

COMMITTEE REPORT

Date: 17 January 2024 **Ward:** Fulford And Heslington
Team: East Area **Parish:** Fulford Parish Council
Reference: 23/01234/FUL
Application at: 100 Main Street Fulford York YO10 4PS
For: Conversion of Nos. 100-102 to provide 4no. dwellings with external alterations and extensions. Erection of 1 no. dwelling to the rear and parking. (resubmission)
By: Bootham Developments LLP
Application Type: Full Application
Target Date: 17 November 2023
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 The application relates to nos. 100 and 102 Main Street in Fulford (currently residential dwellings) and the land and outbuilding to the rear (previously part of the business operation - Britton Dairies). At the time of site visit, the site was vacant. The site lies within the Fulford Village Conservation Area. In the area appraisal, No.100 is identified as a building of positive value to the area. No.102 is of neutral value and the outbuildings to the rear are identified as being detrimental to the area. The site is not in Flood Zones 2 or 3.

1.2 There is an access road to the south that leads into the site and 104 and 104a which lies behind the application site to the west. 104a is adjacent the application site; there is a dormer bungalow orientated east/west and next to the outbuilding at the rear of the application site is a driveway and garage block. St Oswalds Court is a two-storey late C20 complex of housing to the south. There is a terrace of two storey buildings along Main Street to the north of the site. The connected building is in commercial uses and has a large single storey flat roof rear extension.

1.3 The proposals are to accommodate 5 dwellings on-site (one 3 bedroom dwelling and four 2 bedroom dwellings). The scheme involves demolition of the extensions and outbuildings to the rear of nos.100 and 102. The outbuilding at the west side of the site would be replaced by a 2-storey pitched roof building accommodating a carport and dwelling.

1.4 No. 102 would have its hipped roof converted to a gable roof and windows would be replaced. At the rear both buildings would gain a single storey rear

extension, with flat roof providing an outside terrace. Four dormers are added to the rear roofslope. New windows on the frontage buildings are to be timber framed.

1.5 During consideration of this application an updated bat survey has been provided alongside revised plans with regards to access and accompanying tracking and parking details.

1.6 The application was deferred at Planning Committee B on 10 October 2023 due to an out-of-date bat survey. An updated bat survey has been received, alongside revisions to the elevations and floorplans for accessibility at the rear. The parking space to 100A and the terrace has been altered to facilitate un-obstructed pedestrian accesses to each dwelling at a width of 910mm. The alteration maintains 900m around the parking space and for access into 102C.

Relevant Planning History

1.7 Planning permission was granted on 23 March 2023 for the same development however this decision is currently subject to judicial review (22/02437/FUL). The grounds for challenge were due to a lack of conditions with regards to drainage, archaeology and ecology. For reference, these conditions have been added to the draft decision notice for this application.

Ward Councillor Call-In

1.8 This application was called in by Councillor Ravilious on the following grounds;

- Potential to harm Fulford Conservation Area.
- Outdoor amenity space provided is inadequate and unsuitable.
- Parking/turning arrangements inadequate.
- Proposal represents overdevelopment of the site.
- Biodiversity net gain measures are inadequate.
- Previous decision to approve is due to be quashed by the Court following judicial review challenge by the Parish Council.

2.0 POLICY CONTEXT

NATIONAL PLANNING POLICY FRAMEWORK

2.1 Key chapters and sections of the NPPF relevant to this application are as follows:

Achieving sustainable development (chapter 2)

Application Reference Number: 23/01234/FUL

Item No: 4a

Decision-making (chapter 4)
Delivering a sufficient supply of homes (chapter 5)
Promoting healthy and safe communities (chapter 8)
Promoting sustainable transport (chapter 9)
Making effective use of land (chapter 11)
Achieving well designed places (chapter 12)
Meeting the challenge of climate change, coastal change and flooding (chapter 14)
Conserving and enhancing the natural environment (chapter 15)
Conserving and enhancing the historic environment (chapter 16)

DRAFT LOCAL PLAN (2018)

2.2 The Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in early 2024. The following policies are relevant;

DP2 Sustainable Development
DP4 Approach to Development Management
EC2 Loss of Employment Land
H10 Affordable Housing
D1 Placemaking
D4 Conservation Areas
D6 Archaeology
D7 Non-Designated Heritage Assets
D11 Alterations and Extensions to Existing Buildings
GI2 Biodiversity and Access to Nature
CC2 Sustainable Design and Construction of New Development
ENV2 Managing Environmental Quality
ENV3 Land Contamination
ENV5 Sustainable Drainage
WM1 Sustainable Waste Management
T1 Sustainable Access
T8 Demand Management

