



Notice of meeting of

West & City Centre Area Planning Sub-Committee

To: Councillors Bartlett (Vice-Chair), Sue Galloway, Horton, Livesley (Chair), Macdonald, Reid, Simpson-Laing, Sunderland and B Watson

Date: Tuesday, 3 October 2006

Time: 12.00 pm

Venue: The Guildhall, York

SUPPLEMENTAL AGENDA

Exclusion of Press and Public

To consider excluding the public and press from the meeting during consideration of annex 3 of Agenda Item 6, to be tabled at the meeting, on the grounds that it contains information relating to financial and business affairs which forms information which is classed as exempt under Paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

6. **Planning Appeal at 26-28 Tadcaster Road** (Pages 1 - 20)

Members will consider a report which contains Officer advise about a Planning Appeal in connection with planning application 26 – 28 Tadcaster Road 06/00103/FULM.

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

- Registering to speak

- Business of the meeting
- Any special arrangements
- Copies of reports



Planning (West and City Centre Area) Sub-Committee**3 October 2006**

Report of the Assistant Director (Planning & Sustainable Development)

PLANNING APPEAL AT 26-28 TADCASTER ROAD**Summary**

1. A Public Inquiry is to be held, into the appeal against the Council's refusal of planning permission for residential development at 26 – 28 Tadcaster Road. One of the reasons for refusal was on highway grounds, against highway officers' recommendation. The Council has to provide evidence at a Public Inquiry in support of all reasons for refusal. However, in this case, highway officers consider that it is not possible for them to defend the highway reason for refusal at the Inquiry. Officers have to advise that this leaves a serious risk of an award of costs against the Council, in the absence of supporting evidence: serious doubts will be raised about satisfying the Inspectorate that the Council has acted reasonably in relation to the highway issues. Officers, therefore, request Members to consider whether they would wish to withdraw the highway reason, in the hope of reducing the risk of costs. The other reason for refusal, on design grounds, will still be defended at the Inquiry. Officers are taking further advice from an independent traffic consultant, at the time of writing, and a verbal up-date will be given at the meeting.

Background

2. The planning application in question was submitted by Pilcher Homes for the erection of 3 no. 3 storey houses and a 3 storey block of 10 no. flats at 26-28 Tadcaster Road, together with ancillary garages and cycle/bin stores. Existing dwellings and lock-up garages on the site were to be demolished.
3. The application was recommended for approval at Committee on 16 March 2006. However, by unanimous decision, Members overturned the recommendation, the application being refused upon design and highway safety reasons. A copy of the refusal notice and officer Committee Report is attached at Annexes A and B.
4. An appeal has been submitted, to be heard at a forthcoming Public Inquiry. Officers will defend the design reason for refusal at the Inquiry. However, because highway issues are more bound by technical considerations, highway officers feel unable to defend the highway reason for refusal. This leaves the Council at serious risk of an award of costs.

Consultation

5. There have been no further external consultations. Discussions have been held with the relevant highway and legal Officers of the Council.

Options

6. There are two options at this stage:
 - (i) For the highway reason to be defended at the Inquiry. If the independent traffic consultant's findings concur with those of the Council's own highway officers, then the reason could only be defended as part of the planning officer's proof of evidence; that is without any technical highway evidence or expertise from the highway profession. However, if the consultant's advice differs substantially, the consultant could be retained to appear at the Inquiry as the expert witness.
 - (ii) For Members to agree to withdraw the highway reason for refusal; with the planning officer's evidence relating solely to the design reason.

Analysis

7. Members are advised that option (i) above has the disadvantage of leaving the Council exposed, to possibly substantial costs, on the grounds that it has acted unreasonably in not producing tangible highway evidence, through an expert witness. The advantage is that the issue would at least be debated at the Inquiry. Local residents or individuals could still appear at the Inquiry (that is not representing the Council) and object upon highway grounds.
8. Option (ii) would significantly reduce, but not entirely remove, the risk of costs against the Council. However, any defence of the highway reason would fall upon local residents or individuals, who are unlikely to have highway expertise. Again the results of the consultant's findings to be reported to Members at the meeting will help to clarify this role.

