



**Notice of a public meeting of
Area Planning Sub-Committee**

- To:** Councillors Hollyer (Chair), Crawshaw (Vice-Chair),
Cullwick, Fisher, Galvin, Craghill, Lomas, Melly, Orrell,
Waudby and Webb
- Date:** Thursday, 8 August 2019
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West
Offices (F045)

AGENDA

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 1 - 8)

To approve and sign the minutes of the last meeting of the Area Planning Sub-Committee held on Thursday 4 July 2019.

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 Officer on the contact details listed at the foot of this agenda. The deadline for registering is at **5.00pm on Wednesday 7 August 2019**.

Filming, Recording or Webcasting Meetings

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered

public speakers who have given their permission. The broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if sound recorded, this will be uploaded onto the Council's website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officers (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

4. Plans List

To determine the following planning applications:

- a) **Block H, Joseph Terry Grove, York** (Pages 9 - 26)
[18/01934/FULM]
Erection of four storey block of 34 apartments with associated parking and landscaping (revised design of Block K, previously named Block H). **[Micklegate]** [site visit]
- b) **4 Croft Farm Close, Copmanthorpe, York,** (Pages 27 - 46)
YO23 3RW [18/02614/FUL]
Erection of 1 no. dwelling with detached double garage and new vehicular access. **[Copmanthorpe]** [site visit]
- c) **The Flat, 114 Fishergate, York, YO10 4BB** (Pages 47 - 54)
[19/00981/FUL]
This application seeks permission to install a glazed rooflight to the front elevation of the property. **[Fishergate]**

5. Urgent Business

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

Democracy Officer:

Chris Elliott

Contact details:

- Telephone – (01904) 553631
- Email - Christopher.elliott@york.gov.uk

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**

City of York Council

Committee Minutes

Meeting	Area Planning Sub-Committee
Date	4 July 2019
Present	Councillors Hollyer (Chair), Crawshaw (Vice-Chair), Cullwick, Fisher, Galvin, Lomas, Melly, Orrell, Waudby, Webb and D'Agorne (as a substitute for Cllr Craghill)
Apologies	Councillor Craghill

8. 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.

Cllr Cullwick declared that he manages a small number of HMOs but did not consider it to be a prejudicial interest.

9. Minutes

Resolved: That the minutes of the Area Planning Sub-Committee meeting held on Thursday 6 June be approved and then signed by the Chair as a correct record.

10. 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.

11. 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.

12. 25 Bedale Avenue, Osbaldwick [18/02806/FUL]

Members considered a full application from Mr Sullivan for a two-storey rear extension, single storey side and rear extension, hip to gable roof extension with rear dormer and detached cycle and bin store to rear, in connection with existing use as a House in Multiple Occupation.

Officers updated the committee on the application and mentioned an additional objection and a dismissed appeal.

Members questioned officers on whether it was possible to add a 'working time' condition and why this was not considered normal practice for extensions. Officers stated that it was down to necessity and that there is separate legislation designed to deal with that issue. It was noted however, that it was within the rights of the committee to impose such a condition.

Cllr Warters, ward Cllr for Osbaldwick, then addressed the committee. Cllr Warters made the following comments regarding the application.

- That the additional parking bays in the application would make access increasingly difficult for both the occupants and neighbours.
- That the proposed extension is overdevelopment of an HMO.
- That the application of planning policy is subjective and it could easily be said that the policies that have been used to support this application could also be used to refuse the application.
- Refusal from this committee would set a clear marker for HMO development over the next four years.

In response to questions from Members, Cllr Warters noted a recent appeal that had been upheld regarding HMO's in the Hull Road Ward.

During debate, Members highlighted the following points:

- That the amount of sunlight that the rear of the neighbouring property would receive was over-generous in the report.
- That the extension was not in-keeping with neighbouring properties and would be overbearing.
- That the appeal in the Hull Road Ward is relevant, particularly with regard to the increased noise and

disturbance that a single extra occupant at an HMO could cause.

It was noted that the number of occupants and bedrooms could be increased under permitted development rights. Officers also noted that the appeal in the Hull Road Ward was different as it involved a change of use to a large HMO outside of use class C4.

Members felt that it would be difficult to refuse this application on HMO grounds (increasing the number of occupants), however Members felt that the proposal would be overdevelopment that would dominate the neighbouring property.

It was moved and seconded that the application be refused, and it was therefore:

Resolved: That the application be refused

Reason: The scale and design of the proposal dominates and is out of character with the traditional design of the house. It is harmful to the visual appearance of the area contrary to policies H7/GP1, D1/D11, Supplementary Planning Documents and the NPPF;

The two-storey element of the proposal has an overbearing impact on the neighbouring property.

13. Applefields School, Bad Bargain Lane [19/00712/GRG3]

Members received an application for General Regulations from Alison Kelly for the change of use from double garage to design technology teaching space and installation of additional security fencing.

Officers informed the committee that the objector had now withdrawn their objection.

It was moved and seconded that the application be approved, and it was therefore:

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

Reason: The proposed conversion would provide improved facilities for the school. The type of equipment that would be used would be unlikely to result in loss of amenity to neighbouring properties. On this basis, the proposal is considered to comply with policies D11 and ED6 of the Publication Draft Local Plan and policies GP1 and ED1 of the Development Control Local Plan.

1a) 10 Vicarage Lane, Naburn [19/00829/FUL]

Members considered a Full Application from Mr Andrew Holmes for a two storey side and rear extension which was a resubmission of application 18/01761/FUL.

Officers noted that this application was recommended for refusal as the application site was considered within the Green Belt and therefore Green Belt policies had been applied. Officers highlighted that changes to the wording of the NPPF guidance have affected the development of 'washed over' areas within the Green Belt.

Mr Andrew Holmes, the applicant, then addressed the committee. Mr Holmes highlighted that the Parish Council and neighbouring properties were all in support of the application. Mr Holmes also highlighted extensions on neighbouring properties that would have been tested under policy GB2 when Naburn was considered 'washed over' and stated that the distances between the boundary and neighbouring properties would be larger in this instance and that it would not therefore impact the openness of the green belt.

Ms Anne Clark then addressed the committee on behalf of Naburn Parish Council. Ms Clark was concerned that the planning process would be unfair on the applicant in this instance due to the extensions that have previously been allowed on this street. Ms Clark also stated that too much weight was being given to green belt considerations, particularly in an area in which until recently was considered washed over. Ms Clark concluded that the Parish Council deemed this an adequate and acceptable extension.

During debate, members made the following points:

- That this application seemed to be a sympathetic extension that would have little impact on street scene
- That whilst it was possible to argue whether Naburn should be in the green belt, the overturning of the recommendation would set a precedent for future applications within the green belt.
- Members sympathised with both the applicant and the parish council on the need to keep young families in the village.

Officers noted that should Members wish to approve the application, it would be necessary to find very special circumstances that outweigh the harm to the green belt.

Some Members noted that they felt that very special circumstances would be difficult to justify, however were more inclined to suggest that this extension was not disproportionate and would not harm the green belt. Officers clarified that whilst Members can have this view, the NPPF stated that the development of buildings within the green belt is inappropriate and the test of whether an exception could be made, could only be made in this instance if Members could argue that the extension was not disproportionate to the original size of the building.

It was moved by Cllr Galvin and seconded by Cllr Fisher that approval be granted on the grounds that the application is not disproportionate development in the green belt. On being taken to the vote, the motion was lost by 5 votes to 6.

It was then moved by Cllr Cullwick and seconded by Cllr Crawshaw that the application be refused, on being taken to the vote, the motion was carried.

It was therefore:

Resolved: That the application be refused

Reason: The application site is within the Green Belt. It is considered that the proposed extensions would result in a disproportionate addition over and above the size of the original dwelling and thus represent inappropriate development in the Green Belt. Whilst the proposal would enhance the amenity and living

conditions of the existing occupants, it is not considered that this factor constitutes very special circumstances that would outweigh the harm to the Green Belt and the other harms identified.

14. Poppleton Community Centre, Main Street, Upper Poppleton [19/00186/FUL]

Members considered a full application from Mr J Lister for the installation of 8 floodlights at Poppleton Lawn Tennis Club.

Mr Gavin Douglas then addressed the committee, speaking in objection. Mr Douglas stated that street lighting levels and community centre lighting is low and that the lighting levels suggested in this application are high for a community tennis club.

In response to member questions, the officers clarified that the Lawn Tennis Club's lighting requirements were not taken into consideration by the Planning Authority and that there had been no objections from the Environmental Health Team, although condition 4 in the report had been added on the advice of Environmental Health.

Officers clarified for Members that the Environmental Health Team would be responsible for checking the levels of lighting should there be any sign of a breach of condition 4.

It was moved and seconded that permission be granted and it was therefore:

Resolved: The approval be granted subject to the conditions listed in the report.

Reason: The proposed development of the floodlights to the existing tennis court is considered due to its siting and design to not harm the openness of the Green Belt or the purposes of including the application site within the general extent of the Green Belt. The proposal is also considered to be acceptable in terms of the impact on the street scene, the impact on the character of the adjacent conservation area, highway safety and on local ecology. With regard to

residential amenity, subject to conditions regarding lighting levels, restricting the use of the floodlights to no later than 2000 hours and to the use as tennis only, the proposal is considered acceptable.

Cllr A Hollyer, Chair

[The meeting started at 16:30 and finished at 18:30].