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

Design and Conservation - City Archaeologist

3.1 The application site is on the edges of the historic village of Fulford and close to known areas of Romano-British activity. The Archaeologist does not believe that there will be any important archaeological resource visible in the small opportunities for viewing (e.g drainage runs and shallow attenuation tanks) an archaeological watching brief should take place as a precautionary measure. If the works are proving not to penetrate any archaeological layers other than agricultural soils the monitoring can be halted. Recommend a condition.

Design and Conservation - Senior Countryside and Ecology Officer

3.2 No further recommendations beyond those made regarding application 22/02437/FUL. This stated - No objections subject to conditions regarding bats, biodiversity net gain and nesting birds.

3.3 Additional comments received November 2023 - After reading through the objection comments (dated November 2023) and the updated Bat Survey report provided by Wold Ecology Ltd. (October 2023), the best course of action would be to ensure no construction works, including both demolition and renovation works, are undertaken on site until a European Protected Species (EPS) licence from Natural England has been secured.

3.4 It is important to note that additional survey work will be required to inform the licence, which would address the identified limitations of the survey works to-date, as highlighted on page 22 of the Bat Survey report. Principally, that surveys were carried out late-on in the optimum bat survey season.

3.5 In addition, this site wide approach would ensure that any works that have the potential to cause disturbance to the known roost site (i.e. the renovation works), could not be carried out until further surveys have been undertaken and a clear plan for mitigation and compensation has been agreed through the licencing process.

3.6 As such, the Ecologist recommends an alteration to the planning condition regarding EPS licencing for bats (inclusion of all buildings within the condition).

Design and Conservation – Conservation and Architecture

3.7 No comment - Development Management to assess.

Public Protection

3.8 Advice regarding noise, EV charging points, land contamination, construction management. Recommend a condition for noise insulation and conditions to deal with contamination. Recommend informatives regarding construction management.

Highway Network Management

3.9 The concerns regarding the lack of a suitable bin collection point and orientation of the door to the bike store to 102C have been suitably addressed by the Applicant. HDC's position in regard to the sufficiency of on-street parking to accommodate the unmet car parking demand is unchanged.

Flood Risk Management Team

3.10 No comments received.

EXTERNAL CONSULTATIONS

Yorkshire Water

3.11 No objection but recommend a condition with regards to compliance with the drainage strategy (revision P2 dated October 2022).

Fulford Parish Council

3.12 Welcome the renovation and re-use of 100-102 Main Street to provide housing, however the resubmitted application in its current form is not supported on the following grounds;

- The use of the site is described as 'Residential' which is misleading because the rear outbuildings were in industrial/employment use over many decades (as part of Britton's Dairy). The loss of a former employment site is therefore a material consideration.
- The Applicant has answered 'No' to the question of whether there is a reasonable likelihood of protected or priority species being present on the site, despite the presence of a bat roost within the outbuildings being confirmed in their own commissioned bat survey dated August 2022.
- Cramped design and lack of soft landscaping

- Loss of trees on southern elevation of rear boundary which represents a loss of biodiversity rather than a net gain
- Inadequate amenity space
- Concerns regarding outlook
- Inadequate parking and turning arrangements
- Poor design
- Application does not enhance the character and appearance of the Conservation Area
- Terrace for the 3 bed dwelling will appear alien and unattractive
- Hip to gable roof extension and the large dormer will also introduce more bulk and make the building appear more prominent.
- The two semi-detached buildings will be almost entirely demolished except for those parts of the roof not affected by the hip-to-gable extension and the four rear dormers. Some chimneys will also be lost. This will result in a significant change to the appearance of the semi-detached dwellings and may impact negatively on the streetscene.
- A Construction Environmental Management Plan is required.
- Proposal would cause less than substantial harm to heritage assets which could be avoided.

3.13 Further representation received from the Parish Council which stated;

- The bat survey expired in August 2023. The survey found a bat roost in the outbuilding and there are concerns that the works to the roof on the frontage building could harm roosting or hibernating bats if present.
- The harm could be avoided without the roof change and the dormers and this could influence consideration of the derogation tests.