Corporate Priorities

9. Members are referred to the Background and Analysis sections.

Implications

10. The implications are discussed in the Analysis section.

Risk Management

11. The main risk is the award of costs against the Council and as discussed in the Analysis section.

Recommendations

- Members are asked to consider the withdrawal of the highway reason for refusal, from the refusal notice dated 20 March 2006 (reference 06/00103/FUL). Officers will provide further details of the implications involved and the findings of the traffic consultant at the meeting, and provide further guidance for Members.

Contact Details

Author:

Chris Newsome
Community Planning Officer
City Strategy
Tel : 01904 551673

Chief Officer Responsible for the report:

Mike Slater
Assistant Director (Planning & Sustainable
Development)
Tel : 01904 551300

Report Approved



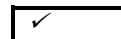
Date 28 September 2006

Specialist Implications

None.

Wards Affected:

Dringhouses & Woodthorpe



For further information please contact the author of the report.

Background Papers:

None.

Annexes

- Annex A – Refusal of planning permission, notice dated 20 March 2006.
- Annex B – Officer's report to Planning Sub-Committee dated 16 March 2006.

CGN/GE

28 September 2006

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26-28 Tadcaster Road.doc

COMMITTEE REPORT

| | | | |
|-------------------|---------------|----------------|--|
| Committee: | West Area | Ward: | Dringhouses And Woodthorpe |
| Date: | 16 March 2006 | Parish: | Dringhouses/Woodthorpe Planning Panel |

| | |
|--------------------------|---|
| Reference: | 06/00103/FULM |
| Application at: | 26 Tadcaster Road Dringhouses York YO24 1LQ |
| For: | Erection of 3 no 3 storey houses and a 3 storey block comprising 10 flats with ancillary garage and cycle parking blocks after demolition of existing buildings (Re-submission) |
| By: | Pilcher Homes Ltd |
| Application Type: | Major Full Application (13 weeks) |
| Target Date: | 19 April 2006 |

1.0 PROPOSAL

1.1 This application relates to a site occupied by two detached houses on Tadcaster Road, the garages and fore court area to the rear, a bungalow at the rear, its gardens and an area of overgrown vegetation.

1.2 The proposal 03/04013/FUL as originally submitted was for 24 dwellings in four blocks and included the demolition of the houses, the bungalow and garages and the development of the overgrown area. This was refused at the West Area P&T Sub Committee on the 20th January 2005 for the following reasons

1) In the opinion of the Local Planning Authority the proposed buildings, by virtue of their scale, height, massing and design are inappropriate in this area and would harm the appearance and character of the area, the setting of the Tadcaster Road Conservation Area, and the amenities of residents living close to the site. As such, the proposal is contrary to Policy E4 of the North Yorkshire County Structure Plan and Policies GP1 'Design', H4 'Housing Development in Existing Settlements', GP10 'Subdivision of Gardens and Infill Development' and HE2 'Development in Historic Locations' of the City of York Local Plan Deposit Draft.

2) In the opinion of the Local Planning Authority the proposal would result in the intensification in the use of an unsuitable access point that would create a hazard to highway safety.

1.3 The proposal now comprises 'Villa A', a block of 10 flats over three storeys, located to the rear of the existing Co-op shop, 'Villa B', a block of 3 town houses over three storeys on the Tadcaster Road frontage, and a small 'gatehouse' type building with clock above, immediately to the rear of the Co-op that would serve as a cycle and bin store. Three buildings providing garages are proposed further within the site. The ground level on which the garage buildings would be situated is proposed to be lowered to increase the slope down from the Tadcaster Road end of the site and allow one of the buildings to provide parking on two levels. The overgrown area to the rear of the site would be considerably landscaped and used as a garden area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest Dringhouses Area 0008

