

## COMMITTEE REPORT

**Date:** 19 April 2018                      **Ward:** Dringhouses And Woodthorpe

**Team:** Major and Commercial Team                      **Parish:** Dringhouses/Woodthorpe Planning Panel

**Reference:** 17/02619/FULM

**Application at:** Land to East of St Leonard's Hospice and 13 to 20 The Square, Dringhouses, York

**For:** Erection of three-storey building comprising 30no. apartments, community hub and offices (use class B1) for Wilberforce Trust with associated access and parking. Construction of 13 car parking spaces for adjacent hospice use.

**By:** Philippa Crowther

**Application Type:** Major Full Application (13 weeks)

**Target Date:** 27 April 2018

**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1 The application seeks full planning permission for the erection of a building comprising 3 no. three storey joined blocks accommodating 30 apartments and a two storey office and community element along with associated works and the provision of 13 no. parking spaces to serve St. Leonard's Hospice, on previously undeveloped land to the rear of residential estate The Square and St. Leonard's Hospice, east of Tadcaster Road (A1036).

1.2 The site is surrounded on three sides by housing development of The Grove to the south, The Square to the west and the Revival estate to the north. St. Leonard's Hospice is located to the north-west of the site. Vehicular access would be gained from The Grove, with pedestrian and cycle access from The Square and St Leonard's Hospice. Further vehicle access to the additional car parking bays to the east of and serving St. Leonard's Hospice would be gained via the hospice's existing car parking area. An emergency access link is indicated from The Square. There would be five apartment types, which vary in size and external space. The central hub would provide a cafe with associated kitchen facilities, training rooms and offices.

1.3 The land gently slopes from east to west, rising by approximately 6m. It lies within Flood Zone 1. The northern section of the site is an area of archaeological interest due to surviving patterns of medieval ridge and furrow. There are existing large trees within the site and on site boundaries. Trees along the southwest boundary with The Grove are subject to TPO CYC 08. There are two groups of

standalone trees within the western part of the site that are subject to TPO CYC 328.

1.4 Revised plans have been submitted by the applicant to relocate the building to the south-east in order to address concerns raised about proximity to mature trees on site. Confirmation has also been provided from the Trust's solicitor to confirm the access rights retained by the Trust from The Grove and The Square.

1.5 The proposed scheme does fall within schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It does not constitute EIA Development.

## **2.0 POLICY CONTEXT**

2.1 Development Plan – Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. Relevant policies: YH9(C) and Y1(C1 and C2);

2.2 Draft Local Plan (2005) – relevant policies:

- CYSP6 - Location strategy
- CYGP1 - Design
- CYGP3 - Planning against crime
- CYGP4A - Sustainability
- CGP15A - Development and Flood Risk
- CYNE1 - Trees, woodlands, hedgerows
- CYNE6 - Species protected by law
- CYHE10 - Archaeology
- CYGB1 - Development within the Green Belt
- CYT4 - Cycle parking standards

2.3 Publication Draft York Local Plan 2018 ("2018 Draft Plan") – relevant policies:

- SS1 – Delivering Sustainable Growth for York
- SS2 – The Role of York's Green Belt
- GB1 – Development in the Green Belt
- D1 – Placemaking
- D2 – Landscape and Setting
- D6 – Archaeology
- GI2 – Biodiversity and Access to Nature
- GI3 – Green Infrastructure Network
- GI4 – Trees and Hedgerows
- ENV4 – Flood Risk
- H1 – Housing Allocations
- H9 – Older Persons Specialist Housing
- H10 – Affordable Housing

## 3.0 CONSULTATIONS

### INTERNAL

#### Planning and Environmental Management

3.1 Site is identified in 2005 Draft Local Plan as Green Belt. Part of the site is identified as suitable for specialist housing (C3b) in the SHLAA 2017 and is allocated as site H6 in the emerging Local Plan. The allocation includes the land immediately to the rear of The Square with the land immediately to the rear of the Hospice remaining as proposed Green Belt.

3.2 The Strategic Housing Market Assessment 2017 concludes that there is a requirement for up to 84 extra care units per annum over the plan period and that this need falls within the objectively assessed housing need. Therefore, a C3b use class on this site is supported.

3.3 The policy position is that the site currently falls within the general extent of York's Green Belt, although is allocated in the emerging Local Plan as site H6. This proposed allocation relates to a site area of 1.5ha and excludes the area of land to the east of St. Leonard's Hospice in order to safeguard the residential amenity of patients at the hospice. The proposed allocation for the site relates to residential extra care/supported living facilities (use class C3b) in association with the Wilberforce Trust.

3.4 However, given the early stage of the Plan, the weight that can be attributed to it remains limited. Therefore, any proposals for development of the site at this time would be assessed against the more restrictive Green Belt policy in the NPPF.

#### Design, Conservation and Sustainable Development (Archaeology)

3.5 The area to the east of St Leonard's Hospice is undeveloped former agricultural land. A desk-based assessment and geophysical survey have been submitted with this application as would be expected for a greenfield site.

3.6 The site lies within a wider Romano-British landscape and may contain features relating to late prehistoric/Romano-British field systems. The desk-based assessment also identified that well preserved ridge and furrow exists across the northern half of the site. It has been agreed that the majority of this should be retained within the proposed development.

3.7 The geophysical survey did not produce any significant archaeological anomalies except for one possible ditch pre-dating the medieval ridge and furrow. Despite the relatively quiet response from the geophysical survey trial trenching

should take place across the southern part of the site in the area of the footprint of the proposed building and the proposed extension area.

3.8 It is proposed that the ridge and furrow in the north of the site is to be turned into a sensory garden which includes crushed aggregate footpaths. The footpaths should preferably be run along the furrow lines (conditioned if possible) and the proposed planting areas should run naturally along the topography of the site. As some disturbance is proposed in this area an evaluation trench should also examine the possible ditch identified by the geophysical survey. In addition, a watching brief will need to take place when stripping the areas for footpaths in the area of R&F to record any other surviving pre-medieval features cut into the natural subsoil. The evaluation and watching brief can be rolled into one final report.

3.9 Prior to the conversion to the sensory garden a topographic survey and record of the R&F is required. A CAD topographic survey has been submitted with the application - this should be included within an archaeological report on the R&F which includes photographs, aerial photographs and a profile of the earthworks.

#### Design, Conservation and Sustainable Development (Landscape Architect)

3.10 Landscape Character - The site has a distinct landscape quality and charm. It is relatively self-contained because it is surrounded on three sides by residential development of various sorts, however the site retains its rural character and has a strong relationship with the open landscape that continues to the south-east of the application site, even though it is divided from this by a number of trees of varying size and quality. The topography gently slopes down from northwest to southeast. The grazed pasture and tree cover, which includes a couple of open-grown stands of mature specimen trees gives the air of an attractive parkland setting.