3.14 Further representation received from Parish Council on 29 November 2023 following the publication of the deferred committee report in November 2023:

- Intensify the use of the driveway access route (by five households, plus the two existing users)
- The drive is the only pedestrian route available to plots 100A, 102A and 102C.
- Access only 3.6m wide which is not wide enough to allow two vehicles to safely access/exit at the same time.
- Drive connects directly to A19 where any conflict between vehicles waiting to enter or exit could result in safety issues.

- No footpath and no provision for cyclists.
- No information provided on how to demonstrate the historic surface will be protected from damage or how it will be maintained.
- Access conflicts with policy T1(b).
- Driveway inaccessible.
- The applicant has not undertaken an Equalities Impact Assessment.
- Provision of 5no. spaces for 5no. dwellings is substandard and absence of visitor spaces is undesirable.
- Unacceptable lack of parking or turning for larger vehicles.
- Width of entrance has reduced by half from 9m to 4.5m.
- Harm to Conservation Area due to subdivision, intensification of use, inappropriate design and lack of soft landscaping.
- Abnormal scale of the dormers.
- Demolition will result in a damaging change to the character and appearance of the dwellings.
- Lack of outdoor amenity space, lack of natural light and outlook represents poor design.
- Waste collection would present difficulties.
- Bat surveys have not been appropriately updated.

Conservation Area Advisory Panel

3.15 Object on the following grounds;

- Works amount to virtual demolition with only the front elevation remaining.
- Significant alterations including raising of ridge line, inserting two new doors and blocking the first floor window
- Proposed building to the rear was inappropriate in form and partially visible from Main Street.
- Buildings not listed.
- Buildings to the rear are noted as detrimental to the area, - 102 Main Street is of neutral value, 100 Main Street is of positive value. Unclear if the applicant has fully understood the implications.
- Might be justifiable to demolish the outbuildings, but on the other hand, it would not be justifiable to propose such radical interventions to No 100 Main Street Fulford, which already has a 'positive value', and is defacto a non-designated heritage asset.
- Should enhance the positive value.
- Need to know more about the building.

- Heritage, Design and Access statement appears to have had insignificant input.
- Overdevelopment, lack of amenity space and issues of vehicular access.
- Proposals are detrimental to the heritage values and historic fabric of No 100 Fulford road.
- Misses the opportunity to enhance this part of the Conservation Area.

4.0 REPRESENTATIONS

4.1 One objection has been received on the following grounds;

- Concerns regarding contractor parking
- If when complete the dwellings have own parking at the rear then no objections subject to the contractor parking as stated above.

4.2 One letter of support has been received on the following grounds;

- Houses need tidying up.
- Looked run down for years.
- Considering it was once a business the amount of vehicles in and out via this driveway won't change and there's been sufficient parking given in the plans.
- Only people it will affect are the residences at the driveway side in St Oswalds Court and the residential properties at the rear and can't see it making any difference apart from tidying up.

4.3 One further third party representation received in November 2023 following deferral of the application at Planning Committee. Comments received on the following grounds;

- Wold Ecology Bat Surveys dated Oct 2022 and Oct 2023 are inadequate and do not provide the necessary information.
- Concerns regarding the validity of the preliminary bat roost assessment as based on an external inspection.
- Lack of internal inspection.
- Concerns regarding the external inspection of west and north elevations.
- Inaccuracies in reports
- Findings are not supported by evidence.
- Reliability of the findings is constrained by the timing of the single activity survey in August.

- 2023 survey fails to establish the actual location of the bat roost and whether the building's status has changed since the previous survey.
- No evidence to provided to justify thorough inspection in the 2023 survey.
- Fails to include a roost characterisation survey as recommended in guidelines.
- LPA must also ensure that the three derogation tests can be met before granting permission.

5.0 APPRAISAL

5.1 The key issues in this case are:

- Principle of the proposed development
- Impact on heritage assets
- Residential amenity
- Highway Network Management
- Sustainable design and construction
- Drainage
- Ecology
- Open space
- Affordable housing
- Archaeology

PRINCIPLE OF THE PROPOSED DEVELOPMENT

Policy

5.2 Paragraph 60 of the NPPF seeks to significantly boost the supply of homes. Chapter 9 of the NPPF promotes sustainable transport. Chapter 11 of the NPPF seeks to make effective use of land.

5.3 Planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (paragraph 123 of the NPPF). Planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land (paragraph 124c of the NPPF). Development should promote and support the development of under-utilised land and buildings, especially if this would

help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (paragraph 124d of the NPPF).