DRAFT

This page is intentionally left blank

COMMITTEE REPORT

Date: 8 August 2019 **Ward:** Micklegate
Team: Major and **Parish:** Micklegate Planning
Commercial Team Panel

Reference: 18/01934/FULM
Application at: Block H Joseph Terry Grove York
For: Erection of four storey block of 34 apartments with
associated parking and landscaping (revised design of Block
K, previously named Block H)
By: David Wilson Homes
Application Type: Major Full Application (13 weeks)
Target Date: 15 July 2019
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 Outline planning permission for the redevelopment of the former Terrys factory site was granted under permission number 09/01606/OUTM. Planning permission ref:14/01716/FULM was granted for the residential re-development of the northern section of the site with a residential scheme of apartments and townhouses. This included a four storey apartment block identified as Block H at its south western boundary adjacent to the retained Former Liquor Store and the Former Headquarters' Building. The developers have subsequently re-titled block H as block K.

1.2 Planning permission is now sought for erection of a four storey apartment block providing a total of 34 apartments on the block K site. The apartment block has a consolidated footprint and a 0.5 metre reduction in roof height compared with the earlier permission. The scheme was initially submitted with a fifth penthouse storey which contained three additional apartments. That element of the scheme was subsequently withdrawn to address conservation and design concerns. .

1.3 The site lies within the Terry's/Racecourse Conservation Area and the setting of a number of Listed Buildings from the former Chocolate Works including the former Headquarters' Building, the Liquor Store, the Clock Tower and the former Multi-Storey Factory (all Grade II listed)..

2.0 POLICY CONTEXT

2.1 Publication Draft Local Plan (2018) Policies:

D1 Placemaking

D4 Conservation Areas

Application Reference Number: 18/01934/FULM

Item No: 4a

Page 1 of 16

D5 Listed Buildings
H10 Affordable Housing
DM1: Infrastructure and Developer Contributions

2.2 Development Control Local Plan (2005) Policies:

CYGP1 Design
CYH2A Affordable Housing
CYHE2 Development in historic locations
CYHE3 Conservation Areas
CYHE4 Listed Buildings

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 Raise no objection in principle to the proposal subject to the submission and approval of a scheme of noise insulation to safeguard the amenity of prospective residents in respect of the approved cafe/delicatessen in the adjacent Liquor Store, together with the submission and approval of a CEMP (Construction Environmental Management Plan) and the remediation of any remaining contaminated land issues.

Housing Services

3.2 Seek the provision of 5 social rented and 1 discount sale apartment in this scheme plus a commuted sum equivalent to 0.2 of a discount sale apartment with the affordable units integrated throughout the scheme. The size and type of homes should be a pro-rata mix. If Registered Provider partners judge that the affordable housing cannot be successfully delivered on site, an off-site commuted sum representing the full value of the affordable housing may be considered.

Design, Conservation and Sustainable Development (Design)

3.3 Objected to the original proposal on the grounds of impact of the additional bulk height over and above the approved scheme on the visual amenity of the wider street scene, together with the impact of the additional height and bulk upon the setting of the adjacent Listed Buildings.

Highway Network Management

3.4 Initially raised concerns in respect of the level of car parking allocated to the development and the layout and numbers of cycle parking provision. Following further clarification the arrangements for vehicle and cycle parking are now felt to be

acceptable. If permission is given a commuted sum payment is sought for sustainable transport comprising £400 per dwelling for cycling/bus pass provision and £200 per dwelling as a car club contribution.

Strategic Flood Risk Management

3.5 Any comments will be reported verbally.

EXTERNAL

York Civic Trust

3.6 Object to the original proposal on the grounds of harm to the setting of the adjacent Listed Buildings and the character and appearance of the Terry's/Racecourse Conservation Area by virtue of the additional height and angular massing of the proposed additional storey over and above what has previously been approved. Concern is also expressed in respect of the relationship of the proposed pattern of fenestration to that adopted in the adjacent Listed Buildings.

Yorkshire Water Services

3.7 Raise no objection to the proposal.

Micklegate Planning Panel

3.8 Object to the proposal on the grounds of harm to the setting of the adjacent Listed Buildings by reason of the additional height and density when compared with the previously approved scheme.

The Ainsty (2008) Internal Drainage Board

3.9 Raise no objection to the proposal.

North Yorkshire Police Designing Out Crime Officer

3.10 Raise no objection to the proposal.

Historic England

3.11 Object. Additional height of proposed block H could intrude upon and compromise the iconic view of the Clock Tower from the Grade 1 listed Goddards. If this view is blocked or compromised the historical association would be harmed, the setting of Goddards compromised and the historic narrative of this important house would be disrupted. Recommend that the council ensures that heights are reduced

to protect these views and to ensure that the prominence of the Clock Tower is maintained.

The National Trust

3.12 Object to the proposal because of the harm it would cause to the setting of the Grade I Listed Goddard's House Tadcaster Road, the historic residence of the Terry family. The site of Goddards' was chosen to be in sight of the factory. There remains a gap between the racecourse stands with the Clock Tower remaining in view from Goddards, allowing the significance of both to be understood. The proposed increase in height from the original approval has the potential to impact on this view and on the setting of the heritage assets.

Publicity and Neighbour Notification

3.13 Fifty nine letters of representation have been received raising the following issues:-

- Objection to the impact of the proposal upon the setting of the adjacent Listed Buildings;
- Objection to the impact of the proposal upon the character and appearance of the Terry's/Racecourse Conservation Area;
- Impact upon the residential amenity of neighbouring properties by virtue of loss of light, privacy and overlooking;
- Objection to the over-development of the site;
- Concern in respect of the impact of the proposal upon the safety and convenience of highway users on the local network;
- Concern in respect of the impact of the proposal upon the availability of parking spaces in the locality;
- Concern in respect of the impact of the proposal upon local infrastructure.

3.14 Following on from the amendment to the proposals a further consultation/publicity exercise has been undertaken and a further 7 letters of representation have been received raising the following planning issues:

- Objection to the design of the building on the grounds of poor architectural merit and poor visual relationship to the adjacent Listed Buildings.
- Objection to the impact of the revised scheme upon the setting of the Multi-Storey Factory.
- Objection to the impact of the proposal upon the residential amenity of neighbouring properties by virtue of over-dominance.
- Objection to an over-supply of apartments within the wider scheme;
- Objection to the lack of vehicle parking space within the site and lack of support for sustainable transport measure.

4.0 APPRAISAL

KEY CONSIDERATIONS INCLUDE

- Principle Of The Proposed Development
- Heritage Assets
- Impact Upon The Residential Amenity Of Neighbouring Properties
- Transport;
- Planning Obligations
- Affordable Housing

NATIONAL PLANNING POLICY FRAMEWORK

4.1 The NPPF sets out the Government's planning policies for England and how they should be applied.

LOCAL PLAN

4.2 The City of York Draft Local Plan Incorporating the Fourth Set of Changes – The Development Control Local Plan - was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are 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 as revised in July 2018, although the weight that can be afforded to them is very limited.

4.3 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications

PRINCIPLE OF THE PROPOSED DEVELOPMENT

4.4 Section 5 of the NPPF contains the Government's objective of significantly boosting the supply of homes. Section 11 promotes the effective use of land. It states "Planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions". It goes on to state that planning decisions should "promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively".

4.5 The site currently is underused, previously developed land which is subject to an extant planning permission for a four storey block of 34 apartments. The city has demonstrable housing need and this is an accessible, central, sustainable location. Policy is in favour of the proposed re-use of the site in principle.

4.6 Policy H2 requires an appropriate density of development on sites to ensure the efficient use of land. Policy H3 states that "proposals for residential development will be required to balance the housing market by including a mix of types of housing which reflects the diverse mix of need across the city. This includes flats and smaller houses for those accessing the housing market for the first time, family housing of 2 to 3 beds and homes with features attractive to older people". The housing mix proposed is 11 x 1 bed, 22 x 2 bed and 1 x 3 bed apartments. Consequently the proposals do not conflict with the approach proposed in policy H3.

4.7 Affordable housing will be secured in accordance with policy H10 and this is discussed later on in the report.

HERITAGE ASSETS

4.8 Section 16 of the NPPF contains policies for conserving and enhancing the historic environment. Paragraph 193 advises Local Planning Authorities to give significant weight to ensuring the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and ensuring the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 194 advises that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be" ... "As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification." Paragraph 196 advises 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 benefits of the proposal....." Paragraph 200 advises that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that

make a positive contribution to or better reveal the significance of the asset should be treated favourably.

The Proposal

4.9 The scheme proposes the construction of a single apartment block. The building would be approximately 41 metres in depth (north south axis), would present a 31metre wide frontage to The Boulevard to the south and an 18 metre wide frontage to Joseph Terry Grove to the north. The building would be about 12.5 metres high. The land slopes slightly from north to southThe building would be clad in brick with dry cast stone detailing to the window surrounds. Recessed balconies would have glazed balustrades. Car parking is proposed to the north of the Liquor Store and along the east side of the building. Formal tree planting is proposed in the parking areas. The building would be almost 17 metres from the rear elevation of the former Headquarters Building and 8.5 metres from the flank of the Liquor Store. The proposed building is a storey higher than the Liquor Store. The proposed building would be set back about 1.6 metres back from the building line created by the southern elevations of the former Headquarters Building and the Liquor Store. Prior to the closure of the factory and demolition the application site comprised a flat roofed three storey commercial building, dating from the 1970s, attached by a bridge to the multi-storey factory building.