Conservation Area Tadcaster Road 0034

City Boundary York City Boundary 0001

DC Area Teams West Area 0004

Schools Dringhouses Primary 0193

2.2 Policies:

CYGP10

Subdivision of gardens and infill devt

CYGP1

Design

CYH4A

Housing Windfalls

CYL1

Open spaces in new residential devts

CYC6

Devt contributions to comm facilities

CYNE1

Trees, woodlands, hedgerows

CYHE3

Conservation Areas

CYHE2

Development in historic locations

3.0 CONSULTATIONS

3.1 Internal

3.2 HIGHWAY NETWORK MANAGEMENT: This application is considered to be intrinsically the same as the previous application (03 / 04013 / FUL) other than the number of units have been reduced from 16 to 13. The previous application was refused permission and included the following highway reason: - "In the opinion of the Local Planning Authority the proposal would result in the intensification in the use of an unsuitable access point that would create a hazard to highway safety" This reason was generated at committee and was contrary to officer advice. It is considered that points raised in the report submitted by the applicants' Transport Consultant in the previous application are still relevant and as the current

application is for three fewer units with attendant lower traffic movements then the officer recommendation is again to allow the application subject to conditions.

3.3 LANDSCAPE ARCHITECT: The amended scheme retaining the garden area to the rear is much better. Concern over scale of proposed buildings in relation to the surrounding external space and that Villa B is divorced from the garden area at the rear. A tree of note is the mature Ash adjacent to the site in the grounds of no.1 St Helen's Road. There is concern over the proposed change in levels to create the ramp to the parking court and its compatibility with the Ash tree.

3.4 ECOLOGIST: The site has been surveyed by the Council's Ecologist and there is no evidence of bats roosting on the site. The site is of some interest if only as a 'wild' area in an otherwise built up area. There is substantial blackberry and blackthorn thicket, which offers a potential foraging area for bats and garden birds. There are other, better, feeding sites for bats in the vicinity however at the nearby ponds and lakes. In general it is considered that this is the type of site that should be retained however as there is nothing of substantive ecological interest on the site that would warrant its protection.

The location is such though that there are opportunities to incorporate biodiversity enhancement into the fabric of the building. Such proposals can be requested under the new nature conservation guidance note PPS9, which recommends the planning process should be used to implement biodiversity enhancement with the basic tenet now being on gain rather than net loss. It is guided by a series of key principles and guidelines.

The relevant principles etc with regard to this site are

Key Principle 2 Planning policies and planning decisions should aim to maintain and enhance, restore or add to biodiversity and geological conservation interests. In taking decisions, local authorities should ensure that appropriate weight is attached to designated sites....., protected species: and to biodiversity and geological interests within the wider environment.

3.5 HEAD OF DESIGN AND CONSERVATION: The domestic scale of properties on Tadcaster Road is broken on the frontage here by some large detached buildings in the vicinity of St. Helen's Road (eg. the public house on the corner of this road). This revised proposal for Villa B does not look out of scale with these properties. The ridge and eaves lines are comparable, and the different areas of fenestration are similar in scale and proportion. Villa A (the rear block) is of similar height and architectural style to Block B, and the same arguments would apply here. For these reasons the architectural design of both Villas is considered acceptable.

The existing road frontage buildings are not within the Tadcaster Road conservation area (as stated in some objections). In this location the conservation area boundary is at the rear of the footpath on Tadcaster Road. For the reasons stated above, the effect on the setting of the conservation area of the proposals is also considered acceptable

However, the open space provision here looks minimal - and a commuted sum may be necessary to meet the requirements for the necessary amenity space for residents.

3.6 LIFELONG LEARNING AND LEISURE; A commuted sum should be paid to the Council for amenity open space - which would be used to improve a local site such as Micklegate Stray. In addition we would require payment for play space, which would be used to improve a local site such as Nelsons Lane. Payments should also provide additional sport pitches , which would be used to improve facility within the West Zone of the Sports and Active Leisure Strategy (current projects include improvements to Dringhouses Sports Club grounds)

3.7 EDUCATION: The proposal would have an impact on Dringhouses Primary School and Millthorpe Secondary School. The proposal, in addition to other developments in the area, is projected to produce more pupils than there are currently places at Dringhouses Primary and Millthorpe Secondary School and as such a financial contribution of £53,366 is required.

