



## Notice of a public meeting of

### Area Planning Sub-Committee

- To:** Councillors Galvin (Chair), Shepherd (Vice-Chair), Cannon, Carr, Craghill, Crawshaw, Flinders, Gillies, Hunter, Mercer and Orrell
- Date:** Thursday, 11 January 2018
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

### AGENDA

The mini-bus for Members of the Sub-Committee will leave from Memorial Gardens at 10.00am

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

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

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

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

#### 2. **Minutes** (Pages 5 - 22)

To approve and sign the minutes of the meeting of the Area Planning Sub-Committee held on 9 November 2017.

#### 3. **Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Sub-Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officers on the contact details listed at the foot of this agenda. The deadline for registering is at **5.00pm** on **Wednesday 10 January 2018**.

## **Filming, Recording or Webcasting Meetings**

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## **4. Plans List**

To determine the following planning applications:

**a) Abbeyfield House, Regency Mews, York (17/01419/FULM)**  
(Pages 23 - 50)

Erection of part two/part three storey building comprising 17 extra care flats and 8 dementia care flats following demolition of no.27 St Helens Road [Dringhouses and Woodthorpe Ward] **[Site Visit]**

**b) 25 Barbican Road, York, YO10 5AA (17/02199/FULM)**  
(Pages 51 - 68)

Conversion of 25 and 26 Barbican Road into 12 apartments with associated external alterations and 3 storey rear extension [Fishergate Ward] **[Site Visit]**

**c) Fiesta Latina, 14 Clifford Street, York, YO1 9RD  
(17/02224/FULM) (Pages 69 - 88)**

Conversion of basement and ground floor from restaurant (use class A3) to office use (use class B1), and upper floors from office (use class B1) to 10 dwellings (use class C3). Construction of roof extension, second floor rear extension and alterations to elevations [Guildhall Ward] **[Site Visit]**

**d) 3 Murton Way, York, YO19 5UW (17/02487/FUL)  
(Pages 89 - 96)**

First floor side extension (resubmission) [Osbalwick and Derwent Ward] **[Site Visit]**

**e) 44 Tranby Avenue, Osbalwick, York, YO10 3NJ  
(17/02432/FUL) (Pages 97 - 104)**

Change of use from dwelling (use class C3) to House in Multiple Occupation (use class C4) [Osbalwick and Derwent Ward] **[Site Visit]**

**5. Urgent Business**

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

Democracy Officer:

Catherine Clarke and Louise Cook (job share)

Contact details:

- Telephone – (01904) 551031
- Email [catherine.clarke@york.gov.uk](mailto:catherine.clarke@york.gov.uk) and [louise.cook@york.gov.uk](mailto:louise.cook@york.gov.uk)

(If contacting by email, please send to both Democracy Officers named above).

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

**Abbreviations commonly used in Planning Reports**

(in alphabetical order)

AOD	above ordnance datum
BREEAM	building research establishment environmental assessment method
BS	British standard
CA	conservation area
CIL	Community Infrastructure Levy (Regulations)
CEMP	construction environmental management plan
CYC	City of York Council
DCLP	Draft Development Control Local Plan 2005
DCSD	Design Conservation and Sustainable Development team
dB	decibels
DEFRA	Department for Environment, Food and Rural Affairs
EA	Environment Agency
EDS	ecological design strategy
EIA	environmental impact assessment
EPU	Environment Protection Unit
FRA	flood risk assessment
FTE	full time equivalent
FULM	major full application
GCN	great crested newts
HGV	heavy goods vehicle
IDB	internal drainage board
IPS	interim planning statement
LBC	listed building consent
LGV	large goods vehicle
LPA	local planning authority
NERC	Natural Environment and Rural Communities Act (2006)
NHBC	National House Building Council

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
OAN	objectively assessed need
OUTM	major outline application
PROW	public right of way
RAM	reasonable avoidance measures
RTV	remedial target value
RSS	Regional Spatial Strategy
SHMA	Strategic Housing Market Assessment
SINC	Site of Interest for Nature Conservation
SHLAA	Strategic Housing Land Availability Assessment
SFRA	Strategic Flood Risk Assessment
SPD	Supplementary Planning Document
TPO	tree preservation order
TRO	Traffic Regulation Order
VDS	village design statement
WSI	written scheme of investigation
VAS	vehicle activated signage
VOA	Valuation Office Agency
WHO	World Health Organisation

**AREA PLANNING SUB COMMITTEE**

**SITE VISITS**

**Wednesday 10 January 2018**

**The mini-bus for Members of the sub-committee will leave from  
Memorial Gardens at 10.00**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
10:10	Abbeyfield House Regency Mews	<b>4a</b>
11:00	14 Clifford Street	<b>4c</b>
11:30	25 and 26 Barbican Road	<b>4b</b>
12:10	3 Murton Way	<b>4d</b>
12:25	44 Tranby Avenue Osbaldwick	<b>4e</b>

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City of York Council

Committee Minutes

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Meeting	Area Planning Sub-Committee
Date	9 November 2017
Present	Councillors Galvin (Chair), Shepherd (Vice-Chair), Cannon, Carr, Craghill, Crawshaw, Flinders, Gillies, Hunter, Mercer and Orrell
In Attendance	Councillors Fenton and Reid

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**Site Visits**

<b>Site</b>	<b>Visited by</b>	<b>Reason</b>
26 Tadcaster Road, Dringhouses	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received.
30 Southfield Close, Rufforth	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received.
10 Great North Way, Nether Poppleton	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received.
Colin Hicks Motors, Garage and Yard Rear of 33 Bootham	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received
The Falcon Tap, 94 Micklegate	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received

## **17. Declarations of Interest**

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

Councillor Carr declared an interest in plans item 4a (26 Tadcaster Road, Dringhouses) as he knew the agent, who was speaking on the application, on a professional basis. He confirmed that he did not know the applicant, land owner or developer but advised that he would not participate in the debate or vote on this item and left the room for consideration of this application.

## **18. Minutes**

Resolved: That the minutes of the last meeting of the Area Planning Sub-Committee held on 5 October 2017 be approved and then signed by the Chair as a correct record.

## **19. Public Participation**

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

## **20. Plans List**

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

**20a) 26 Tadcaster Road, Dringhouses YO24 1LQ  
(15/02726/FULM)**

Members considered a major full application by William Cloughton for the erection of 11 dwellings.

Officers advised that one additional support comment had been received from the resident at 26 Tadcaster Road who advised that:

- The National Trust were worried about excessive traffic when they have a number of deliveries to the site and have in the past allowed coaches to park on the highway to let visitors alight
- The bus stop was originally located outside what is now Pocklington Carpets and was only enlarged to allow the purple bendy buses to use the lay-by. These no longer run.
- The development would stop the parking outside of the hairdressers that spills onto the footpath

For clarification, officers advised that in paragraph 3.31, the objections listed were raised by Cllr Fenton and Cllr Mason as well as Cllr Reid, all Dringhouses and Woodthorpe Ward Councillors, and that in the same paragraph the comments of the Dringhouses and Woodthorpe Planning Panel, which had been submitted separately, were included as the last 5 bullet points.

Officers recommended that two additional conditions be added to cover street lighting and the use of obscure glazing to the first floor rear dormer windows in the southern elevation of plots 8 and 9.

They also recommended that condition 9 (Tree Protection) be amended and condition 14 (Off-site highway works) be amended to remove the reference to “ installation of BLISS real time display”

Mr Bruce Kyte, a local resident, addressed the committee in objection to the application. He raised concerns that the proposed development would add to existing congestion on Tadcaster Road and Mayfield Grove and increase the difficulty for those turning out of Mayfield Grove. He also expressed the

view that the increase in number of houses in the area would lead to increased risk of surface water flooding.

Mr Mark Newby, of Yew Tree Associates, the agent for the applicant, spoke in support of the application. He advised that the scheme had been developed to have a minimum impact on surrounding residential buildings and was not obtrusive or out of character with area. In response to concerns relating to drainage, he advised that Yorkshire Water had not objected to the drainage scheme submitted by the applicant. Although there were heritage assets nearby, the proposed site was not within the Tadcaster Road conservation area and there were no protected trees on site.

Councillor Reid, Ward Member for Dringhouses and Woodthorpe, addressed the committee to raise residents concerns in relation to the effect the proposed development would have on surrounding housing (privacy, inadequate parking) and transport as well as on wildlife and drainage. She expressed concern that the proposed access to the site, and the amount of traffic which would need to leave the site during rush hour, would cause problems to wider road users, as access was located on a busy stretch of road. She advised that the report did not include any information on access from the proposed development to Mayfield Grove and asked that this access be conditioned if Members were minded to approve the application.

Officers confirmed that the access to/from the development site onto Mayfield Grove was not intended for vehicles but that Members could condition this to restrict use to cyclists/pedestrians if they felt this was necessary.

Some Members expressed concerns about the impact of the proposed development on the amenity of surrounding residents and on the conservation area, as well as the impact of the access route onto Tadcaster Road, acknowledging the difficulties expressed in relation to turning into/out of Mayfield Grove. Concern was also expressed that the limited green spaces which still existed in central York were being built on

In relation to traffic issues other Members noted that the traffic generation was small and felt that the natural break in traffic on Tadcaster Road, caused by the traffic lights, would allow access to/from the site. They accepted that there were no objections in

the report in relation to flooding and that the proposed development met the requirement of the NPPF and local plan.

Resolved: That on completion of a S106 agreement to secure contributions of £27,164 towards the provision of sports, play area and amenity open space facilities and £19,317 to increase the capacity of Dringhouses Primary School, DELEGATED authority be given to the Assistant Director (Planning and Public Protection) to APPROVE the application subject to the conditions listed in the report and the additional and amended conditions below, as well as an additional condition to restrict the access onto Mayfield Grove to cyclists and pedestrians only.

Additional Condition - Street Lighting:

Notwithstanding the approved drawings a detailed lighting scheme shall be submitted to and approved in writing by the local planning authority and implemented on site prior to first occupation.

Reason: So the Local Planning Authority are satisfied that the design and level of illumination would not have a detrimental impact upon neighbouring residential properties.

Additional Condition - Obscure Glazing plots 8 and 9:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), unless otherwise approved in writing by the Local Planning Authority the first floor rear dormer windows in the southern elevation of plot 8 and 9 shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

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

Amended Condition 9 (Tree Protection)

Before the commencement of and during building operations, measures shall be taken to protect the trees and planting shown to be retained on and

adjacent to the site. This means of protection shall be approved in writing by the Local Planning Authority and shall be implemented prior to demolition, the storing of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area which should be protected throughout the development process.

Amended Condition 14 (Off-site Highway works)

Remove reference to “ installation of BLISS real time display” (see para 4.27 of report)

Additional Condition

The existing access between the site and Mayfield Grove shall not be used by vehicular traffic. The details of the bollards shown on drawing: Site Plan: ROG-305-029 002 Rev J shall be submitted to and approved in writing by the local planning authority. The approved bollards shall be erected prior to the commencement of development unless temporary arrangements to prevent access during the demolition and construction process have been approved in writing by the local planning authority whereby the bollards shall be erected prior to first occupation.

Reason: In the interests of highway safety and residential amenity as the access is considered to be substandard in terms of its width and junction design for use by vehicular traffic.

Reason: It is considered that the development of this site for 11 dwellings is acceptable. The applicant has demonstrated that the acceptable drainage of the site can be achieved and no objections are raised to highway safety. The impact upon the setting of nearby listed buildings has been assessed and the impact upon residential amenity is considered to be acceptable. As such the application accords with policies contained within the Draft Local Plan, the Emerging Local plan, the NPPF and Section 66(1) of

the Planning (Listed Buildings and Conservation Areas) Act 1990.

**20b) 10 Great North Way, Nether Poppleton, York  
(16/02285/FULM)**

Members considered a major full application by Mr Robert Bennett for the erection of a single storey car showroom and workshop with associated facilities.

Officers provided an update to Members. They recommended that, in the interests of visual amenity, an additional condition be added to state that there should be no displaying of vehicles within the frontage landscaping strip, adjacent to the public highway as shown on plan 1605/001H. They advised that paragraph 4.14 should refer to Policy D1, and not D2 as stated. They reported that an additional letter of objection had been received from a neighbouring resident highlighting the impact on residential amenity from the existing Arnold Clark dealership and expressing concern about the additional impact from the proposal. They also advised that, for the purpose of clarification, paragraph 5.4 should be amended to read "*Given that acceptable proposals have been put forward to compensate for the loss of the SINC, officers consider on balance that this provides material planning considerations which justify a recommendation other than in accordance with the development plan and that the application should be recommended for approval subject to planning conditions.*"

Mr Jackson, a local resident, addressed the committee in objection to the application. He advised that he worked in the care home adjacent to the site. He expressed concerns that the proposed development would restrict the view for residents and questioned whether this area needed any more car dealerships. He stated that residents felt that their views were not being listened to and advised that they were facing ongoing issues with regard to lighting and the playing of music from another car dealership and feared that this could happen with this development.

Ian McGregor, the agent for the applicant, spoke in support of the application. He advised that both noise and lighting would be controlled by condition and that the applicant was aware of residents' concerns in relation to this and that there would be no

noise audible from outside the premises and that lighting would be directed away from residential properties.

In response to concerns raised about noise disturbance, clarification was sought by Members on the playing of music in relation to condition 6 which stated background music only with no external loudspeaker. Officers advised that this condition could be strengthened to state that any music played inside the building must not be audible outside the building which was supported by Members.

Members acknowledged that the site was designated as green infrastructure in the Upper Poppleton and Nether Poppleton Neighbourhood Plan due to the Site of Local Interest to Nature Conservation (SINC). Some Members accepted that plans were in place to move and relocate the SINC, which would mean that the site would no longer be designated green infrastructure, and that officers felt that this was a material consideration and reason to recommend a decision which is not in accordance with the development plan.

Councillor Carr moved, and Councillor Galvin seconded a motion to approve the application in line with the officer recommendation. On being put to the vote, this motion was lost.

Other Members felt that the decision should be made following national planning law and the development plan for the area. They expressed the view that as the Upper Poppleton and Nether Poppleton Neighbourhood Plan had been recently adopted, it should not be ignored and they felt that moving the SINC to another ward was not good enough reason to set aside the development plan policy.

Councillor Flinders moved, and Councillor Gillies seconded, a motion to refuse the application on the grounds that the site was shown as green infrastructure in the Upper and Nether Poppleton Neighbourhood Plan (the development plan) and Policy PNP2 of the development plan stated that Green Infrastructure would be safeguarded. Approval would therefore represent a departure from the development plan as there felt that were no material considerations to indicate that determination of this application should not be made in accordance with the development plan. On being put to the vote, this motion was carried, and it was:



Resolved: That the application be refused.

Reason: The proposed development results in a loss of an area of green infrastructure designated in the Upper and Nether Poppleton Neighbourhood Plan which forms the Development Plan for this area. Section 38a of the Planning and Compensation Act 2004 requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise. Policy PNP2 of the Neighbourhood Plan states that Green Infrastructure will be safeguarded and no satisfactory material considerations to justify the loss of the designated green infrastructure to the local areas have been put forward.

**20c) 30 Southfield Close, Rufforth, York YO23 3RE  
(17/01251/FUL)**

Members considered a full application by Mr Alex Kirby for the variation of condition 3 of permitted application 16/01635/FUL for a single storey extension to connect the garage to the house and the re-orientation of the garage roof (retrospective) and an alteration of windows throughout to hardwood casements with an off-white finish (revised scheme).

Peter Rollings spoke on behalf of Rufforth with Knapton Parish Council in objection to the application. He stated that the proposed extension would not meet the necessary guidelines and would dominate both the property itself and the street scene. He expressed concern that there had been a history of non compliance on this site and asked that if Members were minded to approve this application, it should be made clear to the applicant that further breaches of planning legislation would not be tolerated.

Members felt that the single storey link would be below the level of hedge and that it would not impact on neighbouring properties or the street scene. They felt that the alteration to the windows was a neutral change which was acceptable. They noted that the application for the variation of condition 3 had been made retrospectively but felt that if these changes had been included with the original application, they would have been acceptable.

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

Reason: The alterations to the previously approved drawings are not considered to cause harm to the appearance of the dwelling, street scene or neighbour amenity. As such the scheme complies with guidance in the NPPF, draft Local Plan policies GP1 and H7, the Council's SPD and the Rufforth VDS.

**20d) The Falcon Tap, 94 Micklegate, York YO1 6JX  
(17/01468/FULM)**

Members considered a major full application by 2 Pubs Ltd for external alterations relating to retained ground floor public house and renovation of upper floors to form two flats, and demolition of extensions and construction of two residential blocks to rear forming 9 flats.

Consideration of the application for listed building consent 17/01469/LBC (minute 20e refers) took place alongside this application.

Officers advised that a representation had been received from Smith Marston Ltd on behalf of the owner of the apartments at 8 Toft Green with respects to loss of Light. The submission stated that the mass created by the proposed scheme poses a real risk of diminished light to the units at 8 Toft Green. It was noted that these units currently received very little daylight and sunlight. The consultant provided two sketches which demonstrated that the 25 degree guideline (as forwarded in the BRE guide) would fail meaning that there was potential for the daylight and sunlight in the properties at 8 Toft Green to be adversely affected and also, for the proposed units to be poorly lit. It was forwarded that without the applicant commissioning detailed daylight and sunlight assessments in accordance with the requirements in the validation checklist, it was not possible for officers to fully assess amenity and be able to make an informed decision. It was requested that no decision be made until officers had been able to view and consider fully the implications of the scheme with regards Daylight and Sunlight and failure to do so, would be grounds for the owner of 8 Toft Green to consider Judicial Review.

In response to this, officers advised that in validating the application, Officers made a planning judgement that a Daylight and Sunlight assessment was not required in this case. This judgement was based on the site circumstances with this site having an urban rather than suburban context, the use of 8 Toft Green being restricted to short term lets only and the consideration that 8 Toft Green does not incorporate any windows in its north-eastern elevation (further detail is provided at paragraph 4.35 of the report).

Officers advised that condition 2 (Plans) be amended to include updated plan references and that condition 10 (Sound Insulation internal transmission) also be amended.