3.11 Existing trees - Many of the trees on and adjacent to the site are subject to various tree preservation orders. Some of the existing trees subject to a TPO and shown to be retained are under threat from associated development works, such as internal roadways, utilities and surface water attenuation measures. Following revisions to the scheme, the harm to the trees has been largely addressed and any remaining impact would likely be addressed through careful implementation. Revised drainage plan may eliminate concern about proximity of surface water drainage works to mature trees.

3.12 Site layout - The compact courtyard arrangement of the apartment block and its singular location in the centre of the parcel of land, plus the retention of existing mature trees, places the proposed development in a distinct setting and space. The landscape treatment is kept suitably low key with mown paths and the provision of benches.

3.13 Landscape - Comments on specific aspects of the landscape scheme. In particular, the change the sensory garden will lead to from a simple bucolic landscape to a formal prairie style garden.

3.14 Summary – The site supports an attractive historic landscape character that exists in isolation of the broader, open, flat terrain that it connects with along its south east boundary. The development would be visible from Sim Balk lane and at closer range from Green Lane cycle/pedestrian route from where the visual impact would be greatest due to proximity and slower speed of travel and sensitivity of user. In wider views from the A64, the development would have some, though limited harm, due to the surrounding built up context, and the size of the parcel of land relative to the wider expanse of foreground openness. The intervening tree cover would provide some visual buffering. The development would alter the landscape character of the site due to a loss of open countryside, taken up by the mass of the building; and a change in landscape treatment across the ridge and furrow from pastoral to structured garden. Thus this development represents a degree of urban encroachment into the countryside. The distance between the building and trees is reasonable in respect of compatibility. Conditions requested.

#### Design, Conservation and Sustainable Development (Ecology)

3.15 The site is located approx. 600m west of Askham Bog Site of Special Scientific Interest (SSSI) but is separated by a main road and urban area and therefore will not be impacted by the proposed development.

3.16 The Phase 1 Habitat Survey has classified the site as parkland with mature and veteran trees of significant biodiversity value. Wood-pasture and Parkland is a Priority Habitat as defined in Section 41 of the Natural Environment and Rural Communities Act 2006, which means it is a conservation priority. The proposed development will result in the direct loss of some of this habitat however the design is such that nearly all of the trees are retained, with grassland to the east and west. The retained trees should be protected through a TPO. Effort should be made to ensure the ground, particularly around mature trees, beyond the standard Root Protection Zone, is disturbed as little as possible during construction.

3.17 There are ponds located approx. 370m from the application site that provide habitat to great crested newts, which have full protection under the Wildlife and Countryside Act 1981 and Conservation of Habitats and Species Regulation 2017. Care should be taken when clearing ground prior to development and if evidence of great crested newts is found, work should stop immediately and Natural England contacted.

3.18 Conditions requested to cover great crested newts and lighting as well as conditions relating to landscape proposals and tree protection. Information also about breeding birds.

## Public Protection

3.19 Noise - Recommend conditions to address potential for noise disturbance to existing residential area and St Leonard's Hospice.

3.20 Contamination - The Phase 1 Environmental Assessment shows that there are a number of potential contaminant sources at the site including made ground, building waste and fly tipped material that may contain asbestos. Land contamination may be present and this could pose a potential risk to future residents and other receptors. The report recommends a Phase 2 intrusive site investigation be carried out, which is agreed with. If contamination is found, appropriate remedial action will be required to ensure that the site is safe and suitable for its proposed use. Requests conditions be attached to any approval.

3.21 Air quality - 40 car parking spaces are to be provided. In accordance with Paragraph 35 of the NPPF and the Council's Low Emission Strategy (October 2012), request a condition to require electric vehicle recharging.

## Flood Risk Management

3.22 Notes that the site is within flood zone 1 and presents no significant risk to itself or its neighbours, finished floor levels preclude the minimal risk from surface water flooding and no other significant risks are identified. The proposed drainage strategy identified the approach to drainage options and the soakaway test results are noted to not support drainage via soakaway. Attenuated flows to the Yorkshire Water sewer and ultimately connecting to watercourse is noted and supported providing all agreements are in place with Yorkshire Water. Approves the flood risk and drainage details provided with the application.

## Housing Development Team

3.23 Fully support this application. It provides an excellent opportunity to deliver 30 much-needed homes for adults with disabilities who receive a package of care and support. All 30 apartments are affordable housing for rent and will be designed to a high quality which meets the needs of the specialist client group. There would be 9 no. 1 bed affordable rent units and 21 no. 2 bed affordable rent units.

3.24 A Care Quality Commission registered charity, the Wilberforce Trust, will manage and operate the completed scheme. No grant funding is required since the development will replace and enhance existing Wilberforce Trust accommodation, disposal of which provides investment for this proposed scheme.

3.25 The development would be required to provide only 30% affordable housing through the planning process. As only the policy target level can be secured through the Section 106 Agreement mechanism, 9 units will be specified as affordable housing for perpetuity in the Section 106 Agreement. The remainder of

the affordable housing will be subject to a Nominations Agreement which will be operated jointly with the Wilberforce Trust taking into consideration the bespoke nature of this scheme.

3.26 This development offers a significant contribution to meeting the demand for specialist high quality affordable housing in York whilst contributing to a diverse sustainable community in the locality.

## EXTERNAL

### Yorkshire Water

3.27 Request the imposition of conditions to protect the local aquatic environment and YW infrastructure if planning permission is granted. A water supply can be provided under the terms of the Water Industry Act, 1991. As the proposed new building is three storeys high, localised pumping and storage may be required. The Flood Risk Assessment (prepared by Dudleys - Report 16034/REP01(1) Rev B dated 27/07/2017) is generally acceptable.

### Natural England

3.28 Natural England has no comments to make on this application. Highlights the standing advice regarding protected species and ancient woodland/veteran trees. The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

### Environment Agency

3.29 No objection. No comments on flood risk as Flood Zone 1. Potential for contamination of water courses from past activity. Advice given re: contamination and drainage. No further comments to make following submission of revised plans.

### North Yorkshire Police

3.30 Welcomes references in Design and Access Statement to how security of the scheme has been considered and measures implemented. In general the overall design of the proposed development is to be commended as it contains many Designing Out Crime principles and reduces the opportunity for crime and disorder.

3.31 Considers that the proposed vehicular access is kept at an appropriate level of permeability, but that the intended footpath link from The Square creates unnecessary permeability as are convenient other routes from The Grove and the St Leonard's Hospice link. Good levels of natural surveillance for the parking areas, though comments that there should be overlooking of the additional parking area to serve the Hospice. Cycle parking needs to be under cover and within a secure

structure. Provides comment on lighting, CCTV, landscaping, utility meters, mail delivery, access control for apartments and Secured by Design accreditation. Requests a planning condition covering full written details of how issues raised by Police are to be addressed.