3.8 ARCHAEOLOGIST: This site occupies the north-west facing slope of a low ridge of glacial moraine which runs in a south-west-north east alignment. This type of site is more suited to agricultural use than the surrounding lower lying land. A small Roman cemetery consisting of at least five stone coffins has been observed near the junction of St Helens Road and Tadcaster Road. Such cemeteries are frequently found in association with Roman villas. The burials may, however, simply represent a small roadside cemetery. In the medieval period this site formed part of the manor of Dringhouses. From the plan of the manor drawn up by Samuel Parsons in 1624, it appears that this site consisted of strip holdings running from Tadcaster Road to the beck. This pattern of land division is apparent on the 1853 OS plan of the area and can be traced through to the present shape of this site. There has been an archaeological evaluation of this site (MAP 2004). Significant evidence relating to occupation of this area during the Roman period was recovered. The site contains features and deposits of Roman date which must be recorded prior to development taking place. Conditions ARCH1 and ARCH2 must be placed on any consent which is granted

3.9 ENVIRONMENTAL PROTECTION UNIT: have concerns that noise created by the condensing unit of and deliveries to the nearby Co-op will have an impact on the amenity of occupants, throughout the day and night.

Noise and odour from the extraction system from the public houses kitchen will effect the amenity of occupants of this new development. Noise from patrons leaving the public houses, using the beer garden and car park to the rear of the pub will affect the amenity particularly during night time hours.

Noise created during construction of this development will affect nearby residents.

Due to the close proximity of a petrol station I have concerns regarding contamination of the land, potentially being detrimental the health of occupants.

The Environmental Protection Unit has insufficient information regarding the impacts that the surroundings will have on the amenity of occupants of this site. The Environmental Protection Unit would recommend refusal unless points 1, 2 and 3 are addressed prior to approval.

3.9 EXTERNAL

3.10 YORKSHIRE WATER: The local public sewer network does not have capacity to accept any additional discharge of surface water from the site. No objection. Conditions recommended (see conditions 27 and 28).

3.11 MARSTON MOOR INTERNAL DRAINAGE BOARD: If the relevant Water Company or its Agents cannot confirm that there is adequate spare capacity in the existing system, the Applicant should be requested to re-submit amended proposals showing how it is proposed to drain the site.

The applicant should provide information as to the point of discharge of the sewer in order that the Board may comment of the suitability of the receiving watercourse.

The development probably discharges into Holgate Beck, a watercourse that will be under the control of the Environment Agency as from 1st April 2006. It is advised that the Agency's comments are sought on this application.

3.12 DRINGHOUSES AND WOODTHORPE PARISH COUNCIL: Object to the application for the following reasons:

- i) contrary to Local Plan Policies G1, H4, GP10 and HE2
- ii) unsuitable access and exit point
- iii) demolition of three perfectly sound dwellings
- iv) impact upon street scene
- v) traffic hazard and increased congestion
- vi) reduced visibility when bus stop is occupied

3.13 North Yorkshire Police - urges the developer to work in partnership with the Police and the Local Authority in trying to reduce crime by considering the Police "Secured by Design" Award Scheme for this site. Raise concerns that the bike stores are not overlooked by residents and that there are no current plans to "gate off" the access between No's 9 and 11 Mayfield Grove.

3.14 NEIGHBOUR LETTERS, SITE AND PRESS NOTICES: 44 letters of objection have been received from neighbouring properties regarding the applicants' proposals. The letters raise concerns regarding:

- impact on views
- loss of green area, wildlife habitat, and natural drainage area,
- unsuitability of access - bus layby, junction with right turn lane, traffic stopping for shop, playgroup, petrol station etc
- impact on road safety
- additional traffic would cause congestion, also cumulatively with other development in area
- concern that proposal would open up rear garden boundaries creating security problem
- impact on residents from pollution and noise from cars using garages
- drainage system struggling - cannot cope with more houses
- height and massing of proposed villas - visual impact and impact on character of area
- risk to gardens and drainage of excavating ground for garages
- concern over future development of garden area at bottom of site
- devalue properties
- impact on privacy of neighbours
- archaeological importance of site

4.0 APPRAISAL

4.1 KEY ISSUES

- planning policy
- impact on character and appearance of area
- impact on residents
- highway matters - traffic/access
- drainage
- ecology
- other issues
- education

PLANNING POLICY

4.2 Planning Policy Guidance Note 3 'Housing' (PPG3) sets out Government policy on housing development and encourages more sustainable patterns of development through the reuse of previously developed land, more efficient use of land, reducing dependency on the private car and provision of affordable housing. PPG3 advises Planning Authorities to seek housing densities of between 30 and 50 dwellings per hectare with greater intensity at locations with good public transport accessibility. PPG3 also advises that car parking standards that require more than 1.5 spaces per dwelling are unlikely to secure sustainable development.