Officers also advised that two further conditions be added, one to prevent the demolition of the existing extension to the rear of the building which houses the WCs until a phasing plan providing details of the timings for the construction of the replacement rear extension has been submitted and approved, and another condition to cover the provision of cycle and refuse storage.

Richard Paskauskas, owner of the next door property which had been converted to 8 serviced apartments, addressed the committee in objection to the application. He expressed concerns that the proposed new blocks would restrict light to his building but also result in limited light to proposed flats.

A copy of a letter from Smith Marston Ltd Right to Light, appointed by Mr Paskauskas in relation to concerns about loss of daylight and sunlight to his property by the proposed development, was circulated to Members at the meeting for information.

Philip Holmes of O'Neill Associates, the agents for the applicant then spoke in support of the application. He advised members that the proposals were sympathetic to the building, the separation distances were adequate, a noise impact assessment had been carried out and the proposals would have no significant additional adverse impact on light levels for surrounding properties.

Members commented that the Falcon Tap had been a positive introduction onto Micklegate. They felt that the proposals would

allow the applicant to retain economic use of the grade 2 listed building but expressed concern that that removal of beer garden may impact on the long term viability of the pub. One member expressed concern with the setting and appearance and felt that the impact on listed building would be too severe.

Resolved: That the application be approved subject to the conditions listed in the report and the amended and additional conditions listed below.

Amended Condition 2

The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing No's;

001 Rev P01 (Location Plan)

104 Rev P09 (Proposed Site Plan with Context)

105 Rev P07 (Proposed Site Plan)

110 Rev P11 (Proposed Basement and Ground Floor)

114 Rev P04 (Proposed Basement and Ground Floor)

111 Rev P11 (Proposed First Floor)

112 Rev P10 (Proposed Second Floor)

115 Rev P03 (Proposed First and Second Floor)

113 Rev P10 (Proposed Third Floor)

116 Rev PO3 (Proposed Third Floor)

134 Rev P01 (Stair Section)

130 Rev P10 (Proposed Elevations 1 of 4)

131 Rev P07 (Proposed Elevations 2 of 4)

132 Rev P09 (Proposed Elevations 3 of 4)

133 Rev P08 (Proposed Elevations 4 of 4)

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

Amended Condition 10 (Sound Insulation internal transmission)

A detailed scheme of noise insulation measures to limit noise transference between the ground floor public house and the residential use above shall be submitted to and approved in writing by the Local Planning Authority. The scheme of noise insulation measures shall be prepared by a suitably qualified consultant/engineer and shall take into account the

provisions of BS 8233:2014 "Sound Insulation and Noise Insulations for Buildings - Code of Practice". The approved scheme shall be implemented prior to the occupation of the upper floors of 94 Micklegate and shall be permanently retained thereafter.

Reason: In order to safeguard the amenities of future residential occupiers given the nature of the ground floor use.

Additional Condition

The existing extension to the rear of the building which houses the WCs, shall not be demolished until a phasing plan providing details of the timings for the construction of the replacement rear extension, which is to provide facilities for the public house, has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved phasing plan.

Reason: To ensure the continued use of the ground floor of the building as a public house due to its significance as a heritage asset.

Additional Condition

Cycle and refuse storage shall be provided within the bin/cycle store hereby approved and shall thereafter be retained for this purpose.

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

Reason: The proposed development would provide 11 new residential units in a sustainable and accessible city centre location. There would be some minor harm to designated heritage assets, i.e. the setting of 94 Micklegate and the Central Historic Core Conservation Area. Having attached considerable importance and weight to the desirability of avoiding such harm the local planning authority has concluded that it is outweighed by the application's public benefits of providing new residential accommodation, reinstating a use for the upper floors of 94 Micklegate and retaining historic use of

the ground floor as a public house. In its massing, materials and general design, the new blocks have been designed to provide an improved frontage to Toft Green and are considered to preserve the setting of the listed building and the character and appearance of the conservation area taking into account views from street level and from the city walls. All other issues are satisfactorily addressed.

The application accords with national planning policy set out in the National Planning Policy Framework and with local planning policy.

**20e) The Falcon Tap, 94 Micklegate, York YO1 6JX  
(17/01469/LBC)**

Members considered an application for listed building consent for internal works relating to retained ground floor public house and alterations to upper floors to form 2 flats. Demolition of two storey rear extension and erection of replacement extension to accommodate external stair and entrance canopy.

Consideration of this application took place alongside the major full application (17/01468/FULM) (minute 20d refers).

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

Reason: There would be a degree of harm to the special interest of the building deriving from the removal of the existing rear extension and from the formation of two new openings and the creation of a fire lobby at second floor and the subdivision of a rear room at third floor to form a bathroom. The degree of harm however is low and "less than substantial". Having attached considerable importance and weight to the desirability of avoiding such harm it is considered that the degree of harm is balanced by the public benefit of encouraging the use of the upper floors and allowing the viable retention of the ground floor public house. The proposal is therefore considered to accord with the provisions of policy HE4 and guidance contained within the National Planning Policy Framework.

**20f) Colin Hicks Motors, Garage and Yard Rear of 33 Bootham, York YO30 7NP (17/01546/FULM)**

Members considered a major full application by Mr Kevin Mohan for the erection of 14 flats (use class C3) following demolition of a car repair garage.

Officers advised that Condition 10 of the committee report required the applicant to secure the implementation of a programme of archaeological work (a watching brief) in accordance with a specification to be approved by the local planning authority. They advised that since drafting the report the applicant had submitted such a report, which had been accepted by the council's archaeologist and therefore condition 10 should therefore be amended accordingly.

Officers advised that an additional condition in relation to cycle storage be added to any approval (as detailed below)

In relation to the contamination condition (para 4.21 of report), officers reported that since the committee report had been drafted, further ground contamination information had been submitted by the applicant but the contamination was such that a remediation strategy was required. The proposed planning condition required submission of a remediation strategy and a subsequent verification report should therefore remain in place.

Mr Boleslaw Posmyk, a local resident, addressed the committee in objection to the application raising concerns in relation to the density of the proposed development, planting and parking. He expressed concern that the intention was still for the bay windows to face the flats on Bootham place and asked that these be conditioned to avoid overlooking into the bedrooms of the flats on Bootham Place. The Architect advised that it was possible to recess the windows further into the bay. Officers advised that a new condition requiring details of item 3 on the drawing would be required, or specifying setting the windows back into recess. It was agreed that this could be delegated to officers.

Members agreed that the proposals would provide important additional housing to this part of the city and questioned whether it was possible to condition use of the flats. Officers

advised that they had no powers to restrict the occupancy of residential flats within the use class but advised that there was nothing in the application to suggest that they were not intended for normal residential housing.

Resolved: That on completion of a S106 agreement to secure a financial contribution of £3,195 towards off-site sports provision in the city, DELEGATED authority be given to the Assistant Director (Planning and Public Protection) to APPROVE the application subject to the conditions listed in the report and the amended and additional conditions below and an additional condition in relation to the design of the bay windows.

Amended Condition 10 (Archeology)

The development shall be carried out in accordance with the written scheme of investigation by York Archaeological Trust received by the local planning authority on 31 October 2017.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

Additional Condition 14 - Cycle Storage

The residential building shall not be occupied until the proposed cycle storage facilities have been constructed and laid out in accordance with the approved plans and thereafter shall be retained solely for such purposes.

Reason: In the interests of sustainable transport.

Reason: The council's statutory duty under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act gives rise to a strong presumption against planning permission being granted. The proposals as revised would not be harmful to any heritage assets. All other matters are acceptable,



subject to the imposition of conditions where appropriate. The application accords with national planning policy in the NPPF.

Councillor J Galvin, Chair

[The meeting started at 4.30 pm and finished at 7.10 pm].

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**COMMITTEE REPORT**

**Date:** 11 January 2018      **Ward:** Dringhouses And Woodthorpe  
**Team:** Major and Commercial Team      **Parish:** Dringhouses/Woodthorpe Planning Panel

**Reference:** 17/01419/FULM  
**Application at:** Abbeyfield House Regency Mews York  
**For:** Erection of part two/part three storey building comprising 17no. extra care flats and 8no. dementia care flats following demolition of no.27 St Helens Road  
**By:** Abbeyfield Society (York) Ltd.  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 16 February 2018  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 The application is for demolition of the house at 27 St Helens Road and construction of a building to form 17 extra care flats and 8 dementia care flats as an extension to the existing Abbeyfields care home. The proposed new building is predominantly two storey with rooms in the roof over part of the footprint. Materials are a mix of light red bricks with buff brick detailing. Circulation areas are clad in dark grey cement fibre cladding. Roofing materials are red pantiles.

1.2 Four staff parking bays will be accessed via the driveway for the existing property off St Helens Road. Five additional parking bays for visitors are proposed to the front of the building and access is to be retained off Regency Mews. Gardens will surround the building.

1.3 There are a number of trees within the site covered by a Tree Preservation Order (TPO). The trees along the boundaries will be retained with four trees in the centre of the site and covered by TPO being removed along with an additional group of cypress trees.

Planning History

1.4 There have been three previous applications seeking planning permission for further development on the site. In 2005 an application, 05/02774/FULM, for 22 older people's flats in a 3 storey block was refused as it was considered that Regency Mews could not deal with the additional traffic generated by the proposal. The additional traffic was also considered likely to lead to noise and disturbance to existing residents and result in a detrimental impact on highway safety. It was also considered that the proposal represented an overdevelopment of the site and that the height, size,

massing and proximity to neighbours and loss of the open space would be harmful to the character of the area and to residential amenity. The reasons for refusal were:

1. The Planning Authority considers that the residential road leading to the site is of insufficient width and construction to accommodate the increase in traffic movements associated with the development without serious damage to the highway, disturbance to neighbours by reason of noise and congestion, and having a detrimental impact on the safety of road users and pedestrians.
2. In the opinion of the Local Planning Authority the proposed building, by virtue of its height, size, massing and proximity to residential properties and the loss of open space would harm the character and appearance of the area and the residential amenities of neighbours by reason of an over dominating effect. As such the proposal represents an overdevelopment of the site and is contrary to the aims of PPG3 'Housing' and Policies GP1 'Design' and H4a 'Housing Windfalls' of the City of York Development Control Local Plan Approved April 2005.

1.5 Previous to this, application 04/3654/FUL for 22 flats was also refused. The reasons for refusal included unacceptable tree loss, impact on the character and appearance of the local area and residential amenity through overdevelopment and concern about the highways' impact. The reasons for refusal were:

1. In the opinion of the Local Planning Authority the residential road leading to the site is of insufficient width and construction to accommodate the increase in traffic movements generated by the proposed development which would result in serious damage to the highway, harm the amenity of residents by reason of traffic noise and congestion, and compromise the safety of road users and pedestrians.
2. In the opinion of the Local Planning Authority the proposal to remove trees on the site that are the subject of a Tree Preservation Order and that make a significant contribution to the visual amenity of the locality, would seriously harm the character and appearance of the area. As such the proposal is contrary to PPG3 'Housing' and Policies NE1 'Trees, Woodlands and Hedgerows', GP1 'Design' and H4 'Housing Development in Existing Settlements' of the Draft City of York Local Plan.
3. In the opinion of the Local Planning Authority the proposed building, by virtue of its height, size, massing and proximity to residential properties; the loss of trees and open space; would harm the character and appearance of the area and the residential amenities of neighbours by reason of an over dominating effect. As such the proposal represents an overdevelopment of the site and is contrary to the aims of PPG3 'Housing' and Policies GP1 'Design' and H4 'Housing Development in Existing Settlements' of the City of York Local Plan Deposit Draft.

1.6 Application 04/02751/FUL for 22 flats was withdrawn before being presented to committee.

## **2.0 POLICY CONTEXT**

### 2.1 City of York Draft Local Plan Incorporating the 4th Set of Changes Development Control Local Plan (Approved April 2005)

Areas of Archaeological Interest GMS Constraints: Dringhouses Area 0008

CYGP1 Design

CYGP4A Sustainability

CYGP10 Subdivision of gardens and infill devt

CYGP9 Landscaping

CYH17 Residential institutions

CYHE10 Archaeology

CYNE1 Trees, woodlands and hedgerows

### 2.2 Pre-publication Draft Local Plan 2017

D1 Placemaking

H9 Older persons' specialist housing

GI4 Trees and Hedgerows

## **3.0 CONSULTATIONS**

INTERNAL

### Flood Risk Management

3.1 The submitted bore hole logs demonstrate that soakaways will not work in this location, and no objection has been raised to the proposed drainage strategy which incorporates the existing building and proposed development. Conditions are suggested to protect the local aquatic environment and Yorkshire Water infrastructure.

Design Conservation and Sustainable Development (Ecologist)

3.2 No objections are raised on the grounds of ecology. Limited replacement tree planting is proposed and construction of a sensory garden which will prove of some ecological value. An informative is recommended regarding the presence of hedgehogs on site.

Design Conservation and Sustainable Development (Archaeology)

3.3 Previous archaeological investigation has found evidence of Roman use of the site as well as Roman and medieval archaeological adjacent to the site. An archaeological evaluation will be required ahead of development on site and an archaeological watching brief will be required during the removal of 27 St Helens Road. Appropriate conditions are recommended.

Design Conservation and Sustainable Development (Landscape)

3.4 Following concerns raised about the proximity of development to a TPO tree on a neighbouring property to the North East of the site, the scheme has been revised. The revised scheme has moved the building away from the tree so that there should be no requirement to prune the canopy to facilitate development. Drainage runs can also be sited so as to avoid the tree roots. The revisions do move the development slightly more across the root protection area of a further TPO tree but no objection is raised to this. A reduction in the scheme would allow for there to be less risk of harm to trees and the development would sit more comfortably within its site. Conditions recommended.

Public Protection

3.5 Officers have no objection to the proposal and have suggested a number of conditions related to land contamination and the need for Electric Vehicle Charging Points.

Highways Network Management

3.6 No objections subject to £5000 towards a Traffic Regulation Order for Regency Mews and conditions.

Housing Development Team

3.7 20% (ie 5 units) affordable housing is required in line with policy. This should be secured via a S106 agreement.

Adult Social Care

3.8 The application supports the Council's Older Persons' Accommodation Programme. There is a need for more high quality extra care accommodation in the city and in particular dementia care. The site is in a good location and the development is well thought out. It will ensure that the accommodation is available to a wide range of York residents.

EXTERNAL

Yorkshire Water

3.9 Conditions are recommended. It is noted that there is a combined sewer on the site; the proposal appears unlikely to affect this.

Ainsty Internal Drainage Board

3.10 No objection to the proposal.

Dringhouses/ Woodthorpe Planning Panel

3.11 The Planning Panel object to the proposals and have made the following comments:

- Abbeyfield House important to local community
- Development is overbearing and visually intrusive
- Loss of privacy
- Increased noise and light pollution
- Highway safety

Neighbour notification and publicity

3.12 85 letters of objection from 57 residents, and 3 letters containing general comments from one resident all local to the site have been recorded. Two of the ward councillors have also made general comments on the application. The issues raised include:

- A similar scheme has previously been refused and the reasons for refusal still apply
- Concern about safety and security of children at the nursery on St Helens Road
- Impact of construction on neighbouring amenity as a result of noise and traffic
- Impact of construction traffic on highway safety
- Concern that the need for care home bed spaces is outweighing consideration of impact on neighbours
- Overlooking of existing properties/ loss of privacy
- Impact on existing residents of Abbeyfield as a result of the intensification of the use of the site
- Insufficient parking provision
- Highway safety issues on Regency Mews
- Impact/ removal of trees covered by Tree Preservation Order
- Impact on ecology of area
- Excessive scale and massing of proposal
- Materials and design of the building are out of keeping with the area
- Concern that existing drainage system cannot cope with additional flow
- Work has commenced on site
- Impact on the character of the area from such a large development
- Loss of daylight

- Overshadowing of gardens on St Helens Road
- Noise from machinery/ air conditioning systems
- Noise and disturbance from additional comings and goings
- Need for archaeological recording will prolong construction
- Loss of on-site open space
- Access off St Helens Road is inadequate
- Increased levels of pollution
- St Helens Road access inadequate for construction traffic
- Structural damage to neighbouring properties as a result of construction methods
- Light pollution
- Site plan drawing is not to scale
- No mention of nearby nursery in application documentation
- Concern that application relates to additional investigations which need to be undertaken and submitted - will residents be able to comment on these?
- Flooding issues to rear of nursery
- Disruption of services to nursery would be unacceptable
- Security issues from open access to St Helens Road driveway
- Impact on the health of neighbouring residents during construction
- Inadequate access for emergency vehicles
- It is not acceptable to keep submitting a similar scheme following the refusal of planning permission
- Very few of the letters of support come from local residents but from people not directly impacted by the scheme
- Risk to children walking to Dringhouses Primary School and Wendy House nursery
- Obstruction to bus services on St Helens Road
- No parking provided for construction workforce
- Not enough space for delivery vehicles to turn
- Submitting the application over the summer when people are on holiday is an attempt to avoid due process
- Proximity of development to boundaries and neighbouring properties
- Mud on the road during construction
- Application appears to have been encouraged by the Council because it relates to social housing despite nothing having changed since previous refusals. The eventual decision will therefore be based on non-planning considerations
- Contrary to DCLP policy
- Intensity of use of site out of character with area
- Pressure to prune trees between Calcaria Court and site
- Impact of hardstanding on viability of trees
- Lack of pre-application consultation
- Concern about conflict between race day traffic and additional traffic for development at entrance to Royal Chase
- Creation of a rat run through the site from Regency Mews to St Helens Road



- Increased strain on utility services
- Detrimental impact on neighbouring residents' lifestyle
- TPO trees have already been removed from the site
- Lawns are used for overspill parking

3.13 43 letters of support have been received. These are predominantly from residents of Abbeyfields or their relatives but also from the local community. Issues raised include:

- Well run business
- Allows for residents to remain at Abbeyfields as their need for care increases
- Additional bed spaces required in care homes particularly for dementia patients
- Well designed scheme
- Need for more affordable care
- York needs more good quality accommodation for the elderly
- Abbeyfields provide high quality care
- The scheme has been designed to consider the impact on neighbouring residents
- Abbeyfields have always fostered a good relationship with community
- Disruption during construction will be short term
- The proposal meets the community's needs
- Abbeyfields provides valuable respite care
- Opportunity for more integration between care home and local school/ nursery
- Few people drive in to old age and therefore not too many vehicle movements from the site
- Site is well located in the community
- Will not impact adversely on existing residents of Abbeyfields
- Existing traffic movements do not appear excessive
- The scale of the development is appropriate
- Will provide continuity of care
- Will free up housing for those wishing to get on the housing ladder
- Properties on Calcaria Court overlook the site and were built after Abbeyfields House
- The area is quiet but not isolated
- The car park is rarely full
- Excellent local bus service

3.14 Ten additional letters of objection have been received following a reconsultation. All come from residents who have previously made representation on the scheme. The issues raised are predominantly the same as previously but the following points appear to be additional to those raised before:

- The revised scheme is higher and more over-dominating
- The need for the extra care housing appears to be over-ruling planning policy

- The existing bungalow could be converted to dementia care.

