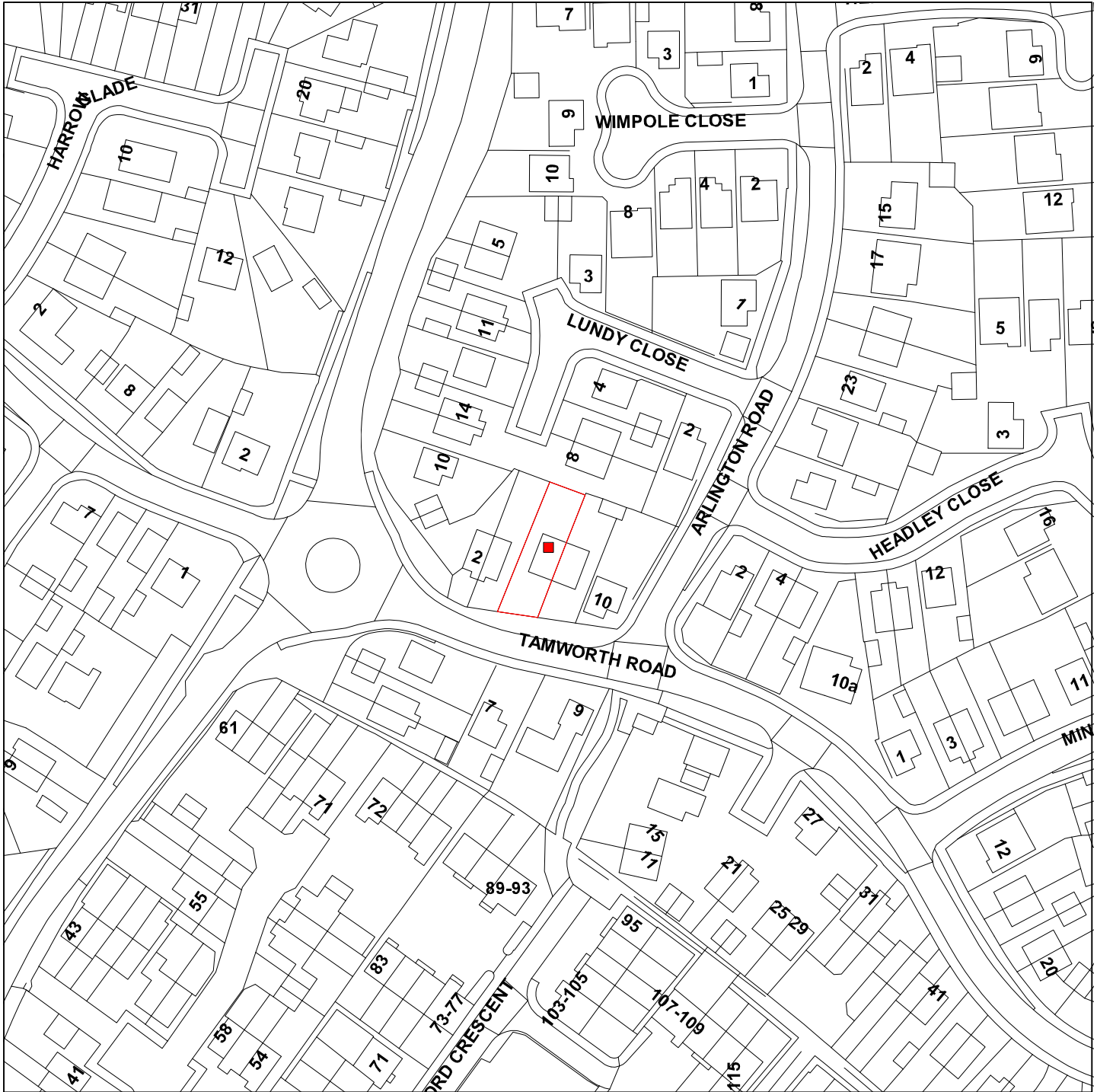
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# 13/00972/FUL

## 6 Tamworth Road



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	24 May 2013
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 6 June 2013                      **Ward:** Heworth  
**Team:** Householder and              **Parish:** Heworth Planning Panel  
                Small Scale Team

**Reference:** 13/00892/FUL  
**Application at:** 3 Fourth Avenue York YO31 0UY  
**For:** Change of use from residential (use class C3) to house in multiple occupation (use class C4)  
**By:** Mrs Sarah Poole  
**Application Type:** Full Application  
**Target Date:** 25 June 2013  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site is the first house within a block of four identical terraced properties situated on the approach to Fourth Avenue from the junction of Fifth Avenue. The terraces are set behind a defined building line with front gardens areas which are separated from the public highway. The host dwelling incorporates a generous area of side garden which accommodates a detached garage and shed in addition to a larger than average enclosed rear garden.

