



## Notice of meeting of

### West & City Centre Area Planning Sub-Committee

**To:** Councillors Horton (Chair), Sue Galloway (Vice-Chair), Crisp, Steve Galloway, Galvin, Gillies, Looker, Reid and Sunderland

**Date:** Thursday, 18 December 2008

**Time:** 3.00 pm

**Venue:** The Guildhall, York

### AGENDA

**Site visits for this meeting will commence at 10.30 am on Tuesday 16 December at Memorial Gardens.**

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

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

#### 2. **Minutes** (Pages 5 - 14)

To approve and sign the minutes of the meeting of the West & City Centre Area Planning Sub-Committee held on 13 November 2008.

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

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5pm** the working day before the meeting – in this case, **Wednesday 17 December 2008**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

#### **4. Plans List**

Members will consider a schedule of reports of the Assistant Director (Planning and Sustainable Development), relating to planning applications with an outline the proposals and relevant policy considerations and the views and advice of consultees and officers.

**a) Toft Green (Land to the near of 112 Micklegate) (06/02687/FUL)**  
(Pages 15 - 28)

4-storey building and roof dormer comprising 4no flats. [*Micklegate Ward*] **[Site Visit]**.

**b) 55 St. Stephens Road, York YO24 3EH (08/01708/FUL** (Pages 29 - 38)

The application is for a two-storey dwelling to the side. [*Westfield Ward*] **[Site Visit]**.

**c) King William Hotel, Barkstone Avenue, York YO26 5DH (08/01992/FUL)** (Pages 39 - 44)

Installation of rooftop telecommunications base station incorporating 3G flagpole antenna, equipment cabinet and ancillary alterations to the building. [*Westfield*] **[Site Visit]**.

**d) 2 Enfield Crescent, York YO24 2BE (08/02399/FUL)** (Pages 45 - 52)

Two storey pitched roof extension to side and rear (resubmission). [*Holgate Ward*] **[Site Visit]**.

**e) Greenthwaite, Main Street, Upper Poppleton, York YO26 6DL (08/02440/FUL)** (Pages 53 - 76)

Erection of single storey dwelling with rooms in roof to rear with access from School Lane (resubmission). [*Rural West York Ward*] **[Site Visit]**.

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

Democracy Officers:

Name: Catherine Clarke and Heather Anderson (job share)

Contact Details:

- Telephone – (01904) 551031
- E-mail – [catherine.clarke@york.gov.uk](mailto:catherine.clarke@york.gov.uk) and [heather.anderson@york.gov.uk](mailto:heather.anderson@york.gov.uk)

(If contacting us by e-mail, please send to both democracy officers named above)

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

### **Scrutiny Committees**

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

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- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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**WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE****SITE VISITS****Tuesday 16 December 2008****The bus for Members will leave Memorial Gardens at 10.30am**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
<b>10:40</b>	<b>Greenthwaite, Main Street, Upper Poppleton (meet at rear of site on School Lane)</b>	
<b>11:10</b>	<b>King William PH, Barkston Avenue</b>	
<b>11:40</b>	<b>55 St Stephens Road</b>	
<b>12:00</b>	<b>2 Enfield Crescent</b>	
<b>12:20</b>	<b>Land between 10 &amp; 12 Toft Green (rear of 112 Micklegate)</b>	

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City of York Council

Committee Minutes

MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	13 NOVEMBER 2008
PRESENT	COUNCILLORS HORTON (CHAIR), SUE GALLOWAY (VICE-CHAIR), CRISP, STEVE GALLOWAY, GALVIN, GILLIES, LOOKER, REID AND SUNDERLAND

**35. INSPECTION OF SITES**

The following sites were inspected before the meeting

Site	Attended by	Reason for Visit
Dick Turpin, 49 Moorcroft Road	Councillors Crisp, Galvin, Gillies and Horton.	As objections had been received and the recommendation was to approve.
9 Lochrin Place	Councillors Crisp, Galvin, Gillies and Horton.	As objections had been received and the recommendation was to approve.
2 Friars Terrace	Councillors Crisp, Galvin, Gillies and Horton.	As an objection had been received an the recommendation was to approve.
The Lowther PH, 8 Cumberland Street	Councillors Crisp, Galvin, Gillies and Horton.	As objections had been received and the recommendation was to approve.
5 Silver Street	Councillors Crisp, Galvin, Gillies and Horton.	As the application had been referred to Committee by Cllrs Horton and Looker given the local business and resident interest in the scheme.

**36. DECLARATIONS OF INTEREST**

Members were invited to declared at this point in the meeting any personal or prejudicial interest they might have in the business on the agenda.

Councillor Reid declared a personal and prejudicial interest in Plans Item 5B (City of York Council, 5 Silver Street), an application for external alterations and conversion of a former electricity sub-station into public toilets) as this fell within her portfolio area as Executive Member for

Neighbourhood Services. She withdrew from the room and took no part in the discussions on this item.

Councillor Reid also declared a personal non prejudicial interest in Plans Item 5E (The Dick Turpin) as she had been contacted by a resident regarding this application but not discussed the matter with the resident.

**37. MINUTES**

RESOLVED: That the minutes of the meetings held on 16 September 2008 and 16 October 2008 be approved and signed by the Chair as a correct record.

**38. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That the Press and Public be excluded from the meeting during consideration of the annexes to agenda item 6 (Enforcement Cases Update) (Minute 41 refers) on the grounds that they contain information classed as exempt under paragraph 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006. This information, if disclosed to the public, would reveal that the authority proposes to give, under any enactment, a notice under or by virtue of which requirements are imposed on a person or that the Authority proposes to make an order or directive under any enactment.

**39. 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.

**40. PLANS LIST**

Members considered a schedule of reports of the Assistant Director (Planning and Sustainable Development, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views and advice of consultees and officers.

**40a The Lowther, 8 Cumberland Street, York YO1 9SW (08/02093/FUL)**

Members considered a full application by Mr S Binns for the retention of an external seating area on Kings Staith (renewal of temporary permission 07/01756/FUL) with freestanding sunshades; and formation of associated furniture storage area on land at the rear of 15 Kings Staith.

Officers reported that an additional consultation response had been received from British Waterways who had no objections to the renewal of the application subject to the imposition of the planning condition relating to the previous approval enabling safe and unhindered access to the waterfront. They also requested that if the application was approved an informative be added to ensure that necessary consents were obtained and the works were compliant with the current British Waterways "Code of Practice for Works affecting British Waterways".

Officers also reported that an additional representation had been received from the occupier of 15 Kings Staith whose main concern related to the storage area and the disturbance caused. The objector also stated that amenity bodies/societies should be consulted regarding the increase in umbrellas as they were more qualified to comment on the impact on the environs of Cumberland House.

Officers suggested an addition condition be added requiring the 3m passage between the river and the tables be kept clear at all times. They also advised that Condition 1 should be amended to prevent use as an external seating area after 14 November 2013 unless permission was obtained from the Local Planning Authority to extend that period.

Representations were received from a local resident in objection to the application. He circulated photographs of the area behind numbers 1 and 2 Lower Friargate and 13 and 15 Kings Staith taken in August 2004 and February 2008 to show how the use and appearance of the area had changed. He advised the Committee that he had no problems with the seating area for the pavement café although he welcomed the restrictions on hours on use. His concerns related to the nature of furniture storage which he believed had an adverse affect on security in the area due to an unlocked broken gate to the yard and also resulted in a loss of the communal seating area. He suggested that an area of the yard behind the raised garden could provide a more suitable storage area. He answered Members queries in relation to the communal seating area, its ownership and use.

The applicant presented the Chair with a letter from Streamline Taxis (York) Ltd confirming that Plonkers Wine Bar and the Lowther Hotel rent storage space from themselves at the rear of 7 Cumberland Street, with this arrangement being purely for the storage of tables and chairs from their riverside concern. This letter was circulated to Members of the Committee.

**RESOLVED:** That the application be approved subject to the conditions listed in the report and the amended and additional conditions and additional informative listed below

**Amended Condition 1**

The use as an external seating area shall cease by 14 November 2013 unless prior to that date the permission of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: The seating area forms part of the public highway where it is considered to be inappropriate to grant a permanent planning permission in the interests of the freeflow of traffic and pedestrians and highway safety.

**Additional Condition 8**

The 3 metre passage between the river edge and the area for tables and chairs as indicated on drawing no. 1.32 revision B shall be kept clear at all times and shall not be obstructed by the pavement cafe use or any furniture associated with the use.

Reason: To ensure that amenity and a comfortable access is maintained along the riverbank and to enable safe and unhindered access to the waterfront in accordance with policy L4 of the Development Control Local Plan

**Additional British Waterways requested Informative**

The applicant is advised to contact the Third Party Works Engineer (British Waterways, Fearn's Wharf, Neptune Street, Leeds, LS9 8PB) in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' "Code of Practice for Works affecting British Waterways".

REASON: That the proposal, subject to the conditions listed in the report and the amended and additional conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the character and appearance of the conservation area, vitality and viability of the city centre, public access to the riverside, residential amenity and highway and pedestrian safety. As such the proposal complies with Policies HE2, GP1, L4, GP23 and S6 of the City of York Local Plan Development Control Local Plan- Incorporating the Proposed 4th Set of Changes ( 2005 ); and national planning guidance contained in Planning Policy Statement 6 " Planning for Town Centres, "Planning Policy Guidance Note No. 15 " Planning and the Historic Environment " and Planning Policy Guidance Note No. 13 " Transport" and Planning Policy Statement 1: "Planning for Sustainable Development. "

Action Required

1. To issue the decision notice and include on the weekly planning decision list within agreed timescales. SS

**40b City Of York Council 5 Silver Street York YO1 8RY (08/02031/GRG3)**

Members considered a General Regulations (Reg3) application by Russell Stone for external alterations and conversion of a former electricity sub-station into public toilets (resubmission).

Officers updated that additional consultation responses had been received from the Environmental Protection Unit who had no objections to the application and also from the Safer York Partnership who had raised no issues.

Officers also advised Members that in response to the York Action Group's comments, the applicant had advised that the accessible WC was in line with current thinking as it was accessible from either side from a wheelchair and that both disabled facilities were equipped with panic alarms in accordance with current requirements.

Members raised the issue of the narrowness of the pavement and suggested that bollards be placed to protect pedestrians from cars mounting the pavement. They also raised the question as to whether dropped curbs were in place. Officers suggested these issues could be added as an informative.

Members discussed the issue of signage which they thought would be necessary but may be a sensitive issue due to the area. They also welcomed the fact that this development, if granted, would provide a changing place for disabled people which would be the 5<sup>th</sup> in York and would open up the City Centre to disabled people.

**RESOLVED:** That the application be approved subject to the conditions listed in the report and the informative listed below.

**Additional Informative**

Members of the Sub Committee ask that full consideration be given to provision of the following:

- a. Bollards should be erected along the pavement edge to prevent vehicles blocking the entrance to the proposed public toilets.
- b. Consideration should be given to whether there are sufficient dropped kerbs existing along Silver Street to allow convenient access to the proposed toilets.
- c. The new facility should be adequately signposted.

**REASON:** That the proposal, subject to the conditions listed in the report and the informative listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the visual amenity and character of the listed building. As such, the proposal complies with Policies C1, HE3, GP4a and GP1 of the City of York Development

Control Local Plan - Incorporating the Proposed 4th Set of Changes ( 2005 ) ; and national planning guidance contained in Planning Policy Statement 1 " Delivering Sustainable Development " and Planning Policy Guidance Note No. 15 " Planning and the Historic Environment. "

Action Required

1. To issue the decision notice and include on the weekly SS  
planning decision list within agreed timescales.

**40c 2 Friars Terrace South Esplanade York YO1 9SH (08/02148/FUL)**

It was reported that a full application submitted by Mr N Cooper for a single storey pitched roof rear extension (resubmission) had been withdrawn by the applicant.

Action Required

1. To issue the decision notice and include on the weekly SS  
planning decision list within agreed timescales.

**40d 2 Friars Terrace South Esplanade York YO1 9SH (08/02142/LBC)**

It was reported that an application for listed building consent submitted by Mr N Cooper for a single storey pitched roof rear extension (resubmission) had been withdrawn by the applicant.

**40e The Dick Turpin, 49 Moorcroft Road York YO24 2RQ (08/02178/FUL)**

Members considered a full application by Marstons Pub Company for a smoking shelter to the rear of the Dick Turpin.

Representations were received from the Agent on behalf of Marstons Pub Company in support of the application. He expressed his concerns at the objections raised by neighbours and stated that the licensee and brewery had not been aware of the anti-social problems mentioned in the report. He advised that he would pass on the comments and would encourage dialogue between local residents and the pub company and licensee. He also confirmed that the area in question was licensed (this fact had been disputed in an objection received) and this had been confirmed by the Company's solicitors and the Licensing officer.

Members remarked that the report did not include any details on whether ashtrays would be provided. The agent advised that these would be made available and that he fully expected this to be included as a condition.

Members advised that they had been contacted by residents regarding the noise issue and supported residents concerns but that they welcomed the comments from the speaker about entering into dialogue with the residents regarding any problems. They also raised concerns over the provision of

seating as the number of seats to be provided was unknown. They requested that a condition be added regarding the provision of ashtrays.