## York Older People's Assembly

3.15 The Assembly support the scheme and note the need for increased older people's housing in York.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Policy background
- Principle of the development
- Design and character; impact on trees
- Amenity considerations
- Highways issues
- Affordable housing and housing need
- Comparison with previous schemes
- Other considerations

## POLICY BACKGROUND

### National Planning Policy Framework

4.2 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development. In terms of decision taking, the NPPF advises that this means in those cases where there are no up-to-date Local Plan Policies (such as in York), granting permission unless, either:-

- (a) The any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Policies in the Framework as a whole, or
- (b) There are specific Policies within the Framework which would indicate that development should be restricted. In terms of this second element, the footnote to Paragraph 14 details the types of considerations which would it considers would fall within this category. There are no elements of this application which fall within the examples given in this Footnote, or more restrictive policies in the NPPF.

4.3 Paragraph 17 sets out the Core Planning Principles. The following are relevant to this application:

- proactively drive and support sustainable economic development to deliver the homes .... that the country needs;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

- support the transition to a low carbon future in a changing climate .... and encourage the reuse of existing resources, including conversion of existing buildings;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made;
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

4.4 The National Planning Practice Guidance (NPPG) (Revision date 01.04.2016) includes a specific reference to housing for older people and states:

The need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households (Department for Communities and Local Government Household Projections 2013).

City of York Draft Local Plan Incorporating the 4th Set of Changes Development Control Local Plan (Approved April 2005)

4.5 City of York Council does not have a formally adopted Local Plan. Nevertheless The City of York Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) was approved for Development Management purposes.

4.6 The 2005 Draft Local Plan does not form part of the statutory development plan for the purposes of S38 of the 1990 Act. Its policies are however considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.7 Development Control Local Plan (DCLP) policies relevant to the development are:-

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

residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

- Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development and sets out those issues to consider as part of a sustainably designed development.
- Policy GP9 requires where appropriate developments to incorporate a suitable landscaping scheme.
- Policy GP10 'Subdivision of gardens and infill development' allows for sub-division of gardens only where new development would not be detrimental to the character and amenity of the local environment.
- Policy H17 states that planning permission will only be granted for residential institutions where the development, together with existing residential institutions of unimplemented planning permission would not give rise to a concentration likely to have an adverse impact on residential amenity and where it is positively located relative to local facilities and public transport.
- Policy HE10 'Archaeology' relates to development in areas of archaeological importance.
- Policy NE1 'Trees, woodlands and hedgerows' refers to the protection of trees of landscape, amenity, nature conservation or historical value.

### Emerging Local Plan

4.8 A new pre-publication draft local plan 2017 has recently completed its consultation stage.

4.9 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be very limited. The evidence base that underpins the proposed emerging policies is however also a material consideration in the determination of the planning application.

4.10 The evidence base includes:

Strategic Housing Market Assessment June 2016

Strategic Housing Land Availability Assessment (SHLAA) (2017)

Application Reference Number: 17/01419/FULM

Item No: 4a

Strategic Housing Land Availability Assessment (SHLAA) Annexes (2017)

4.11 The following policies from the emerging Local Plan are relevant:-

- Policy D1 'Placemaking' development proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused.

- Policy H9 'Older persons' specialist housing' states that developments specifically designed to meet the accommodation needs of older people will be supported where they contribute to meeting an identified need; are well designed to meet the particular requirements of residents; and are in an accessible location by public transport or within walking distance to a range of community facilities or these are provided on-site.

- Policy GI4 'Trees and hedgerows' supports development where existing trees are retained and protected and new trees form part of an integrated landscape scheme.

Principle of the Development

4.12 The site is unallocated within both the DCLP and emerging Local Plan. Currently it is comprised of the dwelling 27 St Helens Road and its curtilage, and also part of the garden area of the existing Abbeyfield House. It is noted that, within the glossary of the NPPF, residential garden sites within built up areas are excluded from the definition of previously developed land. Therefore part of the site will fall within the definition of previously developed, as the existing dwelling is situated within it, and the garden areas will fall outside the definition. The implication of this is that the core planning principle in para.17 of the NPPF which encourages the effective use of land by reusing land that has been previously developed does not apply to the entire site. The presumption in favour of sustainable development is still applicable.

4.13 The proposal represents an extension to the existing residential use of the site and is compatible with neighbouring residential uses. There are a good range of services in the locality as well as good public transport links. As such it is considered that the proposed building represents a sustainable form of development on this site. Para.49 of the NPPF recommends that housing applications should be considered in the context of the presumption in favour of sustainable development. It is also recognized that there are few urban sites within residential areas of York which could accommodate this scale of development.

4.14 For these reasons the development is considered acceptable in principle subject to other material planning considerations.

Design and Character; impact on trees

4.15 The character of the site is currently of an attractive mature garden with large areas of lawn and bands of trees around the outside edge and also defining the edge of the garden of No.27 St Helens Road. However the enclosed nature of the site means that the visual amenity afforded by the soft landscaping on site is generally private and not widely publically visible. The area, while not secured from public access, is private and cannot be enjoyed by members of the public except by views, mostly from private properties, into the site.

4.16 Despite this, it is clear that the visual amenity provided by the leafy aspect of the site is valued by the local community. The NPPF defines open space as 'All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.' It is not considered that the site falls clearly within the definition as there is no public access however officers are comfortable that, even if it were to be classed as open space, the proposal complies with paragraph 74 of the NPPF. This states that existing open space should not be built on unless the loss from the development is replaced by equivalent or better provision in a suitable location. In this instance, the large lawned areas of the site are to be replaced by gardens specifically designed to be suitable for the older people who will be resident on the site. The mature trees around the boundaries will predominantly be retained to assist in retaining the leafy views of the site currently enjoyed by surrounding neighbours.

4.17 A total of 4 TPO trees and a group of cypress trees are to be removed. The groups of trees along the Eastern boundary of the site adjacent to Calcaria Court would remain untouched. They would be a similar distance from the new development as from the existing dwellings on Calcaria Court. The biggest impact would be the loss of the group of trees covered by a TPO and visible from Regency Mews. These trees are not particularly good individual specimens but as a group provide an attractive end vista to Regency Mews. A group of cypress trees in a similar location is also to be removed to the benefit of the character of the area as the trees are densely planted and form an unattractive visual barrier. The views along Regency Mews will change as a result of the scheme from one of a mature landscaped garden to the front elevation of the care home with some greenery visible. The introduction of some tree planting within the new car park will help to soften the impact of the new building.

4.18 The building is two storeys in height with a third storey within the roof of the north east and central element of the building. In terms of its height, the proposal appears in keeping with neighbouring properties. The site slopes down slightly from East to West so that the properties on Carcaria Court are at a higher level. The proposal steps down in height from these and is slightly higher than Abbeyfield House. The properties on Regency Mews are similar in height to the wings of the proposed building which are closest to them although the central section of the building is taller.

4.19 The scheme has been revised to address concerns about impact on a TPO tree within the garden of 26 St Helens Road. This has resulted in an increase in height of the element of the proposal closest to 25/26 St Helens Road from 8.2m to the ridge to 9.6m. The distance of the development from the boundary has also increased from a minimum of 5.5m to a minimum of 8.5m. While it is appreciated that the footprint of the proposal is not insignificant, the height of the development and detailing helps to give a more domestic appearance to the building. The elevations retain plenty of interest and character and avoid presenting a flat facade to the neighbouring properties. The retention of boundary landscaping further helps to soften the impact of the proposals.

4.20 The design of the building is domestic in its detailing. The use of gabled roof forms and good window detailing all add interest. Materials are to be a mix of bricks and dark grey cladding. The cladding will be used to identify circulation areas while the paler mottled bricks will be used as detailing. This paler colour of bricks has been chosen to follow the palette of colours found traditionally in this area and is used to emphasise the domestic nature of the building. Red pantiles will be used on the roof.

#### Amenity issues

4.21 The proposal is a minimum of 26m from the properties at 22-26 St Helens Road which back on to the site. It is 24m from the side of No.29 St Helens Road and a minimum of 25m from the rear of the properties at Calcaria Court. On Regency Mews, the side elevations of the closest properties are a minimum of 14m from the new building. All these distances are considered acceptable to mitigate harmful overlooking. It is also noted that where the building has been increased in height at the north east corner, there are no windows in the second floor, light is provided via rooflights and windows in the end elevations.

4.22 It is noted that there are windows in the second floor facing the properties on Calcaria Court. These are a minimum of 35m from the properties on Calcaria Court and 23m from the boundary. Even given that there are second floor living room windows facing Calcaria Court the separation distances are considered acceptable. The band of retained trees will provide screening between the sites.

4.23 The owner of the children's nursery at 28 St Helens Road has raised concern about the safeguarding of children in her care as a result of the proposal. The nursery is sited at the north east corner of the site and has an outside play area to the rear. There are no windows within the proposed building which have a direct view on to the play area. There are windows up to second floor which have an angled view of the play area but these are approximately 14m from the play area. As a result of this, it is not considered that there would be significant overlooking of the nursery site.

4.24 The new building is approximately 13m from the existing Abbeyfield House. Windows from flats in the existing building will have a more restricted outlook as a result of this but do look on to a two storey element of the proposal. There will be little increase in overshadowing as a result of the scheme and little overlooking from the

new building to the existing as windows in this elevation serve sitting/ hobbies rooms or are secondary flat windows with main windows facing to the South.

4.25 Distances between the proposal and neighbouring buildings are such that there is not considered to be any significant increase in overshadowing, nor is the proposal considered significantly overbearing.

4.26 Amenity for future residents of the development is considered good. Flats all have a reasonable outlook. Flats in the North West corner, closest to the existing Abbeyfield House, look on to two larger trees and distances between them and the trees are not great. There is some concern that there might be pressure to prune the trees to increase light to the flats. These flats do have a dual aspect though and this is considered to give some comfort that they will receive adequate light and outlook.

4.27 Adequate garden areas are provided for residents. Abbeyfield House has a garden to the rear and new purpose built gardens will be created around the new building. These will cater to residents needs with an enclosed garden accessible from the dementia flats.

### Highways

4.28 Access for visitors to the site will be from Regency Mews while staff will access via St Helens Road. The St Helens Road access is the existing access to 27 St Helens Road; 4 parking spaces will be provided for staff at this location. Peak traffic movements via this access will not exceed those of the existing dwelling 27 St Helens Road.

### Trip rates and generation

	Morning			Evening		
	In	Out	Two-way	In	Out	Two-way
Trip rate	0.095	0.048	0.143	0.048	0.095	0.143
Proposed development trip generation	2	1	3	1	2	3
Existing No.27 St Helens Road trip generation	0	3	3	2	1	3
New trip generation	+2	-2	0	-1	+1	0



The table shows data from surveys of the existing St Helens Road access and the anticipated trip generation for the site at peak times. This shows that, when the existing dwelling is demolished, the additional trip generation from the proposal will be minimal.

4.29 There is little anticipated increase in traffic using the Regency Mews access at peak times as traffic movements at this time will predominantly be via the St Helens Road access in the form of staff changeovers. This has been verified by traffic surveys undertaken on Regency Mews and comparisons with staffing levels and shift patterns.

4.30 The applicant has provided information on increases to staff, and existing and proposed parking accumulation, showing that the proposed car park is adequate to serve the existing and proposed development. The information provided on parking accumulation, shows a steady light flow in and out of the car parks. Resident vehicle ownership currently on site is very low at 2 vehicle owners. This is the highest recorded figure since Abbeyfield House came in to operation. It is not anticipated that resident parking will significantly increase and that parking demand, as at present, will predominantly be for visitors and staff. Staffing levels on site will increase from 18 part time staff to 1 full time staff member and 30 part time staff. The maximum increase of staff at any time is an increase of 3 during the day Monday – Friday.

4.31 The applicant has confirmed that there will be no material change to the deliveries serving the care home. No additional deliveries or changes in vehicles are proposed, there will instead be an increase in the volume of goods brought with each delivery.

4.32 A contribution of £5000 will be secured via a S106 agreement to fund TROs on Regency Mews to prevent indiscriminate parking around the tactile crossing. The contribution satisfies the tests at Regulation 122 of the CIL Regulations, which require obligations to be a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The applicant has agreed to the contribution.

4.33 A condition requiring a Method of Works is suggested given the proximity of the St Helens Road access to a primary school, nursery and busy signalised junction.

#### Affordable housing and housing need

4.34 In line with local policy 20%, or 5 units, will be secured as affordable housing via a S106 agreement. However, Abbeyfields' business model is to provide significantly more affordable units and the site will actually provide 19 affordable units with the 6 remaining units being open market. Para. 204 of the NPPF states that planning obligations should only be sought where they are necessary to make development acceptable in planning terms. As the local policy requirement is for 20% affordable housing, then this is the amount to be secured via the S106 agreement although 76%

of the units on site will be affordable with 56% being affordable rented. The contribution satisfies the tests at Regulation 122 of the CIL Regulations, which require obligations to be a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The applicant has agreed to the contribution.

4.35 Adult Social Care have noted that there is currently a deficit of 205 extra care units in the city which will rise to 252 by 2030 if no new units are approved. The specialist dementia care units proposed in this development are particularly welcome as is the high quality design of the proposed development which responds well to the needs of older people and those with dementia. The development at Abbeyfield House is currently the only provision in the local area of this type of accommodation.

4.36 The SHMA 2016 gives figures for the current supply and projected need for specialist housing for older people. This puts the current supply at 110 units of extra care accommodation and 1375 units of sheltered housing. The projected need for specialist housing (2012-2032) is put at 1688 units (taking a need of figure of 170 units of specialised accommodation per 1000 population). The SHMA does not break down the type of specialist housing required but considers that this decision should be taken at a local level taking account of specific needs and the current supply.

#### Comparison with previous schemes

4.37 A number of representations have highlighted the planning history of the site and, in particular, the two refused schemes. It is approximately 12 years since application 05/02774/FULM was refused. In that time, there has been a significant change in planning policy with the introduction of the National Planning Policy Framework (2012) replacing the Planning Policy Statements and Guidance. The NPPF contains within it a presumption in favour of sustainable development which was not inherent in previous planning policy. Para.14 of the NPPF states that sustainable development is the golden thread running through both plan-making and decision taking. For decision taking this means:

- approving development proposals that accord with the development plan without delay and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or
- specific policies in this Framework indicate development should be restricted.

4.38 There is no up to date development plan for York and therefore development should be approved unless adverse impacts significantly or demonstrably outweigh the benefits. Officers have highlighted the impact of the loss of trees on the character

of the area and, in particular, on views along Regency Mews; and impacts of loss of outlook for existing residents of Abbeyfield House. This is balanced by the need for this type of older persons' accommodation; the high quality design of the proposal; and the sustainable nature of the site adjacent to existing older persons' accommodation and with good access to local facilities. Officers also note that para.49 of the NPPF requires that housing applications should be considered in the context of the presumption in favour of sustainable development. If a 5 year land supply cannot be shown then housing policies cannot be considered up to date. Para. 7 of the NPPF defines the social dimension of sustainable development and the role the planning system has in the provision of housing for present and future generations. This application is considered to meet that role of providing housing which accords with the principles of sustainable development.

4.39 Paragraph 35 of the NPPF states that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies and give priority to pedestrian and cycle movements, and have access to high quality public transport facilities. It is felt that the development meets these requirements, by utilising the existing deliveries and being located in a sustainable location. Paragraph 32 states that Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The proposed development is not considered to have a severe impact in terms of traffic generation or safety.

4.40 In 2007 Manual for Streets superseded Design Bulletin 32 (1977) with changes in approach including 'moving away from hierarchies of standard road types based on traffic flows and/or the number of buildings served'. The applicant has provided information on the expected traffic flows on Regency Mews and they are deemed acceptable for the existing highway in relation to guidance contained in the Manual for Streets.

#### Other considerations

4.41 The majority of issues raised in the representations have already been covered in earlier paragraphs. Concern has been raised about the impact on residents during construction from noise, disturbance and pollution. Officers note that this is a temporary situation which cannot be avoided if development is to occur but acknowledge the proximity of a children's day nursery to the site. To this extent it has been considered appropriate to include a condition for a construction method of works. The applicant has confirmed that the intention is to use Regency Mews primarily for construction traffic.

4.42 Concern has also been raised about construction causing structural damage to neighbouring properties. The development is not in such close proximity to neighbouring properties and it is considered unlikely that this will occur.

4.43 Other concerns relate to security on the site and the creation of a rat run through from Regency Mews to St Helens Road. There is no vehicular access across the site and the St Helens Road access will be secured with a fence and gate as is currently the situation. It has also been asked why the existing dwelling is to be demolished and not re-used. The proposal is clearly for a modern purpose built residence which would not be achievable in the existing bungalow.

## **5.0 CONCLUSION**

5.1 The scheme is for an extension to the existing use on site and will provide 25 units of extra care for older people. It is considered to comply with relevant policy within the DCLP, emerging Local Plan and NPPF and will fulfil a need for this type of accommodation in a sustainable location.

5.2 Some harm has been identified to the character of the area and visual amenity through the loss of some of the mature landscaping on site. This impact will predominantly be to views of the site from Regency Mews as a group of trees in the middle of the site are to be removed to facilitate the development. This includes trees covered by a Tree Protection Order. The trees are not especially good individual specimens but are of group value for their softening of views of the site from Regency Mews. Replacement tree planting is proposed within the parking area which will help to reintroduce some greenery in to the view along Regency Mews. Trees along the North and East boundaries of the site will be retained.