1.2 This application seeks planning permission to convert the existing use as a dwelling (Use Class C3) to a house in multiple occupation (HMO) (Use Class C4) for three individual occupants. The internal layout of the dwelling would provide two bedrooms and a bathroom at first floor and one additional ground floor bedroom following a part sub-division of the lounge area. The remainder of the property comprises of a lounge area and kitchen.

1.3 There is no relevant history documented on this property.

1.4 This application has been called in to the East Area Planning Sub Committee by Councillor Barbara Boyce on the basis of the loss of family homes.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

## 2.2 Policies:

CYGP1  
Design

CYH8  
Conversion to flats/HMO/student accom

## 3.0 CONSULTATIONS

### INTERNAL:

#### 3.1 Integrated Strategy Unit:

No. 3 Fourth Avenue falls within a neighbourhood area where 9.6% of properties are shared houses and within 100m of the property the proportion of shared houses is 6.6%. As such, in accordance with the provisions of the Draft HMO SPD neighbourhood and street level thresholds have not been breached and further change of use to HMO is likely to be acceptable. Albeit an assessment of residential amenity (bin storage, parking etc.) and the ability of the area to absorb further change of use should also be undertaken.

### EXTERNAL:

#### 3.2 Heworth Planning Panel:

There have been no comments received at the time of writing. Any comments received would be updated at the committee meeting on 6th June 2013.

3.2.2 3.3 Neighbour notification was sent on 02.05.2013 the 21 day notification period expires on 23.05.2013 .Any comments received will be reported at the Committee meeting on 6th June 2013.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES:

- Principle of development;
- Impact on the character and appearance of the area;
- Impact on the amenities of local residents;

4.2 The NATIONAL PLANNING POLICY FRAMEWORK (2012) sets out the Government's overarching planning policies. As one of 12 core planning principles, it states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17). It states that to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should plan for a mix of housing based on current and future demographic trends and the needs of different groups in the community.

4.3 SUPPLEMENTARY PLANNING DOCUMENT - Controlling the concentration of Houses in Multiple Occupancy. This document was approved by cabinet members on 15 April 2012. This guidance has been prepared in connection with an Article 4 Direction that City of York Council placed on all houses within the defined urban area, bringing within planning control the change of use of dwellings (Class C3) to small HMO's occupied by between 3 and 6 people (Class C4). The new SPD advises applications for change of use from dwellings to HMO's will be permitted where:

a) The property is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent and are known to the Council to be HMOs; and

b) Less than 10% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent and are known to the Council to be HMOs; and

c) The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.

4.4 DRAFT LOCAL PLAN POLICY CYH8 - "Conversions". Where a material change of use has occurred, for properties changing use from C3 (dwelling house) to the new use class C4 (H.M.O). Policy H8 sets out the current criteria in conjunction with the new (SPD) by which conversions of houses to HMO's should be assessed. On this basis planning permission will only be granted for the conversion of a house to a HMO where:

- the dwelling is of sufficient size (min 4 bedrooms) and the internal layout is shown to be suitable for the proposed number of households or occupants and will protect residential amenity for future residents;
- external alterations would not harm the appearance of the area;
- adequate on and off road parking and cycle parking is incorporated;

- it would not create an adverse impact on neighbouring amenity through noise disturbance or residential character by virtue of the conversion alone or cumulatively with a concentration of such uses;
- adequate provision is made for the storage and collection of refuse and recycling.