Impact Upon The Setting Of Listed Buildings

4.10 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Council to "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." As a statutory duty, any harm to the listed building or its setting must be afforded significant weight when considered in the planning balance and this is outlined below. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. The presumption in favour of sustainable development set out at Para 11 of the NPPF would not apply in these circumstances.

4.11 Asset Significance - The former Terry's complex comprises a large former chocolate and confectionary manufacturing complex in operation from the 1920s through to 2006. The complex is designed to a simple Neo Classical metaphor characteristic of the early 1920s with each building constructed in brick with stone detailing. The former Headquarters' Building is aligned on Bishopthorpe Road with a short length of separate drive way to give the impression of a small to medium size Neo-Classical villa. The remainder of the complex is aligned on the former principal access, now The Boulevard, with prominent Art Deco detailing in stone on the Factory, Clock Tower and Liquor Store. The complex is a strong group in architectural terms, presenting a unified style which reflects the strength and importance of the corporate image of Terry's chocolate firm. The buildings also have

a strong historic interest, representing the most complete surviving expression of the importance of the confectionary business in York, and confirming, on a national scale, York's high status in this business.

4.12 Assessment Of Impact - The proposal envisages a consolidation of the approved pattern of development into a single block with the pattern of car parking arranged in two blocks to the north west and to the east. The location of the parking to the north west provides a more open setting to the Clock Tower and Liquor Store, tree planting will help to mitigate the appearance of car parking in this area. Previously a residential building was proposed in this location. Prior to demolition a three-storey commercial building was located on the site. More significant concern was expressed in respect of the design and layout of the fifth floor with the additional height that would be created. It was felt that the design and material chosen for the proposed fifth would render it highly prominent within the wider street scene and that the visual intrusion of the proposal which is not of the scale and massing of the previously approved scheme would cause significant harm to the setting of the former listed buildings. In order to address the concerns the scheme was amended to remove the fifth floor ensuring that the scheme more closely aligned with the scale and massing of that previously approved albeit with the roof lowered by approximately 0.5 metres. Medium and long distance views of the listed buildings would be retained and the proposed building would not harm these views. It is felt that the scale and layout of the revised proposal would result in a scheme that would not harm the setting of the listed buildings.

4.13 The application site also lies within the setting of the County Stand a Grade II* Listed Building within the curtilage of the Racecourse complex. As a consequence of the alignment of the building and its surroundings it is felt that the proposal would not give rise to any material harm to its setting.

Setting Of Goddards And Its Registered Historic Park And Garden

4.14 Concerns have been raised by objectors in respect of the impact of the proposals on the setting of Goddards the Grade I Listed former home of the Terry family with its historic park and garden on the north side of the Racecourse. The original factory complex was constructed to be clearly intervisible with the family residence and as such forms part and parcel of its wider setting. Objector's contended that the proposed apartment block would cause less than substantial harm to the setting of Goddards and its garden when taken cumulatively with other developments undertaken at the site and the adjacent racecourse and that no clear public benefit that would outweigh the harm had been put forward as required by Central Government planning policy as outlined in paragraph 196 of the NPPF.

4.15 Goddards lies in landscaped grounds accessible from Tadcaster Road to the north west of the site beyond the Racecourse. The principal views that remain of the former factory from Goddards are of the Clock Tower. The proposed apartment

block is set back significantly from the Clock Tower compared with the approved scheme and has been reduced in scale to four storeys. Whilst it is acknowledged that there has been harm to the visual relationship between Goddard's and the former Chocolate Works by virtue of developments on the Racecourse, it is considered that the revised proposals would not harm the setting of Goddards or of its garden.

Impact Upon The Terry's/ Racecourse Conservation Area

4.16 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Council "to have special regard to the desirability of preserving and enhancing the character and appearance of Conservation Areas. As a statutory duty it must be given considerable importance and weight in determining the planning application. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. Policy D4 of the Publication Draft Local Plan is also relevant in this context. This indicates that development proposals will be supported if designed to conserve and enhance the Conservation Area whilst leaving its essential qualities unchanged.

4.17 Asset Significance - The Terry's/Racecourse Conservation Area encompassed the retained buildings of the former chocolate works complex together with racecourse complex. It is characterised by agglomerations of comparatively high buildings some of which such as the Multi-Storey Factory and the Clock Tower have iconic status in terms of the wider City skyline. The former Terry's factory character area includes all the early buildings of the complex. Its special interest is a result of the consistent high-quality design approach, the layout of the factory buildings on a rectilinear grid arranged around two axis and the generally inward looking nature of the site. The key spaces are the forecourt to the head office, the main access road and the garden in the south east corner of the site.

4.18 Assessment Of Impact - The scheme as amended envisages the erection of a four storey block within a consolidated foot print from that previously approved. It maintains the grid pattern established for the factory and the subsequent redevelopment and provides for an appropriately scaled built northern boundary to the key space of the main access road. The building's south elevation would be set back from the listed building's building line. The proposed block would provide appropriate spacing to the key buildings and with the previously proposed fifth storey removed would respect the character and appearance of the conservation area terms of its pattern of scale and massing. Medium and long distance views would be retained. The development would not harm the character and appearance of the Conservation Area and as such would comply with the statutory test outlined in Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act and the policies of the NPPF and the draft local plan.

IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES

4.19 NPPF paragraph 127 indicates that planning decisions should create places with a high standard of amenity for all existing and future users. Policy D1 (Placemaking) of the Publication City of York Local Plan indicates that new development should pay close attention to the residential amenity of neighbouring properties.

4.20 Concern has been expressed by objectors in terms of the impact of the proposal upon the residential amenity of neighbouring properties notably the apartments within the former multi-storey factory (The Residence) by virtue of loss of light, privacy and over-bearing impact. The proposed scheme as amended differs from that previously approved by virtue of consolidating the built footprint of the previously approved scheme into a single unit with slight variations in siting and overall height. The location, scale and massing of the amended scheme would closely match that previously approved and would not be over-dominant in respect of its relationship with The Residence. The distance between the buildings would be about 26 metres, which is slightly greater than with the approved scheme. Whilst balconies are proposed, it is considered that the separation distances would mitigate against significant overlooking. To the north planning permission exists for townhouses and a current planning application 18/02329/FULM retains townhouses directly to the north of block K. The relationship between the proposed townhouses and the proposed apartment block would not be materially different to that previously approved and would provide for appropriate living conditions for future residents.

TRANSPORT

4.21 The NPPF seeks to ensure that appropriate opportunities to promote sustainable transport modes can be, or have been, taken up, safe and suitable access to the site can be achieved for all users and any significant impacts on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree. Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4.22 Local bus routes link the site to the city centre and railway station, although these are not high frequency routes. The site is close to cycle links to the city centre and more local shopping and leisure facilities.

4.23 Concern has been raised by objectors in respect of the level of vehicle parking to be provided in respect of the proposal. The level of car parking to be provided at 35 spaces which is in line with the previously approved scheme and the Car and Cycle Parking Standards. Concern has however been expressed in terms of an absence of visitor parking spaces with the potential for over-spill parking within the surrounding area. It is however felt that the numbers of spaces proposed are

consistent with what has previously been approved. As such the arrangements are felt to be acceptable.

4.24 The previously approved scheme for the wider site was subject to a Section 106 Agreement which allowed for the payment of commuted sums to secure sustainable transport improvements, and further commuted sums are sought in respect of a Section 106 Agreement in respect of the current proposal should approval be forthcoming. In terms of cycle parking 40 spaces are proposed within a single store with the use of Sheffield-style stands predominating. It is felt that the numbers and layout of the proposed cycle parking are appropriate taking account of what was previously approved.

4.25 Concern has been raised by objectors in respect of the impact of the levels of additional traffic upon the safety and convenience of highway users. The amended scheme would however generate a similar volume of traffic to that previously approved. The impact would be neutral.

IMPACT UPON LOCAL INFRASTRUCTURE

4.26 Concern has been raised by objectors in respect of the impact of the proposal upon local infrastructure such as schools and doctor's surgeries. The proposal as amended is however identical in terms of numbers to that previously approved. The impact would be neutral.

PLANNING OBLIGATIONS

4.27 Policy DM1: Infrastructure and Developer Contributions states that the Council will seek contributions from developers to ensure that the necessary infrastructure is in place to support future development in York. Contributions will be sought to fund strategic infrastructure that helps to deliver the Vision, Spatial Strategy and Objectives of the Local Plan, as well as specific infrastructure that is necessary to deliver an individual site.

4.28 Financial contributions in terms of provision of an annual bus pass/cycling contribution of £400 per apartment together with a financial contribution of £200 per apartment towards the City Car Club is sought in order to promote the development of sustainable means of transport in the local area which may be secured by means of Section 106 Agreement.

Affordable Housing

4.29 The proposal falls to be considered against the requirements of Policy H10 of the Publication Draft Local Plan. The policy has a target of 20% affordable housing for brownfield sites within the urban area. Six units would be provided on site with a financial contribution of the equivalent of the market value of 0.8 of a dwelling at a

standard valuation for the development. The provision and contribution can be secured by means of a Section 106 Agreement.

4.30 The proposed obligations are considered to comply with Regulation 122 of the 2010 CIL Regulations, in that the obligations are;

- (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,

Contributions also comply with Regulation 123 in respect of pooling restrictions.