5.4 Policy EC2 of the Draft Local Plan 2018 relates to the loss of employment land. It must be demonstrated that the existing land or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses.

Assessment

5.5 The proposals are for redevelopment of what is regarded as a brownfield site, historically in residential use and surrounded by dwellings. The outbuildings to the rear have previously been used in connection with a dairy business, however the outbuildings are in a poor condition and have not been in operation for some time. The Parish Council raise concerns regarding the loss of an employment building. The Local Planning Authority however consider that when taking into account the current condition of the building and surrounding land uses being predominantly residential, the site is incompatible and no longer appropriate for employment use. Significant weight is attached on the provision of housing and renovation of the buildings within the Conservation Area.

5.6 The site is within a sustainable location, close to public transport facilities and local amenities. The city has demonstrable housing need, which, until the emerging local plan is adopted, cannot be accommodated without utilising Green Belt land. In principle residential re-use of the site is appropriate when applying the NPPF, in particular sections 5, 9 and 11 which relate to housing, sustainable transport and effective use of land.

IMPACT ON HERITAGE ASSETS

Policy

5.7 Section 16 of the NPPF, conserving and enhancing the historic environment, advises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

5.8 Section 72 of the Planning (Conservation Areas & Listed Buildings) Act requires that special attention shall be paid to the desirability of preserving or enhancing the

character and appearance of a conservation area. This is supported by Policy D4 of the Draft Local Plan which seeks to protect Conservation Areas and their setting.

5.9 Policy D7 of the Draft Local Plan states development proposals affecting a non-designated heritage asset or its setting will be supported where they conserve those elements which contribute to its significance.

5.10 Policy D1 of the Draft Local Plan supports development where they improve poor existing urban environments. Design considerations include the urban structure, grain, density, massing, spacing, scale and appearance.

5.11 Policy D11 of the Draft Local Plan supports the extension and alteration to existing buildings subject to ensuring the design responds positively to its immediate architectural context and sustains the significance of the heritage asset and its setting.

Assessment

5.12 The site is located within Fulford Conservation Area. Within the Conservation Area Appraisal no.100 is identified as a building of positive value. In applying Draft Local Plan 2018 policy D7 no.100 can be regarded as a non-designated heritage asset. No. 102 is of neutral value in the Conservation Area Appraisal.

5.13 Existing later additions are to be demolished to the rear of both no.100 and no.102. The extensions are considered acceptable to demolish as they are in poor condition and are of no architectural merit. No.100 and no.102 are to be split into 4no. dwellings via internal works. Internal alterations could take place without any planning permission requirements.

5.14 It is proposed to erect a single storey rear extension which spans the full rear elevations of no.100 and no.102. The roof is of parapet design to allow for a roof terrace enclosed by railings, to provide outdoor amenity space for the dwellings. The extension is considered subordinate in scale with complimentary materials. The proposal is considered small in scale and will be discreet, being located at the rear. The development would preserve the character and appearance of the Conservation Area.

5.15 A dormer is proposed to the rear elevation of each new dwelling along Main Street. The dormers are centrally sited within each roof slope and set down from the

ridge and set in from the eaves. Taking into account their siting at the rear, scale and positioning, the dormers are considered acceptable additions on the roofscape and are not considered to harm the character and appearance of the buildings or Conservation Area.

5.16 The building located to the rear of the site is in poor condition and is commercial in nature. It is listed as a detractor in the Conservation Area Appraisal. This building would be demolished and replaced by a brick building of similar massing. It would be two-storey, clad in brick with a pitched slate roof. It is considered subordinate in scale to the frontage buildings. The south end of the building includes a timber screen which wraps around a first-floor outdoor amenity space. Taking into account the existing structure, historic use of the site, layout and prominence of the rear section of the site from Main Street, the proposed building would have no detrimental impact on the Conservation Area. It is considered that the demolition and re-building of this section of the site would enhance the character and appearance of the Conservation Area.

RESIDENTIAL AMENITY

Policy

5.17 NPPF section 12 in respect of design advises decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Section 15 refers to noise and its potential impact on amenity. Policy ENV2 of the Draft Local Plan 2018 seeks to ensure development does not unacceptably harm the amenities of existing and future occupants on the site occupiers and existing in neighbouring communities. Policy ENV3 relates to land contamination,

Assessment

5.18 The site already accommodates residential uses. The proposed scheme includes first floor amenity areas to both buildings. In terms of impact, the terraces to no.100 and no.102 would be directly opposite a blank side wall to the south and the single storey extension to the commercial unit to the north. The terrace on the new build would be enclosed and this is secured by condition to ensure this is in place prior to first occupation. The terraces do not introduce any harmful overlooking.