4.5 DRAFT LOCAL PLAN POLICY CYGP1 states that development proposals will be expected, amongst other things, to respect or enhance the local environment, be of a density, layout, scale, mass and design that are compatible with neighbouring buildings, and ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

#### PRINCIPAL OF CHANGE OF USE:

4.6 The proposed layout of the property would utilise the two existing bedrooms of the first floor and create a new bedroom on the ground floor after sub-division of the existing living room. This would leave a communal kitchen, lounge and upstairs bathroom. There would be sufficient cycle parking available within the detached garage. Whilst there does not appear to be any defined off street parking, there are no car parking restrictions on Fourth Avenue and the width of the highway allows cars to be parked on the roadside whilst also allowing cars to pass. Furthermore, it would not be envisaged that there would necessarily be a need for high levels of car ownership amongst occupants in this location.

4.7 The key issue in determining this application is an analysis of the amount of shared houses within the street and neighbourhood, which has been undertaken by the Council's Strategy Unit in accordance with the SPD. The information received from the Council's Integrated Strategy Team has confirmed that 3 Fourth Avenue falls within a neighbourhood area where 9.6% of properties are shared houses and within 100m of the property the proportion of shared houses is 6.6%. As such, in accordance with the provisions of the Draft HMO SPD neighbourhood and street level thresholds have not been breached and further change of use to HMO is likely to be acceptable. The surrounding neighbourhood is characterised by a mix of semi-detached houses, terraces and blocks of flats. The location of the property is in close proximity to York University and local public transport links into the city centre, together with an ample supply of local shops. In view of the details provided it is considered that the principal of a change of use is acceptable in this location.

4.8 In order to safeguard the visual appearance of the dwelling and the amenities of the adjacent residents, it is considered that the implementation of a management plan should be controlled by condition on any planning approval. The management plan would assist in such issues as providing information and advice to residents, garden maintenance, refuse and recycling collections and property maintenance issues.



Given the relatively low concentration of HMO's in the area (according to statistics based on Council Tax records) there is no specific evidence to suggest that the occupation of the property as an HMO would result in additional noise or disturbance or would adversely affect the character of the area.

4.9 In terms of managing the number of occupiers and future occupiers to the property and its potential effect on the neighbourhood, a condition has been recommended to remove "permitted development rights" from this property in order to exercise control over any future extensions or alterations. This is because it is acknowledged that there would be potential to extend the house to the side and within the spacious rear garden without the need for full planning permission to provide more rooms for additional occupiers to the property. If the overall number of occupants within the dwelling exceeded six, then the local planning authority would need to determine whether a material change of use had occurred taking the property outside Use Class C4 into a "sui generis" use, and in those circumstances a further application for planning permission would be required.

#### LOSS OF FAMILY HOMES:

4.10 In terms of addressing issues relating to the concentration of the amount of student housing resulting in the loss of family homes, this situation is controlled by the Article 4 Direction placed on all houses within the urban areas of York, which is supported by the SPD (Controlling the Concentration of Houses in Multiple Occupancy) and is further reiterated in the council's visionary document City of York Sustainable Community Strategy - A City Making History 2008. The SPD document focuses on avoiding high concentrations of HMO's in particular streets/areas, in order to avoid the undue loss of family homes and maintaining community cohesion and helping the development of strong, supportive and durable communities. Furthermore, within the context of the SPD the aim is to avoid situations where existing communities become unbalanced by narrowing household types which can have a detrimental impact on neighbourhoods. As the proposal complies with the thresholds set out within the SPD, the application is recommended for approval.

## 5.0 CONCLUSION

5.1 The dwelling is considered to be a sufficient size to accommodate three people living together as a single household. As such the proposal is considered to comply with Policy H8 of the Draft Local Plan and the Council's SPD and subject to conditions is recommended for approval.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

- 1 TIME2 Development start within three years -
- 2 PLANS1 Approved plans - Floor plans received on April 29th 2013
- 3 Prior to the dwelling being occupied a management plan shall be agreed in writing with the Local Planning Authority to demonstrate the control of the following:
  - i) Information and advice to occupants
  - ii) Garden maintenance
  - iii) Refuse and recycling facilities
  - iv) Property maintenance

Reason: In the interests of the proper management of the property and the amenity of adjacent residents.

4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A - E of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the concentration of HMO's within the street/neighbourhood area, the effect on residential amenity, car parking and the impact on the character and appearance of the area. As such the proposal complies with Policies GP1 and H8 of the City of York Development Control Local Plan, and the Council's Supplementary Planning Document: 'Controlling the concentration of Houses in Multiple Occupation' (2012).