5.0 CONCLUSION

5.1 The application proposes a development of 34 apartments on previously developed land in a sustainable location. The proposal provides for a mix of smaller apartments including affordable housing. Planning permission has exists for an apartment block on the site. The scale and design of the scheme would not harm the character and appearance of the conservation area nor the setting of adjacent and nearby listed buildings. The scale and design of the proposal would not harm the living conditions of existing residents. Parking provision is provided to the standards set out in the DCLP and traffic generation, compared with the extant permission would be neutral. It is considered that the proposal as amended complies with the statutory provisions in terms of heritage assets, and is in accordance with the NPPF, the Submission Draft Local Plan and the Development Control Local Plan.

COMMITTEE TO VISIT

6.0 RECOMMENDATION:

- (i) Permission granted subject to:
 - a) Prior completion of a legal agreement to secure the following obligations:
 - **Affordable housing** – provision of six units on site with a financial contribution of the equivalent of the market value of 0.8 of a dwelling at a standard valuation for the development (index linked) or alternative provision as set out in paragraph 3.2 of the officer's report
 - **Sustainable Travel** – Payment to the first occupier of each residential unit of a an annual bus pass or non-transferable voucher of £400 to be used to purchase a bicycle
 - **Car Club** payment of £6800 (index linked)
 - b) The conditions outlined below

- (ii) The Assistant Director for Planning and Public Protection be granted delegated powers to finalise the terms and details of the s106 agreement
- (iii) The Assistant Director for Planning and Public Protection be granted delegated powers to determine the final detail of the planning conditions.

Schedule of conditions:

1 TIME2 Development start within three years

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

Drawing Refs: 2362-PL-K002D ; 2362-PL-K011B ; 2362-PL-K012B; 2362-PL-K053D ; 2362-PL-K100F; 2362-PL-K101E ; 2362-PL-K102F ; 2362-PL-K103B; 2362-PL-K400F ;2362-PL-K401E .

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

3 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the construction of the development commences beyond foundation level and shall be provided in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties

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

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

Reason: So as to achieve a visually cohesive appearance

5 A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works beyond foundation level.

Application Reference Number: 18/01934/FULM

Item No: 4a

This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

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

Reason: In the interests of highway safety.

7 Prior to the commencement of the development a scheme for the provision of electric vehicle charging points within the development shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development and shall retained thereafter.

Reason: To provide facilities for the charging of electric vehicles in accordance with Central Government Policy as outlined in the NPPF along with City of York Council's Low Emissions Strategy.

INFORMATIVE: All electrical circuits/installations shall comply with electrical requirements of BS 1671: 208 As well as conform to the IET Code of Practise on Electrical Vehicle Charging Equipment Installations (2015)

8 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To safeguard the residential amenity of neighbouring properties

9 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays.

The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason. To protect the amenity of local residents

10 The covered and secure cycle parking facilities and storage facilities shall be provided in accordance with the approved plans prior to first occupation of the development hereby approved. The cycle storage shall have lockable doors and the internal space shall have facilities for locking cycles (using Sheffield type stands or similar). The cycle storage area and stands shall be retained thereafter.

Reason: In the interests of visual and residential amenity and to promote sustainable travel in accordance with paragraphs 108 and 127 of the NPPF.

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

Reason: In the interests of highway safety.

12 The building shall not be occupied until the approved the bin storage area has been provided in accordance with the approved drawings and retained thereafter.

Reason To safeguard the residential amenity of neighbouring properties and to secure compliance with paragraph 127f) of the NPPF.

13 The development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed hard and soft landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are approved in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of the area.

7.0 INFORMATIVES:

Notes to Applicant

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

Application Reference Number: 18/01934/FULM

Item No: 4a

Page 15 of 16

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

- i) Sought clarification of the proposed numbers and layout of cycle and vehicle parking;
- ii) Sought the removal of the proposed fifth penthouse storey from the development.

Contact details:

Author: Erik Matthews Development Management Officer

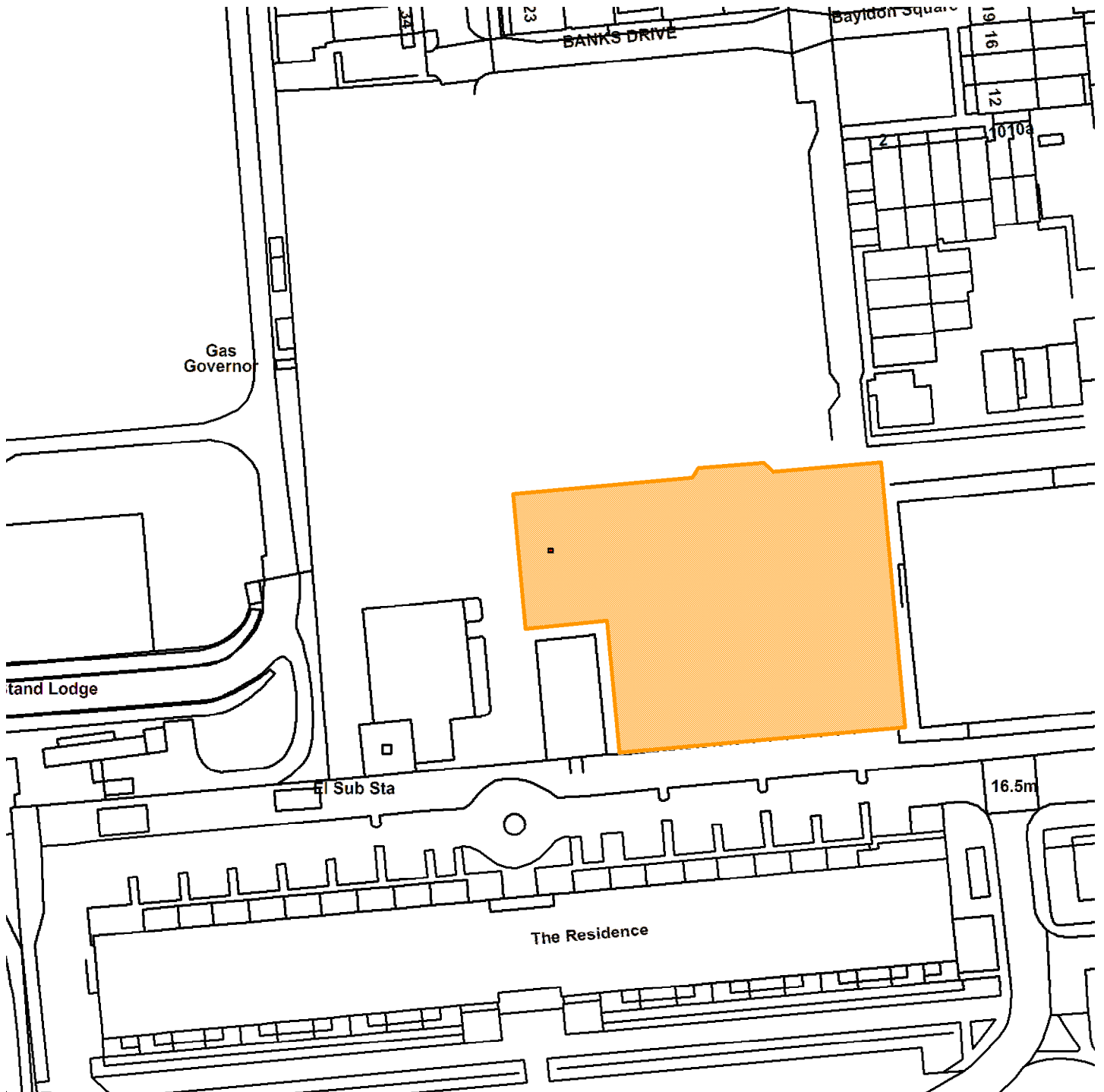
Tel No: 01904 551416

18/01934/FULM

Block H Joseph Terry Grove



GIS by ESRI (UK)



Scale : 1:1043

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	29 July 2019
SLA Number	Not Set

This page is intentionally left blank

2.0 POLICY CONTEXT

2.1 City of York Draft Local Plan (2005):

- GP1 – Design
- GP3 – Planning Against Crime
- GP4a – Sustainability
- GP9 - Landscaping
- GP10 – Subdivision of Gardens and Infill Development
- GP15a – Development and Flood Risk
- NE1 – Trees, Woodlands and Hedgerows
- H4a – Housing Windfalls
- T4 – Cycle parking standards

2.2 City of York Publication Draft Local Plan (2018):

- D1 - Placemaking
- D2 – Landscape and setting
- GI4 – Trees and Hedgerows
- ENV4 – Flood risk
- ENV5 – Sustainable drainage
- T1 – Sustainable Access

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 Object to proposed vehicular access on highway safety grounds.

3.2 The proposed development is seen to promote the use of motorised vehicles in an area currently protected as a mostly traffic free route [by a Traffic Regulation Order restricting motorised vehicle access to works and agricultural vehicles only], which currently provides pedestrian and cycle access to the local amenities and the local primary school. The alteration of a Traffic Order and the provision of a sub standard footpath [omitted from scheme at Network Management's request as not compliant with Manual for Streets] with limited turning facilities for larger vehicles giving rise to unsafe reversing movements, will lead to unacceptable conflicts between vehicles, pedestrians and cyclists. The changes would give the appearance of a street, which will encourage parents to use the lane for dropping off/picking up children.

3.3 Following the submission of a Highways Statement by the applicant during the

course of the application, Network Management's confirmed opinion unchanged. It clarifies that the proposal of bollards beyond the access to the house will not be agreed due to the current order allowing agricultural access to York Field Lane beyond. If the Traffic Order is changed in this location to prohibit motor vehicles except for access (as would be required to access the new dwelling), any school related traffic would therefore be allowed to use the lane. Objection maintained on highway safety grounds as previously outlined.