3.32 No further comments to make to revised plans.

### Publicity and Neighbour Notification

3.33 Responses from 6 no. residents of The Grove, objecting on following grounds:

- Question whether proposed access from The Grove would be legal as strip of land along The Grove is owned and maintained by Chessingham Grove Management Company who only need to allow 'access' not a new entrance/access would remove vegetation belonging to Management Company;
- Existing access from The Grove should be restored to match existing landscape with developers supporting Management Committee in its maintenance whilst planting establishes;
- The Grove is very narrow and 2 cars passing is difficult/it is not wide enough to accommodate construction vehicles and residents vehicles and the incline impedes movements in severe ice and snow;
- Access entrance is wrong shape and design for its purpose/too close to No.8 and no.9;
- Access to site should be from Principal Drive, which has roundabout junction with Tadcaster Road;
- Increased pollution/need construction environmental plan;
- Retain green features to keep in with surroundings of existing buildings;
- Proposal is inappropriate development in Green Belt;
- Contrary to Council's support for environment;
- Buildings should be moved further north and Phase 3 not allowed;
- Access from The Grove to Tadcaster Road is inappropriate and dangerous and would compound the problem for vehicles leaving The Square/Traffic controls are needed;
- Restricted working hours requested
- Plans for Hospice should be commended/parking for Hospice accessed by Hospice site only;
- CYC to reduce rates or compensate for fall in house values;
- Occupancy should be restricted to specialist accommodation proposed/future change of use or sale prevented;
- No information about drainage system/will disrupt residents' services/existing pumphouse on The Grove is only adequate for needs of 9 residences ;
- More planting along boundary of site with The Grove required as a screen and place for displaced wildlife;
- Impact on residents amenity on The Grove from high buildings;



- Balconies are not necessary and should not be allowed;
- Building should be moved north and Phase 3 not allowed.

### 3.34 Responses from 5 no. residents of The Square, largely objecting:

- The Square is a private road so agreement from management company will be necessary for planned pedestrian and emergency vehicle access;
- Limited information is provided of emergency vehicle access or projected and level of pedestrian footfall;
- Emergency access may be restricted by parked cars;
- No drainage information;
- Lack of information about land to rear of no. 14-19;
- Architecture not compatible/poor design of building;
- Remaining land must be properly managed and maintained;
- New link would diminish security, privacy and quiet enjoyment;
- View from property on The Square directly impacted;
- Footpath should only be through the Hospice;
- Surface on Tadcaster Road is noisy and unsuitable for largely residential area and should be looked at;
- Egress onto Tadcaster Road is difficult;
- The Grove should not be widened;
- Notes wildlife using site including two Great Spotted Woodpeckers in trees, squirrels and foxes;
- Queries street lighting and external lights on site and whether would be on all night.

### 3.35 Responses from 20 no. residents of Revival estate (former York College site) – generally in support with following objections/comments:

- Hope not too many disruptions to those on estate;
- Development would exacerbate traffic on Tadcaster Road;
- Building is ugly and would not fit in;
- Development is well-planned, attractive, well-screened, retains ridge and furrow, maintains wildlife corridor and has appropriate access from The Grove;
- Site is green field;
- Access from Principal Rise or through estate for construction traffic and/or permanently would impact on highway safety adding to congestion and exacerbating parking problems, would cross a pedestrian/cycle path and leisure space, affect mature trees, sensory garden and impact on a larger number of residents than from The Grove;
- There are Great Crested Newts in ponds within estate at distances of 300 and 450m from application site, that need careful consideration.

## 4.0 APPRAISAL

4.1 The key issues material to the consideration of this application are:

- Principle of Development
- Green Belt Policy
- Character and appearance
- Biodiversity
- Archaeology
- Residential amenity
- Access and highway safety
- Contamination
- Other considerations

## THE SITE AND PLANNING HISTORY

4.2 The application site consists of an open field that sits to the east of Tadcaster Road, separated from it by the residential development of The Square. There is an existing field access from The Grove to the south. To the north is St. Leonard's Hospice and the Revival housing estate on the former York College site. Beyond the site to the east are open agricultural fields. The northern part of the site that lies east of St. Leonard's Hospice contains a well-preserved area of ridge and furrow. The trees on the southern boundary and within the site are subject to individual or group tree preservation orders (CYC 328 and CYC 08). The site lies in Flood Zone 1 (low risk).

4.3 The site has a long standing use as grazing land. There is no relevant planning history other than tree works (ref.15/00762/TPO) and a pre-application enquiry for the proposed development (ref. 16/01031/PREAPP). The latter concluded that the site was within the general extent of Green Belt and that the proposal could only be supported if compelling reasons that amount to very special circumstances exist that clearly outweigh the harm to the Green Belt by reason of inappropriateness and other identified harm. Such harm was considered to be the potential impact on the non-designated heritage asset of the ridge and furrow, the landscape setting and trees.

## POLICY CONTEXT

4.4 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no development plan for York other than the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. These policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt extending from the edges of the built up area to 'about 6 miles' from the centre of the City. The policies state that the detailed inner and the rest of the outer

boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

4.5 Central Government guidance is contained in the National Planning Policy Framework (NPPF, March 2012). Paragraph 7 of the National Planning Policy Framework says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Paragraph 14 explains that at the heart of the Framework is a presumption in favour of sustainable development. This presumption does not apply where there are specific policies in the Framework which indicate that development should be restricted, such as policies relating to land designated as Green belt or locations at risk of flooding. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as protecting Green Belt, seeking high quality design and a good standard of amenity for all, taking full account of flood risk, conserving and enhancing the natural environment, encourage the effective use of land, conserve heritage assets, and actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling.

4.6 Although there is no formally adopted local plan, the City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. However such policies can be afforded very limited weight. The relevant policies are summarised in section 2.2 above. The site lies within the City of York Green Belt on the Proposals Map that accompanies the draft 2005 plan.

4.7 On 21 February 2018 the Publication Draft York Local Plan 2018 ("2018 Draft Plan") was published for the final six week consultation. The emerging Local Plan policies contained within the 2018 Draft Plan can only be afforded limited weight at this stage of its preparation, and subject to their conformity with the NPPF and the level of outstanding objection to the policies in accordance with paragraph 216 of the NPPF. The evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications. The Proposals Map accompanying the 2018 draft plan includes the larger southern part of the site as housing site H6 suitable for C3b development, with the smaller northern part of the site, east of St Leonard's Hospice, being retained as part of the Green Belt.

## PRINCIPLE OF DEVELOPMENT

4.8 Paragraph 14 of the NPPF establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In

decision-taking this means approving development proposals without delay that accord with the development plan. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, or specific policies in the Framework indicate development should be restricted. The footnote to paragraph 14 includes those policies relating to land designated as Green Belt.

4.9 Whilst the RSS has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates the general extent of the Green Belt around York. These policies comprise the S38 Development Plan for York. The policies in the RSS state that the detailed inner boundaries and the rest of the outer boundaries of the Green Belt around York need to be defined to protect and enhance the nationally significant historical and environmental character of York. The inner and outer boundaries of the Green Belt have not formally been defined or identified in an adopted local plan.