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

#### **Additional Condition 5**

The smoking shelter shall be provided with suitable cigarette bins in addition to that already in place on the doorway of the public house.

Reason: In the interests of the visual amenities of the area

REASON: That the proposal, subject to the conditions listed in the report and the additional condition listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the appearance of the building and area and the amenity of neighbouring residents. As such the proposal complies with Policies GP1 and GP18 of the City of York Draft Local Plan.

#### Action Required

1. To issue the decision notice and include on the weekly SS  
planning decision list within agreed timescales.

#### **40f 9 Lochrin Place York YO26 5QL (08/02073/FUL)**

Members considered a full application by Mr Julian Davies for a two storey pitched roof side extension and new boundary wall.

Officers updated that Highways Network Management had suggested attaching a condition stipulating that the extension to the existing boundary wall should at no place be erected closer than 2 metres to the carriageway of the adjacent public highway.

Officers also advised of an amendment to Condition 4.

The Chairman circulated information which had been submitted in opposition to the application.

Representations were received from the Chair of the Acomb Planning Panel in objection to the application. He described the proposals as an oversized development in a well designed residential area and stated that the proposed extension would extend beyond the building lines of other houses and would restrict the sighting of approaching traffic.

Representations were also received from the applicant in favour of the application. He advised that by stepping in the proposed extension this would give a good amount of visual sight at the front and also at the side. He explained to Members that he wanted to create a family house for his

five children and needed the extra space. He stated that he understood that some residents had concerns over parking and offered to modify the parking of his van in front of his house.

Members were of the opinion that this was not an unreasonable development and welcomed the undertaking from the applicant to speak to neighbours about the parking situation.

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

**Amended Condition 4**

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) following the completion of the development hereby approved, no further extensions or curtilage buildings of the type described in Classes A, B, C, and E of Schedule 2 Part 1 of that Order shall be carried out to the dwelling without the prior written consent of the Local Planning Authority.

Reason: To prevent overdevelopment of the dwelling.

**Additional Condition 5**

The extension to the existing boundary wall shall at no place be erected closer than 2 metres to the carriageway of the adjacent public highway.

Reason: To protect the integrity of the public highway and its included service verge.

REASON: That the proposal, subject to the conditions listed in the report and the amended and additional conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the dwelling and the locality, and highway safety. As such, the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan (2005); national planning guidance contained in Planning Policy Statement 1 "Delivering Sustainable Development"; and supplementary design guidance contained in the City of York's "A guide to extensions and alterations to private dwelling houses".

Action Required

1. To issue the decision notice and include on the weekly planning decision list within agreed timescales. SS



**40g The Orchard, Tyn Garth, Acaster Malbis, York YO23 2LX  
(08/01177/FUL)**

Members considered a full application by Mr Tony Lumb for the replacement of three moorings.

Officers updated that two further letters of objection had been received from local residents. These raised no objection to the moorings but voiced concerns that the fence would have a detrimental effect on the visual impact

The Planning and Sustainable Development Area Team Leader reminded Members that the application had been deferred at a previous meeting to seek advice regarding the potential to withdraw permitted development rights. He advised that as the erection of the fencing had already taken place, the legal process would be to serve a discontinuance notice under section 102 of the Planning Act requiring the removal of the fence. This would need to be confirmed by the Secretary of State and compensation would be payable. He explained that for such a notice to be successful there must be exceptional circumstances and a real and specific harm to the amenity of the area and that there was little likelihood of such a notice being confirmed by the Secretary of State. He advised Members that in his opinion the grant of planning permission subject to conditions requiring an alteration to the type of fencing, the planting of a hedge and the restriction on domestic paraphernalia would achieve the best outcome that could reasonably be expected and that a refusal of permission would be likely to result in the retention of the fence in its current form.

Representations were received from a member of the Ramblers Association in objection to the application in view of public right of way issues. He spoke in support of the removal of the close boarding currently in place and replacement by a post and rail fence.

Representations were also received from Parish Councillor Tim Pumffney in objection to the high fencing. He gave his support to the officer recommendation in principle but suggested that the maximum height of 1.8m was too high for a post and rail fence. He reported that further along the riverbank, fences were about 1m in height. In relation to the proposed minimum height of the hedge at 1.8m, he requested that no height be specified as it was not necessary and would be difficult to monitor.

Members discussed issues surrounding the height of the fence and hedge and agreed that the minimum height of the hedge be reduced to 1metre.

**RESOLVED:** That the application be approved subject to the conditions listed in the report and the amended condition listed below.

**Amended Condition 2**

Notwithstanding the application details hereby approved, a hedge utilizing species previously agreed in writing by the Local Planning Authority shall be planted directly parallel to the fence stipulated in Condition 1 to further

separate the renovated moorings from adjoining land. The hedge shall be allowed to grow to a minimum height of 1metres and shall be planted within the first planting season following the date of this permission. Any part of the hedge so planted which dies, or is removed or becomes seriously damaged or diseased shall be replaced in the next planting season to the satisfaction of the Local Planning Authority.

Reason: To safeguard and secure the pleasant rural ambience and visual amenity of the riverbank area and to secure compliance with Policies NE2 and GB2 of the York Development Control Local Plan.

REASON: That the proposal, subject to the conditions listed in the report and the amended condition listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to management of floodrisk, fear of crime, impact of fencing upon visual amenity, impact upon nature conservation, impact upon Green Belt and the "Fallback Position" and as such complies with Policies GP 15,GP1,L4,GB2,and NE2 of the City of York Local Plan Deposit Draft.

Action Required

1. To issue the decision notice and include on the weekly SS  
planning decision list within agreed timescales.

**41. ENFORCEMENT CASES UPDATE**

Members considered a report, which provided them with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by this Sub-Committee.

RESOLVED: That the reports be noted.

REASON: To update Members on the number of outstanding enforcement cases within the Sub-Committee area.

Councillor D Horton, Chair

[The meeting started at 3.00 pm and finished at 4.50 pm].

**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Micklegate  
**Date:** 18 December 2008                      **Parish:** Micklegate Planning Panel

**Reference:** 06/02687/FUL  
**Application at:** Proposed Development Toft Green Rear Of 112 Micklegate York  
**For:** 4 storey building and roof dormer comprising 4no flats  
**By:** London Ebor Development PLC And Mr And Mrs Blades  
**Application Type:** Full Application  
**Target Date:** 31 January 2007

**1.0 PROPOSAL**

1.1 The proposal is to develop a vacant site on Toft Green, at the rear of 112 Micklegate, to provide 4 flats. The proposed building would be four-stories high, with a room also in the roofspace and a rear dormer window; giving accommodation over five floors in total. A cycle store for 5 cycles is also included. The scheme is reduced in size from the original submission, which was for a building fully five-stories high, to accommodate 5 flats.

1.2 The application is long and narrow, with a frontage to Toft Green only 5.1 metres wide. It is between the York Brewery and an office block at 10 Toft Green, and stretches back some 22 metres from the street frontage. Historically, the site has been developed, but has been vacant for many years; becoming a left-over piece of land bounded by the rather unsightly side and rear elevations of surrounding buildings.

1.3 When the application was originally submitted, Councillor Merritt requested that it be brought to Committee, as otherwise an officer delegated decision could have been taken. A site visit is arranged because an objection has been received to the scheme.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006  
Conservation Area Central Historic Core 0038  
City Boundary York City Boundary 0001  
DC Area Teams Central Area 0002

2.2 Policies:

CYGP1  
Design

CYGP4A  
Sustainability

CYGP13  
Planning Obligations

CYHE2  
Development in historic locations

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYED4  
Developer contributions towards Educational facilities

CYL1C  
Provision of New Open Space in Development

### **3.0 CONSULTATIONS**

#### INTERNAL

##### 3.1 Highway Network Management

No objections. The amended (reduced) scheme now shows the cobbled forecourt to be within the applicant's control. A condition shall be applied to ensure the provision of the proposed cycle facilities before first occupation of the scheme.

##### 3.2 Education Planning

No contribution is required.

##### 3.3 Lifelong Learning and Culture

As there is no on-site provision of open space, commuted sums should be paid towards amenity space and sports pitch provision in the area.

##### 3.4 Environmental Protection

Residents of the proposed dwellings would be exposed to noise from the activities of the adjacent York Brewery, where noise from use of the licensed bar area could cause potential loss of amenity. This licensed premises does not have any restrictions on hours of operation for the playing of music but is restricted on the sale of alcohol to 23:00. A noise survey was carried out in August 2008 as a result of which the applicant has proposed installing 8.8mm Pilkington Optilam glazing and secondary glazing to provide the necessary levels of attenuation against noise from the rear / York Brewery. Noise calculations submitted by their acoustician appear to show that the World Health Organisation internal noise levels could be achieved using this proposed scheme, but it is worth bearing in mind that the stated levels of attenuation are theoretical/laboratory based levels and may actually perform to a

slightly lower level. Furthermore, the generation of such levels of attenuation would be dependant upon the windows being non opening. As a result, the environmental protection unit would not be a position to object to the proposals subject to conditions.

There appears not to be any issues of concern with the submitted contaminated land desk top study but a watching brief condition is recommended.

Notwithstanding the above, the Environmental Protection Unit does have concerns about the site and the potential amenity issues of potential tenants. Officers also have concerns over the implications of granting permission on the operations of the York Brewery, since should any complaint be received and a noise nuisance be witnessed then the Council would have to consider taking formal action, which could result in the service of a noise abatement notice.

### 3.5 Design, Conservation and Sustainable Development

The scheme accords with the outcome of negotiations for a reduced scheme. It is now acceptable from a conservation/urban design point of view. Conditions should be applied for external materials and detailing of the front balconies. A query is raised about how the elevational treatment and plan tie up in the submitted scheme for the design of the rear dormer. The cladding material for the dormer needs to be carefully chosen and detailed.

3.6 The site is within the Area of Archaeological Importance, which has produced very important archaeological deposits. Approval can be recommended, subject to conditions.

## EXTERNAL

### 3.7 Police Architectural Liaison Officer

No objections. However the access alongside the proposed ground floor, should not become a thoroughfare for other adjoining properties, which could weaken the security of the development.

### 3.8 Conservation Areas Advisory Panel

The Panel welcomed the improved roof profile but still had some concerns regarding the elevational treatment.

### 3.9 Micklegate Planning Panel

The Panel objected to the original submission, considering it to be an over development. However the Panel do not object to the revised scheme.

### 3.10 Neighbours (Revised scheme consultation expired 24 August)

One letter of objection has been received from the York Brewery who adjoin the application site. Their objection was made to the original scheme, but still stands for the revised scheme. The Brewery objects strongly for the following reasons. They received planning permission over 10 years ago, after difficulty in finding a suitable site, not near residential buildings. The Brewery chose the site at Toft Green because there was no such problem at the time. Subsequently flats have developed on Toft Green, with no adverse comments from residents. However, in this case the

proposed development directly adjoins the brewery. The main activities of the brewery are described in their words as:-

- Brewing 4 to 6 times each week and the smell of hops might not suit everyone living next door.
- Receiving deliveries and loading delivery vehicles throughout the working day: 8 am to 11 pm.
- Showing hundreds of tourists around the specially designed showcase brewery each week; often in evenings, with the bar closing at 11 pm.
- Brewery club, open to members until 11 pm, including special events with music until 11 pm, and similarly coach parties are catered for.
- Refrigeration equipment is needed, with outside condensers which generate noise.
- Noise from routine activities: washing and moving of casks, shifting bottled beer, cleaning various vessels, washing down.
- Cask washing and racking is to be re-located to the rear of Brigantes restaurant.

Following complaints from a resident in Micklegate, air conditioning and double glazing was installed in the bar. The Brewery is concerned that people with low tolerance of noise may choose to live in this city centre night spot zone. Residents in the proposed development may complain about noise or smell. How can the Brewery respond, they ask. In conclusion the Brewery considers the scheme is wrong, with flats in this location being a bad idea. Other uses would be more suitable e.g. offices.

#### **4.0 APPRAISAL**

##### **4.1 Key Issues**

- Principle of Residential Development
- Design and Massing of scheme and effect upon setting of Listed Buildings and the Conservation Area
- Amenity for future residents
- Amenities of adjoining occupants
- Relationship with York Brewery
- Contributions towards education and open space provision

4.2 The relevant DEVELOPMENT CONTROL LOCAL PLAN POLICIES are as follows:-

POLICY GP1 - DESIGN - in relation to this application, this policy requires proposals to (i) respect or enhance the local environment (ii) have a density and design that is compatible with neighbouring buildings, spaces and the character of the area (iii) provide and protect private and communal amenity space (iv) ensure that neighbours are not unduly affected by overlooking.

POLICY GP4a - SUSTAINABILITY - requires proposals to have regard for principles of sustainable development for example accessibility by means other than the car; creating safe and specially inclusive environments; high quality design conserving and enhancing local character.

POLICY HE2 - DEVELOPMENT IN HISTORIC LOCATIONS - requires proposals in Conservation Areas to respect adjacent buildings, spaces, landmarks, and settings and have regard to local scale, proportion, detail and materials.