5.3 Distances between the proposed development and neighbouring properties are considered sufficient to prevent overlooking and overshadowing with the retained boundary planting helping to provide additional screening. Likewise the bulk of the building is towards the centre of the site helping to ensure there is no overbearing impact on neighbours. Increases in height towards the North of the site, as a result of bringing the structure further away from a protected tree, are still considered acceptable given the distances involved and screening provided by the tree itself.

5.4 Some impact has been identified on existing residents of Abbeyfield House as a result of the proximity of the North West wing of the new development to the existing building. A distance of 13m is retained between the buildings and the new wing is approximately 13m wide. These distances are considered sufficient to ensure no significant detriment to amenity of existing residents through loss of outlook.

5.5 Highways impacts are not considered to be significant. Staff will access the site via the St Helens Road drive and trip generation has been shown to be little changed from the existing situation. Likewise information has been provided to indicate that changes to the use of the access off Regency Mews and the existing parking area will be minimal and will have no significant impact on the existing network. Para. 32 of the NPPF states that development should only be refused on highway grounds where the

residual cumulative impacts of development are severe. There is no indication that is the case in this instance.

5.6 Officers consider that, despite the previous planning history for the site, the clear need for this type of accommodation, sustainable location, and good quality design, clearly outweighs the harm to the character of the area through the loss of trees within the centre of the site. This is supported by changes in planning policy since the previous refusals and the presumption in favour of sustainable development contained within the NPPF.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement to secure 5 units of affordable housing and £5000 towards a TRO on Regency Mews.

1 TIME2 Development start within three years

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

384 03 (02) 011 B Site sections  
384/03(02)015 C Proposed second floor plan  
384 03 (02) 003 C Proposed site plan  
384 03 (02) 012B Proposed elevations  
384 03 (02) 013B GF floor plan  
384 03 (02) 014B FF floor plan

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

3 VISQ7 Sample panel ext materials to be approv

4 A programme of post-determination archaeological evaluation using strip, map and record method is required on this site. The archaeological scheme comprises 3-5 stages of work. Each stage shall be completed and approved by the Local Planning Authority (LPA) before it can be discharged.

A) No archaeological evaluation or development/demolition shall take place/commence until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the

condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

E) No development shall take place until:

- details in D have been approved and implemented on site

- provision has been made for analysis, dissemination of results and archive deposition has been secured

- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within [insert timescale] of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 12 of NPPF.

Reason: The site lies within an Area of Archaeological Interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved insitu. Details required prior to determination are necessary to ensure archaeological evidence on site is not destroyed by the commencement of any development.

5 A programme of post-determination archaeological mitigation specifically a watching brief is required on this site.

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged.

A) No demolition/development shall take place until a written scheme of investigation (WSI) for a watching brief has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for

Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report (or publication if required) shall be deposited with City of York Historic

Environment Record to allow public dissemination of results within [3 months] of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 12 of NPPF.

Reason: The site lies outside of the Area of Archaeological Importance but is considered to be a site of Archaeological Interest. Therefore, the development may affect important archaeological deposits which must be recorded prior to destruction. Details to be submitted prior to determination are required at that time to ensure works are not commenced which may harm archaeology on site.

6 All construction and demolition 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

7 Prior to commencement of 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 produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - o human health,

- o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,
  - o ecological systems,
  - o 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 off-site receptors. This condition is required to be prior to commencement of development in order to ensure that there are no adverse affects from land contamination as a result of any works carried out at the site.

8 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 historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 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. This condition is required to be prior to commencement of development in order to ensure that there are no adverse affects from land contamination as a result of any works carried out at the site.

9 LC3 Land contamination - remedial works

10 LC4 Land contamination - unexpected contam

11 Prior to occupation, the applicant shall install a three pin 13 amp external electrical socket which is suitable for outdoor use. The socket shall be located in a suitable position to enable the charging of an electric vehicle using a 3m length cable.

Note: Any socket provided must comply with BS1363, or an equivalent standard,  
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Building Regulations and be suitable for charging electric vehicles. It should also have a weatherproof cover and an internal switch should be also provided in the property to enable the socket to be turned off.

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

12 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interest of satisfactory and sustainable drainage

13 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the site is properly drained and in order to prevent overloading and to ensure surface water is not discharged to the foul sewer network.

14 No development 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, and hard landscape details. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the substantial completion of the external works and planting, 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. This also applies to any existing trees that are shown to be retained within the approved landscape scheme. Any works to existing trees that are protected by a tree preservation order (TPO) or are in a conservation area are subject to local authority approval and notification respectively within and beyond this five year period.

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

15 Before the commencement of development including demolition, excavations, building operations, 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, 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 and shall be strictly adhered to throughout the development process.

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. Details need to be agreed before the commencement of development to ensure that there is no impact on the trees from demolition of the existing buildings on site.

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

- a) details of access/ egress and turning within the site for contractors and other users of the area to avoid the use of the St Helens Road access.
- b) the routing for construction traffic that will be promoted including a scheme for signing the promoted construction traffic routing.
- c) where contractors will park.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users. Details are required prior to the commencement of development to ensure demolition/ construction traffic does not impact on the amenity of local residents.

17 The premises shall be used only as extra care or dementia care accommodation within Use Class C3 and shall not be used for any other purpose , including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: In order to allow a consideration of the impact of any changes on amenity.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

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

Requested further information in relation to deliveries and access; and revisions to protect a nearby TPO tree.

2. The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch 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.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site.

3. The applicant should be advised that the Internal Drainage Board's prior consent is required (outside the planning process) for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.

4. The applicant is advised to consider using permeable fencing or leaving occasional gaps suitable to allow passage of hedgehogs. Before the site is cleared any potential hibernation sites including log piles should be removed outside the hibernation period (which is between November and March inclusive) in order to avoid killing or injuring hedgehog.

Hedgehogs are of priority conservation concern and are a Species of Principal Importance under section 41 of the NERC Act (2006). An important factor in their recent population decline is that fencing and walls are becoming more secure, reducing their movements and the amount of land available to them. Small gaps of approximately 13x13cm can be left at the base of fencing to allow hedgehogs to pass through. Habitat enhancement for hedgehogs can easily be incorporated into developments, for example through provision of purpose-built hedgehog shelters or log piles.

#### 5. LEGAL AGREEMENT

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

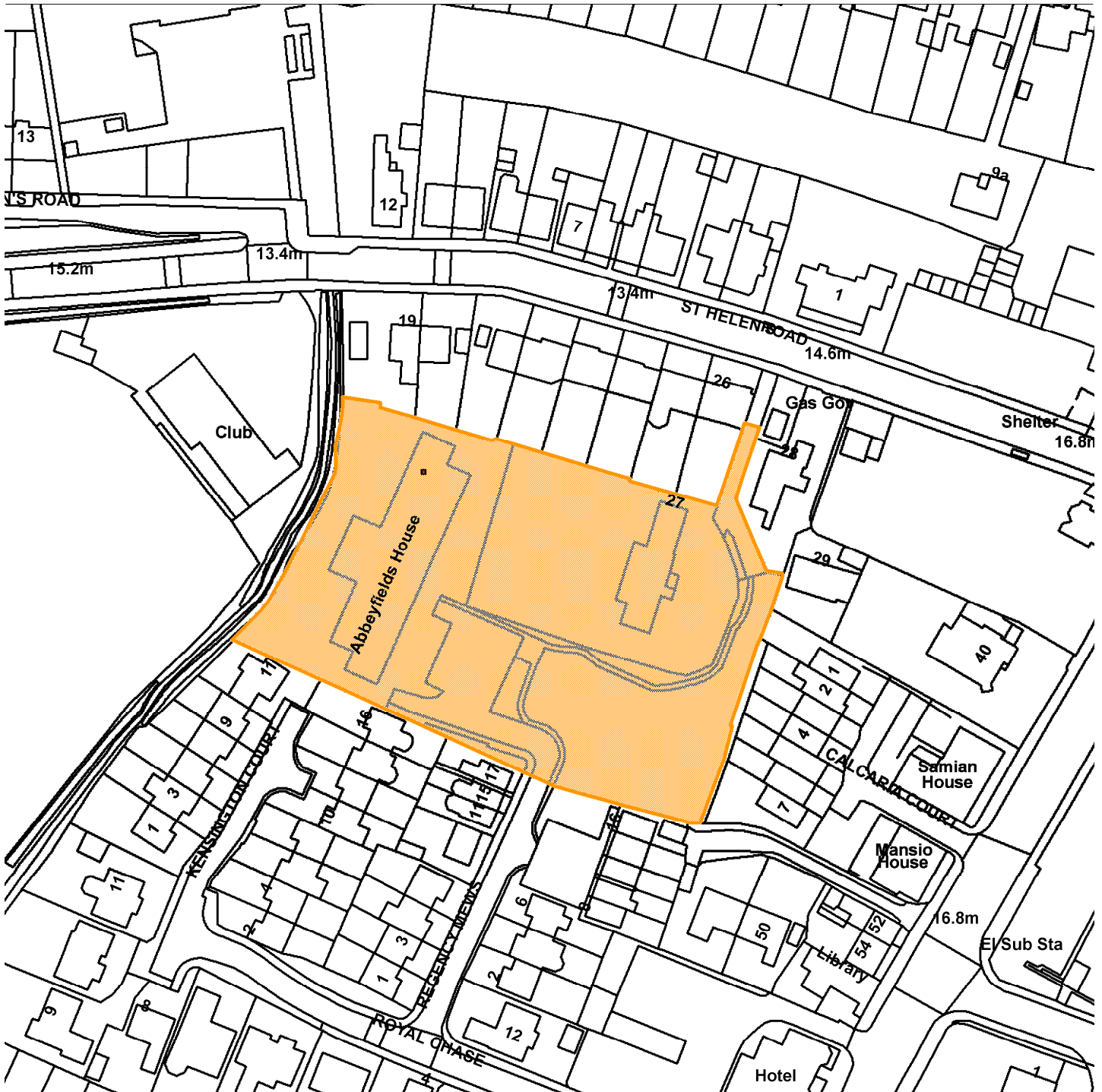
**Contact details:**

**Author:** Alison Stockdale Development Management Officer (Tues - Fri)

**Tel No:** 01904 555730

17/01419/FULM

Abbeyfield House, Regency Mews, YO24 1LL



Scale : 1:1314

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy and Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	29 December 2017
<b>SLA Number</b>	

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**COMMITTEE REPORT**

**Date:** 11 January 2018      **Ward:** Fishergate  
**Team:** Major and      **Parish:** Fishergate Planning  
Commercial Team      Panel

**Reference:** 17/02199/FULM  
**Application at:** 25 Barbican Road York YO10 5AA  
**For:** Conversion of 25 and 26 Barbican Road into 12no.  
apartments with associated external alterations and 3 storey  
rear extension  
**By:** Mr D Blackwell  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 1 January 2018  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 No's. 25 and 26 Barbican Road are two terraced properties located in York city centre. Both properties are two storeys in height and have projecting bay windows to the front; however No. 25 has a turret style roof, with No. 26 having a mono-pitched, reflecting the majority of the properties on the street.

1.2 The adjoining no. 24 Barbican Road is set forward of these two properties. To the west, the properties have an outlook over land associated with the York Barbican Centre. There is an access lane to the rear and No. 25 has shared access to a small alley between properties on Wellington Street. There is a rear garage to No. 25 and an outbuilding to No. 26.

1.3 The dwellings are not listed and are located outside any conservation area. It is however located within an area of Archaeological Interest. The site has a low risk of flooding (flood zone 1).

1.4 Planning permission is sought for the conversion of both 25 and 26 Barbican Road into 12no. self contained apartments with associated external alterations and 3 storey rear extension.

1.5 The plans indicate that the rear garden will provide 4no. off street car parking spaces, cycle storage area and refuse storage areas.

**2.0 POLICY CONTEXT**

2.1 Draft 2005 Development Control Local Plan

CYGP1 Design  
CYGP3 Planning against crime

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CYGP4A	Sustainability
CYGP4B	Air Quality
CYGP6	Contaminated land
CYH8	Conversion to flats/HMO/student accom
CYHE10	Archaeology
CYT4	Cycle parking standards

## 2.2 Pre-publication draft Local Plan (2017)

- D1: Placemaking
- DP3: Sustainable Communities
- ENV1: Air Quality
- T1: Sustainable Access
- H2: Density of residential development
- H3: Balancing the housing market
- D11: Alterations and extensions to existing buildings

## 3.0 CONSULTATIONS

### INTERNAL

#### URBAN DESIGN, CONSERVATION AND SUSTAINABILITY

3.1 No response has been received at the time of writing.

#### HIGHWAYS MANAGEMENT

3.2 No response has been received at the time of writing.

#### FLOOD RISK MANAGEMENT

3.3 Submitted drainage details are satisfactory.

#### PUBLIC HEALTH

3.4 Confirmation that no contribution will be required to outdoor sport provision due to pooling restrictions

#### PUBLIC PROTECTION UNIT

3.5 No objection in respect to noise, dust, light, odour, land contamination, air quality.

#### EDUCATIONAL PLANNING

3.6 No response has been received at the time of writing.

#### WASTE MANAGEMENT

3.7 There is not enough space for the storage of waste and recycling containers that will be needed for 12 dwellings.



## PUBLIC REALM

3.8 Confirmation that no contribution will be required to open space or play provision due to pooling restrictions.

## EXTERNAL

### FISHERGATE PLANNING PANEL

3.10 Overdevelopment of two modest terrace houses and would set a precedent for similar inappropriate overdevelopment in historic terrace streets. Access, waste disposal, parking nuisance, building disruption and context are a few reasons why this development is inappropriate.

### POLICE DESIGNING OUT CRIME

3.11 Crime and anti-social behaviour levels within the vicinity of the proposal can be described as being at a medium level. There are a number of recommendations to make to the applicant in terms of access control, surveillance and activity support, target hardening and image.

### YORK CIVIC TRUST

3.12 Objection raising the following issues:

- the development would result in overdevelopment doubling the footprint of the building and creates massing issues.
- removes internal traces of the building as a late Victorian terrace property
- detrimental to the number of families living in the area and this will be exacerbated
- set a precedent for similar overdevelopment in local neighbourhoods near universities

### CONSERVATION AREA ADVISORY PANEL (CAAP)

3.13 The Panel considered that the proposals were out of character for the area and that the development would set an unacceptable precedent for the area. The lack of amenity space was also noted.

### PUBLICITY AND SITE NOTICE

3.14 In total 7 letters of objections have been received; two letters have been received from the occupiers of 61 Wellington Street, 29 Barbican Road and 4 Willis Street, with one letter being received from the occupiers of 30 Barbican Road. In summary the objections raise the following concerns:

- Overdevelopment of site including extensions, car parking, cycle and waste storage areas
- Overlooking to front and rear
- Will restrict views
- Amenity of residential units - single aspect/relationship to A19 (Barbican Road) increases in Air Quality and noise/ lack of management plan regarding the maintenance of the shared rear area (e.g. to prevent fly tipping)

- Contrary to guidance contained within the Council's SPD 'Subdivision of Dwellings'
- Already high levels of students in the area and family homes should be encouraged
- Highways - will create large amounts of traffic/ car parking is inadequate and pressures are high/ bus stop is not in operation
- Increase in the use of back alley -will increase safety and anti-social behaviour and construction vehicles will restrict access
- Drains are inadequate and no assurances over 'backing up' issues
- Run-off/impermeable surfaces in garden
- Waste storage is inadequate and black bags are unsightly, creating smells and rat infestations
- Fire safety
- Recent residential developments (St Joseph's, Walmgate Working Men's Club, old Reg Vardy garages and Barbican site) will meet need in rental market
- lack of publicity and consultation with neighbours from the applicant and Council

## 4.0 APPRAISAL

### 4.1 Key Issues:-

- Principle of increase in residential units and amenity of the units
- Impact of extensions upon neighbouring residential amenity
- Design
- Impact upon highways
- Waste and recycling
- Crime and security
- Drainage
- Archaeology
- Land contamination
- Other issues (Fire risk/views/publicity)

## POLICY CONTEXT

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

4.3 A principle set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.4 Paragraph 50 of the framework sets out the requirement for planning authorities to deliver a wide choice of high quality homes, by planning for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community, identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand and set policies to for meeting identified affordable housing need.

4.5 The Development Control Local Plan (DCLP) incorporating the 4th set of changes was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.6 Policy GP1 'Design' expects new development to respect or enhance the local environment in terms of density, layout, scale, mass and design and ensures that residents living nearby are not unduly affected by noise and disturbance.

4.7 Policy GP4a 'Sustainability' requires all development to have regard to the principles of sustainable development. GP4b 'Air Quality' are required to assess their impact on air quality. GP6 'Land Contamination' requires a preliminary assessment the potential for contamination.

4.8 Policy HE10 'Archaeology' states that where development involves disturbance of existing ground levels a field evaluation should be submitted that assesses the extent and importance of any archaeological remains and demonstrates that less than 5% of any archaeological deposits will be disturbed or destroyed.

4.9 Policy H8 'Conversions' states that planning permission will only be granted for the conversion of a dwelling to flats or multiple occupation where;

- the dwelling is of sufficient size (min 4 bedrooms),
- external alterations would not cause harm to the character or appearance of the building or area,
- adequate off and on street parking and cycle parking is incorporated,
- it would not create an adverse impact on neighbouring residential amenity particularly through noise disturbance or residential character of the area by virtue of the conversion alone or cumulatively with a concentration of such uses, and
- adequate provision is made for the storage and collection of refuse and recycling.

4.10 In addition, paragraph 7.52 of the draft Local Plan states that there is potential for the number of dwellings in the City to be increased by the sensitive conversion of large dwellings, contributing to meeting housing need and ensure a continued life for properties.