3.4 Further comment following submission and consultation on revised plans, which reiterates the previous written comments from Network Management that the proposed development has an unacceptable impact on highway safety due to the introduction of vehicles on an existing traffic free route (except for agricultural and works access) in close proximity to a primary school and maintains a CYC Highways objection to the proposal in its current form, for the following reasons:

- pedestrians and children at increased risk from motorised vehicles from those accessing the dwelling and those likely to use the lane at pick up and drop off time;
- removes the options currently available to CYC to implement physical measures at the junction with Low Green to address current illegal use;
- reduces the quality of an important walking route being developed by CYC to serve the village of Copmanthorpe and support sustainable travel from strategic housing site (ST31);
- contrary to CYC objectives to encourage more people to travel to school sustainably by adding traffic to 25m of key route to school serving the north east of Copmanthorpe.

Road Safety Officer

3.5 The lane is a currently lit footpath which connects Croft Farm Close to Merchant Way. It forms part of a longer footpath that connects a significant number of homes with a walked route to the local shops as well as a walked route to school. From visiting it would appear to form part of a long and well used walking route for many of the local people. It is currently signed (with the appropriate TROs in place) as prohibited for motorised vehicles. In order for the proposed dwelling to use this as a vehicle access to the property, the status of the lane would need to be altered to allow motorised traffic. This essentially means that any motorised traffic would be able to use the lane. Changing the status of the road, to allow motorised vehicles, could have detrimental effects on road safety in the area, which would not be diminished by signing this road as "access or residents only". If the road is physically engineered to accept vehicles then vehicles will use it, irrespective of the signage.

Design, Conservation and Sustainable Development (Landscape)

3.6 Initially objected to the close proximity of the proposed dwelling to the protected Ash tree (TPO 2/1972) in the garden of 3 Faber Close and the potential conflict between the tree and future occupants, resulting in demands to have the trees

reduced or removed and the proposed property being too close to the tree for the purposes of construction. Raised further concerns about the proposed alterations to York Field Lane, which would substantially alter the character of this section of the lane and thus harm its rural quality and amenity value as a pedestrian and recreational walkway.

3.7 Following submission of Level 2 visual tree assessment and tree risk assessment (26.6.19 by Bartlett Consulting), provides further comment. Whilst the vitality of tree evidenced in the canopy is poor, there is no evidence of significant decline or die back nor of decay or structural defects. In its current condition the overall risk rating for the Ash tree is classified as 'low'. The Ash has a good even form/spread measured across the four cardinal points.

3.8 To introduce a building that would necessitate a reduction to the crown of a tree that is still currently worthy of a tree preservation order would be inappropriate, as it could imbalance the appearance of the tree, and/or introduce the need for repeat tree surgery, and open up additional entry points for infection. Depending on the tree's response to the possible threat of Ash die-back, the tree could be retained as a viable tree for many years yet. The distance of the dwelling and first floor bedroom balcony, presence of low limbs and the working area required to excavate and install foundations and construct the building, suggests that the canopy would need to be pruned back and possibly crown lifted. The tree would not sit comfortably within the confinements of the newly created space. The tree continues to be worthy of its TPO status given has good form and is clearly visible from the lane.

3.9 Unless the property can be moved further away from the Ash tree, there are no exceptional circumstances to justify the proximity of the building to a protected tree. As an absolute minimum, the property should be moved away from the tree to provide a 2m clearance between the crown spread and the proposed dwelling to negate the need to trim back and keep construction outside the root protection area.

Public Protection

3.10 Air Quality - In line with paragraph 110 of the NPPF, developments should be designed to incorporate facilities for charging plug-in and other ultra low emission vehicles in safe, accessible and convenient locations. Given that the application involves off-street parking for vehicles and in view of the above and the Council's adopted Low Emission Strategy, which aims to facilitate the uptake of low emission vehicles in York, requests a condition for an electric vehicle charging facilities.

3.11 Contamination - Requests a condition in case unexpected contamination is detected during the development works.

EXTERNAL

Yorkshire Water

3.12 On the Statutory Sewer Map, there is a 600mm and a 150mm diameter public surface water sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme. Stand-off distances of 4 and 3 (four and three) metres are required at each side of the sewer centre-line (build over of the 150mm sewer may be possible via Building Regulations). Object as the site layout shown on drawing 2018/158/P AL(0)01 dated October 2018 shows buildings will be sited over the public sewerage system located within the site, which could seriously jeopardise Yorkshire Water's ability to maintain the public sewerage network.

3.13 In response to revised site layout details (2018/158/P AL(0)02 D), which shows surface water diversion, have no objection and make no further comments.

Ainsty Internal Drainage Board

3.14 The application sits within the Board's district, where it has assets in the form of various watercourses known to be subject to high flows during storm events. The proposal would enlarge the impermeable area on site and has the potential to increase the rate of surface water run-off from the site if it is not effectively constrained. The Board has no objections to the principle of development providing the applicant clarifies the drainage strategy to enable an evaluation to be undertaken in terms of flood risk and provides the necessary consent is obtained from the asset owner allowing discharge to the public surface water sewer.

Ward Councillor

3.15 Councillor Carr makes no comment about the merits or de-merits of the application, but expresses interest in the deficiencies in the adjoining public highway which links Low Green and Merchant Way. As an issue of concern to residents, the Councillor has tried to address the issue on previous occasions in discussions with CYC highways and community safety managers as it presents itself as an unsafe place and requires improvement.

3.16 This 'link' is subject to a traffic management order and, with some vehicle exceptions, is meant to function as a pedestrian access between the centre of the village and the substantial amount of housing development (with more to come if the submitted draft local plan is approved), which has taken place on the eastern side of the village. The link is not barriered at the Low Green end and by removing the bollards at the Merchant Way end, it operates as a diversion route for all vehicular traffic when circumstances require.

3.17 It is the physical nature of this link which raises concerns. It comprises a lengthy blind bend, it is poorly lit, the 'inside' of the bend is hidden by trees and

dense undergrowth, and it is bounded on one side by the school grounds and, on the other, by the side elevations of a couple of houses. It is not therefore 'self-policing'.

3.18 To compound the safety hazards, the link is often used by cyclists and motorcyclists which can pass unhindered, and by errant larger vehicles (which miss the prohibition signs and have to reverse back into Low Green) all of which puts pedestrians at risk. In addition, the secluded nature of the link so close to the centre of the village attracts anti-social behaviour.

Copmanthorpe Parish Council

3.19 Support application.

NEIGHBOUR NOTIFICATION AND PUBLICITY

Copmanthorpe Primary School

3.20 Governors express concern about vehicular access along the single track lane which connects Low Green to Merchant Way. The lane is used by parents and children coming from Merchant Way accessing Upper School who are discouraged from going through the school. Any vehicle wishing to access the proposed bungalow will only be able to turn around by doing so in the drive of the new bungalow or by continuing to the end of the single track lane where the bollards are. This area will allow a small vehicle to turn around but will bring vehicles directly to the school gate where parents and children have to cross the lane. If vehicles are unable to turn round (particularly large vehicles) they will need to reverse down the lane which will not be ideal.

3.21 If planning permission is granted to use this lane, the governors request that the proposed path is wide enough to take a double buggy/parent with child in hand and that it is raised above the road by use of a kerb. Request consideration is given as to how to ensure the safety of parents and children who use the Merchant Way gate into school, if vehicles are allowed to come as far as the existing bollards in order to turn round.

3.22 Following submission of revised plans removing the footpath, the Governors object as it will not be possible for pedestrians and vehicles to pass safely due to the present width of the lane. If vehicle movement along Yorkfield Lane is allowed (which currently is not the case) it is believed that it is essential for the safety of pedestrians that a footpath with a raised kerb is a condition of granting planning. The school is a large primary school of almost 400 pupils which encourages children and staff to walk and bike to school and need all entrances and pedestrian ways around school to be as safe as possible. Opportunity to improve the lane for safety of pedestrians without cost to tax payer should not be missed.

Objections from residents

3.23 Objections from eleven individuals of Copmanthorpe with one being a resident from Bramham, including the following reasons:

- Impact on trees covered by Tree Preservation Order and other trees that provide soft visual impact;
- Access to Yorkfield Lane has been prohibited to vehicles since at least 1979;
- Over-development of site from proximity to neighbouring houses on Faber Close resulting in permanent and unsightly wall/barrier and impact on amenity;
- Design and materials of property, balconies and garage at front is not in-keeping with surrounding properties and is close to the conservation area;
- Traffic along lane between the two entrances of the Infant School would endanger pedestrians including local residents going to shops and parents taking children to school;
- Putting an unnecessary path along the lane would encourage the belief that cars could park and wait on the lane;
- Questions the assertion in the supporting documents that neighbours of Faber Close support the removal of the trees, including the large, Mature Ash Tree;
- Considerable danger to young and disabled due to use of heavy machinery and lorries during construction, close to school entrance and at school drop off/pick up times;
- Concerned that Yorkfield Lane will not retain its nature as a 'no through road' and would possibly encourage more motorised vehicles and potential opening as a through road;
- Urbanisation of lane with concern that proposals to change Yorkfield Lane will impact on its rural and leafy feel that complements Low Green, part of which is in a conservation area;
- Pavement is unnecessary if the lane retains its vehicle free status;
- This is a smoke and mirrors tactic as the majority of those supporting this application are really wanting upgrades to the lane and not necessarily supporting the building of a dwelling;
- Not experienced anti-social behaviour or felt unsafe along path despite living there for 27 years;
- Drainage issues due to amount of hard standing;
- What assurances can be given that if the application is successful, all upgrades are at the applicant's expense and the life time maintenance and upkeep;
- Refer to restrictive covenants in deeds of conveyance from 1955 [not a material planning matter].