POLICY HE3 - CONSERVATION AREAS - within Conservation Areas, external alterations and changes of use will only be permitted where there is no adverse effect upon the character and appearance of the area.

POLICY H4a - HOUSING WINDFALLS - proposals for residential development, on land not allocated on the Proposals Map, will receive planning permission where (a) the site is within the urban area and is vacant, derelict or underused, or involves infilling, redevelopment or conversion (b) the site has good accessibility to jobs, shops and services by non-car modes (c) scale and density is appropriate to surrounding development.

POLICY 5a - RESIDENTIAL DENSITY - the scale and design of proposed residential development should be compatible with the character of the surrounding area and must not harm local amenity. In the city centre net residential densities of greater than 60 dwellings per hectare should be achieved.

POLICY ED4 - DEVELOPER CONTRIBUTIONS TOWARDS EDUCATION FACILITIES requires that in considering proposals for new residential development any consequences for existing schools will be assessed in accordance with the SPG - Developer Contributions to Education Facilities.

POLICY L1C - PROVISION OF OPEN SPACE - commuted payments will be required for off-site open space provision, based upon local need and facilities.

#### PRINCIPLE OF RESIDENTIAL DEVELOPMENT

4.3 Toft Green has evolved over recent years as a mixed use area; with offices, the York Brewery, service uses, entertainment uses and flats. These are accommodated in buildings both historic and new, creating overall a sense of renewal to an area of formerly declining commercial uses. Toft Green backs closely onto the rear of Micklegate; the latter also having a mix of uses but mostly housed in historic buildings. The traditional pattern of development between the two streets was of long, relatively narrow plots of land; from which the application site survives.

4.4 In principle, the proposed residential development fits into this overall mix of uses. However this is subject to several particular issues arising from the narrowness of the site and the adjoining York Brewery, discussed later in this report.

4.5 In July 2000, planning permission was granted for a four-storey building to provide 4 flats, with roof space accommodation also. This permission has now expired. In May 2006 the applicant of the current scheme submitted an application for a five-storey building of 8 flats. It was withdrawn following officer advice that this was an over-development of the site.

#### DESIGN and MASSING of the scheme and effect upon setting of LISTED BUILDINGS and the CONSERVATION AREA

4.6 On the Toft Green frontage, the application site is sandwiched between a modern quite bulky three and a half storey office block, and the traditional scale, two-storey York Brewery (which is actually lower than most buildings on Toft Green). The original submission was considered too bulky and angular with the building stepping back to a fifth floor flat roof. The revised scheme has a more traditional form. Officers consider that it achieves a successful transition between the two. It fills the "missing piece" along this section of Toft Green's frontage, with a traditional pitched roof and a simple, contemporary elevation. The frontage is slightly set back, enabling the upper floor flats to each have a balcony, and avoiding the ground floor flat being set right on the busy street frontage.

4.7 Extending beyond the rear roof slope, the proposed building then takes the form of a flat roof rear extension. This follows the outline of the adjoining office block, and of the July 2000 scheme. The upper floor is set back by 1.6 metres from the lower floors, to reduce the massing of the building. It also means that the upper flat can have a small rear balcony.

4.8 There are no listed buildings along this section of Toft Green, but all the buildings along Micklegate are listed, except the more modern infill at Nos 108-110. The massing and design of the revised scheme is considered to be compatible with these surroundings; as part of the setting for the Listed Buildings and in relation to the character of the Conservation Area.

#### AMENITIES FOR FUTURE RESIDENTS

4.9 The application site itself offers little scope for pleasant outdoor amenity space because it is constricted, and at the rear looks onto the rather untidy elevation behind 112 Micklegate. The upper floor flats have front balconies and their outlook amongst adjoining rooftops improves by becoming more extensive the further up the building one goes. The top floor flat also has a rear balcony. The ground floor flat is more hemmed in. However a small front forecourt has been created on Toft Green. Also to the rear a small open yard space has been created, given privacy from the rear of 112 Micklegate by the cycle store.

#### AMENITIES OF ADJOINING OCCUPANTS

4.10 The windows in the rear elevation of the proposed flats and the balcony of the top floor flat face the rear of buildings on Micklegate which include some residential uses, for example at No 118. However officers believe that with the traditional "haphazard" layout of buildings in the area and intervening commercial uses, there would be no undue loss of privacy for adjoining occupants. Also all rear rooms in the development are bedrooms rather than living rooms. The side elevation, facing York Brewery, has a large glazed area for the stairwell, but this again is not thought to create privacy problems.

#### RELATIONSHIP WITH YORK BREWERY

4.11 A satisfactory relationship between flats and the activities at York Brewery is essential. This is mutually necessary (i) to ensure adequate levels of amenity are



available for residents (ii) to avoid residents feeling the need to make complaints about York Brewery, potentially inhibiting the company's ability to carry out and evolve their business if the existence of statutory nuisance is established.

4.12 The main issues identified by the Environmental Protection Unit and by York Brewery themselves, in their objection letter were the subject of a request by Environmental Protection for further information. The applicant has responded and a contaminated land desk top study and further noise survey have been submitted.

4.13 These issues are noise from (a) the bar and function room (b) the delivery and collection of barrels (c) the clanking of barrels arising during cleaning etc (d) externally mounted air handling and compressor units. Environmental Protection have also expressed concerned about odour from the brewing process and the question of possible contamination on the application site from past uses.

4.14 The noise survey, carried out in August 2008, measured noise levels associated with an event which was taking place in the York Brewery on a Saturday evening. The applicants state that internal noise levels in the proposed flats can be made acceptable by fitting a specific type of primary and secondary glazing. This would involve the installation of non opening windows and mechanical ventilation. Based on this data, the Environmental Protection Unit have stated that they would not be in a position to object to the proposals on noise grounds subject to conditions relating to (i) the standards of construction for the building envelope, (ii) the requirement for non opening windows and (iii) the need to provide details of a mechanical ventilation system together with a maintenance schedule for the ventilation system.

4.15 The Environmental Protection Unit have reviewed the contaminated land desk top study submitted by the applicant and are satisfied that there does not appear to be any issues of concern. A watching brief condition is recommended.

4.16 The question of odour from the Brewery is more subjective. It is believed that complaints have not been received from other residents in the Toft Green and Micklegate area. These residents do not immediately adjoin the Brewery, as opposed to the application site, although odour does tend to pervade the wider area in any case. The predicament for the Brewery arises if the source of a complaint has to be classed as statutory nuisance. The onus would then fall upon the Brewery to mitigate the problem, potentially affecting their current business operations.

4.17 The requirement for non opening windows and for a mechanical ventilation system to mitigate against noise levels as detailed above, would also serve to protect future residents from odour, subject to the ventilation system including odour abatement filtering. The details of such a system would be conditioned.

#### CONTRIBUTIONS TOWARDS EDUCATION AND OPEN SPACE PROVISION

4.18 Policy ED4 requires that the consequences for existing schools from any residential development have to be assessed in accordance with the SPG - Developer Contributions to Education Facilities. In this case Education Planning have confirmed that they do not require a contribution.

4.19 Policy L1c of the Draft Local Plan considers that all residents should have access to safe, attractive and useable public open space. In this case, because there is no opportunity to provide open space on the site, a commuted sum payment would be acceptable. A contribution of £1440 would be appropriate, in accordance with the Council's SPG "Open Space in New Developments" and Policy L1c.

## SUSTAINABILITY

4.20 The application was submitted in November 2006 prior to the City of York Council's Interim Planning Statement on Sustainable Design and Construction and as such the level of information provided on the issue of sustainability is not comparable with applications submitted in 2008.

## 5.0 CONCLUSION

5.1 The application site is a rather awkwardly shaped and neglected piece of land, a "missing link" in the otherwise quite lively frontages along this section of Toft Green. Suitable development would complete the streetscape. Officers believe residential development would be compatible with the mix of uses in the area.

5.2 The site has few natural advantages, being hemmed in by adjoining buildings, other than its central location. The proposed massing and architectural design of the revised proposal, it is considered, does manage to resolve the differences in scale of the adjoining buildings, with a simple contemporary elevational design that will complement the surroundings. The reduced bulk of building at the rear of the scheme in the revised version, sits more comfortably into the historic surroundings at the rear of Micklegate.

5.3 Amenities for future residents are constrained by the nature of the site. However balconies provide some opportunity for relief and a sense of contact with the outside. The ground floor flat would not have such a benefit, but a small space is provided at the rear.

5.4 This leaves the question of the relationship with York Brewery, which is crucial to the proposal being acceptable and workable for both residents and the Brewery in the long run. There are other flats in the area, including recent redevelopment schemes nearby in Toft Green. They are part of an area of varied uses, including pubs, restaurants and commercial uses. The proposed flats at the application site would similarly be entering that general mix, typical of many City Centre locations. However, in addition the flats would be immediately adjoining the Brewery.

5.5 The Brewery was operating when the previous scheme for flats was approved in July 2000 although this permission has now lapsed. The predicament for the Brewery would arise if any complaints upon odour, or noise, became classed as a statutory nuisance. Then the onus would be on the Brewery to find a solution, potentially affecting its current operations.

5.6 On the basis of the recent noise survey undertaken by the applicant, it would appear that internal noise levels in the proposed flats can be made acceptable by

fitting a specific type of primary and secondary glazing and by specifying non opening windows. On this basis, the Environmental Protection Unit do not object. Possible odour nuisance is more subjective, without the same technical specifications being available, compared with noise assessments. Notwithstanding this, with non opening windows and a mechanical ventilation system with odour abatement filtration, Environmental Protection state they are no position to object to the scheme.

5.7 Whilst not objecting to the scheme and recommending conditions to mitigate against noise and odour nuisance, the Environmental Protection Unit remain concerned regarding the implications on the operations of York Brewery should complaints be received. In protecting future residents from excessive noise and odour, Officers also acknowledge that the standards of residential amenity for future occupants of these flats would be compromised to some degree by the installation of non opening windows and mechanical ventilation. Notwithstanding this, Officers note the July 2000 permission for residential development and accept that Toft Green lies in an area of varied uses in a City Centre location. Officers also consider that the proposed development would complement this part of the Conservation Area and complete the missing link in this lively frontage along Toft Green. On balance, the application is therefore recommended for approval.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:**            Approve

1        TIME2            Development start within three years

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

Design and Access Statement received on 16th August 2007

Dwg No: 05:62:71 Rev B received on 13th June 2007

Location Plan 05:62:59 received on 16th August 2007

Environmental Noise Impact Assessment - Issue Date 12th September 2008

or any plans or details subsequently agreed in writing by the Local Planning Authority as an amendment to the approved plans.

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

3        Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- i. Brick Detailing
- ii. Balconies
- iii. Windows and window surrounds, entrance door
- iv. Eaves and verge treatment

- v. Rear dormer
- vi. Rear open space and means of enclosure

Reason: So that the Local Planning Authority may be satisfied with these details.

- 4 VISQ7 Sample panel ext materials to be approved
- 5 VISQ8 Samples of exterior materials to be app
- 6 VISQ10 Details of External services to be app
- 7 HWAY6 Car/Cycle parking to be provided
- 8 ARCH2 Watching brief required
- 9 ARCH3 Foundation design required
- 10 NOISE8 Restricted hours of work

11 All windows to the development shall be non opening and mechanical ventilation shall be provided from the rear of the building. Details of the ventilation system, which shall include odour abatement filtering, together with a maintenance schedule clarifying responsibility for running costs and maintenance of the system, shall be submitted for the written approval of the Local Planning Authority. The approved scheme shall be fully implemented before the building is occupied by the use hereby approved.

Reason: To safeguard the amenity of occupants.

12 The building envelope shall be constructed so as to provide sound attenuation against externally generated noise to achieve internal noise levels of not more than 30dB(A) Leq 8 hour from 11.00pm to 7.00am, 45 dB(A) Lmax between 11.00pm and 7.00am, and 35dB(A) Leq from 7.00am to 11.00pm in all bedrooms of the development. The detailed scheme shall be approved by the local planning authority and fully implemented before the use hereby approved is constructed. All works which form part of the scheme shall be completed before any part of the development is occupied. The works provided as part of the approved scheme shall be permanently retained and maintained as such except as may be agreed in writing by the Local Planning Authority. The aforementioned written scheme shall demonstrate that the noise levels specified will be achieved.

Reason: To safeguard the amenities of occupants

13 In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken, and where remediation (clean-up) is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

Reason: To protect the health and safety of future occupiers.

14 No development shall commence unless and until details of provision for public open space facilities, or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The open space provision shall thereafter be provided in accordance with the approved scheme or the alternative arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: To comply with the provisions of Policy L1c of the City of York Draft Development Control Local Plan, incorporating the 4th set of changes (April 2005).

#### INFORMATIVE

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990, by those having a legal interest in the site; requiring a financial contribution towards off site provision of open space. The obligation should provide for a contribution calculated at £1440.

15 The area to the front of the application site, shown edged blue on Dwg No. 05:62:59 (received on 16th August 2007) shall remain cobbled.