5.19 The proposed buildings generally replicate the massing and format of existing

buildings on site and would not be overbearing or over-dominant over neighbours. A condition can be used to prevent any new windows / openings on the new build (102c) as this building has been specifically designed to avoid undue overlooking of surrounding land. It is considered the dwellings are of suitable size and all habitable rooms are served by a window.

5.20 In terms of traffic noise, the houses fronting Main Street are existing. Where windows are being replaced they would be of improved environmental performance to existing units which appear to be single glazed. The new build dwelling is set back behind the existing buildings therefore shielded from road noise. A condition to require that the new dwelling achieves adequate noise standards is recommended.

5.21 Concerns have been raised regarding the size of the outdoor amenity spaces; the site is constrained and it is considered the outdoor amenity space is appropriate for this development. The spaces are of a similar in size to existing residential outdoor amenity spaces within the centre of Fulford, in particular along Main Street and surrounding terraced streets. The scheme includes small yard areas, a courtyard and public open space is within walking distance.

5.22 Land contamination can be adequately dealt with via conditions, as recommended by the Public Protection Officer.

HIGHWAYS

Policy

5.23 The NPPF requires development be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.

5.24 Policy T1 of the Draft Local Plan 2018 seeks to ensure development proposals demonstrate safe and appropriate access. Development must provide sufficient convenient, secure and covered cycle storage. Policy T8 relates to demand management and improving the overall flow of traffic in and around the City Centre.

5.25 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual

cumulative impacts on the road network would be severe (paragraph 115 of the NPPF).

5.26 Policy WM1 of the Draft Local Plan relates to waste management which promotes the integration of facilities for waste prevention, recycling and recovery in association with the planning of new housing development.

Assessment

5.27 The site is served by an existing access road which has historically served this site and houses beyond. No changes to the entrance arrangements are proposed. The site is on Main Street in Fulford, therefore close to amenities and on a bus route into the city centre. This is an appropriate location for residential development and sustainable travel options are available.

5.28 During the course of this application, minor amendments have been made. This includes: swept path analysis, provision of 11no. cycle parking spaces, a bin collection point, alterations to the size of car parking spaces and the slight rearrangement of house 102C.

5.29 A car parking space is provided for each dwelling. The layout is tight, but workable and such an arrangement respects local character, as required by the NPPF (108e) and the National Design Guide (paragraphs 84 and 88). Whilst the Highways Officer states there is an under provision of car parking, at present there are no local standards for car parking provision. The provision of 5no. spaces for 5no. dwellings is considered sufficient given the sustainable location and proximity to public transport facilities. Parking is available on Main Street for visitors although heavily used at times. The proposal would not lead to a severe impact on the highway network. The requirements of NPPF and local policy are all in respect of reducing private car travel and the scheme is consistent with such. There will be covered and secure cycle storage for each dwelling.

5.30 Servicing arrangements are as existing as there are already multiple houses which use the access road, which is not adopted highway. Waste storage is discreetly located as recommended in the National Design Guide (88). The servicing arrangements do not raise any highway safety issues. It would be the occupier's responsibility to present the waste for collection in line with CYC domestic waste collection guidance.

5.31 Concerns are raised in the representations regarding construction vehicles, parking and access. Taking into account the scale of development proposed it would be the developer's responsibility to adhere to existing parking arrangements within the vicinity and secure the relevant permissions if skips/storage areas are required outside of the red line boundary. This would fall outside of planning control.

SUSTAINABLE DESIGN AND CONSTRUCTION

Policy

5.32 Policy CC2 of the Draft Local Plan, as recently amended, states all new residential development of 1 or more dwellings should achieve:

- i. on-site carbon emissions reduction of a minimum of 31% over and above the requirements of Building Regulations Part L (2013), of which at least 19% should come from energy efficiency measures; and,
- ii. a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

Assessment

5.33 With regards to the above sustainability requirements, these can be secured by condition for the new build dwelling (102C). As 110A, 100B, 102A and 102B were already in residential use, policy CC2 would not come into effect.