4.10 The site is an open, undeveloped pastoral field on the edge of the main built-up area of the City that has a direct visual and physical connection with the wider open countryside beyond it to the east. It is located within the general extent of the York Green Belt as illustrated in the RSS. It is also included within the City's Green Belt in the 2005 Draft Local Plan, but the 2018 emerging Local Plan proposes that the southerly section of the site be allocated for C3b residential extra care housing development and be excluded from the Green Belt. However, it is for the Local Plan examination process to consider and set the boundaries of the Green Belt in accordance with the RSS and, therefore, in view of the early stage of the emerging plan and its limited weight and its character, appearance and historical use, the site is considered to fall within the general extent of the Green Belt until the inner boundaries are defined through adoption of the Local Plan.

4.11 As such, the proposal should be assessed against the restrictive policies in the NPPF.

## GREEN BELT POLICY

4.12 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. Whilst there is no definition of openness in the NPPF, it is commonly taken to relate to the absence of buildings or built development.

4.13 Paragraph 87 confirms that inappropriate development is, by definition, harmful to Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. It goes on to say that 'very special circumstances'

will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. All development is considered to be inappropriate in Green Belt, unless it falls within the closed lists of exceptions contained in paragraphs 89 or 90 of the NPPF.

4.14 The proposal involves the erection of a new building and associated access road, parking and services on a previously undeveloped and open parcel of land that has a long-standing use for animal grazing. The proposed building would not fall within any of the listed exceptions in paragraph 89 of the NPPF. The buildings are not for agriculture and forestry or outdoor sport and recreation. It does not involve extension or replacement of an existing building. It does not relate to limited infilling in villages nor involves redevelopment of a previously developed site. The fifth exception allows for limited affordable housing for community needs under policies set out in a Local Plan, but there is no such adopted Local Plan at this time. The engineering operations would not preserve the openness or purposes of the Green Belt and, therefore, would not fall within paragraph 90. The proposed works are, therefore, considered to constitute inappropriate development within the Green Belt that is, in accordance with paragraph 87 of the NPPF, harmful by definition. Substantial weight is to be given to the harm to the Green Belt. Such development should not be approved unless 'very special circumstances' exist.

#### IMPACT ON GREEN BELT OPENNESS AND PURPOSE

4.15 In addition to the harm by reason of inappropriateness, consideration also needs to be given to other harm to the Green Belt. The NPPF states that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 80 sets out the five purposes of the Green Belt: - to check the unrestricted sprawl of large built up areas; to prevent neighbouring towns merging in to one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration by encouraging the re-cycling of derelict and other urban land.

4.16 The site is open in character and has a rural nature with gently sloping grazing land and two groups of large mature trees that contribute to the appearance of the site as parkland. It represents a remnant of higher quality landscape that is typical of the historic setting of the City. Views across the site to the fields beyond are permitted from St. Leonard's Hospice and car park, from the Square where the roadway meets the site boundary and from the field gate access point on The Grove. From this perspective the site has a rural appearance and reads as part of the rural land around the main urban area. Longer distance views of the site are possible across the flat open terrain to the east from the network of foot/cycle ways and from the Sim Balk Lane to the south (which provides an elevated view due to its bridge over the A64). However, the site is a relatively small parcel of land in comparison to the wider expanse of fields and is read in the context of the built

development on three sides and screened by a line of mature trees and vegetation along its eastern boundary.

4.17 The proposal would involve the erection of built form on the lower levels of the site that would be set away from the existing development surrounding the site due to the presence of the mature trees and to maintain views from St. Leonard's Hospice. The erection of the building on undeveloped land where currently there is none would give rise to loss of openness of the site and as a result that of the Green Belt. As such, the proposal would conflict with two of the five purposes of Green Belt, being to check the unrestricted sprawl of large built-up areas and to safeguard the countryside from encroachment. This further harm to the openness and purposes of Green Belt should be attributed substantial weight.

## CHARACTER AND APPEARANCE

4.18 Section 7 of the NPPF requires good design. At paragraph 56, it says that good design is a key aspect of sustainable development that is indivisible from good planning and should contribute positively to making places better for people.

4.19 The application is supported by Design and Access Statement prepared by West and Machell Architects and a Landscape Review undertaken by Surface Property.

4.20 The erection of a building of the size proposed and the construction of associated roadways and parking on a previously undeveloped and open site would significantly change the existing rural character and appearance of the site. Further, the built form would impact on immediate public views of the land from abutting highways and across it to the open countryside beyond. Whilst the site is visible in longer distance views, any built form would be read in the context of existing development on three sides of the land and the strong line of trees and vegetation along the eastern site boundary would provide some visual buffering. Whilst the open parkland and pastoral setting of the site would be lost, the proposed scheme does manage to retain some of the land around the building in its current form as meadow grassland around mature trees with mown paths where possible or is proposed as a sensory garden with boardwalk paths.

4.21 The design of the building itself in terms of its siting, massing and detailing is considered to be appropriate in the context of the surrounding developments. It is proposed to sit on the lower land level with the site, and away from mature trees and ridge and furrow. It adopts a contemporary modern design rationale, using buff bricks and light render with a slate effect roof. The massing of the building is broken down by visual breaks in the roofline, changes in height, fenestration design changes and the inclusion of bay windows with winter gardens and external balconies. These also help to give the building depth and texture along with areas of hit and miss brick detailing. Whilst the residential element of the proposed building is three storey in height, in three joined blocks, this needs to be seen in the

context of the surrounding built form and the slope of the site. The site is enclosed on three sides by developments that are residential in nature and are a mix of type and architectural styles. The properties to the south on The Grove and Chessingham Gardens are largely two storey detached houses and are situated to the north of the large four/five storey York College building. The Square consists of terrace mews with long continuous roof ridges and with those backing onto the site being 3½ storey in height. The terrace rows are set around a central communal square and sit on higher ground than the application building. St. Leonard's is a large building covering a large area albeit largely at single or two storey height. The properties on Revival are a mix of property types and heights including two storey detached properties and three storey houses and apartment buildings.

4.22 The Police have commented on the security of the proposed development and the measures proposed to reduce the opportunities for crime. Overall the response is positive, with aspects such as cycle parking capable of being conditioned. However, some concern is raised about what is considered to be unnecessary pedestrian permeability from the various routes. Two of the pedestrian routes link the proposed building and sensory garden with the existing hospice and would facilitate direct connection between these two charitable organisations. The fourth dedicated pedestrian route connects to The Square. Residents of The Square raise concerns that echo those of the Police in terms of security for existing occupants, but also loss of privacy and quiet enjoyment. This pedestrian route would offer a convenient link for residents and staff to the public transport route along Tadcaster Road and local amenities, such as the supermarket. This is important for the ease and safety of future residents and given the lower level of car usage. The Square was intended to be adopted as highway, but remains private at this time, and, as such, agreement would need to be reached with the landowner to establish and deliver the proposed access. The agent has confirmed that the Trust has retained a right of access to the site from The Square at this point and that its intention is to control access through a security gate.

4.23 In summary, the proposed scheme would have localised harm from the change to the character and appearance of the site and the loss of its bucolic landscape setting, though the harm would be less significant in the wider context as it would be viewed against the backdrop of other existing development. Therefore, overall, there is no significant adverse impact when taken as a whole in terms of its design considerations.