Reason: In the interests of the appearance of the Conservation Area.

#### **7.0 INFORMATIVES: Notes to Applicant**

##### 1. 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the setting of adjoining listed buildings, the character and appearance of the conservation area, and the amenities of the occupants of adjoining premises. As such the proposal complies with Policies GP1, GP4a, GP13, HE2, HE3, H4a, H5a, ED4, and L1c of the City of York Development Control Local Plan.

#### **Contact details:**

**Author:** Rachel Tyas Development Control Officer  
**Tel No:** 01904 551319

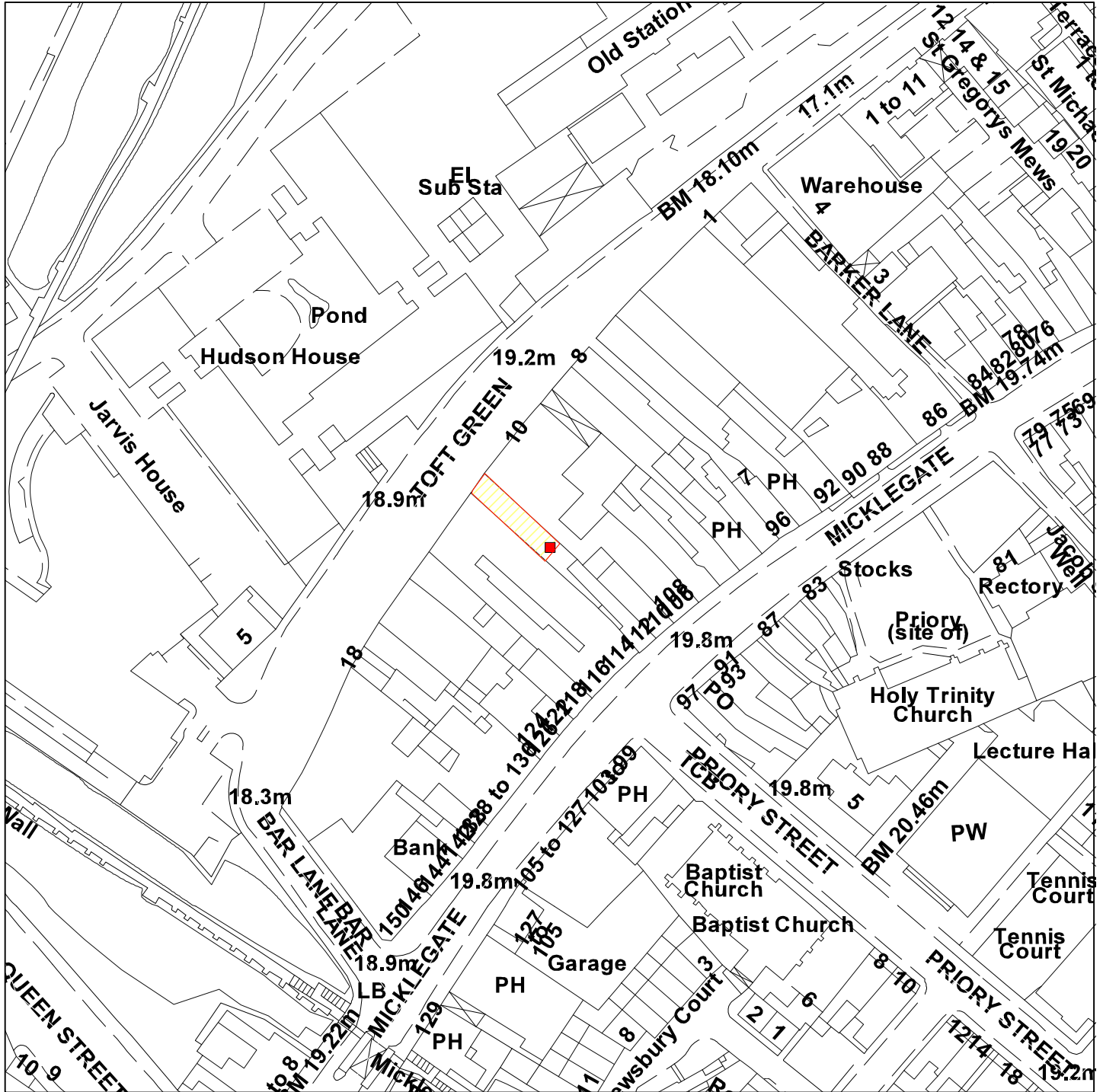
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# Toft Green, rear of 112 Micklegate, York

06/02687/FUL



GIS by ESRI (UK)



Scale : 1:1250

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<b>Organisation</b>	City of York Council
<b>Department</b>	Planning & Sustainable Development
<b>Comments</b>	Application Site
<b>Date</b>	05 December 2008
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Westfield  
**Date:** 18 December 2008                      **Parish:** No Parish

**Reference:** 08/01708/FUL  
**Application at:** 55 St Stephens Road York YO24 3EH  
**For:** Two storey dwelling attached to side  
**By:** Mrs L Donley  
**Application Type:** Full Application  
**Target Date:** 23 September 2008

**1.0 PROPOSAL**

1.1 The application is for a two storey dwelling to the side

1.2 The application was requested to come before committee by Cllr Stephen Galloway on the grounds that its purpose needs to be clarified as either a separate dwelling or a "granny flat". Concern about residential amenity of occupants of neighbouring dwellings, and parking provision.

1.3 A site visit is required, as an objection has been received.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Air safeguarding Air Field safeguarding 0175

City Boundary York City Boundary 0001

DC Area Teams West Area 0004

2.2 Policies:

CYGP1  
Design

CYGP4A  
Sustainability

CYGP10  
Subdivision of gardens and infill devt

CYH4A

Housing Windfalls

### **3.0 CONSULTATIONS**

#### INTERNAL CONSULTATIONS

3.1 HIGHWAY NETWORK MANAGEMENT - No objections

3.2 DRAINAGE - No objection to the additional information submitted by the agent. Had previously objected on insufficient information.

#### EXTERNAL CONSULTATIONS/REPRESENTATIONS

3.3 1 Letter of objection

- The proposal is for a separate two bed unit
- Distance between the objector's property and the proposed would be 7 metres, plans show this as more
- Will lose garaging space
- The proposed dwelling is too large, it would be overbearing and overpowering
- Would overpower the objector's patio area
- The building will be over dominant
- Would result in a loss of sunlight and reflected light
- Existing parking provision is used fully, with no additional parking proposed, would result in parking on the road
- Not clear from the plans where the building would be located and where the boundary is
- Eaves, fascias and guttering appear to overhang the boundary
- Details submitted do not indicate how the drainage will be dealt with, if it will drain onto the neighbouring land which floods at present
- Not clear how the property will be built, possible damage to the neighbouring drive and patio accommodating vans, scaffolding etc
- Concern that the timber and asbestos garage adjacent to the boundary would be at risk of damage
- Concerned will not be able to gain access to garage during construction
- Concern regarding security during construction, as there is anti-social behaviour in the area. Request secure temporary fencing while construction takes place
- On medical guidance objector requires to sit in sunlight for limited periods
- Would not object to an extension confined to the front and rear building lines and extended along the ridge. A gap should be maintained between the proposed extension and the boundary. Should be built within the boundary of No. 55. A 2 metre high wall or fence should be along the boundary to prevent overlooking. Should be linked with a personal condition and integrated with the existing dwelling

### **4.0 APPRAISAL**

#### RELEVANT SITE HISTORY

7/00/996/PA - Double garage - Approved

## ADDITIONAL PLANNING POLICY

Planning Policy Statement 1 - Planning for Sustainable Development  
Planning Policy Statement 3 - Housing

## KEY ISSUES

1. Visual impact on the dwelling and the area
2. Impact on neighbouring property
3. Impact on highway safety

## ASSESSMENT

### PLANNING POLICY

4.1 Planning Policy Statement 1 - 'Planning for Sustainable Development' aims to protect the quality of the natural and historic environment. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.2 Planning Policy Statement 3 - 'Housing' (PPS3) sets out Government policy on housing development and encourages more sustainable patterns of development through the reuse of previously developed land, more efficient use of land, reducing dependency on the private car and provision of affordable housing.

4.3 PPS25 Development and Flood Risk: This PPG explains how flood risk should be considered at all stages of the planning and development process. It sets out the importance of the management and reduction of flood risk in planning, acting on a precautionary basis and taking account of climate change.

4.4 Policy GP1 'Design' of the City of York Council Development Control Local Plan includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

4.5 Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development. Development should: provide details setting out the accessibility of the site by means other than the car and, where the type and size of development requires, be within 400 metres walk of a frequent public transport route and easily accessible for pedestrians and cyclists; contribute towards meeting the social needs of communities within the City of York and to safe and socially inclusive environments; maintain and increase the economic prosperity

and diversity of the City of York and maximize employment opportunities; be of a high quality design, with the aim of conserving and enhancing the local character and distinctiveness of the City; minimize the use of non-renewable resources, re-use materials already on the development site, and seek to make use of grey water systems both during construction and throughout the use of development. Any waste generated through the development should be managed safely, recycled and/or reused. The 'whole life' costs of the materials should be considered; minimize pollution, including that relating to air, water, land, light and noise; conserve and enhance natural areas and landscape features, provide both formal and informal open space, wildlife area and room for trees to reach full growth; maximize the use of renewable resources on development sites and seek to make use of renewable energy sources; and make adequate provision for the storage and collection of refuse and recycling.

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

4.7 Policy GP15a 'Development and Flood Risk' in the City of York Council Development Control Local Plan (2005) states that there will be a presumption against built development (except for essential infrastructure) within the functional floodplain outside existing settlement limits. Proposals for new development on previously undeveloped land outside defined settlement limits will only be granted where it can be demonstrated that the development will not result in the net loss of floodplain storage capacity, not impede water flows and not increase flood risk elsewhere. All applications in the low to medium risk or high risk areas should submit a Flood Risk Assessment (FRA) providing an assessment of additional risk arising from the proposal and the measures proposed to deal with these effects.

4.8 Policy H4a 'Housing Windfalls' of the CYCDCLP states that permission will be granted for new housing development on land within the urban area providing: it is vacant/derelect/underused or involves infilling, redevelopment or conversion; has good access to jobs, shops and services by non-car modes; and, is of an appropriate scale and density to surrounding development and would not have a detrimental impact on existing landscape features.

#### VISUAL IMPACT OF THE DWELLING

4.9 The parent dwelling is one of a pair of semi-detached dwellings. The street has a mixture of styles of dwellings dating from the mid 20th century. The dwelling is of its time with little in the way of architectural features. The pairs of semi -detached dwellings in the street have a graduated step back from the previous pair of dwellings. Therefore No.55 is set further forward than No 57 St Stephens Road.

4.10 In the application form a two storey side and rear extension was applied for. However as the extension would have its own front door, a large separate kitchen/dining/living room, separate stairs, and no internal access at first floor level it was considered that this was an application for a dwelling rather than an extension.

There is one internal access to 55 St Stephens Road, at ground floor level, and could be easily blocked up to create a separate dwelling.

4.11 The proposed dwelling is set down in height from the roof ridge and set back 0.5 metres from the building line. The front elevation of the proposed dwelling has a degree of subservience to the parent dwelling. The proposal development extends rear of the rear building line/parent dwelling by 4 metres.

4.12 It is considered that approval could only be recommended if the proposed dwelling was conditioned as additional/annex accommodation to 55 St Stephens Road. It could not be treated as or sold as a separate dwelling as there would be a significant loss of residential amenity to the occupants of the parent property from the overshadowing and loss of light from the two storey rear element. The proposed windows and doors at the rear opening onto the existing patio area for No. 55 would also result in a loss of privacy and overlooking. If it were a separate dwelling there would be a loss of parking spaces and cycle storage to the parent dwelling. There would also be the potential for an increase in hardstanding to the front to accommodate off street parking, that would impact negatively on the visual appearance of the streetscene.

4.13 The windows in the proposed dwelling are slightly different to those in the parent dwelling, however they are not considered to cause undue visual harm to either of the dwellings when viewed in the wider context.

4.14 The proposal would remove external access to the rear of No. 55, however an integral cycle and refuse store is proposed.

#### IMPACT ON NEIGHBOURING PROPERTY

4.15 The elevations and plans do not detail or show the shared boundary with 57 St Stephens Road, however the agent has confirmed in writing that there would be no overhanging of the boundary. It is ambiguous as to where the boundary lies, however this is a civil matter between the occupants of both properties. Any access to the neighbouring dwelling and land during construction is a civil matter and not a planning consideration.

4.16 The proposed extension/dwelling would result in a large elevation facing 57 St Stephens Road. The small seating/patio area for No 57 is to the side of their house. The proposed dwelling would be set 7.5 - 8 metres away from No. 57 and the proposed dwelling would dominate the outlook from the seating area. However this is mitigated by the large garden to the rear of 57 St Stephens Road.

4.17 There would be a loss of early morning sunlight to the seating area of No 57 during the summer months by virtue of the dwelling protruding to the rear. However this is not considered to cause significant harm as to warrant refusal.