Support from residents

3.24 Responses from nine local residents supporting the scheme for the following reasons:

- Extension/provision of pavement and lighting are welcomed to make areas nicer and address anti-social behaviour and safety, encouraging use of lane;
- A dedicated pavement will make a lane that is currently closed to traffic safer for pedestrians as it will separate them from cyclists and motor scooters;
- CYC Highways have not maintained the lane or trees;
- Amount of additional traffic on lane would be minimal;
- A dwelling will help reduce anti-social behaviour as perpetrators will be more visible;
- TPO regime can protect against harmful reduction and loss to tree;
- Need for housing;
- the lane is not currently protected as a traffic free route, so there is pre-existing conflict between pedestrians and vehicular users of the lane.

General comments

3.25 Two responses from local residents/users of lane, raising following points:

- No objection to scheme, but worried about builders and parents making a mess of the grass verge outside properties on Low Green;
- Questions how entry to a road that is clearly no entry for vehicles will affect the highway notices.

4.0 APPRAISAL

4.1 Key issues:

- Principle of development;
- Access, parking and highway safety;
- Character and appearance;
- Biodiversity;
- Residential amenity;
- Flood risk and drainage.

POLICY CONTEXT

National Planning Policy Framework

4.2 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", February 2019). Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. For decision-taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of

relevant development plan policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

4.3 The relevant chapters of the Framework include 5 'Delivering a sufficient supply of homes', 8 'Promote healthy and safe communities', 9 'Promoting sustainable transport', 11 'Making effective use of land', 12 'Achieving well-designed places', 14 'Meeting the challenge of climate change, flooding and coastal change' and 15 'Conserving and enhancing the natural environment'.

Development Plan

4.4 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

Draft Local Plan

4.5 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are 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. However, such policies can be afforded very limited weight. Relevant policies are listed in section 2. The site is shown on the accompanying Proposals Map as lying within the built-up settlement of Copmanthorpe.

Emerging Local Plan

4.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

4.7 Relevant policies are set out in section 2. In particular, policies GP1 and H4a can be attributed moderate weight as they are compliant with the aims of the NPPF.

4.8 The evidence base that underpins the proposed emerging policies is a material consideration in the determination of planning applications. The directly relevant evidence base is the Green Belt Topic Paper 1 Addendum and its Annex 4, which excludes the village of Copmanthorpe from the Green Belt. The site lies within the settlement of Copmanthorpe on the Proposals Map that accompanies the emerging 2018 Plan.

PRINCIPLE OF DEVELOPMENT

4.9 The application sits within the main built-up part of the village, in easy reach of local facilities and a public transport service connecting the village with York City, and surrounded by other residential properties. It would provide one residential property, which would contribute, albeit minimally, to the City's housing supply. It is noted that the Council cannot currently demonstrate an NPPF compliant 5 year supply of deliverable housing sites.

4.10 Paragraph 11 of the NPPF establishes the presumption in favour of sustainable development stating that permission should be granted where relevant development plan policies are out of date unless either there are specific policies in the NPPF that provide clear reason for refusing the development proposed, or adverse impacts significantly or demonstrably outweigh the benefits when assessed against policies in the NPPF as a whole.

4.11 Therefore, the proposal is considered to be acceptable in principle as it provides an additional dwelling in a sustainable and accessible location that is on land considered to fall outside the general extent of Green Belt and within a predominantly residential area.

ACCESS, PARKING AND HIGHWAY SAFETY

4.12 The NPPF encourages development that is sustainably located and accessible. Paragraph 108(b) requires that all development achieves safe and suitable access for all users. It advises at paragraph 109 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Further, paragraph 110 requires development to, inter alia, give priority first to pedestrians and cycle movements and create places that are safe, secure and attractive thereby minimising the scope for conflicts between pedestrians, cyclists and vehicles. Policy T1 of the 2018 emerging Local Plan supports the approach of the NPPF in that it seeks the safe and appropriate access to the adjacent adopted highway, giving priority to pedestrians and cyclists.

4.13 The site lies within the established village of Copmanthorpe, which is well served by local services and facilities and, as such, development of the site is supported in principle.

4.14 The proposed dwelling would be accessed from Yorkfield Lane via a newly created vehicular and pedestrian entrance. There would be space on site for motor vehicle parking either in the double width garage or on the driveway. Covered and secure cycle parking is indicated in a separate bin and cycle store at the side of the dwelling, but could also be provided in the proposed garage. The entrance to the property could act as a small turning head on the lane.

4.15 Yorkfield Lane is a historic lane in the village. The section between Low Green and Merchant Way is tarmaced and is adopted highway. It connects the houses to the north-east of the village to its centre and local amenities. The lane is covered by a long-standing Traffic Regulation Order (TRO) that restricts motor vehicles other than those proceeding to/from land adjacent to Yorkfield Lane for the purposes of agricultural, horticulture or silviculture. There is currently no physical restriction at the Low Green end apart from signage, but there are bollards at its junction with Merchant Way and a locked gate to the unadopted section of the lane beyond Merchant Way. It is predominantly used by local residents as a shortcut for foot and cycle movements accessing villages amenities and as an external link to Copmanthorpe Primary School.

4.16 The Council's Highway Network Management team, including the Road Safety Officer, objects to the proposal due to the introduction of vehicles on an existing traffic free route with access prohibited by a TRO to limited vehicle movements for agricultural, horticultural and silvicultural purposes. The proposal would require a legal change to the TRO that would allow access to motorised vehicles for premises accessed from the lane (potentially, this is not just vehicles associated with the proposed dwelling) in an area that currently has restricted traffic movements and that would have inadequate turning provision for larger vehicles resulting in the potential for such vehicles to reverse back onto Low Green. The lane is in close proximity to Copmanthorpe Primary School and is being developed as an important walking route between the village centre and strategic housing site ST31. It is considered that the proposal, due to its access and necessary changes to the TRO, would lead to increased potential for conflict between vehicles that could legitimately use the lane and existing use by pedestrians and cyclists, which would have an unacceptable impact on highway safety.

4.17 The application as first submitted included a dedicated tarmac footpath along the western and northern side of the lane with dropped kerbs and tactile paved crossing points. The provision of footpath was not supported for two reasons: firstly, it would change the appearance of the lane to a street with dedicated footway that continued on from Low Green and would encourage drivers to use it though it was of insufficient width for two way traffic and had inadequate turning provision for larger

vehicles resulting in potential conflict between opposing traffic; and, secondly, the proposed footway was sub-standard in that it did not meet the minimum width required by Manual for Streets with inadequate turning provision for larger vehicles. The removal of the footpath was sought and revised plans submitted to omit it from the scheme.

4.18 In terms of local responses to the application, there has been a mixed response, including both support for the proposed changes to the lane and objections to the loss of what is considered to be a traffic-free route and a green lane within the village. The Parish Council does not object to the proposal and the Ward Councillor highlights that there are existing issues with conflict between pedestrians and motorised scooters from the lack of barriers at the Low Green end of the lane as well as anti-social behaviour along it. Copmanthorpe Primary School Governors raise concerns on safety grounds to access to the dwelling from the lane and consider that if the scheme is approved there should be a footpath to reduce safety concerns.

4.19 The applicant has submitted a Highway Report that concludes that the proposed dwelling would generate a low number of vehicle movements and that the Traffic Management Order can be amended to allow vehicular access to the dwelling. As such, the report considers that there would be no significant road safety risks arising to the other road users as a result of the traffic that would be generated by the proposed dwelling. It also states that the proposal represents the only realistic opportunity to provide the footpath and improved lighting to address highway safety without Council funding. It concludes that the proposal would not result in any severe highway impacts. Further correspondence by, or on behalf of, the applicant reiterate national planning policy and the basis for assessing and determining planning applications and consider that there are no highway grounds for refusal as the site has safe and suitable access and the local road network has capacity to safely accommodate the limited additional traffic resulting from the proposed development.

4.20 However, as the proposal has been identified as compromising highway safety along Yorkfield Lane and would not adhere to the aims of creating safe and appropriate access and prioritising pedestrian and cycle movements, the proposal does not accord with paragraphs 109 and 110 of the NPPF. The test in paragraph 109 of the NPPF is an unacceptable impact on highway safety rather than a severe highway impact. Whilst the applicant points to existing conflict on the lane, this does not justify compromising highway safety further and could be at part addressed through the consideration of gates/barrier at the Low Green end of the lane.

CHARACTER AND APPEARANCE

4.21 Chapter 12 of the NPPF gives advice on design, placing great importance to that design of the built environment. In particular, paragraph 127 of the NPPF states

that planning decisions should ensure that development, inter alia, will add to the overall quality of the area, be visually attractive, sympathetic to local character and history and have a high standard of amenity for existing and future users. This advice is reflected in Draft Local Plan policies GP1 and GP9 of the 2005 Draft Local Plan and D1 and D2 of the 2018 Draft Local Plan and, therefore, these policies can be given weight.