## BIODIVERSITY

4.24 The Town and Country Planning Act 1990 and subsequent Acts and regulations, allow for the protection of trees for amenity reasons. Chapter 11 of the NPPF states that the planning system should contribute to and enhance the natural environment by, amongst other things, minimising impacts on biodiversity and providing net gains in biodiversity where possible as well as preventing adverse effects on pollution and land instability. Paragraph 118 of this chapter requires

LPAs to aim to conserve and enhance biodiversity, including the refusal of planning applications where significant harm cannot be avoided or adequately mitigated and where development would adversely affect Sites of Special Scientific Interest (SSSI), ancient woodland and European protected sites. Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss.

4.25 The site is located approximately 600m from the Askham Bog SSSI, approximately 370m from ponds that provide great crested newt habitat, is a Priority Habitat as defined in Section 41 of the NERC Act 2006 and has protected trees within it and along its boundaries. There are other visually significant trees along site boundaries.

4.26 The site is considered to be at a sufficient distance from the SSSI and separated by other development including Tadcaster Road, a large supermarket and Askham Bar Park and Ride site and, as such, the proposal would not adversely affect this designated nature area. The Great Crested Newt habitat is also located at an adequate distance from the site to avoid direct adverse impacts, though care needs to be taken during any clearance of the site and this could be conditioned to mitigate any impact on the protected species.

4.27 The proposal would lead to the direct loss of some of the Priority Habitat, though the design of the building is such that the majority of trees are proposed to be retained along with grassland to the east and west of the site. Some trees would need to be removed to accommodate the new site access, but there would be new planting along the access road within the site to help mitigate the loss.

4.28 Concern had been raised by the Council's Landscape Architect to the potential for harm to trees within the site, particularly to those large, old and most valuable trees that are identified as most desirable for retention and which had limited tolerance to sustain root damage or degradation in ground conditions because of their age and species. The scheme has been revised to pull the building and associated road and services slightly further south-west in order to move it further away from the mature trees on site and thereby reduce the potential adverse impact. The Landscape Architect comments that the alterations have reduced the potential impact on the existing trees to an acceptable level. There remains some encroachment from car parking, roads and level changes, but with careful implementation it is considered possible to provide these associated facilities without significant detrimental harm to the trees. An indicative drainage strategy has been submitted that avoids the root protection areas of existing trees. Conditions are requested to require a detailed landscape scheme and an arboricultural method statement.

4.29 In light of the above, no further harm is identified to biodiversity as the identified harms could be mitigated by condition.



## ARCHAEOLOGY

4.30 The NPPF provides advice on the impact of proposals on designated and non-designated heritage assets. Paragraph 129 of the NPPF states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 135 states that the effect of proposals on the significance of a non-designated heritage asset should be taken into account in determining an application.

4.31 The application is supported by a desk based archaeological assessment dated May 2016 and carried out by On Site Archaeology. The site lies within a wider Romano-British landscape and contains a well-preserved area of medieval ridge and furrow to the northern part of the site. The area has significance as a non-designated heritage asset of local significance.

4.32 The proposed development has the potential to harm any Romano-British deposits that are present at the site. However, it is considered that any harm to such locally significant deposits could be mitigated through an archaeological watching brief to record any deposits revealed in the development process.

4.33 The area of ridge and furrow is to be retained and is proposed to be used as a sensory garden by future residents of the assisted living homes. The position of the additional car parking area to serve St. Leonards is outside the extent of the current preserved ridge and furrow. As this area of ridge and furrow is a valuable and unusual survival in this area of the City, a landscape approach has been negotiated that allows access for use as a sensory garden, whilst retaining the profile and form of the earthworks. The footpaths within the area are to be timber boardwalks and landscaping is to be wildflower meadow rather than a formal landscaped garden.

4.34 The City Archaeologist has raised no objection subject to the imposition of conditions to secure further archaeological evaluation, including a watching brief for the sensory garden groundworks, a topographic record of the earthworks and a method statement for the construction of the landscaping arrangements. Therefore, in accordance with paragraph 135 of the NPPF, a balanced judgement has been made to ensure that any harm or loss of the locally significant non-designated heritage assets can be mitigated.

## RESIDENTIAL AMENITY

4.35 One of the core principles of the planning system outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants.

4.36 The proposed building would be located to the north of the houses on The Grove and Chessingham Grove, would be separated by the boundary vegetation and an adequate separation distance. In terms of the properties on The Grove, no.1 faces towards the site at a distance of over 45m and separated by the highway, no.9 is angled away from the building and located further east than it as well as at a distance of approximately 35m and no.8 is located further east again at a distance of approximately 44m. They are all beyond the vehicle access and internal access road so would not be adversely affected by increased vehicle movements to the site. Those properties on Chessingham Grove that either side on or back on to The Grove would not be unduly affected by the building itself, but may be aware of additional vehicle movements along the road. However, this is a public highway and the impact on amenity would be short-lived.

4.37 The building would be lower in height than the terrace properties on The Square that look over the site (numbers 14-19). It would be located on lower land due to the slope in the land and at a separation distance of over 50m. The two terrace rows either side of numbers 14-19 sit gable end on to the site. No vehicle access is proposed from The Square with the exception of an emergency vehicle access. A gated pedestrian link is proposed that would increase footfall through the existing properties, though this would not necessarily detract from the living conditions of residents in the development and would likely be limited to daytime activity. Again those properties on The Square that back onto The Grove may be aware of increased vehicle movements, though their rear gardens are separated from the public highway by some vegetation. Therefore, it is considered that the proposal would not result in harm to the residential amenity of these properties.

4.38 St Leonard's Hospice would be located at a sufficient distance from the proposed building and separated by a group of mature and protected trees. The properties on the Revival estate to the north would be located at more than 100m from the proposed building and would be separated by the sensory garden, dense tree line along the northern site boundary and a cycle track. There would be no disturbance to these properties or the Hospice from users of the proposed sensory garden.

4.39 Overall, the proposal is considered not to result in any adverse harm to residential amenity sufficient to warrant refusal.

## HIGHWAY SAFETY

4.40 In accordance with the NPPF, the site is located in a sustainable and accessible location within walking distance of a main transport route into the City

Centre along Tadcaster Road (A1036), Askham Bar Park and Ride bus stops and a large supermarket. The site is well connected to the City's cycle network, with a route along Tadcaster Road leading to other cycle ways within the City.

4.41 A Transport Statement undertaken by Fore Consulting dated 14 September 2017 has been submitted to assess the impact of the development on the existing highway network and highway safety.

4.42 Vehicular access is proposed from Tadcaster Road via The Grove, which is an adopted highway. There is an existing field access from The Grove to the site, which is intended to be re-positioned further east along the road. This would lead to an internal access road serving a delivery area and parking areas for 26 vehicles, two of which would be disabled parking bays. Residents of The Grove and the Chessingham Grove Management Company have raised objections to the access from The Grove, claiming that the applicant has no rights to access across the strip of land to the north of adopted highway that is within private ownership being under the control of the management company. The Trust's solicitor, Harland & Co., has written to confirm the legal position and confirms that full rights were reserved by the Trust when the land was sold to Victor Homes in 1998 to enable the development of its reserved land. This gives the Trust the right to enter onto the land, to carry out construction works and to build a new access and road. This is a private legal matter and sufficient confidence has been provided by the Trust's solicitor that the site can be accessed as proposed.