4.18 There is only one window in the side elevation of No 57 - a first floor bathroom window. As this is a secondary window and there would appear to be another bathroom window on the front elevation of No. 57 together with the 7.5 - 8 metre

distance between the dwellings the proposed dwelling it is not considered to cause a loss of light or overshadowing to the dwelling.

4.19 A first floor bathroom window is proposed in the side elevation facing 57 St Stephens Road. This could be conditioned to be obscure glazing to prevent a loss of privacy to the occupants of No. 57.

4.20 The proposed dwelling protruding 4 metres to the rear of the parent dwelling is not considered to impact on the residential amenity of the occupants of 53 St Stephens Road, it would be 7.05 metres away from the shared boundary. It is considered that it would not cause any overshadowing or loss of light by virtue of the distance. Neither is considered to be overbearing or over-dominant.

## HIGHWAYS

4.21 The Highways Network Management has not expressed any concerns regarding parking issues. No increase in parking spaces have been requested.

## DRAINAGE

4.22 The agent has submitted surface water details confirming that there would be maximum restricted discharge rate of 0.5l/s and minimum storage volume of 3m<sup>3</sup>, the Structures and Drainage Department have confirmed that this would remove their objection to the development.

## 5.0 CONCLUSION

5.1 The proposed dwelling is not considered to cause visual harm to the streetscene or when viewed in context with the parent dwelling. Whilst the depth of the dwelling is larger than preferred it is not considered to unduly harm the residential amenity of the occupants of the neighbouring dwellings. Approval is recommended.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

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

Drawing Number DSSR/04  
Drawing Number DSSR/05  
Drawing Number DSSR/06;

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

2 TIME2 Development start within three years

3 The materials to be used externally shall match those of the 55 St Stephens Road in colour, size, shape and texture.

Reason: To achieve a visually acceptable form of development.

4 The additional residential accommodation hereby permitted shall be occupied only as ancillary accommodation to the existing dwelling and shall not be occupied, sold, leased, rented or otherwise disposed of, as a separate dwelling unit and no separate curtilage shall be created.

Reason: The additional accommodation is sited in a position where the existing and proposed units would not enjoy a reasonable standard of residential amenity, or car and cycle parking.

5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) following the completion of the development hereby approved, no further extensions or curtilage buildings of the type described in Classes A, B, C, and E of Schedule 2 Part 1 of that Order shall be carried out to 55 St Stephens Road or the annex accommodation approved in this planning permission without the prior written consent of the Local Planning Authority.

Reason: To prevent overdevelopment of the dwelling and protect the residential amenity of the occupants of neighbouring dwellings.

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the first floor bathroom window in the south west elevation of the dwelling shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above.

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

7 The existing double garage shall be demolished before the proposed dwelling/accommodation is constructed.

Reason: To prevent overdevelopment of the site.

8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking or re-enacting that order) no additional windows other than those shown on the approved plans shall be constructed.

Reason: As the insertion of additional windows could have a serious impact on the privacy of neighbours and should therefore be controlled.

9 Prior to the commencement of the development hereby permitted, details for surface water drainage should be submitted to and approved in writing by the Local Planning Authority. The surface water discharge rate from the proposed building shall be 0.5l/s with a minimum of 3m<sup>3</sup> of storage volume. Development shall be carried out in accordance with the approved details.

Reason: To prevent potential flooding issues.

## **7.0 INFORMATIVES: Notes to Applicant**

### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the parent dwelling and the locality, and highway safety. As such, the proposal complies with Policies GP1, GP4a, GP10, GP15a and H4a of the City of York Council Development Control Local Plan (2005); national planning guidance contained in Planning Policy Statement 1 "Delivering Sustainable Development" and Planning Policy Statement 3 "Housing".

### 2. Party Wall Informative

You are advised that the development may involve building work covered by the Party Wall etc Act 1996 that is separate from planning or building regulations control. Do not commence work on the development until you comply with the provisions of this Act. An explanatory booklet may be obtained from the City of York's Department of City Strategy, or alternatively it is available on the Department of Communities and Local Government, [www.communities.gov.uk](http://www.communities.gov.uk).

### **Contact details:**

**Author:** Victoria Bell Development Control Officer

**Tel No:** 01904 551347



# 55 St Stephens Road, YO24 3EH

08/01708/FUL



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Scale : 1:2500

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<b>Organisation</b>	City of York Council
<b>Department</b>	Planning & Sustainable Development
<b>Comments</b>	Application Site
<b>Date</b>	05 December 2008
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Westfield  
**Date:** 18 December 2008                      **Parish:** No Parish

**Reference:** 08/01992/FUL  
**Application at:** King William Hotel Barkston Avenue York YO26 5DH  
**For:** Installation of rooftop telecommunications base station incorporating 3G flagpole antenna, equipment cabinet and ancillary alterations to the building  
**By:** O2 UK Ltd  
**Application Type:** Full Application  
**Target Date:** 18 November 2008

**1.0 PROPOSAL**

1.1 The King William Hotel comprises a two storey brick built detached public house circa 1950 set within large grounds towards the south eastern edge of the Chapelfields Estate. The proposal envisages the erection of a 7.8 metre high partially boxed flagpole 3G mobile phone antenna fixed to the south western gable wall at 5.8 metres above ground level. A 1.5 metre high by 0.8 metre wide control cabinet would be erected to the south east of the main building within the pub car park. A certificate signifying compliance with International Commission on Non-ionizing Radiation Protection(ICNIRP) Guidelines has been submitted as part of the application.

1.2 A site visit will be undertaken in respect of this item as an objection has been received and approval is recommended.

**2.0 POLICY CONTEXT**

2.1 Policies:

CYGP20  
Telecommunication developments

**3.0 CONSULTATIONS**

INTERNAL

3.1 Environmental Protection Unit were consulted with regard to the proposal on 6th October 2008. No response has been forthcoming within the consultation period.

EXTERNAL

3.2 One letter of representation has been received from an adjoining resident objecting to the proposal on the grounds of perceived health impact arising from radiation.

#### **4.0 APPRAISAL**

##### **KEY ISSUES**

4.1 Impact of the proposal on the residential amenity of surrounding properties; Impact of the proposal on the character and appearance of the main building and the visual amenity of the wider street scene.

##### **IMPACT UPON STREET SCENE**

4.2 Policy GP20 of the York Development Control Local Plan sets a firm policy presumption in favour of new telecommunications developments where it can be demonstrated that sufficient effort has been made to erect the equipment on an existing building or mast, visual intrusion and proliferation of such equipment has been minimised and the proposal does not result in a significant adverse effect on the character of the area, there would be no adverse impact upon the historic character of the City or its skyline and the applicants have demonstrated that the proposed apparatus will meet the latest Government approved guidelines for telecommunications equipment.

4.3 The current proposal envisages the erection of a 7.8 metre high apparatus taking the form of a functioning flag pole on the south western gable of the King William Hotel. The lower 4.1 metres of the proposed antenna would be boxed in and painted to blend in with the brickwork of the chimney to which it would be affixed. A 1.6 metre high equipment cabinet would be erected with the pub grounds to the south to service the proposed antenna. This again could be painted to minimise its impact upon the street scene. The King William Hotel lies in substantial grounds and has a number of satellite antenna already fixed to the exterior of the building. The applicant has submitted a report outlining the measures they have taken to explore the possibility of locating the apparatus elsewhere and the application has been identified as the most suitable in terms of technical feasibility and visual impact. Overall the proposal would have only a modest and therefore an acceptable impact upon the wider street scene.

##### **IMPACT UPON RESIDENTIAL AMENITY**

4.4 The erection of functional apparatus by mobile phone operators tends to give rise to significant concerns from residents living nearby in relation to impacts upon health and upon residential amenity more generally and a letter of representation has been received from a local resident in this case. Central Government Guidance outlined in PPG8 "Planning and Telecommunications" stipulates that if a proposed base station follows ICNIRP guidelines for exposure to non-ionising radiation then a Local Planning Authority should not seek to consider further the health aspects of apparatus location or concerns about them. Leading on from this Central Government accepts the precautionary principle in relation to mobile phones and their associated apparatus and their impact on health outlined in the Stewart

Group's report "Mobile Phones and Health" but only in terms of a strict interpretation of the report's recommendations. The introduction of additional policies and standards by Local Planning Authorities is strictly discouraged. The current proposal has been accompanied by an up-to-date ICNIRP Certificate, it therefore complies with current standards in respect of health impact and residential amenity would be safeguarded.

## 5.0 CONCLUSION

5.1 The King William Hotel comprises a two storey brick built detached structure set within significant grounds within the Chapelfields Estate. The proposal envisages the erection of a 7.8 metre high flagpole 3G antenna fixed to the south west gable wall of the property. The lower 4.1 metres of the apparatus would be boxed in and painted to match the surrounding brickwork and the upper 3.7 metres protruding above the roof line would be painted white with a gold finial. The property is of no particular townscape merit and presently has a number of satellite antenna fixed to it. The proposal would not have an adverse impact upon the character and appearance of the building itself or the wider street scene. The application has been made subject to an up-to-date ICNIRP compliance certificate, as a consequence it complies with current standards in respect of health impacts and residential amenity and is acceptable for the site.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

C58216/PL/003B , C58216/PL/002B Date Stamped 8th August 2008 and  
C58216/PL/004/A Date Stamped 22nd September 2008

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

3 That section of the apparatus hereby authorised fixed below the ridge line of the King William Hotel shall be painted to a colour previously approved in writing by the Local Planning Authority prior to being first brought into use.

Reason:-

To safeguard the amenity of the local street scene and to secure compliance with Policy GP20 of the York Development Control Local Plan

**7.0 INFORMATIVES:  
Notes to Applicant**

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the character and appearance of the principal building and of the wider street scene and impact upon the residential amenity of neighbouring occupiers. As such the proposal complies with and Policy GP20 of the City of York Local Plan Deposit Draft.

**Contact details:**

**Author:** Erik Matthews Development Control Officer  
**Tel No:** 01904 551416

# King William Hotel, Barkston Avenue, YO26 5DH

08/01992/FUL



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<b>Organisation</b>	City of York Council
<b>Department</b>	Planning & Sustainable Development
<b>Comments</b>	Application Site
<b>Date</b>	05 December 2008
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Holgate  
**Date:** 18 December 2008                      **Parish:** No Parish

**Reference:** 08/02399/FUL  
**Application at:** 2 Enfield Crescent York YO24 4BE  
**For:** Two storey pitched roof extension to side and rear  
(resubmission)  
**By:** Mr Morris Jones  
**Application Type:** Full Application  
**Target Date:** 9 December 2008

**1.0 PROPOSAL**

1.1 The property is a C20th semi detached dwelling, located near to the entrance of Enfield Crescent, a cul-de-sac situated on a steep hill. At the bottom of the hill lies St Paul's Square dominated by 1850's town houses, which are within the St Paul's Square/Holgate Road Conservation Area

1.2 The site history shows a number of unsuccessful applications on this site and this reflects the difficulties in achieving an acceptable two storey side extension within the context of the unusual layout of properties and in particular the proximity to the neighbouring property, Number 3 Enfield Crescent.

1.3 This application is a resubmission and seeks permission for a two storey side extension and single storey rear extension. The only difference between this application and the recently approved scheme (08/01216/FUL) is that this application seeks to reinstate an additional 1.5 metres depth to the rear (at first floor level) of the proposed two storey extension. This additional 1.5 metres was requested to be removed from previous scheme by the Case Officer, in order that the impact of the proposal upon the neighbouring property number 3 Enfield be reduced and so that the application could be supported.

1.4 The footprint of the two storey side extension would measure approximately 10.5 metres in length and 2.4 metres in width. The extension would wrap around the property at single storey level and run the full length of the rear of the house, approximately 7.4 metres in length. It would project beyond the rear of the original property by some 2.5 metres. The proposed roof would be swept down over the two storey side extension lowering the eaves height to 4.3 metres. A mono pitch roof is proposed over the single storey rear extension which would be some 4.2 metres at its highest point and 2.2 metres to the eaves at the rear. To the front elevation there would be a square opening to allow access to existing and proposed doorways. A window would be situated in the front elevation. Two other square openings are proposed to the side elevation topped by soldier course detailing. Two rooflight windows are proposed to the new roof above the side extension. To the rear French doors and a single door and window are proposed in the single storey extension. The plans show the extension pulled in from the boundary with the neighbouring property by 100mm.

1.5 It is noticed that although the drawings appear to be made to 1:100 scale, the scale on the plans is not accurate above 5 metres.

1.6 A Committee Site Visit is requested to view the relationship between the buildings and proposed extension.

#### RELEVANT SITE HISTORY

1.7 Application 05/01303/FUL proposing a two storey side extension was withdrawn.

1.8 Application reference 06/00862/FUL for a two storey side extension, was refused in August 2006. This application proposed a two storey side extension with hipped roof. This extension was pulled back at first floor level from the rear by 2 metres at first floor level. The report states this was a borderline case, but that on balance that it should be refused due to the side extension's bulk and proximity to the overbearing impact upon neighbours.