4.22 The application site comprises the rear garden of 4 Croft Farm Close, which sits on slightly lower ground beyond the immediate levelled space at the rear of the property. It is abutted by the gardens of neighbouring property 6 Croft Farm Close, 22 Merchant Way, and 1-3 Faber Close and enclosed along its eastern side by Yorkfield Lane. This lane appears on historic maps (Epoch 1 1846-1901) as a green lane running from Low Green to the fields beyond the village and remains today as a green corridor sandwiched between the rear gardens of modern residential development or subsumed within it. Therefore, Yorkfield Lane is considered to be a valuable remnant of the village's rural character and context, which retains some of its original character and appearance due to the existing vegetation and narrow nature of the lane. Views from Merchant Way or Low Green are of the openness of the gardens to the rear of the properties and the trees and shrubs within them and along the lane.

4.23 The proposal would infill the space between 4 Croft Farm Close and the properties to the north with a 1.5 storey dwelling, detached garage and wide access from the lane. It would result in the loss of some vegetation on site and along the lane from the construction of the new access. The existing high boundary enclosure to Yorkfield Lane would be replaced by brick piers and open railings and a sliding gate, which would make the development particularly the garage more visible in views along the lane. The character and appearance of the historic lane would be altered as a result and, in turn, the local environment in this part of the village. However, this would only be for a short section along the length of the lane and the dwelling would be read in the context of the modern housing that bounds the site. Further, the lane falls outside the designated conservation area and the vegetation along the lane, much of which is self-seeded and overgrown, could be removed separate to this application as it is not protected.

4.24 The design of the dwelling, being 1.5 storeys with a deep roof slope, pitched dormers and with render walls and grey roof tiles, would not be characteristic of surrounding properties. However, it would sit within an area of mixed age and style of houses. The materials of construction could be amended by condition to be a more sympathetic and characteristic palette of materials that reflects surrounding properties. Subject to this, and given the variety of housing design in the local area, the design of the proposed dwelling would not detract from the overall quality of the area.

4.25 The introduction of a dwelling may contribute to increased natural surveillance along the lane, though its set back and inclusion of bedroom accommodation to the rear and en-suites to the front, would reduce any informal overlooking of the lane at night when anti-social behaviour is more likely to be an issue.

4.26 Therefore, the proposal would not conflict with the aims of paragraph 127 of the NPPF or policies GP1 of the 2005 Draft Local Plan or D1 of the 2018 Draft Local Plan, subject to a condition requiring a more sympathetic palette of materials.

BIODIVERSITY

4.27 Paragraph 170 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity. Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats.

4.28 The application form states that there are no trees on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character. As such, a tree survey was not originally submitted to support the application. However, there is a large Ash tree in the garden of 3 Faber Close that is adjacent to and overhangs the site and is protected by a Tree Preservation Order (TPO 2/1972/-G9).

4.29 The Council's Landscape Architect raised concerns about the proximity of the proposed dwelling to this tree in terms of the likely resultant conflict between it and the future occupants of the dwelling. As a result, the applicant instructed a tree assessment be undertaken, which confirmed that there is no evidence of significant decline or die back nor decay or structural defects and that the tree continues to be worthy of its TPO. As such, it was requested that the dwelling be set away from the tree canopy by a minimum 2m clearance distance, which the revised plans indicate has been achieved. As such, the proposal would mitigate the potential impact on the protected tree in future years in accordance with paragraph 175 of the NPPF.

RESIDENTIAL AMENITY

4.30 Paragraph 127(f) of the NPPF seeks a good standard of amenity for all existing and future occupants. Paragraph 178 of the NPPF requires new development to be appropriate for its location to prevent unacceptable risks from pollution and land instability. Policy GP1(i) of the 2005 Draft Local Plan seeks to ensure that development proposals do not unduly affect the amenity of nearby residents in terms of noise disturbance, overlooking, overshadowing or from overbearing structures.

4.31 A contamination screening assessment has been submitted with the application, which confirms that the historic uses of the land are agriculture and

more recently residential. Public Protection is satisfied with the assessment and requests a condition in the event that unexpected contamination is found as well as a condition requiring electric vehicle charge points.

4.32 The proposed dwelling would be located within the rear garden of 4 Croft Farm Close, which is a two storey detached dwelling. There would be a separation distance of approximately 12m between no.4 and the proposed dwelling. Whilst this is tight, it is acknowledged that the proposed dwelling would sit at an angle to the existing dwelling in order to avoid direct overlooking. Further, the existing property would retain a 10m long rear garden and is at a slightly higher land level than the site of the proposed dwelling.

4.33 The site is surrounded by other detached residential properties. The proposed dwelling would not directly face towards any of these properties and would have approximate distances of 16m to 6 Croft Farm Close, 17m to 22 Merchant Way and 20m to 1 Faber Close. The elevations facing NE towards 22 Merchant Way and 1 Faber Close and SW facing no.4 would be solid other than a ground floor utility. There would be the potential for loss of privacy to 6 Croft Farm Close, particularly to its rear garden from the first floor Juliet balconies. There is the potential for some casting of shadows over the gardens on Merchant Way and Faber Close during the day, though this already occurs to a certain degree by the presence of vegetation. Whilst neighbouring occupants would be aware of an additional property closer to them, the 1.5 storey height, the angle of the building and the presence of other structures and vegetation, would help to mitigate any erosion of living conditions of neighbours.

4.34 As such, and as there would be adequate internal and external space to serve the proposed two bedroom dwelling, the proposal would accord with the aims of the NPPF and local planning policies that seek a good standard of amenity for existing and future residents.

FLOOD RISK AND DRAINAGE

4.35 Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk but, where development is necessary, making it safe without increasing flood risk elsewhere.

4.36 The site lies in Flood Zone 1 (low probability) and, as such, should not suffer from river flooding. Foul water is proposed to be disposed of to mains sewer and surface water to a sustainable drainage system or mains sewer with appropriate attenuation. A 150mm surface water sewer would need to be re-located - an alternative location for this sewer is indicated on the revised site layout plan within Yorkfield Lane. Yorkshire Water has withdrawn its initial objection to the proposal on the basis of the revised plans that show a re-directed 150mm sewer and the

required stand-off distance to the 600mm diameter public surface water sewer that crosses the northern boundary of the site.

4.37 As a result, the proposal is considered to be acceptable in terms of drainage, subject to a condition requiring further details of surface water discharge that adequately attenuates flow from the site.

5.0 CONCLUSION

5.1 The NPPF establishes the presumption in favour of sustainable development in paragraph 11, which means granting permission where there are no relevant development plan policies unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. York does not have an adopted Local Plan and the Development Plan comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy relating to Green Belt and neighbourhood plans not relating to Copmanthorpe.

5.2 The development of the site is acceptable in principle being in a sustainable and accessible location in an existing village. It would contribute one dwelling to the City's housing supply and, to a limited extent, increase natural surveillance on Yorkfield Lane. However, there is considered to be an unacceptable impact on highway safety due to the introduction of traffic along a restricted lane that is primarily used as a pedestrian and cycle link. It is considered that, when balancing the benefits and adverse impacts, the harm to highway safety for the wider public using Yorkfield Lane would significantly and demonstrably outweigh the benefits of one private dwelling. Issues relating to anti-social behaviour and any existing conflict on the lane could be addressed in part through increased lighting, cutting back of vegetation and the gating of the lane at its Low Green end, separate to, and without the need for, the proposed dwelling.

5.3 Therefore, in line with paragraph 109 of the NPPF, the proposal is recommended for refusal on highway safety grounds due to the unacceptable impact on highway safety.

COMMITTEE TO VISIT

6.0 RECOMMENDATION:

1 Paragraph 109 of the National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. It is considered that the proposed development would result in an unacceptable impact on highway safety due to the introduction of vehicles on an existing lane with access restricted by a Traffic Regulation Order, and the conflict with pedestrian and cycle users of the

lane. The lane lies in close proximity to a primary school whose parents and pupils are encouraged to use the lane to access the school and which provides a pedestrian and cycle link to services within the village from houses to its north-east. The benefits of the scheme, being the provision of one dwelling to the City's housing supply, do not outweigh the adverse impact of the scheme, being the unacceptable impact on highway safety.

7.0 INFORMATIVES:

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) 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:

- Pre-application advice;
- Revised plans to address objections relating to stand-off distances to sewers and proximity to a protected Ash tree;
- Investigation of highway safety concerns;
- Consideration of conditions to mitigate any harm.