4.11 The Council's Subdivision of Dwellings Supplementary Planning Document (SPD) was approved on 4th December 2012. In Paragraph 1.8 it advises that the SPD aims to ensure that where the subdivision of dwellings are proposed, they:

- provide adequate internal space;
- are of a suitable layout;
- have acceptable amounts of internal and external storage space;
- have acceptable levels of facilities;
- do not have an adverse impact on the amenity of neighbouring residents;
- are designed and built to a high standard of sustainability

4.12 The Council's Strategic Housing Market Assessment (SHMA) June 2016 is also considered to be of relevance, which provides an assessment of future housing needs of different groups within the city of York.

## ASSESSMENT

### PRINCIPLE OF CONVERSION

4.13 Barbican Road is located to the south east of the city, with access to the city centre and transport links. It is considered to be a sustainable location.

4.14 The application site relates to two terrace properties, the applicant advise that one (No. 25) is a House in Multiple Occupation with 6 tenants and the other (No. 26) a single family dwelling. There are no planning records for the use of No. 25 as HMO and this property is not on the Council's HMO database. As such, with no information to the contrary, this application will consider the property as a single family dwelling with four bedrooms on the first floors. No. 25 however contains three reception rooms on the ground floor and three bedrooms on the first floor. The applicant has confirmed that one of the ground floor rooms is and can be used as a bedroom. This is not at the expense to the number of reception rooms normally expected with a property of this size.

4.15 There have been a number of objections in relation to the loss of family sized dwellings with particular concerns that this area in particularly already has a high level of student population. The SHMA identifies that there is a need for a mix of house sizes across the City.

4.16 It is regrettable to lose two family dwellings, draft Local Plan Policy H8 does allow the sensitive conversion of family dwellings to flats or HMO's in order to contribute to housing need as identified by the SHMA. On balance, the loss of the two family dwellings is acceptable in principle meeting part of the criteria outlined in Policy H8 of the Council's draft Local Plan and subject to other relevant criteria.

4.17 The existing character of the area is primarily residential, with a number of properties having been split into flats. Council Tax records indicate that No's. 10, 11,

16, 17, 18, 19, 21, 24, 35 and 36 Barbican Road are flats. Flatted accommodation will be compatible with the existing character of the area.

## AMENITY OF FUTURE OCCUPANTS

4.18 Although it does not form part of an adopted Local Plan, the Subdivision of Dwellings SPD is a useful guide in ensuring a good standard of amenity for future occupants, as advocated by the NPPF. The SPD seeks to ensure that subdivided homes are comfortable, convenient and able to accommodate the appropriate amount and level of furniture and fittings in line with the number of people resident in the property.

Table 1.1 Room size and location

Room No.	Location	Size (m <sup>2</sup> )	Room No.	Location	Size (m <sup>2</sup> )
1	Ground	35.1	7	First	44.7
2	Ground	40.5	8	First	53.9
3	Ground	44.5	9	Second	32.7*
4	Ground	41.3	10	Second	33.5*
5	First	41.4	11	Second	35.4*
6	First	40	12	Second	35.8*

\*measured up to 1.5m headroom

4.19 The flat/room sizes within the SPD cannot be used when making a decision. This is because the Government has made a policy decision to introduce a nationally described space standard, to replace any local standards, but has further stated that local planning authorities can only use that standard where they have a relevant current local plan policy. It is noted however that paragraph 3.11 of the SPD advises that studio flats should have a minimum 'habitable' floor space of 32.5 sqm. All the flats achieve this minimum standard. There is also wardrobe space.

4.21 The flats located on the ground and first floors will have single aspect, with either an outlook to the front and rear of the site. However the four flats located within the second floor level will only be served by rooflights. Furthermore, part of these rooms will have low headroom, due to the profile of the roofslope, however as shown in Table 1.1 this does not have a material impact upon the internal floorspace of each of these flats.

4.22 Paragraph 3.42 of the SPD expects attic rooms to be adequately lit with daylight and ventilated with openable windows and if skylights are the only form of windows, they need to be installed in a position where the occupants can look out and observe the surrounding environs. The living and sleeping areas have been positioned nearest to the rooflights within the roof slopes where they can benefit from natural daylight and ventilation.

4.23 The Public Protection team has not raised any objections to the application in regards to noise or air quality; it is noted that Barbican Road (the A19) is within the Air Quality Management Area, however the dwellings are not. Given that the A19 is a busy road accessing the city centre from the south, the dwellings are expected to be impacted by vehicular traffic noise and air quality. However, the site is a sustainable location, with access to the city centre and public transport links. Furthermore, there is no proposed change to the residential use of the application site. There will be limited car parking within the site and it is not considered that the additional residential flats would contribute or be impacted by existing air quality levels or noise levels that would justify refusal of the application.

4.24 A small garden would be provided, which can be accessed directly by the two rear ground floor flats. It is not clear whether this could be used communally by the wider residents. There are other existing hardstanding areas within the site.

4.25 The application indicates that existing pedestrian access from Barbican Road and vehicular access from the rear alleyway will be retained and used in the same manner as present. Flat No. 2 will have independent access from Barbican Road. There is also pedestrian access through to Wellington Street.

4.26 An objector states that recent residential developments will be able to meet the need in the rental market. An addendum to the main SHMA (September 2017) concludes on the overall full objectively assessed need for housing over the 2012-32 period to be 867 dwellings per annum. The full details (amount of housing) of the schemes referred to in the objection have not been calculated, as Local and National planning policy is clear that housing developments are required to meet identified housing demand.

#### IMPACT OF EXTENSIONS UPON NEIGHBOURING RESIDENTIAL AMENITY

4.27 In addition to the conversion of the dwellings, the application involves an extension in the form of a three storey infill extension to the rear of both properties. The extensions will be inline with the existing adjoining properties to either side. To the front, the existing bay windows will be continued to the first floor.

4.28 Objections have been received that the extension will lead to the overdevelopment of the site and reduce privacy of neighbouring occupiers.

#### Overlooking

4.30 The infill will result in a reduced distance between neighbouring properties to the rear, on Willis Street. The distance between the proposed rear elevation and the rear boundary of the site is 17m approximately. A distance in excess of 25m will be retained between the rear extension and the properties on Willis St, which is sufficient to avoid any significant loss of privacy to rear of the site. Notably, the boundary wall of the application site is a high wall and garage door and will be retained.

4.31 The site overlooks Barbican Road and an area of vacant land beyond to the front. This land however has extant permission (RN: 13/02135/FULM) for its redevelopment to provide a part 4/part 5 storey building comprising 175no. apartments and 1 no. 3 storey building comprising 12no. apartments. The report for this extant application advises that the most affected property would be No. 20 Barbican Road, however the buildings would be over 21m apart.

4.32 Side windows at ground and first floor levels are indicated to be proposed to the southern elevation, on the boundary with No. 27 Barbican Road. Given the lack of windows to the side elevation of No. 27 and the retention of the existing outrigger wall, the side windows are unlikely to increase levels of overlooking to this adjoining property.

4.33 As such, given the distances to neighbouring properties, the proposal would not significantly increase the levels of overlooking to any neighbouring properties and the objections on loss of privacy cannot be supported in this regards.

#### Overshadowing

4.34 The rear extension would be inline with the rear elevations of the neighbouring properties, which are two storey. Given the position of the extension with neighbouring properties, the extension would not result in a significant level of overshadowing or oppressiveness to warrant refusal of the application.

#### Overdevelopment

4.35 The existing garden areas to both properties comprise of hardstanding and small areas of planting. There is an existing garage to No. 25, with a roller shutter door onto the rear alleyway. The plans indicate that the rear garden will provide parking for four vehicles and access and turning areas, cycle storage for 12 cycles and refuse and recycling storage areas, as well as a small garden area. Concerns have been raised that the development will result in the overdevelopment of the site. It is considered that an adequate and useable amenity space (sufficient land for drying clothes and space that is suitable to sit out in) for the occupants of the flats will be provided. It is therefore considered that the development would not result in the overdevelopment of the application site.

#### Loss of Views

4.36 An objector states that the extension will restrict views from their property; whilst there may be some loss of views, there is no overall increase in the height of the dwelling in addition to existing boundary treatment that could reduce any views. Further, private views are generally given little weight in the determination of a planning application.

## DESIGN

4.37 The buildings are unlisted and located outside any conservation area. No. 25 is located at the end of the row of similar terraces (in appearance, scale and height) however it is noted that the property to the north No. 24 Barbican Road projects forward and varies in its style and appearance. There is generally a uniform appearance with no. 25 and 26 along Barbican Road. However, it would appear that No. 26 forms a pair with, and mirrors No. 27.

4.38 The extensions will add considerable mass to the existing dwelling; however the extension is contained primarily to the rear of the site and does not extend beyond the footprint of neighbouring properties to either side. To the rear, there is substantial boundary treatment, in the form of a roller shutter door and high brick wall, similar to other rear boundaries along the alleyway. The ridgeline of the main dwellings would not be increased and the rear extension would still be positioned 18m from the main public vantage point (the alleyway), and thus its impact is somewhat reduced. Whilst there is increased massing to the rear, it is considered that this is not to the detriment of the appearance of the dwellinghouses or this row of terrace properties.

4.39 In terms of the appearance to the front, the alterations include the upward extension of the projecting bay windows, which would, on balance, reflect the style and architectural features of the original building and this row of terrace properties. Additionally, the front doors will be retained, which maintains the appearance of two terrace dwellings.

4.40 The extensions will be constructed in brick to match the existing dwellings, along with the fenestration details reflecting the existing dwellings.

4.41 As Barbican Road is located outside any conservation area, the extensions and alterations, on balance, are considered to respect the local environment, in terms of scale, mass and design and accords with Policy GP1 in this regards.

## IMPACT UPON HIGHWAYS

4.42 A number of objections have been received citing that the proposed development will increase parking pressures in the area, which are already high.

4.43 The site is not located within a resident parking zone. In respect to off street car parking, the Council's car parking standards (Appendix E of the Local Plan) requires for 'special category' dwelling (multi-occupancy/bedsit type accommodation) 1 space per 3 units. 4 car parking spaces are shown on the plans, which would accord with the parking standards for this type of development. 12 cycle parking spaces are provided, which accords with the requirement to provide 1 cycle space per unit.



4.44 The proposals accord with the Council's car and cycle parking standards, which have the aim of reducing the dependence on the private car and to encourage more environmentally friendly modes of transport.

4.45 The site is a sustainable and city centre location, with an availability of public transport within a short distance. An objector refers to the bus stops on Barbican Road being redundant; however there are other bus stops within a short distance of the site (Kent Street, Heslington Road and Fawcett Street) that provide frequent local services.

4.46 The alley to the rear of the site is currently used by properties in the street for rear vehicular access. There is concern that this will be used more intensively and result in the blocking of access to neighbouring properties. Both properties currently have access from this rear alley, with parking within the site. It is not considered that the application will be materially different from the existing arrangement, in terms of the current levels of parking on the site and manoeuvrability.

## WASTE AND RECYCLING

4.46 The plans indicate a dedicated space for the storage of refuse and recycling. The waste officer has raised concern that the plans do not show enough space allocated for the number of properties. It is considered that there is adequate space within the site to accommodate the number of properties and details shall be secured by a condition.

4.47 An objector has raised concerns to the lack of detail in respect to who will be responsible for ensure that the bins are placed on Wellington Street on collection day and returned. The Waste Officer has also raised the point that it is the responsibility of the occupiers/owners to ensure the bins are available on the street for collection. A condition shall require the submission of a management plan detailing who is responsible for the placing and returning of the bins.

4.48 An objector has raised concern that the waste and recycling will be stored in bags where they attract rats and smell; the waste officer has stated that the waste and recycling will be stored in bins and a condition will ensure that suitable sized bins for the development can be accommodated within the site.

## CRIME AND SECURITY

4.49 The Police Designing out Crime officer reports that between 1 October 2016 and 30 September 2017 there were 130 crimes and 50 anti-social behaviour incidents recorded within a 200m radius of the site; theft was the most significant issue. Crime and anti-social behaviour levels within the vicinity of the proposal can be described as being at a medium level.

4.50 A number of recommendations have been specified by the Police DOC officer, including lighting for the car parking, cycle and waste storage areas, as well as target hardening and access control. Further they comment that a management/maintenance plan should be drawn up in order that any issues associated with the communal areas can be actively managed (i.e. litter removal and damage repair) and can be secured by a suitably worded condition.

## DRAINAGE

4.51 As the site is in flood zone 1, it has a low risk of flooding. There is an existing area of hardstanding within the site. As such it is unlikely that the proposed development would increase the risk of flooding, within or surrounding the site. Plans have been submitted to show the proposed foul and surface water drainage.

## ARCHAEOLOGY

4.52 The application site lies within the Central Area of Archaeological Importance in an area which has produced significant archaeology dating to all periods. It is possible that groundworks associated with the extension may reveal or disturb archaeological layers. It will be necessary to record any revealed features and deposits through an archaeological watching brief on all groundworks. This can be achieved via a suitably worded condition.

## LAND CONTAMINATION

4.53 The applicant has submitted a land contamination screening assessment stating that there is no known previous history of uses of land that could have the potential for contamination. Public protection officer has reviewed historic maps and note that a scrap metal merchant dating from 1959 was evident in the vicinity of the site. As such, a condition is recommended to ensure that if contamination is found, and remediation is necessary, then this is covered.

## AFFORDABLE HOUSING AND CONTRIBUTIONS

4.54 As the scheme is for an increase in the number of dwellings below 15, there is no requirement to provide any affordable housing in accordance with draft Local Plan Policy H2 and the Council's interim targets. Due to pooling restrictions, no open space/ play or outdoor sport offsite contribution is sought. The type of units proposed do not trigger a requirement for contributions towards education facilities.

## OTHER ISSUES

4.55 A number of objections have been raised, but are not covered in the main body of the report.

### Fire risk

4.56 The objector comments that there is inadequate provision for fire engine to access the rear of the property. Access to the rear alley is the same for all the properties along Barbican Road, and it is considered that there is adequate space for fire engines to traverse along the alleyway. In addition, access can also be taken from the front in emergency situations.

### Construction traffic

4.57 An objector refers to the parking of construction vehicles within the rear alleyway. It is the responsibility of the applicant to ensure that construction vehicles do not cause an obstruction on the public highway and that they have adequate space/access to undertake the development. It is also likely that following the demolition of the existing outbuildings, there would be adequate space within the site to park construction vehicles and any other machinery needed to undertake the development.

## **5.0 CONCLUSION**

5.1 The application would result in a conversion of two family dwellings to 12 flats contributing to housing supply in accordance with draft Local Plan Policy H8 and the NPPF. It is considered that the flats will provide an adequate standard of residential amenity, with provision for car and cycle parking, waste storage and amenity areas within the site. The site is a sustainable location for residential uses, with access to the city centre through sustainable transport means and there is no risk of flooding.

5.2 The extensions and alterations are considered to preserve the appearance of the two dwellings in the streetscene. To the rear, there is significant boundary treatment, limiting the visual impact of the proposal. The site is located outside any conservation area, and the extensions and alterations are considered to respect the local environment, in terms of scale, mass and design. Furthermore, the extensions are considered to preserve the residential amenity of neighbouring occupiers, in terms of overlooking and overshadowing

5.3 The proposals accords with national guidance in the NPPF and the Draft Development Control Local Plan Policies subject to conditions.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

B166.01.11 rev C

B166.02.10 rev D

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

3 Development shall not commence until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works 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 lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

4 HWAY19 Car and cycle parking laid out

5 The building hereby approved shall not be occupied until scaled details (1:100) of the waste and refuse storage area has been submitted to and approved in writing by the Local Planning Authority. The details shall include the external finish of the storage area and demonstrating that it can accommodate the relevant quantities of containers required for the development. The storage area shall be provided prior to the occupation of the building and maintained as approved for the lifetime of the development.

Note- you are advised that the following quantities are required:

1 x 1100 litre bin for general rubbish

1 x 660 litre bin for general rubbish

1 x 1100 litre bin for paper and cardboard recycling

1 x 660 litre bin for plastic bottles and cans

1 x 240 litre bin for glass

Reason: To ensure that waste and recycling storage can be accommodated within the site.

6 LC4 Land contamination - unexpected contam

7 All construction and demolition 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 residential amenity of local residents.

## 7.0 INFORMATIVES:

### Notes to Applicant

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

In considering the application, The Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

#### 2. ELECTRIC VEHICLE CHARGING

For planning applications that include new parking, CYC normally request that provision is made for the charging of electric vehicles on site. Whilst the local planning authority do not feel it is necessary to condition a requirement for electric vehicle recharging in this case (as there are no additional parking spaces proposed), we would be happy to advise on a suitable, cost-effective and practical recharging solution on this site, should the applicant wish to explore this. Contact the Public Protection team on 01904 551555 for further information and advice.