1.9 Application reference 08/01216/FUL for a two storey side and single storey rear extension was approved July 2008. This application proposed a two storey side extension with swept roof. The application was revised and the proposed two storey extension was pulled in from the rear elevation of the existing property by 1.5 metres at first floor level. This combination of revised design and reduced depth at first floor level was considered to reduce the impact upon the neighbouring property and make the application acceptable.

## 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

DC Area Teams : West Area 0004

Schools : St. Paul's CE Primary 0229

2.2 Policies:

CYGP1 Design

CYH7 Residential extensions

## 3.0 CONSULTATIONS

INTERNAL CONSULTATIONS:

3.1 HIGHWAY NETWORK MANAGEMENT: There are no objections in principle to the scheme, and it is noted that the proposal will result in the loss of one parking space. However the dwelling is in close proximity to the city centre and has good public transport links covered and secure cycle parking is provided, no highway objections are raised. The following condition HWAY 19 Car and Cycle Parking Laid Out to be applied.

## EXTERNAL CONSULTATIONS/REPRESENTATIONS

3.2 A letter of objection has been received from the neighbouring occupier. Commenting that no. 3 is one of the only properties that does not have a drive. The proposed extension is unique as no other property has such an extension. The properties have provided adequately for larger families than at present. The height of the extension will require sufficient foundations and as such may impact upon the Party Wall Act. Also because of the unique corner position any area for private amenity is restricted to the side and rear of the kitchen of number 3, which would be in close proximity to the development. The application has been revised, but it would still be built to the boundary edge in the direction of this property. We still feel this is a sizeable development based on the size of the plot. The overall effect is the same as last time, i.e. overbearing close proximity which would result in the loss of residential amenity. This remains a two storey development of which there is no precedent on this street. The architectural hierarchy and elements are not sympathetic to the existing building and it resembles a 1980s extension. Despite approval of the previous application another application is being pursued. The original approval should stand and this application be refused. We request that these concerns be borne in mind whilst making a decision.

## 4.0 APPRAISAL

### POLICY

4.1 Policies H7, GP1 and Supplementary Planning Guidance 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 apply. Planning Policy Statement 'Delivering Sustainable Development' PPS1 also applies.

4.2 National planning policy contained within PPS1 'Delivering Sustainable Development', states that good design is indivisible from planning. Design which is inappropriate within its context, or which fails to take opportunities for improving the character and quality of an area or the way it functions should not be accepted.

4.3 Policy H7 'Residential Extensions' of the City of York Local Plan Deposit Draft sets out a list of design criteria against which proposals for house extensions are considered. The list includes the need to ensure that the design and scale are appropriate in relation to the main building; that proposals respect the character of area and spaces between dwellings; and that there should be no adverse effect on the amenity that neighbouring residents could reasonably expect to enjoy.

4.4 Policy GP1 'Design' of the City of York Local Plan Deposit Draft includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline,

landmarks and other features that make a significant contribution to the character of the area.

4.5 The City of York Council's Supplementary Planning Guidance - Guide to extensions and alterations to private dwelling houses states that the basic shape and size of the extension should be sympathetic to the design of the original dwelling. The scale of the new extension should not dominate the original building. Where a street or group of buildings has a well-defined building line it should be retained. It is suggested that side extensions should be set back at least 0.5 metres from the front of the building. Extending forward of the building line should be avoided. Side extensions should be sympathetically designed to appear subservient to the main dwelling. Their appearance will be improved if the extension is set back from the main building. It is particularly important that the design of side extensions takes account of the height of the new building in relation to the distance from neighbouring properties. Extensions that go up to the property boundary may result in a 'terracing effect'. It is exacerbated when the ridgeline continues at the same level. If the spaces between houses become filled by side extension in this way it can alter the character of an area and produce a terracing effect. If sufficient space is available leaving a space between the extension and the boundary of about one metre will allow for maintenance of the side of the extension. The extension can be set back from the original building line and have a lower ridge height, thus providing a break in the street frontage. The setback should be at least 0.5 metres from the front of the building to give a break in the frontage of the properties

#### KEY ISSUES

4.6 Visual impact on the dwelling and the area, impact on the neighbouring property and highways issues.

#### VISUAL IMPACT ON THE DWELLING AND THE AREA

4.7 The proposed design represents a different approach to the more common hipped roof side extension and although a hipped roof side extension would be more preferable in visual terms, the swept roof is an approach the City Council has endorsed elsewhere. In terms of the previously approved application, the proposed design, including the swept roof and reduced first floor footprint, was considered to represent a solution which would overcome the particular problems arising from the siting and relationship between this property and its neighbour at Number 3. The square column detailing is a feature accepted elsewhere, especially around front porch extensions to this type of semi-detached property. The bulk of the wall would be broken up by a proposed string course and soldier course detail. Due to the location of the property the side extension would not impact upon the St Paul's Conservation Area.

4.8 The proposed extension is not set back from the front building line, however the proposed roof which is swept down from the original roof over the side extension gives a subservient appearance. The cut away sections to the front and side elevation break up the bulk of the extension and reinforce the appearance of subservience when viewed from the street.

4.9 The proposed revisions to this application would not adversely affect the appearance of the property within the street scene and the proposal is considered acceptable in this respect.

#### IMPACT ON THE NEIGHBOURING PROPERTIES

4.10 The nearest neighbours to the property are number 1 Enfield Crescent situated to the east and Number 3 Enfield Crescent located to the west of the subject property and it is the impact upon the neighbour at 3 Enfield Crescent which is considered to be most pertinent in this instance. It is not considered that 1 Enfield Crescent would be adversely affected by these proposals.

4.11 As outlined previously the siting and proximity of these properties is not typical and probably results from the steep gradient of Enfield Crescent. As a consequence Number 3 Enfield Crescent is situated on a large corner plot set over differing levels. The dwelling itself is set at a level some 2 metres higher than Number 2. Only a small part of the garden at Number 3 appears to be used, this area lies adjacent to the shared boundary and would be adjacent to the proposed side extension. This part of the garden, the main amenity space, is only 3.5 metres in depth.

4.12 The proposed side extension would be situated some 3.6 metres away from the rear of the property. Although it is recognised that the revised design with swept roof would lower the eaves of the side extension and that Number 3 is set at a higher level, the additional 1.5 metres of the two storey extension, proposed by the resubmission, would bring the extension level with the side of Number 3 and increase the sense of enclosure, by creating a tunnel effect. This would adversely affect the amenity of this neighbouring property.

4.13 It is not considered that loss of sunlight /overshadowing, nor loss of privacy would adversely affect the neighbouring property.

#### HIGHWAYS ISSUES

4.15 There would be space remaining on the driveway for parking a car and sufficient space for cycle parking. No objections are raised by Highways Network Management subject to condition HWAY 19 being applied.

#### 5.0 CONCLUSION

51. The positioning of the subject property and its neighbour is unusual and makes a standard two storey side extension difficult to achieve in this particular location. The neighbouring property, Number 3 Enfield Crescent, has a very short rear garden/area of useable amenity space which is only 3.5 m in depth. Because of these factors the previously approved application with swept roof and reduced length of rear projection (at first floor level) was considered to create an achievable extension which would not impact adversely upon this neighbour. It was approved under delegated powers accordingly. However, this application proposes to reinstate the 1.5 metre section of two storey extension, bringing the massing and bulk of the building closer to the neighbour, creating a sense of enclosure and tunnel effect which is considered to be unacceptable.

**COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Refuse

1 The scale and massing of the proposed two storey extension would bring the built development closer to the neighbour at Number 3, creating a tunnel effect and sense of enclosure which is considered to adversely affect the residential amenity of this neighbour. This would be contrary to Policies H7 and GP1 of the City of York Development Control Local Plan (2005); National Planning Policy Statement 1 'Planning and Sustainable Development' and Supplementary Planning Guidance contained in City of York 'A Guide to Extensions and Alterations of Private Dwelling Houses'.

**7.0 INFORMATIVES:**

**Contact details:**

**Author:** Clare Davies Development Control Officer

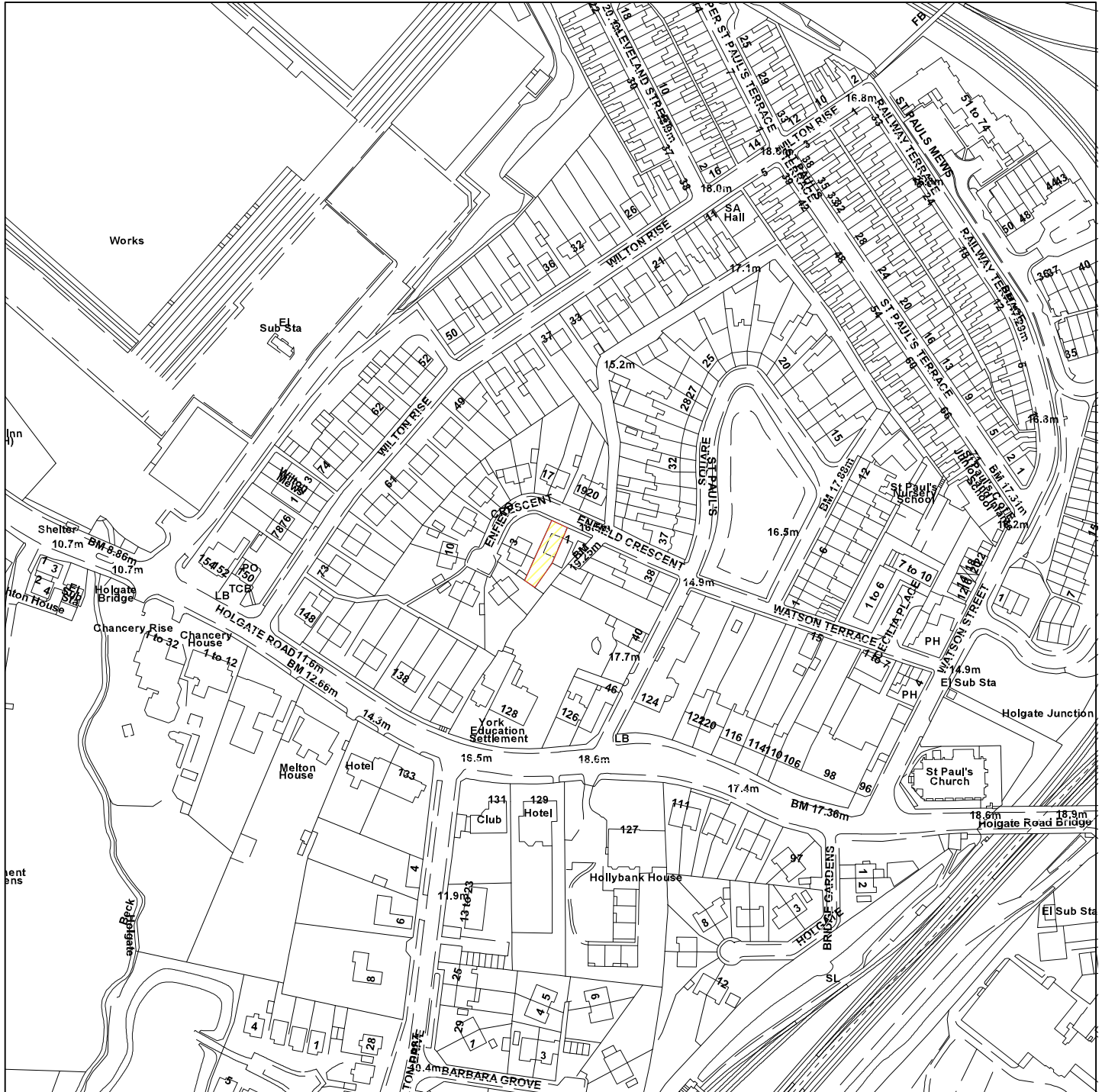
**Tel No:** 01904 551493

# 2 Enfield Crescent, YO24 4BE

08/02399/FUL



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<b>Organisation</b>	City of York Council
<b>Department</b>	Planning & Sustainable Development
<b>Comments</b>	Application Site
<b>Date</b>	05 December 2008
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

<b>Committee:</b>	West/Centre Area	<b>Ward:</b>	Rural West York
<b>Date:</b>	18 December 2008	<b>Parish:</b>	Upper Poppleton Parish Council

**Reference:** 08/02440/FUL  
**Application at:** Greenthwaite Main Street Upper Poppleton York YO26 6DL  
**For:** Erection of single storey dwelling with rooms in roof to rear with access from School Lane (resubmission)  
**By:** Mr B Britton And Ms J Liney  
**Application Type:** Full Application  
**Target Date:** 25 December 2008

**1.0 PROPOSAL**

1.0.1 Planning permission is sought for the erection of a detached 2-bedroomed dwelling.

1.0.2 The proposed dwelling is a detached dwelling with pitched roof. The majority of the living accommodation is located on the ground floor of the property with a bedroom and ancillary accommodation within the roof space of the property. The principal windows are to south elevation. However there openings to all elevations. The length of the proposed dwelling is approximately 17.60 m in length and 11.50 m in width. The height to eaves level is 2.70 m and height to ridge level is 7.10 m.