DRAINAGE

Policy

5.34 Policy ENV5 requires sustainable drainage and states that for all development on brownfield sites, surface water flow shall be restricted to 70% of the existing runoff rate (i.e. 30% reduction in existing runoff), unless it can be demonstrated that it is not reasonably practicable to achieve this reduction in runoff.

Assessment

5.35 The site lies within flood zone 1. Surface water and foul water will be disposed via the main sewer. It is proposed to connect to the existing drainage system

(combined sewer on site). This is the same situation as for the existing residential properties.

5.36 A drainage plan has been submitted as part of this application by Topping Engineers (revision P2, dated October 2022), which includes attenuation measures to control the surface water flow for the proposed impermeable area. It is proposed to discharge to brownfield rates with a 30% betterment. A condition is recommended to ensure compliance with the drainage scheme.

ECOLOGY

Policy

5.37 Policy GI2 of the Draft Local Plan (2018) relates to biodiversity and access to nature. Paragraph 180 (d) of the NPPF (2021) seeks to ensure development contributes and enhances the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. These enhancements are required in addition to the protected species licence requirements to mitigate for bats.

Assessment

5.38 The application is accompanied by two Bat Surveys (dated August 2022 and October 2023) and a Preliminary Ecological Appraisal by Wold Ecology (October 2022). The bat surveys conclude that the outbuilding supports a brown long-eared bat day roost. The report also states that individual bats could roost in other parts of the outbuilding or wider parts of the site. No bird's nests were observed in the building. There were no roosting bats identified in 102 Main Street.

5.39 The Preliminary Ecological Appraisal identified no further ecological constraints on the site. The report recommends a bat box, lighting plan, vegetation clearance outside of bird nesting season and 2no. bird boxes. A biodiversity net gain condition is recommended. A condition is also recommended with regards to the timings of site clearance works to ensure this is outside of bird nesting season unless checked by an Ecologist.

5.40 A bat roost has been identified within the outbuilding and therefore consent

from Natural England will be required in respect of the demolition works. The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, contain "derogation tests" which must be applied. The development would pass the tests. There is overriding public interest in replacing a derelict and empty building and the species affected is classed as low conservation concern and the requirement for a European Protected Species Licence will prevent any direct harm and the provision of new roost features will maintain roosting opportunities on site.

5.41 The Ecologist has reviewed the updated Bat Survey (October 2023) and the objection comments (November 2023). The Ecologist raises no concerns with the validity of the report and recommends a condition requiring no construction works, including both demolition and renovation works, are undertaken on site until a European Protected Species (EPS) licence from Natural England has been secured. This would cover all buildings and not just the outbuilding. This condition forms part of the officer recommendation.

5.42 It is important to note that additional survey work will be required to inform the licence, which would address the identified limitations of the survey works to-date, as highlighted on page 22 of the Bat Survey report. Principally, that surveys were carried out late-on in the optimum bat survey season.

5.43 In addition, this site wide approach would ensure that any works that have the potential to cause disturbance to the known roost site (i.e. the renovation works), could not be carried out until further surveys have been undertaken and a clear plan for mitigation and compensation has been agreed through the EPS licencing process. Taking the above measures and conditions into account, the proposal is considered to meet paragraph 180 of the NPPF and policy GI2 of the draft Local Plan (2018).

AFFORDABLE HOUSING

Policy

5.44 Policy H10 of the Draft Local Plan (2018 and as amended 2023) states residential development of between 5-14 houses which has a maximum combined gross floorspace of more than 1000m² will require a 10% off site affordable housing financial contribution.

Assessment

5.45 The proposal seeks 5no. dwellings, however the floorspace is under 1000m² therefore an affordable housing contribution is not required.

ARCHAEOLOGY

Policy

5.46 Draft Local Plan Policy D6 relates to archaeology. Development must not result in harm to the significances of the site or its setting. It should be designed to enhance or better reveal the significances of an archaeological site or will help secure a sustainable future for an archaeological site at risk.

5.47 Where harm to archaeological deposits is unavoidable, detailed mitigation measures must be agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive deposition and community involvement.

Assessment

5.48 The City Archaeologist notes the application site is on the edges of the historic village of Fulford and close to known areas of Romano-British activity. The Archaeologist does not believe that there will be any important archaeological resource visible in the small opportunities for viewing (e.g drainage runs and shallow attenuation tanks) an archaeological watching brief should take place as a precautionary measure. If the works are proving not to penetrate any archaeological layers other than agricultural soils the monitoring can be halted. A two-stage condition is recommended to secure a programme of post-determination archaeological mitigation, specifically an archaeological watching brief. This condition has been added.