4.3 Policy H4 'Housing Development in Existing Settlements' of the City of York Local Plan states that permission will be granted for new housing development on land within settlements providing it is vacant/derelict/underused or involves infilling, redevelopment or conversion; and, is of an appropriate scale and density to surrounding development and would not have a detrimental impact on existing landscape features.

4.4 Policy GP1 'Design' includes the expectation that development proposals will : respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, using 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.

4.5 Policy NE1 'Trees, Woodlands and Hedgerows' seeks to protect trees that are of landscape, amenity or nature conservation value by, inter alia, refusing development proposals that would result in their loss and by seeking appropriate protection measures when they are proposed for removal. Appropriate replacement planting will be sought where trees are proposed for removal.

4.6 Policy GP10 ' Subdivision of Gardens and Infill Development' states that permission will only be granted for the development or subdivision of gardens areas where it would not be detrimental to the character and amenity of the local environment.

IMPACT ON CHARACTER OF THE AREA

4.7 The proposal involves the demolition of 2 two storey houses and a bungalow. The proposed 'villas' are large three storey blocks. The surrounding development is predominately two storeys with the public house on the corner of Tadcaster road and St Helen's Road being the tallest building in the vicinity and comprising two storeys with rooms within the roofspace. The proposed villas are of a similar overall height to the public house building. Both villas are large buildings however with large footprints and their scale, proportions and massing are greater than surrounding properties. The architect has tried to address this issue by introducing gables, bays, chimney stacks and other features to reduce the massing but has stopped short of incorporating the third floor wholly within the roofspace. It is considered that although the buildings would have a significant presence in the street scenes of Tadcaster Road and St Helen's Road they would not dominate the street to the extent that they would harm the character of the area.

4.8 The building design follows an Edwardian style, which is normally associated with dwellings of a lesser scale. Although this style is less successful on buildings of this size it is nonetheless considered acceptable.

4.9 The application site is located beyond the boundaries of the designated Conservation Area. The proposals are not considered to adversely impact upon the character and appearance of the Conservation Area.

IMPACT ON RESIDENTS

4.10 The design of Villa A has been amended a number of times to reduce the effect of overlooking on neighbouring properties. First and second floor windows facing no.1 St Helen's Road have been deleted and replaced with obscure glazing. The principal elevations of the building face the public house car park and nos.5, 7, and 9 Mayfield Grove. The distance between the building and the rear of these properties is 39-41m, well in excess of the Council's minimum distance of 21m for two storey development. Considerable planting is proposed along the boundary with these properties, to protect privacy in their gardens and soften the visual impact of the building.

4.11 The rear windows of Villa B face the rear gardens of nos. 5 and 7 Mayfield Grove however the tall building at the rear of Touchwood DIY shop would screen views from Villa B and protect privacy.

4.12 The proposed garage buildings at the rear of nos. 9,11,13,15,17,and 19 Mayfield Grove would be constructed on two levels, lower than the existing ground level and taking advantage of the fall in the land. As a result the elevations facing the Mayfield Grove properties, would only be 4.4m, 4.6m and 3.2m above the existing ground level. Most of the Mayfield Grove properties, except no.15, either have dense vegetation and/or high hedges along their rear boundaries that would effectively screen or block views of the proposed garages.

4.13 The garages would provide parking for 13 cars, which would generate some noise and activity in this backland area that had hitherto been a quiet garden area. Given the presence of vegetation around the site boundaries and the length of Mayfield Grove and St Helen's Road gardens it is considered that noise and disturbance would not reach a level that would warrant refusal of planning permission.