4.43 An emergency access and a gated pedestrian link is proposed from The Square, which is a private un-adopted highway. Again, the Trust's solicitor has provided written confirmation that the land sale between Wilberforce Trust and the developer of The Square required the developer to provide a new road and footpath to serve the housing development and the land retained by Wilberforce Trust. Further it includes a full and unrestricted right of access for Wilberforce Trust and future owners of the retained land over the road for the purposes of access from the retained land to the public highway. This right entitles the Trust to remove any railings blocking access to their retained land.

4.44 There is a further vehicular access via the Hospice to provide access to its proposed additional car parking, with two pedestrian links to facilitate the sharing of services between these two charitable organisations and are the result of discussions between them.

4.45 Whilst cycle parking is shown on the submitted plans, this needs to be covered and secure given the longer term nature of the users. Therefore, a condition should be imposed to require further details.

4.46 The Council's Highway Network Management Team has raised no objections to the access and parking arrangements in terms of highway safety and the impact on the highway network, subject to clarification that tactile paving can be provided at

the access on The Grove and regarding cycle parking provision. The agent has confirmed that the access can incorporate tactile paving. The installation of bus stop improvements in the form of RNIB capable real time bus information screens at the two nearest bus stops has also been requested by the Highway Network Management Team and are considered necessary to positively aid sustainable transport measures to and from the site for staff, visitors and residents.

4.47 In light of the above, the proposal is considered to be acceptable in highway safety terms.

## FLOOD RISK AND DRAINAGE

4.48 Paragraph 103 of the NPPF states that development should be directed to the areas of low flood risk and that development should not result in an increase of flood risk within the site or elsewhere. Policy GP15a of the Draft Local Plan supports this approach to flood risk.

4.49 A Flood Risk Assessment carried out by Dudleys and dated 27<sup>th</sup> July 2017 has been submitted with the application. This confirms that the site is Greenfield with no previous historic development and lies within Flood Zone 1 (low probability). As such, and as a more vulnerable use, the development is considered to be appropriate. The proposed drainage strategy includes gravity discharge of foul water to the dedicated sewer in The Square and attenuated discharge of surface water to the dedicated sewer within the fields to south-east of site. The drainage strategy is indicative and, therefore, a condition is required to agree the detailed arrangements so that the site can be adequately drained.

4.50 No objections are raised to the scheme by Yorkshire Water, the Environment Agency or the Council's Flood Risk and Asset Manager, though Yorkshire Water request the imposition of conditions relating to foul water disposal and compliance with the flood risk assessment. As such, there is no further harm identified.

## CONTAMINATION

4.51 Paragraph 120 of the NPPF also states that new development should be appropriate for its location to prevent unacceptable risks from pollution and land instability, with the responsibility for securing a safe development resting with the developer.

4.52 A Phase 1 Environmental Assessment dated May 2016 has been submitted to support the application. This shows that there are a number of potential contaminant sources leading to land contamination at the site that could pose a risk to future residents and other receptors. The report advises a Phase 2 site investigation is undertaken prior to any development on site. This is supported by Public Protection who seek conditions to cover site investigation and a remediation scheme to be submitted for approval. Further conditions are requested including a

construction environmental management plan is also sought through condition to seek to minimise noise, vibration and dust creation, restriction on working hours, control on noise from operational plant and machinery and restriction of delivery times through the construction stage given the proximity of surrounding housing. In accordance with paragraph 35 of the NPPF and the Council's Low Emission Strategy (adopted in October 2012), a condition requiring one electrical vehicle charging socket to be provided.

4.53 In light of the potential to mitigate the impact, there is considered to be no additional harm caused.

## OTHER CONSIDERATIONS

4.54 In summary, the proposal would involve inappropriate development in Green Belt, that is by definition harmful to the Green Belt due to its inappropriateness. It would result in additional harm to the openness and purposes of the Green Belt. Other identified harms to biodiversity and non-designated heritage assets could be mitigated against through conditions. Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development unless other considerations exist that clearly outweigh identified harm to the Green Belt, and any other harm, which would amount to 'very special circumstances'. Substantial weight is to be given to the harm to the Green Belt.

### Applicant's Case for Very Special Circumstances

4.55 The 'other considerations' put forward by the applicant include the following:

- level of potential harm to the Green Belt
- accommodation requirements of the Trust
- car parking requirements of St. Leonard's Hospice
- significant delays involved in taking the Local Plan through various stages of adoptions process
- proposed allocation of the site in various iterations of the Draft Local Plan

#### (i) Level of Potential harm to Green Belt

4.56 The applicant considers that the site does not fulfil a role in Green Belt policy terms and that the overall level of harm to the Green Belt would be fairly moderate. The site is surrounded on three sides by housing and reads as a void in an otherwise built up frontage, it does not check unrestricted sprawl, prevent neighbouring towns from merging or safeguard the countryside from encroachment. The eastern boundary is considered to provide a clearly defined and defensible boundary that aligns with the existing housing development to the north and south. As such, it is considered that the site does not preserve the historic setting of the City. In terms of the fifth purpose, there is a shortage of sites in York, which has led the Council to allocate areas of Green Belt for housing development. From the point

of the Trust, the proposed development is only deliverable because they are the land owners and it would not be viable to purchase other brownfield land in order to deliver the scheme.

(ii) Accommodation requirements of the Trust

4.57 The Trust works alongside the Adult and Social Services Team at the Council in order to provide housing, support and care services to individuals registered with a visual or sensory impairment. The existing provision of the Trust, which is in houses of up to 6 residents within the community, does not meet Central Government policies to promote independent living and care services to meet the needs of individuals. The proposed development would see an increase in the number of units available for tenants registered with the Council from 24 to 30. Whilst the intention of the Trust is to dispose of its current housing stock, there is the potential to retain some of the existing properties if it served the needs of the residents, which would allow an increase in the number of care contracts with the Council that could be fulfilled for which there is a shortage of accommodation in the City.

(iii) Car parking requirements of St. Leonard's Hospice

4.58 The Hospice urgently require additional parking, which has arisen following a vast increase in the demand for patient services – the Hospice employs over 200 staff and a further 650 volunteers.

(iv) Significant delays involved in Local Plan adoption

4.59 The Trust is a charity that provides special housing for its tenants and the timescale for the adoption of the Local Plan does not align with its requirement to provide improved accommodation for its tenants and fulfil care contracts.