OPEN SPACE

Policy

5.49 Policy GI6 of the Local Plan states “Residential development proposals should contribute to the provision of open space for recreation and amenity in accordance with current local standards and using the Council’s up to date open space

assessment. The successful integration of open space into a proposed development should be considered early in the design process.”

Assessment

5.50 The site is unable to accommodate on-site provision therefore an off-site financial contribution would be required. There is a deficit in the ward (apart from sports) and as such there is a requirement for a contribution towards children’s play and informal amenity space. The contribution calculation is as follows;

2x2-bed = £1,656

1x3-bed = £1,505

Total = £3,161

5.51 This contribution can be secured through the provisions of a S106 Legal Agreement in the event the application is approved.

6.0 CONCLUSION

6.1 The proposal seeks the re-use and renovation of an existing brownfield site to provide 5no. dwellings within the centre of Fulford. Significant weight is attached to the provision of housing and the renovation of the site within the designated heritage asset. The works to the frontage buildings respects the character and integrity and will help secure their long-term future. The layout and design of the dwelling to the rear respects the plot layout and spatial form. The works are considered to enhance the Conservation Area and its setting. Each dwelling will utilise the existing access from Main Street and will be provided with an off-street parking space and cycle storage which is considered acceptable. Matters such as ecology, contamination, drainage, archaeology, landscaping, materials, noise, sustainability and amenity can be dealt with via conditions. The proposal accords with national planning policy and draft local policy therefore is recommended for approval subject to conditions and subject to the signing of a legal agreement to secure an off-site play and amenity space contribution in accordance with policy GI6 of the Draft Local Plan (2018).

7.0 RECOMMENDATION:

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

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

Open Space Contribution: £3,161 towards amenity and play space provision

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

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

1 TIME2 Development start within three years

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

Location plan, drawing number 0001.

Ground floor demolition plan, drawing number 0600, rev 01, dated 16.03.2023

First floor demolition plan, drawing number 0601, rev 01, dated 16.03.2023.

Site demolition plan, drawing number 0620, rev 01, dated 16.03.2023.

Proposed ground floor plan, drawing number 1100, rev 06, dated 06.11.2023

Proposed first floor plan, drawing number 1101, rev 04, dated 06.11.2023.

Proposed second floor plan, drawing number 1102, rev 05, dated 06.11.2023.

Proposed site plan, drawing number 1000, rev 05, dated 06.11.2023.

Proposed elevations, drawing number 1300, rev 07, dated 06.11.2023.

Proposed elevations, drawing number 1301, rev 06, dated 28.09.2023.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Demolition/construction works to any buildings within the application site shall not commence unless the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or

b) Confirmation that the site is registered on a Bat Mitigation Class licence (formally Low Impact Class Licence) issued by Natural England; or

c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To ensure bats are protected from harm during the proposed works. All British bat species and their roosts are protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended).

4 The scheme shall be implemented in accordance with the recommendations set out in the Preliminary Ecological Appraisal, provided by Wold Ecology Ltd. dated October 2022 (submitted with the planning application).

The following items shall be installed on-site in the recommended locations in the aforementioned PER prior to first occupation and retained in situ for the lifetime of the development:

- At least 2 Schwegler type bird boxes.
- At least 1 Schwegler type bat boxes.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 180 d) of the NPPF (2021).

5 No site clearance works shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the buildings and vegetation for active birds' nests immediately before the works commence and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority before any clearance works.

Reason: To ensure that nesting birds are protected from harm during construction. All British birds, their nests, and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

6 A programme of post-determination archaeological mitigation, specifically an archaeological watching brief is required on this site.

The archaeological scheme comprises 2 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before it can be approved.

A) No ground disturbing works shall take place until an archaeological contractor has been appointed by the applicant and approved by the local planning authority. The site investigation, post-investigation assessment and provision for analysis, publication and dissemination of results and archive deposition shall be completed/secured in accordance with standards set by the Chartered Institute for Archaeologists and LPA.

B) A copy of a report shall be deposited with City of York Historic Environment Record to allow public dissemination of results 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The site lies within an area of archaeological interest and the development may affect archaeological deposits which must be recorded prior to destruction.

7 Prior to development (excluding demolition), a site investigation and risk assessment must be undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors. A written report of the findings must be produced and is subject to approval in writing by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

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

8 Where remediation works are shown to be necessary, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

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

9 Prior to first occupation or use, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

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

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

person.