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

Contact details:

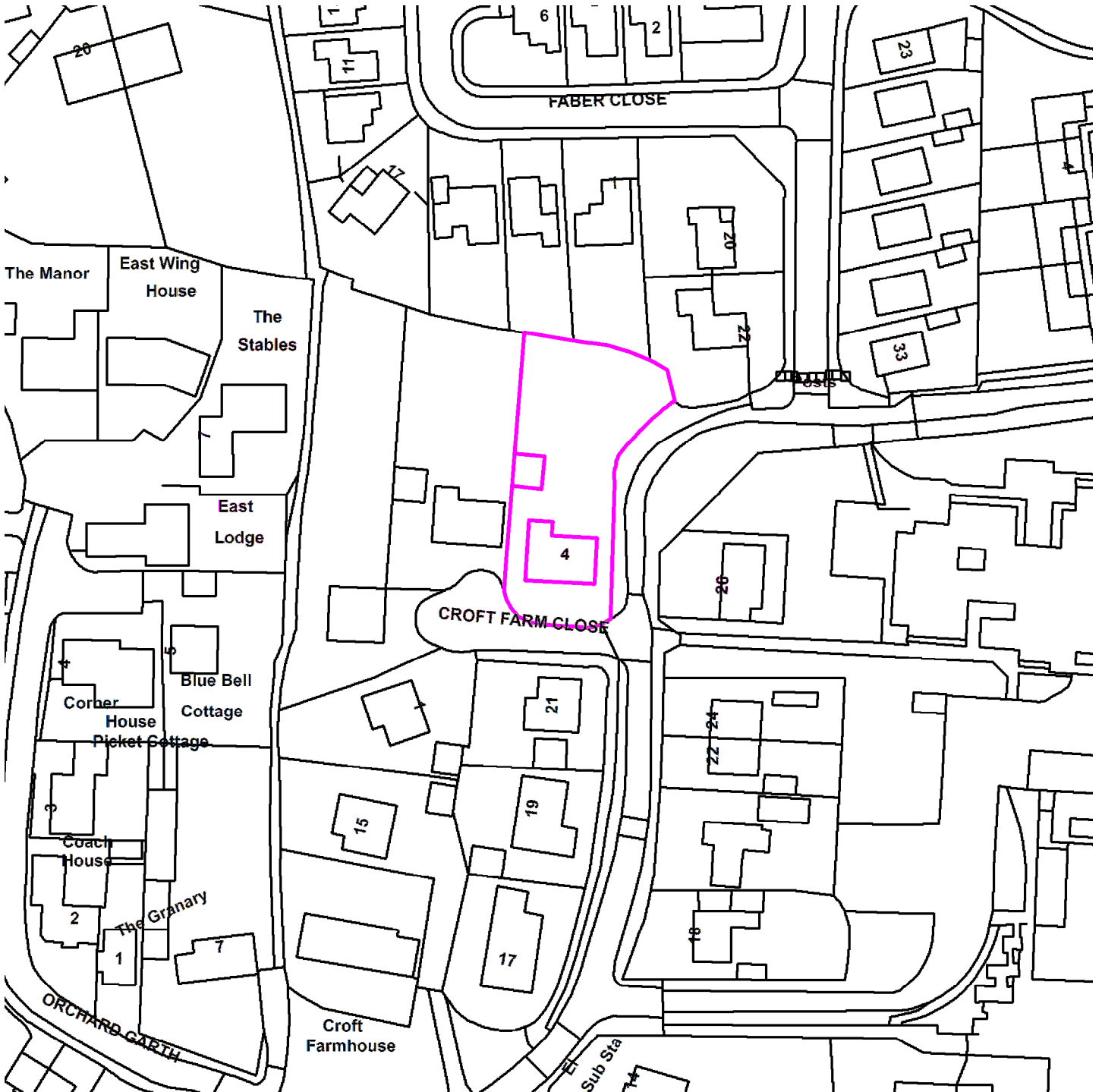
Author: Hannah Blackburn Development Management Officer

Tel No: 01904 551325

This page is intentionally left blank

18/02614/FUL

4 Croft Farm Close Copmanthorpe



Scale : 1:1043

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	29 July 2019
SLA Number	Not Set

This page is intentionally left blank

COMMITTEE REPORT

Date: 8 August 2019 **Ward:** Fishergate
Team: Householder and Small Scale Team **Parish:** Fishergate Panel Planning

Reference: 19/00981/FUL
Application at: The Flat 114 Fishergate York YO10 4BB
For: Glazed rooflight to front elevation
By: Mr Michael Hammill
Application Type: Full Application
Target Date: 12 August 2019
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application property is a two storey end-terrace property with commercial use on the ground floor and residential above. It is one of a number of commercial properties in two terraces that front Fishergate circa 400m to the south of the city centre. It lies close to three conservation areas; the Central Historic Core, the New Walk/Terry Avenue and Fulford Road.

1.2 This application seeks permission to install a glazed rooflight to the front elevation.

1.3 Planning permission for a glazed front dormer was refused in June 2019 (19/00365/FUL). Planning permission to raise the roof height of rear projection and install 2no. dormers to side was refused in June 2019 (19/00318/FUL).

1.4 This application has been called in by Councillor D'Agorne for consideration by the planning committee on the ground that refusal would be excessive restrictive when there is not Article 4 in place to preserve such features and the whole roof and fenestration could be replaced without planning consent with far more impact on the streetscene.

2.0 POLICY CONTEXT

2.1 Policies:

City of York Publication Draft Local Plan 2018

D1 Placemaking

D11 Extensions and Alterations

Development Control Local Plan 2005

CYGP1 Design
CYH7 Residential extensions

3.0 CONSULTATIONS

3.1 No comments received

4.0 APPRAISAL

KEY ISSUE

4.1 The key issue in the assessment of this proposal is the impact upon the character of the host building and surrounding.

POLICY CONTEXT

National Planning Policy Framework

4.2 The National Planning Policy Framework, March 2012 (NPPF) sets out the overarching roles for the planning system and it is against this Framework that the proposal should principally be addressed.

4.3 Paragraph 127 states that planning policies and decisions should ensure that developments will achieve a number of aims including:

- are sympathetic to local character and history, including the surrounding built environment and landscape setting
- create places that are safe, inclusive and accessible and promote health and well-being with a high standard of amenity for existing and future users

4.4 The NPPF places great importance on good design. Paragraph 130 says that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

Local Plan Policies

City of York Publication Draft Local Plan 2018

4.5 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012.

4.6 Policy D1:Placemaking is relevant in that it states that 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 and that 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 D11:Extensions and Alterations is also relevant as it advises that development proposals will be supported where, inter alia, they respond positively to the immediate architectural context, local character and history in terms of the use of materials and detailing, scale and proportion.

Development Control Local Plan 2005

4.7 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 very limited except where in accordance with the content of the NPPF. The relevant Local Plan policies are Policy GP1(b) which requires development to be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials. Also Policy H7(a) which includes the need to ensure that the design and materials are sympathetic to the main dwelling and the locality of the development and Policy H7(b) which requires that the design and scale are appropriate in relation the main building.

Supplementary Planning Document (SPD) for House Extensions and Alterations 2012

4.8 The SPD provides 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 14.1 advises that the roof of a building is an important and prominent element of its design and that unsympathetic roof extensions can have a dramatic affect on a building's visual appearance.

ASSESSMENT

4.9 No.114 Fishergate is an end of terrace corner property that has commercial use on the ground floor with residential above. It lies within one of two terraces that lie circa 400m south of the city centre and front Fishergate; i.e. nos. 114-120 and 98-112. The two terraces sit between the southern edge of the Central Historic Core conservation area and the northern edge of New Walk/Terry Avenue conservation area. The Central Historic Core conservation area lies circa 70m to the north and New Walk/Terry Avenue conservation area is just circa 15m to the south (i.e. abutting the southern elevation of no.120). Another conservation area, i.e. Fulford Road conservation area, is circa 80m to the south.

4.10 Although outside of a conservation area, these terraces have retained to a considerable extent their traditional Victorian character, which adds strongly to the character of the location. The front roofs of the terraces remain undisturbed by additions, including rooflights or dormers, and the fact that this original built roof has been retained makes an important and significant contribution to the character of the townscape.

4.11 The contribution that these undisturbed roofscapes make to the character of the location is strengthened by the Light Horseman PH, which sits just to the south of no.120 and is also devoid of rooflights or dormers on the front.

4.12 It is considered that the proposed large rooflight would be out of character with, and harmful to both the appearance of the building and the street scene. Furthermore, if the development were to go ahead the LPA would have considerable difficulty resisting similar proposals within the rest of the terrace and nearby properties, leading to an even more serious erosion of the townscape.

Permitted Development Rights

4.13 As the property, is a mixed use of commercial premises and flat, it does not benefit from permitted development rights in respect of alterations to the roof and fenestration.

5.0 CONCLUSION

5.1 It is considered that the proposed rooflight would not respect the architectural period, style and detailing of the existing property and area and would be out of character and harmful to both the appearance of the building and the streetscene, thereby making an unsatisfactory and incongruous addition to the townscape. This is contrary to the NPPF, Publication Draft Local Plan 2018 Policies D1 and D11, Policies GP1(b), H7(a) and H7(b) of the Development Control Local Plan 2005 and the Council's Supplementary Planning Document for House Extensions and Alterations December 2012, in particular Paragraph 14.1.

6.0 RECOMMENDATION: Refuse

Application Reference Number: 19/00981/FUL

Item No: 4c

1 It is considered that the proposed large rooflight would not respect the architectural period, style and detailing of the existing property and area and would be out of character with the streetscene in general, making an unwelcome intrusion in the undisturbed front roof slope of the terrace within which the application property lies and appearing as a harmful and incongruous addition to the streetscene and, as a result, eroding the contribution that the building and terrace make to character of the townscape.

The proposal is in conflict with Paragraphs 127 and 130 of the NPPF, City of York Publication Draft Local Plan 2018 Policies D1 and D11, Policies GP1(b), H7(a) and H7(b) of the City of York Draft Local Plan 2005 and the Council's Supplementary Planning Document for House Extensions and Alterations December 2012, in particular Paragraph 14.1.

7.0 INFORMATIVES:

Notes to Applicant

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

In respect of the requirements set out within the National Planning Policy Framework paragraph 38 regarding adopting a positive approach towards sustainable development in their decision-taking and seeking solutions to problems identified during the processing of the application, the Local Planning Authority has considered the proposal against national and local planning policies and it was not considered that amendments or conditions would overcome the stated reason for refusal

Contact details:

Author: David Johnson Development Management Assistant

Tel No: 01904 551665

This page is intentionally left blank

19/00981/FUL

The Flat 114 Fishergate



Scale : 1:1043

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	29 July 2019
SLA Number	Not Set

This page is intentionally left blank