1.0.3 The layout of the proposed property includes the formation of a living room, conservatory, utility room, store/cloak room, porch, W.C., bedroom, study, hall at ground floor level. At first floor level, it is proposed to create a master bedroom, dressing room, en-suite and landing area.

**1.1 SITE**

1.1.1 The application site relates to an area of garden located to the rear of Greenthwaites. The site is located within the Upper Poppleton Conservation Area and borders York's Green Belt. The site is currently bounded by mature trees, hedging and shrub planting. A wooden gate within the western boundary provides access from School Lane, which is an un-adopted highway).

1.1.2 This plot measures approximately 0.70 ha (it is slightly smaller in size than the previously refused planning application 07/02196/FUL). A large wooden shed is located within the north western corner of site. The site is located adjacent School Lane. School Lane is an un-adopted/private highway.

1.1.3 The site has a frontage of approximately 26.00 m. The plot is bounded by dwellings to two boundaries, the north and east. To the east is Greenthwaites and to the north is Beehives. Beehives is a single storey modern dwelling. This particular area of Poppleton consists of various house types, ranging from detached and semi-

detached houses and bungalows. The materials used in the construction of the existing properties in are varied.

## 1.2 RELEVANT HISTORY

1.2.1 04/00437/FUL - Erection of Detached Dwelling to Rear with Access from School Lane - Refused 26.04.2004.

- In the opinion of the Local Planning Authority the proposed dwelling would harm the open, rural village character of this part of the Upper Poppleton Conservation Area and as such is contrary to Policy E4 of the North Yorkshire County Structure Plan and Policies GP10, HE2 and HE3 of the City of York Local Plan Deposit Draft.

1.2.2 07/02196/FUL – Erection of a single storey dwelling with rooms in roof to rear including access from School Lane – Refused 15/11/2007

- An additional dwelling taking its access from School Lane which is considered to be inadequate in terms of its width and capacity would result in conditions detrimental to vehicle and pedestrian safety particularly at the junction of School Lane and Main Street which is situated close to a Primary School, Library and Bus Stop.
- The overall footprint and height of the proposed detached dwelling would harm the rural village character and appearance of this part of the Conservation Area and is therefore contrary to Policy GP1, GP10 and HE2 of the City of York Development Control Local Plan and Design Guidelines 3, 8 and 12 of the Poppleton Village Design Statement Supplementary Planning Guidance.
- The proposed dwelling by reason of its height and location would overshadow and appear overbearing to the dwelling to the north, "The Beehives", and is therefore considered to harm the existing living conditions of that dwelling contrary to Policy GP1 of the City of York Development Control Local Plan.

1.2.3 The applicants subsequently appealed against the Council's decision to refuse planning permission (07/02196/FUL). The Inspector dismissed the applicants appeal on the grounds of detrimental impact upon the adjacent dwelling, 'Beehives'. The Inspector was clear in his decision that he did not consider the application had a detrimental impact upon Upper Poppleton's Conservation Area, nor did he consider that the access arrangement was inadequate and would result in conditions detrimental to vehicle and pedestrian safety.

## 1.3 REASON THIS APPLICATION IS BEING PRESENTED TO PLANNING COMMITTEE

1.3.1 The previous planning application was refused by planning committee overturning the previous officers recommendation for approval.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Air safeguarding Air Field safeguarding 0175

City Boundary York City Boundary 0001

DC Area Teams West Area 0004

### 2.2 Policies:

CYGP1  
Design

CYGP4A  
Sustainability

CYGP10  
Subdivision of gardens and infill devt

CYGP9  
Landscaping

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYT4  
Cycle parking standards

CYL1C  
Provision of New Open Space in Development

## **CONSULTATIONS**

### 3.0 INTERNAL

3.0.1 ENVIRONMENTAL PROTECTION UNIT advise the imposition of conditions relating to recommended hours for carrying out construction work, contaminated material and an informative relating to the carrying out of works on site.

3.0.2 HIGHWAY NETWORK MANAGEMENT (HNM) raised concerns regarding the width of School Lane and the implications concerning access for services AND turning. However HNM did not object to the proposed scheme and advised the imposition of 3 conditions.

3.0.3 LIFE LONG LEARNING AND LEISURE (LLL) advise that, should the application be approved, a condition should be added requiring the applicant to forward funds for the provision of open space within the York area.

3.0.4 THE COUNCIL'S CONSERVATION OFFICER commented that This resubmission includes some amendments to the design of the proposed dwelling. The officer notes the changes include the omission of the attached garage and the re-siting of the dwelling house to the northwest corner of the site.

3.0.5 The officer further notes that the proposed dwelling is of a contemporary design that takes account of the architectural character of existing buildings within the context of Upper Poppleton's Conservation Area. The scale and density of the development appears to be in keeping with adjacent dwellings in School Lane and is unlikely to dominate the original house, Greenthwaites.

3.0.6 The officer comments that the proposed environmentally friendly house marries a traditional building envelope with modern contemporary design in a harmonious manner. The design takes account of the aspect of the site ensuring main living spaces benefit from passive solar gain. The use of natural grey slate and photovoltaic tiles is unlikely to detract from the setting of the dwelling house in School Lane.

3.0.7 In conclusion, the officer considers that the design of the proposed dwelling house is unlikely to detract from the character and appearance of Upper Poppleton's Conservation Area within the context of existing development in School Lane.

3.0.8 THE COUNCIL'S COUNTRYSIDE OFFICER considers it unlikely that the shed, which is proposed to be demolished, is likely to provide a very good roosting opportunity for bats. However the officer does consider that the proposal does provide an opportunity to carry out some habitat enhancement. The officer therefore recommends that a condition is attached, should the application be approved, which requires the applicants to incorporate roosting opportunities for bats.

3.0.9 HOUSING AND ADULT SOCIAL SERVICES objected to the proposal on the grounds that the application refers to a site which has an area 3 x the threshold (which is 0.03ha) for the provision of affordable homes on 'rural' sites. Presuming all factors are equal, it would be possible to locate at least 2 or 3 homes on the site of which 1 would be affordable for rent under the council's policy for the provision of affordable housing.

3.0.10 CITY DEVELOPMENT commented that this application relates to one dwelling on a site of approximately 0.07ha, it therefore exceeds the affordable housing threshold (Policy H2a). Policy H5a - Residential Density requires a density of 30 dwph in this location dependent on individual site circumstances.

3.0.11 A higher density scheme should be given consideration to ensure the most efficient use of land and to try and secure affordable housing provision. Should the scheme be considered inappropriate due to other material considerations e.g character of the area, impact on the conservation area and the un-adopted road issues, the inclusion of a condition should be considered to ensure that if the site is

sub divided at a later stage that the affordable housing provision for this site as a whole will need to be provided.

### 3.1 EXTERNAL

3.1.1 UPPER POPPLETON PARISH COUNCIL objected to this application on the grounds that the vehicular access through School Lane is unsuitable and is a danger to Children. The PC also note that previously the applicants have been refused planning permission twice for the erection of a dwelling on this site and appeal has also been dismissed by the Planning Inspectorate, one of the grounds being that vehicular access through School Lane is unacceptable<sup>1</sup>.

3.1.2 NEIGHBOURS - A site notice was posted on the 03/11/2008. Objections were received from 6 interested parties. The issues raised in these objection letters are as follows:-

#### Amenity

- There will undoubtedly be significant over-shadowing of Beehives and have an adverse impact upon the amount of light to windows. The Inspector who dismissed the applicants appeal noted that there would be over-shadowing;
- There have been only minor changes to the proposed scheme, mainly the deletion of the garage which amounts to reduction in floor area by 33 m<sup>2</sup>;
- The proposed building is only 2.0 m away from 'Beehives' and due to the orientation of the site and buildings and also the path of the sun, the re-siting of the proposed dwelling would have more of an impact upon Beehives;
- The overall height of the building is the same;
- Residents in School Lane feel they are under constant attack from new development; and
- The applicants run two businesses from home, this may create additional traffic nuisance etc.

#### Traffic/vehicular access and safety concerns

- There is adequate access through Greenthwaites and access from School Lane is not needed;
- School Lane is an unmade road, dust is created when occupants travel too fast down the road, also the road has deteriorated significantly due to construction vehicles being used in the construction of Beehives.
- Existing residents pay for the upkeep of this private road;
- The junction is very busy adjacent School Lane and this proposal would exacerbate the situation;
- The proposal scheme would have an impact upon the safety of children attending Poppleton Ousebank Primary School as the school entrance is coterminous with School Lane;
- There is no turning place within School Lane or passing places, other than unwanted trespass upon existing residents property. Damage has been caused to residents property due to this situation;
- There are currently 23 vehicles using School Lane;

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<sup>1</sup> See section 1.2 – Relevant History and Appendix 1 – Inspectors Report

- Congestion in the land causes problems for existing residents and the farmer; and
- There is inadequate visibility from the entering and exiting School Lane.

Out of character

- The two bungalows that this proposed scheme is being compared to do not have dormer extensions;
- The house is big and is not what the Council has asked other applicants to conform too when buildings dwellings in this lane;

Loss of natural screening and impact upon wildlife and trees

- The hedges are included within the Conservation Area at the upper part of the Lane. Beehives has removed their hedge showing disregard for the areas status. The applicants could do the same;
- There is a lot of wildlife within School Lane, this development would have a detrimental impact upon the existing wildlife;

Other

- Devalue existing properties in the lane;
- Development of the site would create noise, disturbance and associated mess for neighbouring properties;
- There has been two previous refusals for dwellings on this site and an appeal has been refused;
- The site is not a plot and it is misleading to describe it as such. The area is part of the garden of Greenthwaites;
- The application should not be classed as a resubmission as there have been amendments to the proposal;

3.1.3 POPPLETON OUSEBANK PRIMARY SCHOOL asked that the safety of their students be considered.

3.1.4 MARSTON MOOR INTERNAL DRAINAGE BOARD have not commented at the time of writing this report, however previously they did not object to the erection of a dwelling within this site and recommended various conditions. A verbal update will be given to committee, if comments are received.

3.1.5 CONSERVATION AREAS ADVISORY PANEL (CAAP) have not commented at the time of writing this report, however previously they did not object to the erection of a dwelling within this site but recommended that they would like to see the tree protected and the new build to have PD rights removed. A verbal update will be given to committee, if comments are received.

## 4.0 APPRAISAL

4.1 The main considerations are:

- Principle of development;
- Impact upon residential amenity;

- Impact upon The Conservation Area;
- Highways; and
- Affordable Housing;
- Open space
- Sustainability.

## 4.2 POLICY

4.2.1 Planning Policy Statement 1 - 'Planning for Sustainable Development' (PPS1) aims to protect the quality of the natural and historic environment. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.2.2 Planning Policy Statement 3 - 'Housing' (PPS3) sets out Government policy on housing development and encourages more sustainable patterns of development through the reuse of previously developed land, more efficient use of land, reducing dependency on the private car and provision of affordable housing. PPS3 also advises that car parking standards that require more than 1.5 spaces per dwelling are unlikely to secure sustainable development

4.2.3 Policy GP1 'Design' of the City of York Local Plan (Deposit Draft) includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

4.2.4 Policy GP10 'Subdivision of Gardens and Infill Development' of the City of York Local Plan (Deposit Draft) encourages the protection of wildlife and setting, suggesting that existing landscape features are incorporated into the scheme or compensated for elsewhere should their removal be required.

4.2.5 Policy GP9 'Landscaping' of the City of York Local Plan (Deposit Draft) states that where appropriate development proposals will be required to incorporate a suitable landscaping scheme, and this must: a) be planned as an integral part of the proposals; and b) include an appropriate range of indigenous species; and c) reflect the character of the locality and surrounding development; and d) form a long term edge to developments adjoining or in open countryside.

4.2.6 Policy H4a 'Housing Windfalls ' of the City of York Local Plan (Deposit Draft) suggests that a proposals for residential development on land within the urban area would be a acceptable, where "the site is within the urban area and is vacant, derelict or underused or it involves infilling, redevelopment or conversion of existing buildings." However, any development must be of an appropriate design and must be sustainable e.g. good links to jobs, shops and services.

4.2.7 Policy L1c 'Provision of New Open Space in Development' of the City of York Local Plan (Deposit Draft) requires proposals for less than 10 dwellings to contribute towards the provision of open space (including sport, amenity and children's play provision) by way of a commuted sum.

4.2.8 Policy HE2 'Development in Historic Locations' of the City of York Local Plan (Deposit Draft) requires that within or adjoining conservation areas, and in locations which affect the setting of listed buildings, scheduled monuments or nationally important archaeological remains (whether scheduled or not), development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials.

4.2.9 Proposals will be required to maintain or enhance existing urban spaces, views, landmarks, and other townscape elements, which contribute to the character or appearance of the area.

4.2.10 Policy NE1 'Trees, Woodlands and Hedgerows' of the City of York Local Plan Deposit Draft states that trees which are of landscape or amenity value will be protected by refusing development proposals which will result in their loss or damage. Trees or hedgerows which are being retained on development sites should also be adequately protected during any site works. All proposals to remove trees or hedgerows will be required to include a site survey indicating the relative merits of individual specimens. An undertaking will also be required that appropriate replacement planting with locally indigenous species will take place to mitigate against the loss of any existing trees or hedgerows. Developments should make proper provision for the planting of new trees and other vegetation including significant highway verges as part of any landscaping scheme.