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

In considering the application, The Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

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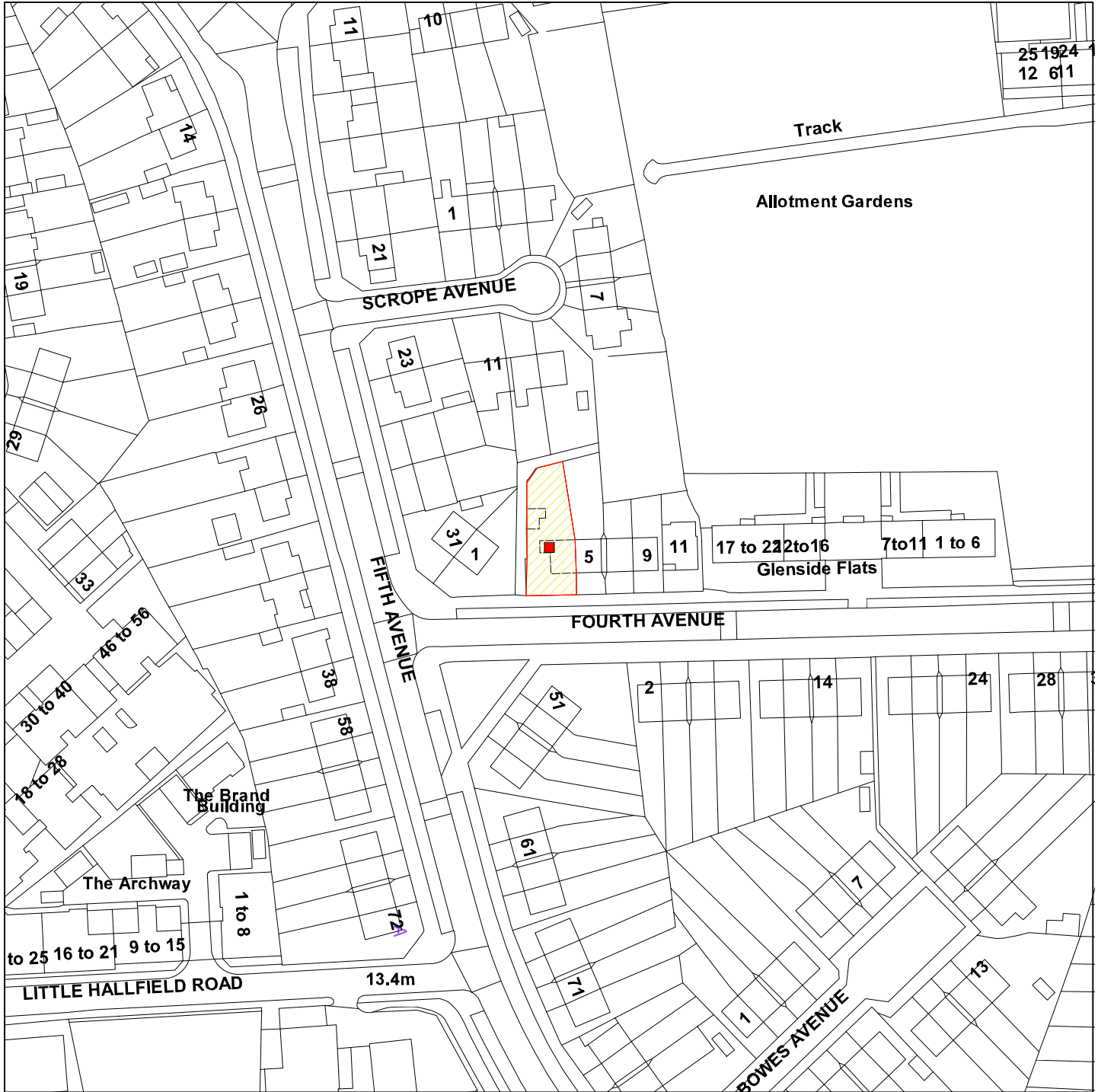
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13/00892/FUL

3 Fourth Avenue



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<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	24 May 2013
<b>SLA Number</b>	Not Set

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