(v) Proposed allocation of the site in Draft Local Plan

4.60 Iterations of the Draft Local Plan dating back to 2013 have identified the site for housing development, including Local Plan Preferred Options (June 2013), Local Plan Publication Draft (September 2014), Preferred Site Consultation (July 2016), Pre-Publication Draft (September 2017) and Publication Draft York Local Plan 2018. In doing so, the Council has already considered the principle of development on this site in its decision to allocate the land for housing and subsequently for C3b uses in the draft Local Plan. Objections to the draft allocation have mostly been overcome and the outstanding concern from residents of The Grove relates to the impact on the surrounding highway network.

## Assessment of Very Special Circumstances Case

4.61 As noted above, the site falls within the general extent of the Green Belt. Although located on the inner boundary of the Green Belt, which in accordance with development plan policies in the RSS needs to be defined through a Local Plan, there is currently no such adopted Local Plan and the weight to be attributed to the emerging Local Plan remains limited in light of the representations received. Eight objections have been received which relate to the sensitivity of the location close to the Hospice, the impacts from additional traffic on increased congestion and loss of existing greenspace. Support from four commentators relates to the proposal for specialist housing. The landowner has also made representation, objecting to the designation as C3b specialist housing and to the reduction in the allocated area with the retention of the area of land east of the Hospice within the Green Belt. Despite the representations, the emerging Local Plan Publication Draft has retained the site's allocation for the southern area of land as a specialist housing site on the basis of the Strategic Housing Market Assessment requirement for up to 84 extra care units per annum over the plan period as an objectively assessed housing need. However, the weight that can be attributed to the proposed allocation is limited given that it has not been tested through Local Plan examination.

4.62 The site was put forward under the 'call for sites' and, following assessment, the southern part of it has been allocated for development through the emerging Local Plan process. The assessment has been based on the environmental constraints of the site, its sustainable location, and the potential to create a good defensible inner Green Belt boundary. This is due to the contained nature of the site and the strong, clearly defined tree line along the eastern boundary, which could deliver a more successful urban edge.

4.63 The NPPF, in its core principles, encourages the delivery of homes that meet the country's needs, with effort made to objectively identify and then meet the housing needs of an area. The Strategic Housing Market Assessment (2017) for the York area concludes that there is a requirement for up to 84 extra care units per annum over the plan period and that this need falls within the objectively assessed housing need. This evidence based assessment document, and the objectively identified need highlighted within it, is a material consideration that can be attributed weight.

4.64 The Trust provides existing tenanted facilities within the City that accommodate individuals registered with a visual or hearing impairment and sometimes with more severe disabilities. The current accommodation comprises houses with small groups of up to six residents sharing facilities and living space. The Trust has explained that this provision does not meet Central Government policies that seek to promote independent living and care services. Residents do not choose to live together, but are placed together in available accommodation. All tenants have to fulfil a criteria of having a visual or hearing impairment to apply for tenancy and are in need of a care package ranging from as little as a few hours a

week to over 173 hours a week including night monitoring services. Each individual is assessed by the Council's Care Management Team that determine a person's needs to live as independently as they are able.

4.65 The scheme offers the opportunity to provide supported accommodation within self-contained units to allow residents to live as independently as possible. As the Trust currently provides accommodation for 24 tenants, there would be a slight increase in the number of units that would be available. Further, the application confirms that the Trust may retain its existing housing stock allowing the number of care contracts to be increased.

4.66 The hub element of the scheme includes space for offices and ancillary facilities for the supported living units. The offices would be re-located from the Trust's current location within the main built-up area of the City. The Trust has confirmed that the office element would largely provide hands on services to support the running of the residential accommodation, with a small amount of back-office functions. The co-location of the office facilities alongside the proposed housing is anticipated by the Trust to lead to vast improvements in the level of service provided to tenants.

4.67 It is accepted that the proposed scheme is only deliverable at the application site because it is already owned by the Trust, who as a charitable organisation, would not be able to competitively acquire land, thereby making the scheme unviable. The application also points to the shortage of sites within the City, which has led to the proposed allocation of areas of Green Belt land for housing development in the emerging Local Plan.

4.68 It is noted that the Council's Adult and Social Services and the Housing Development Team fully support the scheme on the basis that it provides much-needed specialist homes for adults with disabilities who receive a package of care and support.

4.69 The proposal includes the provision of additional car parking to serve the Hospice, which would be located immediately adjacent to the eastern boundary of the Hospice site. It would meet an identified need for an existing community facility that provides a valued service for the York area both at the Hospice and within individual's homes via the Hospice@Home service. The remaining land, where the ridge and furrow exists, is proposed to be retained as a sensory garden accessible to users of both the Hospice and the proposed extra care accommodation. This would provide an important facility for the existing and proposed uses that would maintain the general openness of the site, would be reversible and would retain the ridge and furrow.

4.70 Therefore, it is considered that, when taken together, there are compelling and substantial considerations that weigh heavily in favour of the proposal.



## 5.0 CONCLUSION

5.1 The proposal involves the erection of a new building with associated ancillary works and the provision of additional parking to serve St. Leonard's Hospice. However, the site lies within the general extent of York's Green Belt. As specific Green Belt policy within the NPPF indicates that development should be restricted, the presumption in favour of sustainable development established by paragraph 14 of the NPPF is not engaged and the more restrictive Green Belt policies in the NPPF apply. The proposal would result in harm to the Green Belt by reason of inappropriateness as well as additional harm to the openness and purposes of the Green Belt and substantial weight is attached to this harm. Other identified potential harms to biodiversity and non-designated heritage assets could be mitigated against by conditions.

5.2 It is considered that the benefits that would be provided by the scheme, when taken together, being the delivery of supported living homes with on-site office and ancillary facilities operated by a charitable organisation for adults with disabilities who receive a package of care and support and the provision of needed additional parking to serve an existing hospice, are of sufficient weight to clearly outweigh the Green Belt harm and other harm identified. Therefore, very special circumstances exist to justify the proposal and the application is recommended for approval subject to conditions. One such condition should be the restriction of the use to class C3b in view of the identified need being accepted as a favour contributing to the very special circumstances justifying inappropriate development in the Green Belt.

5.3 Any approval is subject to completion of a Section 106 Agreement to require:

- the provision of on site affordable housing, equating to 9 no. affordable homes for rent;
- the installation of RNIB capable real time bus information screens at the two nearest bus stops.

**6.0 RECOMMENDATION:** Approve subject to the prior completion of a legal agreement under S106 of the Act to require secure the provision of on site affordable housing, equating to 9 no. affordable homes for rent and the installation of RNIB capable real time bus information screens at the two nearest bus stops.