HIGHWAY ISSUES

4.1 The site access currently serves 3 dwellings and 14 garages and lies within a bus layby at a very busy signalled junction. For these reasons the proposed access point is considered to be far from ideal for a development of this size. The applicants argue however that the existing dwellings and garages (currently used by the Automobile Association for storage) have the potential to generate a similar number of vehicle movements as the proposal. It is a well established principle of planning law that planning authorities are obliged to have regard to what the applicant could do with a site without any fresh planning permission. In this case it would appear that the garages could be used by individuals to park private cars without the need for planning permission. The proposal also includes improvements to the access to widen it, allowing vehicles pass each other rather than waiting on the road and the closure of the existing access onto Mayfield Grove.

DRAINAGE

4.15 Residents have pointed out that gardens at the bottom of Mayfield Grove suffer from surface water flooding during periods of heavy rainfall and Yorkshire Water confirm that the public sewers do not have capacity to deal with any additional surface water runoff. As the proposal would result in a greater area of impermeable surfaces than at present surface water runoff from the site is likely to increase. The alternative to discharging surface water to the public sewer is to discharge to the nearest watercourse at a controlled rate. The nearest watercourse is the Holgate Beck that lies on a north/south axis to the west of the site. The beck is the responsibility of the Marston Moor Internal Drainage Board, who require all surface water to be discharged to the public sewer.

ECOLOGY

4.16 The lower part of the site is mostly overgrown vegetation and is used by garden birds for feeding. The Council's Ecologist has no evidence that the site is used by protected species such as bats, and the site does not contain any trees of significance or of a quality to warrant a Tree Protection Order. The site has ecological value as a wild area in an otherwise suburban area and it would benefit wildlife and encourage the biodiversity of the area if some of the vegetation were retained rather than being landscaped as formal gardens. The proposals also offer opportunities to implement biodiversity enhancement under the new nature conservation guidance note PPS9. These items can be secured by condition (see conditions 24 and 25 below).

OTHER ISSUES

4.17 An archaeological evaluation of the site has been carried out by the applicant revealing Roman features and deposits and as such, a programme of archaeological work is therefore required prior to work commencing on the site.

4.18 The security of residents adjoining the site can be protected by the provision of some robust boundary treatment, which can be secured by condition. The proposals would also introduce an element of natural surveillance to this backland area.

EDUCATION:

4.19 The proposal would have an impact on Dringhouses Primary School and Millthorpe Secondary School. The proposal, in addition to other developments in the area, is projected to produce more pupils than there are currently places at Dringhouses Primary and Millthorpe Secondary School and as such a financial contribution of £53,366 is required. The basis for this calculation is contained within the Councils Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

5.0 CONCLUSION

5.1 It is considered that the proposal would not harm the character of the area, the amenities of residents, worsen highway safety or harm the biodiversity of the area subject to the conditions listed below. The proposal would result in additional pressure on facilities for outdoor sport/recreation and children's play and on the local primary and secondary schools. These impacts could be mitigated by way of financial contributions secured by a S106 legal agreement required by conditions 31 and 32. At the time of writing the issue of dealing with the drainage of surface water from the site has yet to be resolved however subject to the satisfactory resolution of this issue, the completion of a legal agreement and the conditions listed below Members are recommended to grant permission.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

- 1 TIME2 Development start within three years
- 2 The development hereby permitted shall be carried out only in accordance with the following plans:-

Dwg 106/01E - Site Layout, including location plan.
Dwg 106/02B - Villa A elevations
Dwg 106/03B - Villa A Floor plans
Dwg 106/04D - Street scene elevations
Dwg 106/05D - Villa B design proposal
Dwg 106/06D - Garage design proposal
Dwg 106/07 - Cycles and refuse building design proposal
Dwg 106/08 - Topographical Survey

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 A noise assessment must be carried out to the written satisfaction of the Local Planning Authority. This assessment must determine the noise impact of patrons using and leaving the public house. The assessment must determine the impact that deliveries to the co-op would have on the amenity of occupants. The study must evaluate the operation of the combined effect of the condensing unit to the rear of the co-op and the public houses kitchen extraction. This study must be carried out in line with the British Standard 4142 and PPG 24.