#### 3. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch 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.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

**Contact details:**

**Author:** Lindsay Jenkins

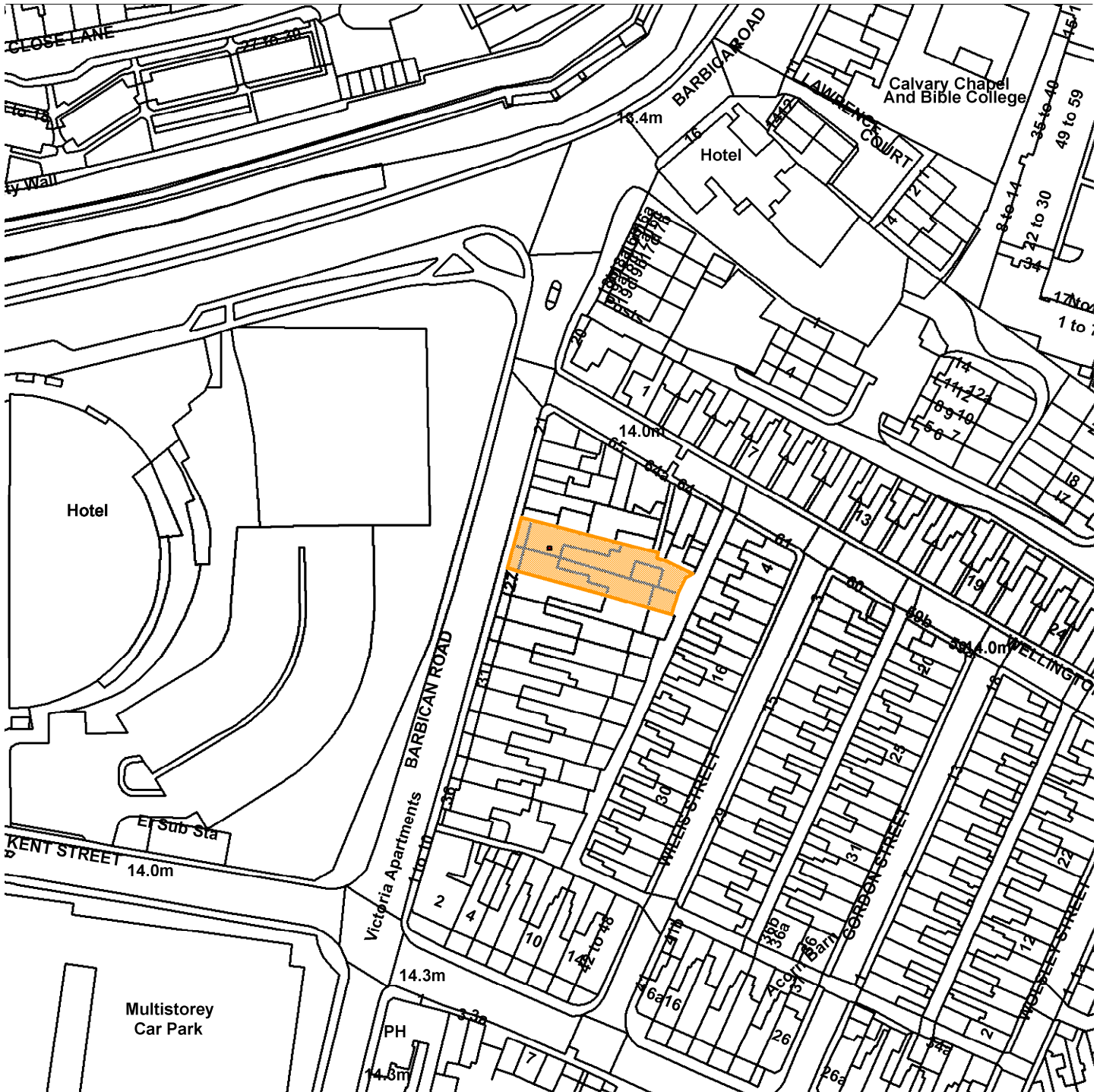
**Tel No:** 01904 554575

17/02199/FULM

25 Barbican Road, York, YO10 5AA



GIS by ESRI (UK)



Scale : 1:1314

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy and Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	29 December 2017
<b>SLA Number</b>	

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**COMMITTEE REPORT**

**Date:** 11 January 2018      **Ward:** Guildhall  
**Team:** Major and      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 17/02224/FULM  
**Application at:** Fiesta Latina 14 Clifford Street York YO1 9RD  
**For:** Conversion of basement and ground floor from restaurant (use class A3) to office use (use class B1), and upper floors from office (use class B1) to 10no. dwellings (use class C3). Construction of roof extension, second floor rear extension and alterations to elevations  
**By:** Mr M Easterby  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 29 December 2017  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 14 Clifford Street occupies a corner building fronting Clifford Street and Lower Friargate within York City Centre. It is a building that occupies basement, ground, first, second, third and part fourth floors. Currently the building is in mixed use, with the basement and ground floors providing two separate restaurants (Class A3); one which is now vacant (former Pizza Hut) and one which is still operational (Fiesta Latina). Both restaurants have separate access from Clifford Street. The upper floors are in office use (Class B1), some are vacant and some remain occupied. Access to the upper floors is taken from ground floor access on Lower Friargate.

1.2 The building is not listed but located within the Historic Central Core Conservation Area Character Area 12: King's Staith and Coppergate Centre. The site lies within Flood Zone 2. It is located outside the Primary Shopping Area.

1.3 To the north, the building adjoins Kuda Bar and Night Club at 12 Clifford Street and is adjacent to the Law Courts on the opposite side of Lower Friargate. To the rear the application building is separated from the Riding Lights Theatre by a pedestrian access route, which provides access to the rear of the buildings within the Clifford Street/Cumberland Street, King's Staith and Lower Friargate block. Vehicular access to the rear for deliveries can be taken from Cumberland Street.

1.4 Planning permission is sought for the conversion of the basement and ground floor to office use (Class B1). The upper floors to 10no. dwellings (Class C3) and the construction of an extension on the third floor, second floor rear extension and alterations to elevations.

1.5 The building would be arranged with cycle and waste storage provided within the basement with access taken from the rear. Within the building, it is sought to provide 3 separate offices, A, B and C. Office A and B will occupy the ground and basement floors and office C only occupy an area on the ground floor. Offices B and C will utilise the existing egress points onto Clifford Street with a new egress proposed onto Lower Friargate to provide access to Office A.

1.6 The existing Lower Friargate egress will be retained and will form a lobby including internal lift to serve the proposed residential uses on the upper floors. The scheme seeks to provide 10 residential units in total 6 x 2 bedroom flats and 4 x 1 bedroom flats and arranged thus:

Table 1.1 Schedule of Accommodation

Level	Unit No.	Bedrooms	Gross Internal Area (GEA) m <sup>2</sup>
1	1	2B	58
	2	2B	59
	3	1B	38
	4	2B	59
2	5	1B	46
	6	2B	66
	7	1B	41
2-3 (Duplex)	8	2B	76
3	9	2B	76
3-4 (Duplex)	10	1B	85

1.7 The external extensions include a part single, part two storey rear extension at first and second floor level including windows in the northern and western elevation. Set behind a parapet wall is a proposed mansard roof extension to the Clifford Street elevation at third floor level, which contains two windows in the front and rear elevations. A patio area will be created at third floor level, and set behind a parapet wall.

1.8 Other alterations involves the insertion of windows and doors. Specifically this includes four new windows to the northern elevation at ground floor level and the insertion of windows into blind openings at second floor level on the Lower Friargate elevation. The shopfronts to both the existing restaurants on Clifford Street will have subdivided glazing. Additional doors shall be inserted in the Lower Friargate elevation at ground floor level and a further opening within the northern elevation to the basement.

1.9 The submitted plans indicate that the individual air conditioning units and extract ducts shall be removed from the northern elevation, which would be redundant following the proposal to replace the restaurants.

## **2.0 POLICY AND LEGISLATIVE CONTEXT**

### 2.1 Draft 2005 Development Control Local Plan

CYGP1	Design
CYGP3	Planning against crime
CYGP4A	Sustainability
CYGP4B	Air Quality
CYH12	Conversion of redundant offices
CYE7	B1 office devt in Existing Buildings
CYHE2	Development in historic locations
CYHE3	Conservation Areas
CYT4	Cycle parking standards

### 2.2 Pre-publication draft Local Plan (2017)

D1:	Placemaking
DP3:	Sustainable Communities
ENV1:	Air Quality
T1:	Sustainable Access
EC1:	Provision of Employment Land
EC2:	Loss of Employment Land
H2:	Density of residential development
H3:	Balancing the housing market
D4:	Conservation Areas
D11:	Alterations and extensions to existing buildings
D12:	Shopfronts

### 2.3 NPPF

### 2.4 S72 Planning Listed Buildings and Conservation Areas Act 1990

## **3.0 CONSULTATIONS**

### INTERNAL

#### PLANNING AND ENVIRONMENTAL MANAGEMENT (CONSERVATION)

3.1 The building is a significant Victorian building originally built as two properties with both elements making a very positive contribution to the character of the conservation area and streetscape, given their scale, materiality and detailing.

3.2 The principle of the change of use and most of the alterations are not objectionable, but negotiation has been undertaken on other aspects of the scheme.

The applicant has addressed nearly all of the previous concerns; the application can now be supported and the positive response from the applicant has been welcomed.

3.3 It is noted that the applicant has sought to install new windows in the existing blind openings. There will be a net gain of one new window, which is reduced from the previous scheme as one of the existing windows will be blocked up. This alteration is considered to cause some harm to the character of the conservation area. However the level is deemed to be less than substantial and is outweighed by the improvements to the shop fronts at ground floor level on Clifford Street including the removal of the inappropriate Fiesta Latina shop front and replacement with something more in keeping with the character of the building. The shop front alterations and the replacement of the oriel window are deemed to be an enhancement of this building.

#### PUBLIC PROTECTION (PP)

3.4 An objection has been withdrawn following receipt of a noise assessment and clarification the application building is not listed, which means that compliance with internal noise levels is possible.

#### HIGHWAY NETWORK MANAGEMENT

3.5 No objection. The proposed apartments and office accommodation are located in a very sustainable location. We will require the developer to provide contributions of £2k to remove the property from the Residents Parking Zone R11, so as not to cause serious impact on the existing residents within this highly subscribed zone. The property is located in the city centre on a very tight site, close to bus stops and high footfall. We therefore request a method of works condition to cover highway impact throughout construction.

#### ECONOMIC DEVELOPMENT

3.6 Any comments will be reported verbally.

#### FLOOD RISK MANAGEMENT TEAM

3.7 No objections. The flood risk statement is satisfactory.

#### EXTERNAL

#### HISTORIC ENGLAND

3.8 Do not wish to offer any comments

#### GUILDHALL PLANNING PANEL

3.9 No objection

## YORK CIVIC TRUST

3.10 Supports the conversion which offers an opportunity to improve the internal layout at lower levels and fenestration of the upper floors facing Lower Friargate.

3.11 It is a welcome opportunity to improve the fenestration on Clifford Street and unattractive shopfronts (Fiesta Latina). We also commend the restoration of fettling across this elevation. They should look at the possibility of restoring the first floor oriel window above Fiesta Latina, evident from the local archives (c.1990).

## POLICE DESIGNING OUT CRIME OFFICER (DOCO)

3.12 Crime and anti-social behaviour levels within the vicinity of the proposal can be described as being at a very high level. An issue is the alcohol related activity in the street late at night upon the amenity of the residents of the flats, due to the close proximity of a night club. External lighting is recommended to the elevations and service alleyways and target hardening such as the physical security of doors, windows and cycle stores.

## CONSERVATION AREA ADVISORY PANEL (CAAP)

3.13 No objection to the use of the building. Concern was raised to the provision of additional accommodation by means of the mansard roof over Fiesta Latina and the extra floor on the Friargate elevation. The mansard roof extension should not interfere with the tower element of the former club.

## ENVIRONMENT AGENCY

3.14 Any comments will be reported verbally.

## PUBLICITY AND SITE NOTICE

3.15 One letter of comment was received from the occupier of 15 Kings Staith who states that they are generally in favour of the application with the appearance of the building improved. Concern is raised to the flood risk assessment; the basement has previously been subject to flooding.

3.16 One letter of objection has been received from the operators of Kuda Bar and Night Club at 12 Clifford Street. They state that their premises license allows it to open seven days a week and it can be open until 04:30. They consider that whilst they have a duty (under the Premises Licence) to control people entering and leaving the premises and the behaviour of customers within the club, it cannot control their activities in the surrounding streets or the transference of sound from within the club through the party walls to neighbouring properties. In summary, their main objections include:

- noise and disturbance to residents of the proposed flats from this existing and longstanding authorised late night use
- complaints could lead to possible restrictions on this existing authorised late night use and opening hours impacting upon profitability and viability of this use.
- developer's are responsible for ensuring new developments do not threaten the future of existing late night business
- The noise assessment showed that noise levels on Clifford Street remained particularly high until 0100-0200. The report recommends that specific double-glazed windows be fitted to bedrooms but these can still be opened
- suitable noise mitigation measures should be included within any proposal
- a High Court decision on 8 September 2015 relating to residential development adjoining KoKo nightclub in Camden, which was quashed, is referred to - the local planning authority failed to pay sufficient attention to the setting of nearby heritage assets and that noise impact had not been adequately addressed.

## 4.0 APPRAISAL

### Key Issues:

- Principle of development (loss of A3 uses/proposed residential (C3) use/reconfiguration of office floorspace (B1))
- Impact of external extensions and alterations upon the Conservation area
- Impact of external extensions upon any neighbouring occupiers
- Amenity of residential units
- Highways
- Flood Risk
- Crime and Security
- Sustainability
- Environmental Impacts (Contaminated Land/Air Quality)

## POLICY CONTEXT

4.1 Section 72(1) of the 1990 Act refers to any buildings or other land in a conservation area and places a duty on Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

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

4.3 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible.

4.4 Paragraph 23 advises that planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. Local Planning Authorities in drawing up their local plans should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. They should also define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations.

4.5 A core principle set out in paragraph 17 is to always seek to secure a good standard of amenity for all existing and future occupants of the land and buildings and to conserve heritage assets in a manner appropriate to their significance. Section 12 of the NPPF is relevant to the site's Conservation Area Status. Paragraph 129 says that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any 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 134 says that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit of the proposal, including its optimum viable use.

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

4.7 New developments are required to respect or enhance the local environment in terms of density, layout, scale, mass and design and to ensure that residents living nearby are not unduly affected by noise and disturbance (Policy GP1) and have regard to the principles of sustainable development in accordance with Policy GP4a.

4.8 Policy H12 allows the conversion of office space to residential use where a) there is a sufficient supply of offices to meet both immediate and longer term requirements over the plan period; and b) the proposal will not have an adverse impact on the vitality and viability of the City and District Centres; and c) it has no adverse impact on residential amenity.

4.9 Policy HE3 which advises that consent will only be granted for external alterations where there is not adverse effect on the character or appearance of the area.

4.10 Developments are also expected to be carefully designed and sited where they are adjacent to rivers to reduce flood risk and problems of flooding, erosion and pollution downstream by increasing surface water run off from impermeable surfaces or by reducing flood plain capacity (Policy GP15a).

4.11 Policy E7 states that the change of use to B1 uses at ground floor level will be permitted where it would not harm the vitality of existing centres.

4.12 The shopping policies of the DCLP have been superseded by the Emerging Plan and Retail Study Update (2014) (RSU), which is part of its evidence base. The site is sited outside the Primary Shopping Area and neither Clifford Street nor Lower Friargate are identified as a secondary shopping frontage.

### Emerging Local Plan

4.13 Consultation on a new pre-publication draft local plan and revised evidence base has recently been completed. (30th October 2017). A public consultation on the Publication version of the Local Plan is expected to start in February 2018.

4.14 The emerging Local Plan policies can only be afforded limited weight at the present time, given the stage that they have reached in the statutory process. The National Planning Policy Framework (paragraph 216) provides that weight may be given to relevant policies in emerging plans according to: the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency with the Framework.

## ASSESSMENT

### PRINCIPLE OF DEVELOPMENT (LOSS OF A3 USES/PROPOSED RESIDENTIAL (C3) USE/RECONFIGURATION OF OFFICE FLOORSPACE (B1))

4.16 The application seeks to relocate some of the existing office accommodation to the basement and ground floor resulting in the loss of the existing restaurants and equating to 573m<sup>2</sup> of Class A3 floorspace. One of the restaurants within the building has ceased trading prior to the submission of the application, with the other one still operating during the assessment of the application. No marketing details have been provided that indicates that another restaurant or retail user could accommodate the ground floor units. However, the site is not within the primary shopping area nor is it located on a secondary frontage. It is considered that the site is located on the periphery of the city centre, which is more connected with legal and professional services, given its proximity to the law courts.

4.17 Taking into account its location outside the Primary Shopping Area, the loss of the restaurant uses and the relocation of existing office use within the building to the basement and ground floors are not considered to be detrimental to the vitality of the city centre.



4.18 In total, there would be a net loss of 155m<sup>2</sup> of B1 office floorspace, with 513m<sup>2</sup> retained within the scheme. The building currently provides over 600m<sup>2</sup> of office floorspace arranged with a number of interlocking rooms in an irregular arrangement. It is not considered that office accommodation of this size would have a detrimental impact upon the supply of offices.

4.19 A general overarching aim of local and national planning policies is to protect the vitality and viability of individual streets and City Centres as a whole. The reconfiguration of uses contained within the building, including the partial loss and relocation of office accommodation to the ground and basement floors, the use of the upper floors as residential and the loss of restaurant use at basements and ground floors is considered acceptable in principle. Given the location of the site on the periphery of the city centre, the proposed scheme is considered not to have an adverse impact on the vitality and viability of the city centre. The scheme therefore accords with Policies E7, H12 of the Development Control Local Plan (DCLP), the Emerging Plan and Retail Study Update (2014) (RSU) and Paragraph 23 of the NPPF.

#### IMPACT OF EXTERNAL EXTENSIONS AND ALTERATIONS UPON THE CONSERVATION AREA

4.20 A number of amendments have been sought, particularly in respect to materials of the proposed extensions, the detailing/opening up of blind windows and improvement to the Clifford Street facade including the shopfronts and oriel window. Whilst the proposals (specifically the opening up of 1 of the blind windows to the Lower Friargate facade) will cause some harm to the conservation area, this is considered to be less than substantial and even when the desirability of avoiding such harm is given considerable importance and weight, it is outweighed by the improvements to the shopfronts and first floor window on the Clifford Street elevation. The proposals therefore are considered overall to result in an enhancement of the building and this part of the Central Historic Core Conservation Area, in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraph 134 of the NPPF

#### IMPACT OF EXTERNAL EXTENSIONS UPON ANY NEIGHBOURING OCCUPIERS

##### Overshadowing

4.21 The surrounding uses to the application site are commercial in nature, and as such the external extensions including a part single, part two storey rear extension at first and second floor level and a proposed mansard roof extension to the Clifford Street elevation at third floor level are not considered to result in any overshadowing to any neighbouring buildings that would result in any detrimental harm.

##### Overlooking

4.22 Additional windows are proposed to all elevations of the building; the surrounding building uses are predominately commercial in nature and any new windows are not considered to directly overlook any neighbouring property that would be detrimental to the amenity of any of the occupiers of neighbouring properties.

## AMENITY OF RESIDENTIAL UNITS

### Location and surrounding uses

4.23 Whilst the application site is located on the periphery of the city centre, the surrounding area comprises of a mix of uses. The application site on the northern elevation adjoins Kuda Bar and Nightclub. The operators of Kuda have objected to the proposal citing that there is potential for noise and disturbance to residents of the proposed flats from this existing and longstanding authorised late night use.