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

Drawings 3446(2)001B 'Lower Ground Floor Plan' dated 14/09/17, 3446(2)002D 'Ground Floor Plan' dated 04/10/17, 3446(2)003D 'First Floor Plan' dated 04/10/17, 3446(2)004D 'Second Floor Plan' dated 04/10/17, 3446(2)010A 'Apartment Type A' dated 4/10/17, 3446(2)011A 'Apartment Type B' dated 04/10/17, '3446(2)012A

'Apartment Type C' dated 04/10/17, 3446(2)013A 'Apartment Type D' dated 04/10/17, '3446(2)014A 'Apartment Type E' dated 04/10/17, 3446(3)002A 'Elevations Sheet 1' dated 04/10/17, 3446(3)003A 'Elevations Sheet 2' dated 04/10/17, 3446(3)004 'Courtyard Elevations' dated 31/10/17, 3446(3)005 'Detailed Elevation - Apartments' dated 24/08/17, and 50308-DR-LAN-301 'Boardwalk' dated 14/09/17,

Revised drawings 346(1)006I 'Site Layout' dated 08/02/18, 3446(3)001D 'Site Section' dated 15/2/18, 50308-DR-LAN-101F 'Detailed Landcape Masterplan' dated 28/03/18 and 50308-DR-LAN-102D 'Landscape Masterplan (Sensory Garden)' dated 28/03/18;

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

3. No development shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within a wider Romano-British landscape and contains a well-preserved area of medieval ridge and furrow that are of archaeological interest and the development will affect important archaeological deposits which must be recorded prior to destruction. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

4. No groundwork shall commence on the site of the sensory garden until the applicant has secured the implementation of a programme of archaeological work (a watching brief on groundworks in the proposed sensory garden by an approved archaeological unit) in accordance with a specification approved by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before the development commences.

Reason: The site lies within a wider Romano-British landscape and contains a well-preserved area of medieval ridge and furrow that are of archaeological interest and the development may affect important archaeological deposits which must be recorded prior to destruction. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

5. No groundwork shall commence on the site of the sensory garden until the applicant has secured the implementation of programme of archaeological work (a topographic record of ridge and furrow in the area of the proposed sensory garden

by an approved archaeological unit) in accordance with a specification approved by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site contains a well-preserved area of medieval ridge and furrow that is of archaeological interest that the development will affect and which must be recorded prior to alteration. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

6. No groundwork shall commence on the site of the sensory garden until a method statement has been submitted to and approved in writing by the Local Planning Authority. This method statement shall cover the construction of the landscaping arrangements in the area of the medieval ridge and furrow. The sensory garden shall be constructed in accordance with the approved method statement.

Reason: In the interests of retaining the outline and profile of the locally significant medieval ridge and furrow. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

7. Before the commencement of development an Arboricultural Method Statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement shall include details and locations of protective fencing, ground protection, site rules and prohibitions, phasing of works, site access during demolition/construction, types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of site compound and marketing suite. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material and boundary treatments is proposed within the root protection area of existing trees. A copy of the document will be available for inspection on site at all times.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

8. No construction shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscape scheme which shall

include the species, stock size, density (spacing), and position of trees, shrubs and other plants, seeding mix, sowing rate and mowing regimes where applicable. It will also include details of ground preparation and maintenance/management. This scheme shall be implemented within a period of six months of the substantial completion of the development. Any trees and plants which within a period of five years from the substantial completion of the landscape scheme, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site, and the means of establishment and management, since the landscape scheme is integral to the amenity of the development.

9. Prior to the commencement of development, including any ground clearance, a Reasonable Avoidance Measures (RAM) Method Statement for great crested newts shall be submitted to and approved in writing by the Local Planning Authority. This should include:

- Project and Ecological Background;
- Development Proposals – site preparation and construction works;
- Risk Assessment – working areas, potential impacts of works and assessments of impacts;
- Method of working – surface vegetation removal and site preparation works, ongoing construction related activity and action on discovery of great crested newts;
- Figures/plans.

Reason: To prevent harm to a protected species. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

10. Prior to occupation of any part of the development, a sensitive lighting scheme for the building and associated infrastructure shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats (but also other nocturnal species) and that are likely to cause disturbance; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy as approved, and shall be maintained thereafter in accordance with the approved strategy. Under no circumstances should any other

external lighting be installed without prior written consent from the Local Planning Authority.

Reason: To prevent harm to a protected species.

11. No development shall take place until details of the proposed means of disposal of foul water drainage for the whole site, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority. Furthermore unless otherwise agreed in writing by the Local Planning Authority, no buildings shall be occupied or brought into use prior to completion of the foul drainage works in accordance with the details as approved.

Reason: To ensure that no foul water discharges take place until proper provision has been made for their disposal. It is necessary to require this information prior to commencement of any ground works on site as the provision of drainage is fundamental to the delivery of the scheme and the drainage works may result in irreversible harm to protected trees on site.

12. The development shall be carried out in accordance with the details shown on the submitted Flood Risk Assessment prepared by Dudleys (Report 16034/REP01(1) Rev B dated 27/07/2017), unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of satisfactory and sustainable drainage.

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

Reason: To protect the amenity of local residents and the Hospice. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

14. 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.

Reason: To protect the amenity of local residents and the Hospice.

15. Details of all machinery, plant and equipment to be installed in or located on the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. These details shall include maximum sound levels (LA<sub>max</sub>(F)) and average sound levels (LA<sub>eq</sub>), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the Local Planning Authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the use first commences and shall be appropriately maintained thereafter.

Reason: To safeguard the amenity of occupants of neighbouring premises.

16. Upon completion of the development, delivery vehicles and waste removal vehicles to the development 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

Reason: To protect the amenity of occupants of the nearby properties from noise.

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

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters;
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

receptors. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

18. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historic environment) must be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

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

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

20. 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 where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority.

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

21. Before first occupation of the apartments, community hub and/or offices, 1 no. electric vehicle recharging point shall be provided in a position to be agreed beforehand in writing by the Local Planning Authority. Within 3 months of the first

occupation of the accommodation, the owner shall submit to the Authority for approval in writing an electric vehicle recharging point maintenance plan that will detail the maintenance, servicing and networking arrangements for the recharging point for a period of 10 years. The recharging point shall thereafter be maintained in accordance with the approved maintenance plan.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles.

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

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

Reason: So as to achieve a visually cohesive appearance.

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

Reason: In the interests of highway safety.

24. Prior to construction of the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

25. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, (or any order revoking, re-enacting or modifying that Order), the residential apartments hereby approved shall be used only for supported housing within Class C3(b), of the Two and Country Planning (Use Classes) Order 1987 as amended and shall not be used for any other purpose, including any other purpose in Class C3 of the Town and Country Planning (Use



Classes) Order 1987, as amended (or in any provision equivalent to that Class in any statutory instrument revoking, re-enacting or modifying that Order).

Reason: The proposal constitutes inappropriate development in the Green Belt. It is considered necessary to restrict the use of the dwellings hereby approved because the identified need for them is a factor contributing to the very special circumstances justifying the inappropriate development.

## **7.0 INFORMATIVES:**

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

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

- Pre-application advice provided;
- Revised plans submitted to address concerns about harm to trees;
- Imposition of conditions to mitigate any identified harm.

### **2. Informative on breeding birds**

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while the nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Trees and scrub are likely to contain nesting birds between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive. Trees and scrub are present on the application site and are 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 absolutely certain that nesting birds are not present.

### **3. Informative: Control of Pollution Act**

#### **Contact details:**

**Author:** Hannah Blackburn Development Management Officer

**Tel No:** 01904 551325