Reason To determine measures needed to be put in place to protect the amenity of occupants from noise.

- 4 An assessment of the odour from the public house extraction system must be carried out to the written satisfaction of the Local Planning Authority. This assessment must determine the odour effect that the effluvia emitted from the public houses extraction has when in full operation.

Reason To determine measures required to protect the amenity of occupants from odour.

- 5 The scheme of mitigation measures necessary to adequately protect the amenity of the future occupants from noise and odour shall be submitted to the Local Planning Authority for written approval prior to development. The approved mitigation measures must be fully installed prior to occupation of the use hereby permitted.

Reason: To protect the amenity of the occupants from noise and odour.

- 6 All construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to 08:00 to 18:00 Monday to Fridays, 09:00 to 13:00 Saturdays and no works at all shall be carried out on Sundays and Bank Holidays.

Reason: To protect the amenity of local residents during the construction of the development

- 7 A desk study shall be undertaken in order to identify any potentially contaminative uses which have or are currently occurring on the site. This shall include a site description and a site walkover and shall be submitted to and approved by the local planning authority prior to the development of the site (This should where possible date back to 1800).

Reason: to determine if any potential contaminants can be found on the site which may be detrimental to the health of the occupants.

- 8 A site investigation shall be undertaken based upon findings of the desk study. The investigation shall be carried out in accordance with BS10175: Investigation of potentially contaminated land: code of practice. The results of the investigation shall be submitted to and approved by the local planning authority in writing prior to any development commencing on the site.

Reason: to determine if potential contaminants can be found on the site which may be detrimental to the health of the occupants.

- 9 A risk-based remedial strategy shall be developed based on the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing on site. The remedial strategy shall have due regard for UK adopted policy on risk assessment and shall be developed in full consultation with the appropriate regulator(s)

Reason: To illustrate that potentially detrimental contamination effecting the health of the occupants are to be successfully remediated.

- 10 A validation report shall be submitted to and approved by the local planning authority, detailing sample locations and contaminant concentrations prior to any development commencing on the site.

Reason: to illustrate that potentially detrimental contamination effecting the health of the occupants have been successfully remediated.

- 11 Any contamination detected during site works that has not been considered within the remedial strategy shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with local planning authority and fully implemented prior to any further development of the site.

Reason: To protect the health of the occupants.

- 12 ARCH1 Archaeological programme required
- 13 ARCH2 Watching brief required
- 14 HWAY14 Access to be approved, details reqd
- 15 HWAY19 Car and cycle parking laid out
- 16 HWAY22 Internal turning areas, details reqd
- 17 HWAY25 Pedestrian visibility splays protected
- 18 No barrier or gate to any vehicular access shall be erected within 10 metres of any highway abutting the site, without the prior written approval of the Local Planning Authority, and shall at no time open towards the public highway.

Reason: To prevent obstruction to other highway users.

- 19 HWAY31 No mud on highway during construction

20 VISQ8 Samples of exterior materials to be app

21 When demolishing the buildings, the tiles of the roofs shall be removed by hand so that they can be checked to ensure no bats are in residence. The timing of this operation should be notified to the Council in advance. A protocol for dealing with bats, should they be discovered, shall be provided to and approved by the Council prior to any work commencing.

Reason: In the interests of nature conservation to ensure that a protected species is not advertently harmed.

22 No development shall take place until details of the bat roost features to be incorporated into the building hereby approved have been submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation or use of the building and retained thereafter as such.

Reasons: To mitigate for the loss of feeding habitat for bats and to enhance the biodiversity of the area.

23 Prior to the commencement of any works on the site a scheme for the protection of all trees and shrubs which are to be retained shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall include a plan showing the trees and vegetation to be retained and protection measures that meet the specifications of BS5837:1991. The approved measures shall be implemented prior to the commencement of any works on the site and retained for the duration of construction works. No work, storage of buildings, equipment, materials or soil, or any bonfire, shall take place within the protected areas.

Reason: To prevent damage to the trees/hedges during the site clearance, demolition and construction period in the interest of amenity.