4.24 The Public Protection officer initially raised concerns as to whether the occupants of the proposed flats would be adequately protected from external noise sources from Clifford Street and Low Friargate. An updated noise report and further monitoring was undertaken (over a weekend in November) to the rear of the property and to investigate the potential for noise break -in through the party walls of the adjacent nightclub. The noise monitoring identified that noise remained high until 01:00 and 02:00, peaking at midnight. The report notes that no music noise was recorded, which may be partially as a result of the layout of the nightclub with customer toilets and ancillary areas adjacent to the party wall rather than the club dance floors or bars.

4.25 The noise report details that the current single glazed windows are to be refurbished and retained with mitigation in the form of secondary glazing. The updated noise report indicates the mitigation required for both habitable rooms and bedrooms within the properties overlooking Clifford Street and Lower Friargate.

4.26 To the rear, the property will overlook the nightclub smoking area and rear yard. The noise report indicates that noise levels were not sufficient to prevent the development and correctly fitted single glazed units would be sufficient to ensure acceptable internal noise levels in all rooms, including bedrooms.

4.27 In regards to the external amenity area on the third floor on the western elevation, the noise report outlines that no mitigation is required, as the western facade does not overlook either Clifford Street or the adjacent nightclub. Noise levels at this level achieve the lowest practicable levels and no mitigation is required.

4.28 The acoustic report identifies that all windows are required to be fixed shut, with appropriate ventilation to be provided within all habitable rooms. This will be in the form of passive ventilation to each flat which requires a simple ducted system intake/extract pipe at roof level.

4.29 The public protection officer is satisfied that mitigation would be achievable, subject to a condition for a detailed scheme of noise insulation measures. It is therefore considered that, subject to the installation of noise mitigation, the occupiers of the proposed flats would be adequately protected against neighbouring longstanding uses.

### Air Quality

4.30 The site is located adjacent to, but outside the boundary of the Air Quality Management Area. Recent monitoring has shown that concentrations of nitrogen oxide have been below health based standards at this location on Clifford St. Based on recent monitoring, it is not considered that sealed glazing or mechanical ventilation would be required for habitable rooms facing Clifford Street at first floor level and above. The offices to be relocated to the ground and basement floor are not considered to be sensitive in terms of long term exposure to air pollution and no air quality mitigation is therefore required at this level.

### Outlook

4.31 The 10 residential flats all have a single aspect; some of the flats particularly those located within the Clifford Street/Lower Friargate corner part of the building will be dual aspect. Outlined in Table 1.1 at paragraph 1.6 each flat provides an adequate internal area.

4.32 All of the habitable rooms within the flats would receive adequate natural light and outlook. Generally, the occupiers of the proposed flats would have a good standard of living accommodation and residential amenity.

## HIGHWAYS

4.33 There is no provision within the application to provide any off-street car parking. The site is located within the city centre, which is a highly sustainable location, in terms of access to public transport links. Notwithstanding this, it is acknowledged that an increase in the number of residential units would have an impact on residents parking bays which are heavily oversubscribed in the vicinity of this property. Therefore, in line with other development proposals, the proposed site would be removed from the Residents Parking scheme. A condition requiring an amendment to the Traffic Regulation Order to remove the site from the Residents Parking zone is recommended.

4.34 Cycle parking is indicated to be provided within the basement providing 13 cycle parking spaces in total. This area can be accessed independently of the both the office and residential uses, from the northern elevation. The Council's cycle parking standards advise that 10 cycle parking spaces are required (one for each flat) and based on the office floorspace at least 8 cycle parking spaces should be provided for the offices. It is felt that there is adequate space in the dedicated cycle store to

accommodate a further 5 cycles in accordance with the Council's requirement. This will assist in encouraging transport modes other than the car.

## FLOOD RISK

4.35 A comment has been received that the basement has been subject to previous flooding and concern is raised to the details provided in the flood risk assessment. It is noted that the conversion provides non-residential uses at ground and basement levels, which is similar to existing, and residential use at upper floor level. It has been identified that the entrance to the residential flats are located within flood zone 1. The general floor of the ground floor rooms is 11.95 AOD, the entrance to the residential units have an existing level of 11.51AOD. The highest recorded flood level in York is 10.40 AOD.

4.36 The Council's Flood Risk Management officer does not raise any issues in this regard.

## CRIME AND SECURITY

4.37 The police designing out crime officer has provided advice as to how the security of the site and measures to reduce the fear of crime could be implemented. This includes lighting, particularly the pedestrian links to the waste and cycle stores to the rear. A condition shall require an external lighting scheme to be submitted.

## 5.0 CONCLUSION

5.1 The site is an existing mixed-use corner building that is currently partly occupied. The proposals involve the internal relocation of offices within the building, the loss of existing restaurant uses and the introduction of residential use within the building. The scheme is not considered to have an adverse impact on the vitality and viability of the city centre. The site is considered to be a sustainable location for residential and office uses, with the most vulnerable uses (residential) not at risk of flooding.

5.2 The applicant has undertaken further investigations, in respect to noise from neighbouring late –night uses and has detailed mitigation measures to ensure that any occupants of the flats would be adequately protected and an adequate standard of residential amenity would be provided. The objection raised by the operators of the adjoining late night bar and nightclub is considered to have been addressed.

5.3 The proposal has been amended in design terms, and offers sensitive extensions and alterations to preserve the Conservation Area. The proposal is therefore recommended for approval subject to the suggested conditions including a condition that amends the Traffic Regulation Order, removing the site from the Residents

Parking Zone. The proposals accords with national guidance in the NPPF and the Draft Development Control Local Plan Policies,

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

109 P01 110 P02 111 P02 112 P02 113 P03 114 P01 130 P02 131 P03 150 P02  
120 P00

Demolition Plans:

079 P01 080 P02 081 P02 082 P02 083 P02 084 P01

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

3 LC4 Land contamination - unexpected contam

4 No development shall take place until a detailed scheme of noise insulation measures for protecting the approved residential from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

Reason: The site is adjacent to a late night use and this level of noise mitigation is required to protect future residents from noise.

5 Prior to the development commencing details of the cycle parking area shall be submitted to and approved in writing by the Local Planning Authority. The cycle

parking area shall accommodate up to 18 cycles for both the residential and office occupiers. The building shall not be occupied until the cycle parking area has 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: The plans currently do not show the required levels of cycle parking for the proposed uses within the site and their provision will promote the use of cycles thereby reducing congestion on the adjacent roads.

6 Prior to the commencement of works, a sample of the proposed slate for use in all new roof works hereby approved shall be submitted to and approved in writing by the Local Planning Authority. All new roof works shall be constructed in accordance with the approved sample and plans.

Reason: In the interest of preserving the visual amenity of the building and this part of the Central Historic Core Conservation Area to accord with policies HE2 and HE3 of the Draft Development Control Local Plan 2005 (incorporating 4<sup>th</sup> set of changes) and the NPPF.

7 Prior to the commencement of works, a sample of the proposed brick for use in all new external construction hereby approved shall be submitted to and approved in writing by the Local Planning Authority. All new external areas shall be constructed in accordance with the approved sample and plans.

Reason: In the interest of preserving the visual amenity of the building and this part of the Central Historic Core Conservation Area to accord with policies HE2 and HE3 of the Draft Development Control Local Plan 2005 (incorporating 4<sup>th</sup> set of changes) and the NPPF.

8 Prior to the works commencing scaled drawings at 1:20 of all new windows shall be submitted to and approved in writing by the Local Planning Authority and thereafter constructed only in accordance with the approved details. The proposed windows shall be of timber construction with narrow moulded glazing bars, traditionally painted and without trickle vents.

Note- You are advised that the glazing bar details shall be included in any details that you may submit.

Reason: In the interest of preserving the visual amenity of the building and this part of the Central Historic Core Conservation Area to accord with policies HE2 and HE3 of the Draft Development Control Local Plan 2005 (incorporating 4<sup>th</sup> set of changes) and the NPPF.

9 Before works commence, construction details (including finishes) of the following shall be submitted to and approved in writing by the Local Planning Authority and thereafter constructed only in accordance with the approved details:

Application Reference Number: 17/02224/FULM

Item No: 4c

- a. External alterations to Office Units B and C, including details of columns, cills, window reveals
- b. Replacement window to first floor above Unit C, including sill, head, surround and mullion details
- c. Mansard roof and dormer

Reason: In the interest of preserving the visual amenity of the building and this part of the Central Historic Core Conservation Area to accord with policies HE2 and HE3 of the Draft Development Control Local Plan 2005 (incorporating 4<sup>th</sup> set of changes) and the NPPF.

10 Prior to works commencing on site, details of the location and specification of all new services (where they terminate externally), including SVPs and extracts shall be submitted to and approved in writing by the Local Planning Authority and thereafter constructed only in accordance with the approved details.

Reason: In the interest of preserving the visual amenity of the building and this part of the Central Historic Core Conservation Area to accord with policies HE2 and HE3 of the Draft Development Control Local Plan 2005 (incorporating 4<sup>th</sup> set of changes) and the NPPF.

11 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Measures to remove the site from the Residents Parking R11 zone.

Reason: In the interests of residential amenity and highway safety as the residents parking bays are heavily oversubscribed in the vicinity of this property.

12 Prior to the commencement of any works of demolition or construction on the site, a detailed method of works statement identifying the programming and management of site clearance/excavation/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority. Such a statement shall include at least the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- how vehicles are to access and egress the site
- how pedestrians are to be safely routed past the site
- details of any implications to the highway of demolition and waste removal vehicle

operation

- where contractors will park to avoid affecting the highway
- how large vehicles will service the site
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

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

**Contact details:**

**Author:** Lindsay Jenkins

**Tel No:** 01904 554575

**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:

- Negotiation on design aspects of the proposals

**2. INFORMATIVE:**

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch 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.

(b)The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise



disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

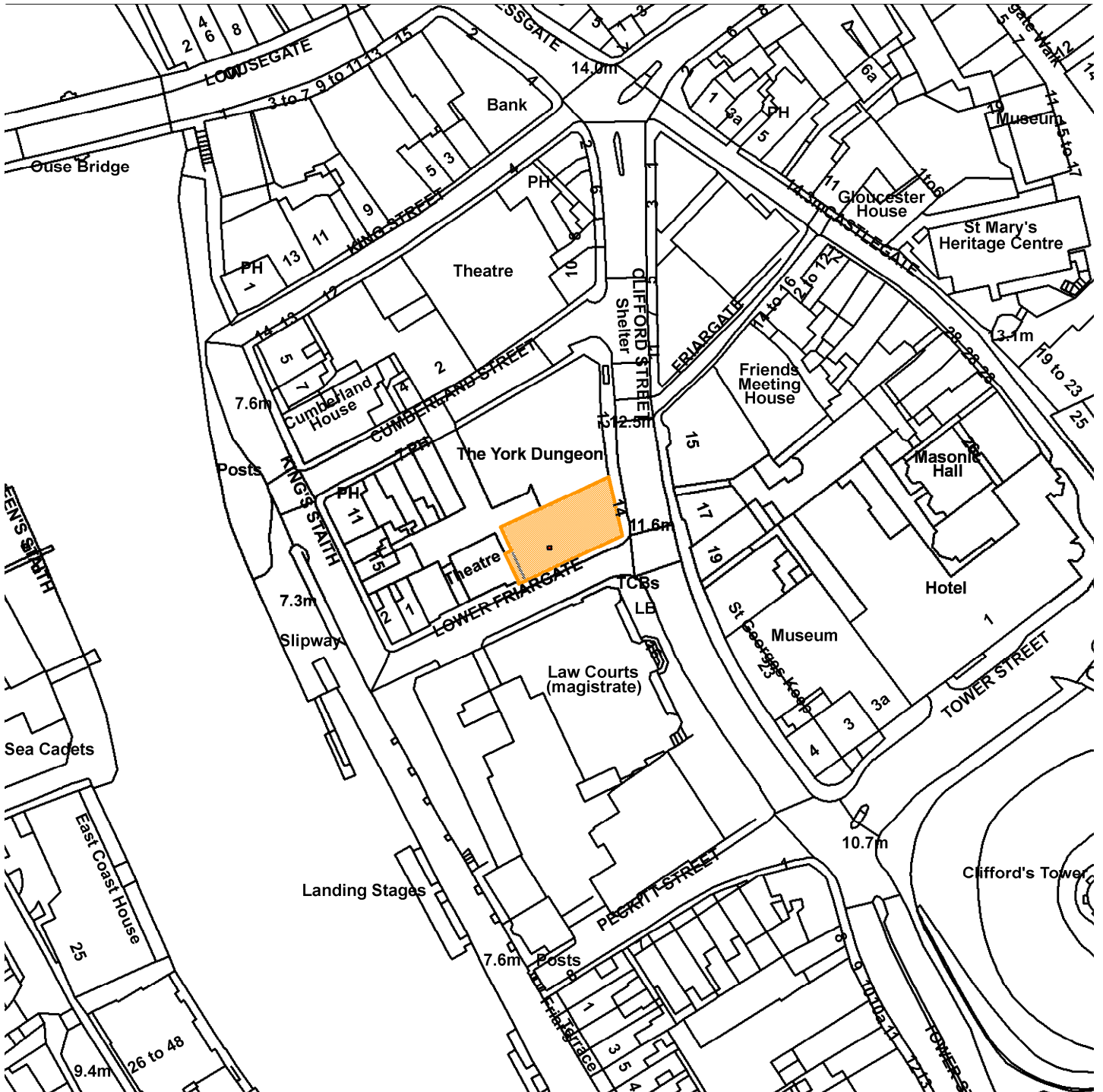
(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

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17/02224/FULM

Fiesta Latina, 14 Clifford Street, YO1 9RD



Scale : 1:1314

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy and Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	29 December 2017
<b>SLA Number</b>	

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**COMMITTEE REPORT**

**Date:** 11 January 2018      **Ward:** Osbaldwick And Derwent  
**Team:** Householder and      **Parish:** Osbaldwick Parish  
Small Scale Team                      Council

**Reference:** 17/02487/FUL  
**Application at:** 3 Murton Way York YO19 5UW  
**For:** First floor side extension (resubmission)  
**By:** Mr and Mrs Starzinski  
**Application Type:** Full Application  
**Target Date:** 18 January 2018  
**Recommendation:** Householder Refusal

**1.0 PROPOSAL**

1.1 This application seeks planning permission for a first floor side extension over the existing garage and projecting beyond the rear elevation of the garage to align with the rear of the main house.

1.2 The host dwelling is a traditional hipped roof bungalow with a symmetrical principal elevation and a attached double garage. It is located along the main passage of the Osbaldwick Conservation Area. The conservation area is linear with the main roads of Osbaldwick Village seamlessly merging into Murton Way. The area has a spacious village character with green verges and a stream defining the main route.

1.3 The application is a resubmission of 17/01920/FUL and there have been no material changes to the design. The original application was withdrawn after the agent was informed the application would not be supported.

1.4 The application is brought to Committee for decision at the request of Councillor Warters on the grounds that the extension would be sympathetic and beneficial to the Conservation Area and the removal of an existing overlooking dormer window should also be of benefit to the neighbouring property at No 5 Murton Way.

Planning History

1.5 Planning permission was granted for a two storey extension to the side of the dwelling in 1991. This planning permission was not implemented.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation: Conservation Area Osbaldwick

2.2 Policies:

CYGP1	Design
CYH7	Residential extensions
CYHE3	Conservation Areas

### **3.0 CONSULTATIONS**

#### Osboldwick Parish Council

3.1 No response received.

#### Neighbours/Publicity

3.2 Three letters received from interested parties supporting the application and stating:

- The proposal would improve the privacy of 5 Murton Way
- The additional space will make the property more desirable
- They believe the proposal is sympathetic and well hidden from the highway

### **4.0 APPRAISAL**

#### Key issues

4.1 The key issue is the impact on the character and appearance of the Osboldwick Conservation Area.

#### Policy context

4.2 The National Planning Policy Framework (March 2012) sets out the Government's overarching planning policies and 12 core planning principles that should underpin both plan-making and decision-taking. Of particular relevance here is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 The NPPF, Chapter 12 (Conserving and Enhancing the Historic Environment) says in Paragraph 129 that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal. They should consider 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 131 says that when determining planning applications, local planning authorities should take account of sustaining and enhancing the significance of any heritage asset. Paragraph 132 states that considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed by or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 133

says that where a proposed development will lead to substantial harm to or the total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

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

4.5 Development Control Local Plan Policy H7 states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours. Policy HE3 advises that within conservation areas, proposals for external alterations will only be permitted where there is no adverse effect on the character and appearance of the area. Policy GP1 requires development to respect or enhance the local environment, be of a design that is compatible with the character of the area and neighbouring buildings, protect private, individual or community amenity space and ensure residents are not unduly affected by overlooking, overshadowing or dominated by overbearing structures.

4.6 The Council has a Supplementary Planning Document (SPD) for House Extensions and Alterations which was approved on 4 December 2012. The SPD offers overarching general advice relating to such issues as privacy and general amenity as well as advice which is specific to the design and size of particular types of extensions or alterations. Paragraph 7.1 advises that a basic principle is that any extension should normally be in keeping with the appearance, scale, design and character of both the existing dwelling and the street scene generally. In particular, care should be taken to ensure that the proposal does not dominate the house or clash with its appearance.

4.7 In the case of this extension, sections 7 and 12 of the SPD are relevant to this application as follows:

Section 7.4 states that the siting of an extension should not be detrimental to the pattern of buildings and the spacing between them. Where a street or group of buildings has a clearly defined building line it should be retained and extending forward of a streets' building line should be avoided. Only in exceptional circumstances will this be appropriate (e.g. where the building line is not well defined or the front gardens of properties in the vicinity or general area are well screened).

Section 7.5 states that in many cases proposals that do not respect the character of a house or location are a result of the owners desire to create too much new living

space (overdevelopment) and/or give insufficient attention to retaining or duplicating important local details and landscaping (poor design).

Section 12.6 states that it is important that the erection of two-storey side extensions does not through overdevelopment, lead to the impression of the terracing of the front elevation of adjoining properties and the erosion of a street's spaciousness and character.

4.8 The application site is within the Osbaldwick Conservation Area. The main elements of the character and appearance of the area as considered in the 2005 Local Plan are:-

- (1) The elements surviving from the medieval form of layout.
- (2) The open rural character of the green, that has withstood considerable change in the village, and the relationship between building groups and the natural features of the green.