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

11 A scheme detailing the proposed hard-landscaping / surfacing details for the site shall be submitted to and approved in writing by the Local Planning Authority prior to any groundworks. The scheme shall be fully implemented in accordance with the approved details prior to first occupation.

Reason: In the interests of amenity and local distinctiveness and the character and appearance of the conservation area, in accordance with NPPF sections 12 and 16 (note it is expected the setts along the access road will be retained).

12 The external materials to be used shall be as specified on the approved plans.

The external render shall be rough-cast.

New brickwork shall be approved in writing by the local planning authority prior to the commencement of construction on the relevant building. The development shall be carried out in accordance with the approved details.

Sample panels of the brickwork to be used shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used. The panel(s) shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: In the interests of amenity and local distinctiveness and the character and appearance of the conservation area, in accordance with NPPF sections 12 and 16 (it is noted it is expected the setts along the access road will be retained).

13 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) Where new or replacement doors and windows are proposed detailing drawings (in context and in section) shall be provided of existing and proposed details.
- b) Method statement for retention or restoration of the eaves detail on no.102.
- c) Appearance and finish to timber cladding to 102C.

The "new timber windows" to the front elevation of no. 100 and no. 102 shall be a sliding type (and not be outward opening).

Reason: In the interests of amenity and local distinctiveness and the character and appearance of the conservation area, in accordance with NPPF sections 12 and 16.

14 The cycle storage buildings shall be installed in accordance with the approved plans and shall be covered and secure. The storage shall be installed prior to first occupation of the relevant building and maintained/provided for storage for the lifetime of the development.

Reason: In the interests of good design, visual and residential amenity, and to promote sustainable travel in accordance with NPPF sections 9 and 12.

15 The building envelope of the new build residential accommodation (dwelling 102C as annotated on the approved plans) shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms. These noise levels shall be observed with windows open in the habitable rooms or if necessary windows closed and alternative ventilation provided.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with the NPPF section 12.

16 The new build dwelling (identified as 102C on the approved plans) shall achieve a reduction in carbon emissions of at least 31% compared to the target emission rate as required under Part L of the Building Regulations 2013 and a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

Should the dwelling (102C) not achieve a reduction in carbon emissions of 75%, compared to the target emission rate as required under Part L of the Building Regulations 2013, prior to construction a statement to demonstrate that such reductions would not be feasible or viable shall be submitted to and approved in writing by the Local Planning Authority.

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

17 The privacy screens, enclosures to outside amenity spaces and boundary treatment shall be installed in accordance with the approved drawings prior to first occupation of the relevant dwellings and shall be retained thereafter.

Reason: In accordance with NPPF section 12; to prevent overlooking of neighbouring property.

18 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2 Part 1 (or any Order revoking and re-enacting that Order with or without modification) there shall be no new windows inserted on the dwelling referred to as 102C on the approved plans.

Reason: In the interests of amenity, to ensure no overlooking of existing houses and gardens surrounding the building. As such the Local Planning Authority considers that it should exercise control over any future extensions 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 2015 (as amended).

19 The development shall be carried out in accordance with the details shown on the submitted plan, Drainage Strategy 22501 DR-C-0100 (revision P2) dated October 2022 prepared by Topping Engineers, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of satisfactory and sustainable drainage.

8.0 INFORMATIVES: Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Asked for parking clarification, swept path analysis and bin collection points.

2. CONTROL OF POLLUTION

- 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 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

- The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

- Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions. Some basic information on control noise from construction site can be found using the following link.
https://www.york.gov.uk/downloads/download/304/developers_guide_for_controlling_pollution_and_noise_from_construction_sites
- 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.
- There shall be no bonfires on the site.

3. WILDLIFE AND COUNTRYSIDE ACT 1981

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Buildings and vegetation are likely to contain nesting birds between 1st March and 31st August inclusive. Suitable habitat is present on the application site and is to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present.

When designing external lighting its potential impacts on light sensitive species should be considered. Direct lighting and light spill should be avoided where new bat roosting and bird nesting features are installed, on trees and 'green' linear features, such as hedgerows. Advice on lighting design for light sensitive species is available from the Bat Conservation Trust (2018) Bats and artificial lighting in the UK guidance: <https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229&focal=none>

Contact details:

Case Officer: Natalie Ramadhin
Tel No: 01904 555848