24 Development shall not begin until details of separate foul and surface water drainage systems, including details of any balancing works and off site works, have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

25 There shall be no piped discharge of surface water from the site prior to the completion of the approved surface water drainage works unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that no surface water discharges take place until proper provision has been made for their disposal.

26 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 11.6 metres in the case of Villa A, and 11.1 metres in the case of Villa B, 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.

- 27 There shall be no raising of ground levels above the existing ground levels as shown on topographical land survey drawing no 106/08 received on 18th January 2006 without the prior written permission of the Local Planning Authority.

Reason: to allow the Local Planning Authority to assess the effect of raised ground levels on adjoining land, the amenity of residents and drainage of the site.

- 28 Prior to the commencement of the development hereby permitted details of measures to suppress dust and other material from travelling from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented from the commencement of the development to its completion.

Reason: To protect the amenities of residents living close to the site.

- 29 VISQ4 Boundary details to be supplied

- 30 Prior to the commencement of development details of measures to close the existing site access from Mayfield Grove to vehicular traffic shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved measures have been put in place and all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb and footway to match adjacent levels.

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

- 31 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 alternative arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: To comply with the provisions of Policy L1 of the City of York Draft Local Plan.

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 financial contribution towards the off site provision of open space. The obligation should provide for a financial contribution calculated at £18,647.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

- 32 No development shall commence unless and until a scheme to ensure the provision of adequate additional foundation and secondary school places within the local catchment area has been submitted to and approved by the Local Planning Authority.

Reason: The education provision within the catchment area of the development has insufficient capacity to take pupils, such that additional places are required in the interests of the sustainable development of the city in accordance with Policy C6 of the City of York Draft Local Plan and the Councils Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

Informative:

The provisions 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 legal interest in the application site. The obligation should provide for a financial contribution calculated at £53,366. The basis for this calculation is contained within the Councils Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

No development can take place on this site until the condition has been discharged and you are reminded of the Local Authority's enforcement powers in this regard.

7.0 INFORMATIVES:

Contact details:

Author: Richard Mowat Development Control Officer
Tel No: 01904 551416

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Refuse Planning Permission

TOWN AND COUNTRY PLANNING ACT 1990

To:

Stephen Jenneson
 Jenneson Associates Ltd
 8 Nicholson Court
 Pocklington
 York
 YO42 2PF

Application at:

26 Tadcaster Road Dringhouses York YO24 1LQ

For:

Erection of 3 no 3 storey houses and a 3 storey block comprising 10 flats with ancillary garage and cycle parking blocks after demolition of existing buildings (Re-submission)

By:

Pilcher Homes Ltd

Application Ref No.:

06/00103/FULM

Application Received on:

18 January 2006

REASONS FOR REFUSAL:

1 In the opinion of the Local Planning Authority the proposed buildings, by virtue of their scale, height, massing and design are inappropriate in this area and would harm the appearance and character of the area, the setting of the Tadcaster Road Conservation Area, and the amenities of residents living close to the site. As such, the proposal is contrary to Policy E4 of the North Yorkshire County Structure Plan and Policies GP1 'Design', H4 'Housing Development in Existing Settlements', GP10 'Subdivision of Gardens and Infill Development' and HE2 'Development in Historic Locations' of the City of York Local Plan Deposit Draft.

2 The Council considers that the proposal would result in an unacceptable increase in the level of vehicular movements using this access point, which emerges from within a busy bus stop lay-by and into the lane structure of a busy signalised junction on a principal arterial route into the City. Traffic levels and potential conflicts on the highway at this junction have intensified since the garages on the site were last used as garages rather than for storage, and the traffic increase would be greater than the maximum number of potential movements that could reasonably be expected if the garages at the site were to be fully reused for vehicles. Furthermore, traffic movements associated with the development here would be significantly greater than the existing (and any future likely) vehicular use of the garages. The proposal would, therefore, result in the intensification in the use of an unsuitable access point, causing interference with the free flow of traffic and a consequent danger to highway and pedestrian safety.

Date: 16 March 2006

M. Slater
 Assistant Director (Planning & Sustainable Development)

FOR RIGHTS OF APPEAL, SEE OVERLEAF