The Osbaldwick Character Area Statement for the conservation area states that 'the north the village has retained its open rural setting'

### Assessment

#### The impact on the streetscene and Conservation Area

4.9 With regard to the impact of the proposal on the streetscene, the proposed width of the side extension, at 57% of the original dwelling, it would be more than the Council's design guidelines of 50% and would create a frontage that is approximately 18.5m wide. This in isolation would not necessarily be unacceptable however because the applicant wishes to extend over the existing garage they have not provided a set down from the ridge or a set back from the front elevation at first floor thus the extension does not look subservient. As the side extension is large, the massing resulting from this significant additional width would increase the assertiveness of the dwelling and accentuate its visual appearance when viewed from the highway. While the agent pointed out that they are proposing to build mostly on top of existing ground floor walls this does not change the way that the application should be assessed in terms of planning guidance. As the design isn't subservient to the existing dwelling, what was a bungalow and garage would instead be seen as a significantly wider bungalow. It is considered important that the extension is seen as a subservient addition to the original/existing house and the new elements can be read.

4.10 The key issue is the impact of the extension on the character and appearance of the Osbaldwick Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area. Both 'the relationship between building groups' and the 'open rural setting' have been identified as the defining characteristics of the conservation area. The proposal is to



extend the first floor of the dwelling to approximately 1m away from the east side boundary, an additional width of almost 7m. By extending so close to the neighbouring property it would significantly reduce the existing spacing and erode the Osbaldwick Conservation Area's defining spaciousness and character.

4.11 Section 7.4 of the Council's Supplementary Planning Document states that the siting of an extension should not be detrimental to the pattern of buildings and the spacing between them. It also mentions that where the front gardens of properties in the vicinity are well screened there it may be considered an exceptional circumstance that would allow for narrower spacing between houses. At 3 Murton Way there is screening from the tree and hedge along the front boundary however the level of foliage is not permanent and more importantly the properties in the vicinity are not well screened the house is visible from the side. The area the extension would be situated is the most visible area of the plot from the highway thus the erosion of the rural character and separation between dwellings would be a visible and harmful change.

4.12 The proposal would make the house more assertive and dominant, and it would be detrimental to the rural character that is a defining feature of the Osbaldwick Conservation Area. On this basis, it is considered the extension would result in an incongruous feature that would harm the character and appearance of the Conservation Area. Overall, this situation would close the space between the dwellings in this location without mitigation of this impact. The NPPF requires that when a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The harm to the conservation area is not outweighed by any private improvements for the occupants. And there is no evidence that without the alterations house to would not be able function as a family home and remain in single residential use.

#### The impact on neighbour amenity

4.13 Concerning the impact on neighbouring dwellings, the development would bring the roof structure to 1m away from the boundary shared with 5 Murton Way. As the development would be to the west of 5 Murton Way during the evening it would overshadow the area to the west and immediately to the rear of the house. As the rear garden of No. 5 is approximately 45m in length this overshadowing would not have an unduly detrimental impact on the amenity of 5 Murton Way. The proposal would remove the side dormer facing 5 Murton Way which would improve the privacy of No.5.

#### Parking and storage

4.14 The proposal has no implications in terms of off-road parking, cycle storage, or refuse storage.

## **5.0 CONCLUSION**

5.1 The proposal is considered to harm the character and appearance of the conservation area. This would conflict with national planning policy in relation to heritage assets and good design contained within the National Planning Policy Framework and with Policies GP1 ("Design"), H7 ("Residential Extensions") and HE3 ("Conservation Areas") of the City of York Draft Local Plan along with the Council's Supplementary Planning Guidance 'House extensions and alterations' December 2012 which encourages appropriate types of development within residential neighbourhoods.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Householder Refusal**

1 The proposal would erode the spacing between nos. 3 and 5 Murton Way which is considered to harm the open and rural setting which forms the historic character and appearance of the Osbaldwick Conservation Area. No public benefit has been identified that would outweigh this harm. Furthermore the extension would result in an overly wide frontage which lacks subservience and does not allow the extension to be read and be identifiable against the original house. For these reasons, it is considered that the proposed extension would conflict with the National Planning Policy Framework (paragraph 17 - Core Planning Principles - bullet point 4 and 10 and paragraphs 129, 131, 132 and 134), policies HE3 and H7 of the City of York Draft Local Plan (2005), specifically point e), and advice contained in the City of York Council House Extensions and Alterations Draft Supplementary Planning Document dated December 2012, in particular paragraphs 7.2, 7.4 a, 7.4 b, 7.5, 12.4 and 12.6

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

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

Requested the design be narrower to respect the spacing and existing relationship between the buildings in the Osbaldwick Conservation Area

However, the applicant/agent was unwilling to amend the application in line with these suggestions, resulting in planning permission being refused for the reasons stated.

### **Contact details:**

**Author:** Jessica Abbott, Development Management Assistant

**Tel No:** 01904 552488

Application Reference Number: 17/02487/FUL

Item No: 4d

17/02487/FUL

3 Murton Way, York, YO10 5UW



Scale : 1:1314

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy and Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	29 December 2017
<b>SLA Number</b>	

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**COMMITTEE REPORT**

**Date:** 11 January 2018      **Ward:** Osbaldwick And Derwent  
**Team:** Householder and      **Parish:** Osbaldwick Parish  
Small Scale Team                      Council

**Reference:** 17/02432/FUL  
**Application at:** 44 Tranby Avenue Osbaldwick York YO10 3NJ  
**For:** Change of use from dwelling (use class C3) to House in  
Multiple Occupation (use class C4)  
**By:** Mr Nikolai Krasnov  
**Application Type:** Full Application  
**Target Date:** 15 January 2018  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 This application seeks planning permission to change No.44 Tranby Avenue, Osbaldwick from its existing authorised use as a dwelling (Use Class C3) to a house in multiple occupation (HMO) (Use Class C4) for between three and six unrelated occupants.

1.2 The application has been called in for determination by sub-committee at the request of Councillor Warters. The Councillor is concerned about the accuracy of the HMO database; the impact of amenity because of extra noise, disruption, parking problems and rubbish storage/disposal; disproportionate impact from noise on a nearby house which is already attached to an HMO; concern over cumulative loss of family homes and impact on community cohesion.

**2.0 POLICY CONTEXT**

2.1 Policies:

CYH8      Conversion to flats/HMO/student accom

**3.0 CONSULTATIONS**

INTERNAL

Forward Planning

3.2 No. 44 Tranby Avenue, Osbaldwick, falls within a neighbourhood area where 6.42% of properties are shared houses, and within 100m of the property 7.14% are shared houses. As such, in accordance with the provisions of the Draft HMO SPD neither the neighbourhood nor the street level threshold has been breached and

further change of use to HMO is likely to be acceptable. Albeit an assessment of residential amenity (bin storage, parking etc.) and the ability of the area to absorb further change should also be undertaken.

## EXTERNAL

### Osboldwick Parish Council

#### 3.3 No response

### Neighbour Notification/Publicity

#### 3.4 One letter of objection received raising the following issues:

- The area is becoming scruffy because of the number of HMOs
- Parking problems with additional vehicles
- Tranby Avenue will become a student Ghetto
- Unfair that the owner of the property will be exempt from Council Tax

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES:

- HMO thresholds and impact on residential character of the area
- Impact on the character and appearance of the area;
- Impact on the amenities of local residents;
- Amenity of future occupants of the property

## PLANNING POLICY AND GUIDANCE

4.2 The National Planning Policy Framework (2012) states that Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (paragraph 50).

4.3 Draft Development Control Local Plan (2005) Policy CYH8 "Conversions" planning permission will only be granted for the conversion of a house to a HMO where:

- the dwelling is of sufficient size (min 4 bedrooms) and the internal layout is shown to be suitable for the proposed number of households or occupants and will protect residential amenity for future residents;
- external alterations would not harm the appearance of the area;
- adequate on and off road parking and cycle parking is incorporated;

- it would not create an adverse impact on neighbouring amenity through noise disturbance or residential character by virtue of the conversion alone or cumulatively with a concentration of such uses;
- adequate provision is made for the storage and collection of refuse and recycling.

Had the Article 4 Directive not been introduced, this proposal would have constituted permitted development. Given the purpose of the directive was to control concentrations of houses in multiple occupation, and protect family housing, the requirement of the above policy which requires the provision of a minimum of four no. bedrooms, is not considered to be a material consideration.

4.4 Draft Development Control Local Plan (2005) CYGP1 states that development proposals will be expected, amongst other things, to respect or enhance the local environment, be of a density, layout, scale, mass and design that are compatible with neighbouring buildings, and ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.5 Supplementary Planning Document (SPD) - Controlling the Concentration of Houses in Multiple Occupancy. This document was approved on 15 April 2012. This guidance has been prepared in connection with an Article 4 Direction that City of York Council placed on all houses within the defined urban area, bringing within planning control the change of use of dwellings (Class C3) to small HMO's occupied by between 3 and 6 people (Class C4).

4.6 Paragraph 5.7 of the SPD advises that applications for change of use from dwellings to HMO's will only be permitted where:

- a) The property is in a neighbourhood area where less than 20% of properties are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent and are known to the Council to be HMOs; and
- b) Less than 10% of properties within 100 metres of street length either side of the application property are exempt from paying council tax because they are entirely occupied by full time students, recorded on the Council's database as a licensed HMO, benefit from C4/Sui Generis HMO planning consent and are known to the Council to be HMOs; and
- c) The accommodation provided is of a high standard which does not detrimentally impact upon residential amenity.

4.7 Paragraph 5.17 advises that in assessing planning applications for HMOs the Council will seek to ensure that the change of use will not be detrimental to the overall residential amenity of the area. In considering the impact on residential amenity attention will be given to whether the applicant has demonstrated the following:

- the dwelling is large enough to accommodate an increased number of residents;
- there is sufficient space for potential additional cars to park;
- there is sufficient space for appropriate provision for secure cycle parking;
- the condition of the property is of a high standard that contributes positively to the character of the area and that the condition of the property will be maintained following the change of use to HMO;
- the increase in number of residents will not have an adverse impact on noise levels and the level of amenity neighbouring residents can reasonably expect to enjoy
- there is sufficient space for storage provision for waste/recycling containers in a suitable enclosure area within the curtilage of the property; and
- the change of use and increase in number of residents will not result in the loss of front garden for hard standing for parking and refuse areas which would detract from the existing street scene

## HMO THRESHOLDS AND IMPACT ON RESIDENTIAL CHARACTER OF THE AREA

4.8 One of the principle aims of the Council's SPD is to avoid situations where existing communities become unbalanced by an overconcentration of HMO's within a particular street or the wider area. Paragraph 5.2 of the SPD states a 'threshold based policy approach' is considered most appropriate method for controlling the number of HMO's across the City, as this tackles concentrations and identifies a 'tipping point' when issues arising from concentrations of HMO's become harder to manage and a community or locality can be said to tip from balanced to unbalanced.

4.9 The number of shared houses in the immediate area of the application site is below the threshold in the policy, the aim of which is to control the housing mix in an area. In the neighbourhood area 6.42% of properties are shared houses (threshold 20%), and within 100m of the property 7.14% are shared houses (threshold 10%). Therefore in terms of the Council's own policy, it is not considered that there are grounds to refuse the application on the basis that it would create an unbalanced community.

4.10 The loss of family homes for student and non-student houses in multiple occupation is controlled by the Article 4 Direction placed on all houses within the urban areas of York, which is supported by the SPD. Whilst these concerns are appreciated, the SPD document focuses on avoiding high concentrations of HMO's in particular streets/areas, in order to avoid the undue loss of family homes and maintaining community cohesion and helping the development of strong, supportive and durable communities. Given the HMO thresholds in the area this potential situation is not considered to arise in this case.

## IMPACT ON NEIGHBOUR AMENITY



4.11 The house contains 3 bedrooms which is not considered to be excessive for this property type. Members should note however that the C4 use class allows for occupation by up to 6 residents. The existing density of HMO's is quite low at neighbourhood level, and below the SPD threshold at street level. General comings and goings associated with such a use, which can be an issue where there is an unacceptable concentration of such properties are unlikely to result in such harm to neighbours as to refuse the application. The implementation of a management plan will help to address neighbour concerns relating to maintenance of external areas, refuse and re-cycling collections, property maintenance and any other relevant issues, including noise. Issues relating untidy land, accumulations of rubbish and late night noise from the property could also be addressed under separate legislation.

#### AMENITY OF FUTURE OCCUPANTS

4.12 The property is a traditional semi-detached dwelling, located on a corner plot, which also faces onto Baysdale Avenue. The property is within easy cycle distance of the university and also bus routes into the city centre. Limited local shopping facilities exist nearby. Internally, the property consists of a front porch and hall, a lounge, a kitchen and an attached conservatory at ground floor; and 3.no bedrooms and a bathroom at first floor. The 3.no bedrooms all meet Housing Act standards in terms of floor-size. It is noted that a sub-division of the existing through lounge could result in a further bedroom being created without the need for planning permission (subject to any other legislative or licensing provisions) but this does not impact on the conclusions of this report.

#### CAR AND CYCLE PARKING

4.13 The long driveway can accommodate 3.no off-road parking spaces which would be in accordance with the draft local plan standards. A condition is recommended to require secure cycle parking to be provided.

### 5.0 CONCLUSION

5.1. The proposed change of use would not breach the thresholds set out in the approved SPD and the use would not have any significant adverse impacts upon the amenity of neighbours or the character of the area. Therefore, subject to conditions, the proposal is in compliance with the NPPF, the SPD on 'Controlling the Concentration of Houses in Multiple Occupation' and draft Local Plan policy H8: Conversions.

### COMMITTEE TO VISIT

#### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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2 Prior to the development hereby approved being brought into operation, a management plan shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority. The Management plan shall relate to the following areas:

- i) Information and advice to occupants about noise and consideration to neighbours
- ii) Garden maintenance
- iii) Refuse and recycling facilities
- iv) Property maintenance

Reason: In the interests of the proper management of the property and the amenity of adjacent residents.

3 Prior to the use commencing details of a secure and enclosed cycle parking area capable of accommodating 4 cycles , shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking area has 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.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, The Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

#### **Contact details:**

**Author:** Paul Edwards Development Management Assistant

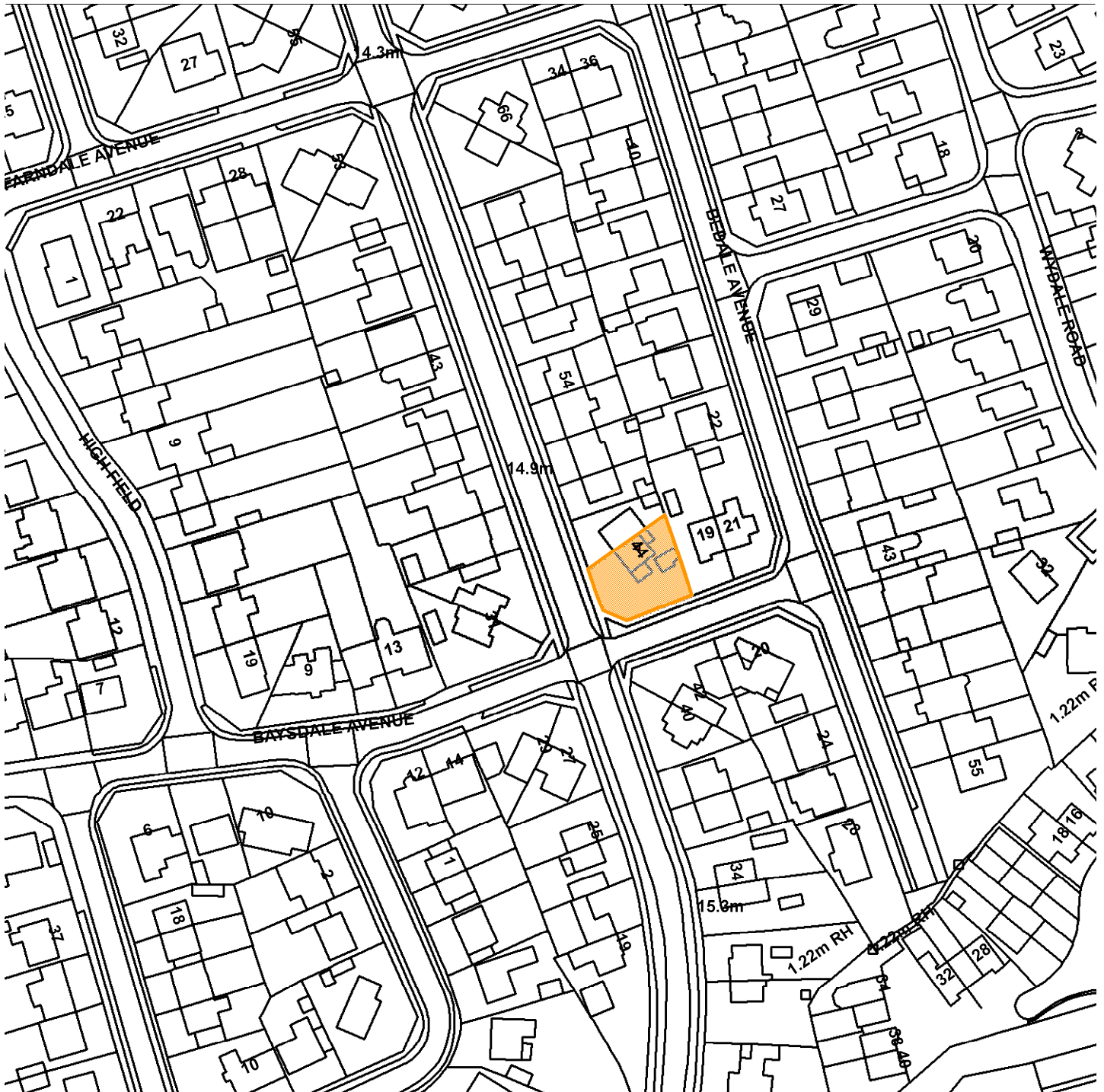
**Tel No:** 01904 551642

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy and Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	29 December 2017
<b>SLA Number</b>	

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