4.2.11 Draft local plan policy HE3 states that development within conservation areas will only be permitted where there is no adverse effect on the character and appearance of the area.

4.2.12 Policy T4 'Cycle Parking Standards' of the City of York Local Plan (Deposit Draft) requires that all new developments provide adequate cycle parking provision. In the case of affordable housing or dwellings without a garage this should be 1 covered space per ½ bedroom dwelling. For dwellings with garages the requirement is the same but cycle parking provision could be accommodated within the garage depending upon the garage size.

4.2.13 Policy GP4a 'Sustainability' of the City of York Local Plan Deposit Draft requires proposals for all development should have regard to the principles of sustainable development. All residential developments will be required to be accompanied by a sustainability statement. The document should describe how the proposal fits with the criteria specified in policy GP4a and will be judged on its suitability in these terms.

4.2.14 Upper Poppleton Village Design Statement describes the distinctive character of a village and its surrounding countryside and sets out design principles to demonstrate how local character can be protected and enhanced if there is to be any new development.



4.2.15 The statement has been developed, researched, written and edited by local people. It involves a wide cross-section of the village community in its production and is representative of the village as a whole

#### 4.3 PRINCIPLE OF DEVELOPMENT

4.3.1 The site lies within the defined settlement boundary of Poppleton and is within a designated Conservation Area. There are no other relevant statutory constraints. Central Government guidance regarding new housing is contained within Planning Policy Statement 3 (Housing), policies H4a and H5a of the Draft Local Plan are also relevant. The key aim of local and national policy is to locate new housing on brownfield land in sustainable locations. PPS3 sets out a sequential test which favours the re-use of previously developed land within urban areas, then urban extensions and finally new development around nodes in good public transport corridors. Policy H4a deals with housing developments within existing settlements and says that permission will be granted within defined settlement limits for new housing developments on land not already allocated on the proposals map, where the site is vacant, derelict or underused land where it involves infilling, redevelopment or conversion of existing buildings. The scheme must be of an appropriate scale and density to surrounding development and should not have a detrimental impact on landscape features. Policy H5a says a density of 30 dwellings per hectare should be achieved on this site subject to the scale and design of the development being compatible with the character of the surrounding area and that there is no harm to local amenity.

4.3.2 Due to the location of the site and its proximity to local facilities and accessibility it is considered to be a sustainable location and therefore acceptable in principle.

4.3.3 The emphasis of both PPS3 and relevant local plan policies is that development should maximise use of existing sites but that development should respect the character of the site and its surroundings. It is considered that this amended proposal satisfies all relevant policy requirements and is therefore acceptable in terms of principle of development.

#### 4.4 IMPACT ON RESIDENTIAL AMENITY

4.4.1 These issues and consequently the Planning Department's opinion have not altered from the previous application, other than the consideration of the Inspectors comments regarding the recent appeal.

4.4.2 The design of the dwelling, both externally and internally has been arranged to maximise passive solar gain and ensure privacy for adjacent neighbouring properties. The proposed site layout places the north elevation of the new dwelling, between 6.00 m and 3.80 metres from the existing northern boundary, which is dominated by a (to be retained). Rooflights are proposed within the northern roof elevations, none of the aforementioned windows serve habitable rooms, therefore any impact upon Beehives existing amenities from overlooking is considered to be acceptable.

4.4.3 A distance of between 5.00 m and 7.35 m has been provided between the northern elevation of the proposed dwelling and the southern elevation of Beehives. The northern elevation of the proposed dwelling, as previously designed, contains tertiary windows only providing light to a porch and utility room. Beehives has two bedroom windows in the southern elevation, however both are screened by the hedge forming the northern boundary, therefore the amenity impact is considered to be minimal in this instance.

4.4.4 The proposed dwelling is approximately 2.00 m higher (overall height 7.00 m) than Beehives. The highest point of the dwelling which contains two different ridgelines is located approximately 10.70 m from the northern elevation. Although some overshadowing is expected, as previously considered by the Planning Department, the distance provisions in conjunction with boundary features and the location of existing properties, mitigate the overall amenity impact significantly.

4.4.5 The Inspector commented, in his appeal decision, that previously the proposed dwelling extended along and beyond the length of Beehive's small rear garden. He also considered that the existing hedge was not as tall or as dense as the shown on the plans and considered that it would have a minimal effect in blocking light to Beehive's garden. The Inspector further commented that the mass of the proposal, situated immediately to the south of Beehives, would likely overshadow the garden and rear facing rooms of this dwelling in the middle part of the day for significant periods of the year. Finally the Inspector commented that the proximity and length of the roof of the proposed dwelling would be very dominant in the outlook from Beehives' garden and, to a lesser extent although still material extent, from its rear facing rooms.

4.4.6 Due to the amendments to the design of the proposed dwelling, it would now extend approximately 10.00m beyond the rear facade of Beehives (previously it was 13.40 m) at a height of 5.70 m (the same height as the previous scheme). The highest point of the proposed dwelling would extend 1.485 m beyond the rear façade of Beehives, as opposed to 4.40 m with the previous scheme. Bearing in mind the previous officers recommendation, these amendments are considered adequate. A condition requiring the hedge to be replanted and/or added to where sections are inadequate, is recommended in an effort to address the Inspectors comments on this matter.

4.4.7 The east elevation is 5.40 m from the proposed 2.00 m high brick boundary wall and 21.60 metres from the rear elevation of Greenthwaites. The proposed high wall will prevent over looking to the existing house from the ground floor and no windows are included in the first floor roof void gable. The west elevation has one bedroom window in the first floor roof void bedroom gable overlooks the Green Belt to the west. It is considered that these separation distances are acceptable and would not have a detrimental impact upon the amenity of Greenthwaites or future occupants of the proposed dwelling.

#### 4.5 IMPACT UPON THE CONSERVATION AREA/DESIGN ISSUES

4.5.1 These issues and consequently the Planning Department's opinion have not altered from the previous application, other than the consideration of the Inspectors comments regarding the recent appeal.

4.5.2 The proposal has been designed to provide a modern contemporary home within a traditionally proportioned exterior using a mix of traditional building materials and modern materials and techniques, in an attempt to preserve the character of the area.

4.5.3 The removal of the dilapidated garage will improve the appearance of this part of Greenthwaites garden and is considered a benefit/gain within the context of the character of the conservation area. The plot will be divided from the garden ground associated with Greenthwaites by a boundary wall, this will be constructed in brick to match the finish of the new house.

4.5.4 The proposed design of the new dwelling house is well considered and takes account of the setting within the conservation area. The scale and density of the development appears is in keeping with adjacent dwellings in School Lane and is unlikely to dominate the original dwelling house, Greenthwaites.

4.5.5 The design of this environmentally friendly house, not only takes account of the context of the site, but marries a traditional building envelope with modern contemporary design in a harmonious manner. The design takes account of the aspect of the site ensuring main living spaces benefit from passive solar gain.

4.5.6 The proposed materials are in keeping with those already existing within the designated Conservation Area. The use of natural grey slate, photovoltaic solar tiles and fair faced bricks are considered to be appropriate for the locality. Appropriate conditions are proposed to ensure samples are approved in writing prior to the commencement of works.

4.5.7 It is considered that the proposed dwelling would have a neutral impact on Upper Poppleton's Conservation Area and on the visual amenity in the locality due to its design and siting. The Council's Conservation Officer commenting upon this scheme states that the design of the proposed dwelling house is unlikely to detract from the character and appearance of the conservation area within the context of existing development in School Lane would not have a detrimental impact upon the avenue. This opinion is further supported by the Inspector's comments (See Appendix A – Sections 6 and 7. It is therefore considered that the scheme satisfies policies HE2 and GP1 of the City of York Development Control Draft Local Plan and relevant national (PPS1 and PPG15) and Regional policies.

## 4.6 HIGHWAYS ISSUES

4.6.1 Highways issues have not altered from the previous application, other than the addition of the Inspectors report when commenting upon the recent appeal.

4.6.2 School Lane is an un-adopted highway; surfaced with gravel to a point just before the application site. There is an existing access to the rear of Greenthwaites from School Lane.

4.6.3 The Councils Highways Officer when commenting upon this application, stated that generally, where more than five dwellings are served from a street then it should be capable of being constructed up to a standard suitable for adoption as a street maintainable at public expense. The officer noted that School Lane currently serves nine dwellings and this additional unit would not only add to the number of residences but also increase the extent of the private street. The current layout of the street means the street is unlikely to be suitable for adoption. The current layout also does not satisfy the standard requirements of refuse vehicles and fire tenders in that formal turning facilities are not provided. In order for adoption to be considered, School Lane would need to be reconstructed to acceptable standards principally in terms of physical structure, street lighting, pedestrian facilities, drainage and road widths and layout. Should it be physically possible to achieve these requirements it would still need to have the agreement of all existing frontages/users and would also normally be at the expense of existing frontages/users.

4.6.4 Notwithstanding the above points, Highway Network Management does not consider that a recommendation of refusal solely on highway grounds could be substantiated, as it would not be possible to demonstrate that this development would have an adverse effect on the existing highway safety. The off street provisions for vehicular parking (three parking spaces in this instance) are considered acceptable in this instance.

4.6.5 This opinion is further supported by the Inspector's commenting on the appeal (See Appendix A – Sections 3 - 5).

#### 4.7 AFFORDABLE HOUSING

4.7.1 The application, as submitted, pertains to the erection of a single dwelling on a site of 0.07ha. The proposed scheme therefore exceeds the threshold for the provision of affordable housing in accordance with Policy H2a. Policy H5a - Residential Density requires a density of 30 dwph in a location such as this, dependent on individual site circumstances. The applicant has provided a density of approximately 14 dwph.

4.7.2 However, a higher density scheme with secured affordable housing has not been considered in this instance for the following reasons:-

4.7.3 Firstly, the proposed density would impact significantly upon the character and appearance of the designated Conservation Area, as it would result in a compacted layout in an area characterised by similar sized properties with large garden areas.

4.7.4 Secondly additional accommodation would only serve to compound the perceived highway problems associated with the un adopted road and highway safety in general referred to by local residents in a number of objection letters.

4.7.5 An informative has been included highlighting the need for affordable housing provision to be considered should the site be sub divided at a later stage.

#### 4.8 OPEN SPACE

4.8.1 Under Policy L1c there is an open space provision requirement for this site. The provision of open space has been addressed by condition.

#### 4.9 SUSTAINABILITY

4.9.1 The applicant proposes to use the following in order to increase energy conservation and ecological awareness. The specifics of each are set out in the Design and Assess statement, which accompanies this particular application.

- Super Insulated, Thermal Mass Building Fabric.
- Passive & Active Solar Design.
- Zero CO2 - Ground Source Heat Pump Under Primary Floor Heating System.
- Zero CO2- Bio-Fuel Secondary Heating System.
- Zero CO2 - Site Generated Renewable Energy Solar Hot Water.
- Zero CO2 - Site Generated Renewable Energy Electrical Supply.
- Low Energy Appliances.
- Natural Passive Ventilation.
- Local Rain Water Supply.
- Water Saving Devices.
- Healthy-Internal Environment.

4.9.2 Cumulatively, the applicants' proposals are considered to be compliant with Policy GP4a "Sustainability", which aims to promote "development that meets the needs of the present without compromising the ability of future generations".

### 5.0 CONCLUSION

5.0.1 It is the opinion of the Local Planning Authority that the proposed detached dwelling is acceptable in terms of design, siting, scale and appearance and would not detrimentally impact on the amenity of the neighbouring residents or the character of Upper Poppleton's Conservation Area or impact upon highway safety. As a consequence the proposed works are considered acceptable and are recommended for approval, in accordance with policies GP1, GP4a, GP9, GP10, H4a, L1C, HE2, HE3, T4 and L1c of the City of York Development Control Draft Local Plan and National Planning Guidance PPS1, PPS3 and PPG15 and the Poppleton Village Design Statement.

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

- Site layout – Drwg Ref AD REV D – Date Stamped 20/10/2008;

- Proposed plan (Ground Floor) – Drwg Ref REV F – Date Stamped 20/10/2008;
- Proposed plan (Upper Floor) – Drwg Ref REV F – Date Stamped 20/10/2008;
- Proposed elevation (South) – Drwg Ref REV F – Date Stamped 20/10/2008;
- Proposed elevation (West) – Drwg Ref REV F – Date Stamped 20/10/2008;
- Proposed elevation (North) – Drwg Ref REV F – Date Stamped 20/10/2008;
- and
- Proposed elevation (West) – Drwg Ref REV F – Date Stamped 20/10/2008.

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

3 VISQ8 Samples of exterior materials to be app

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no doors, windows or other opening additional to those shown on the approved plans shall at any time be inserted into the external elevations of the dwelling hereby approved.

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

5 PD1 IN Rem of specific Perm Dev rights

6 The existing boundary hedge, which bounds the hereby approved dwelling from Beehives, shall not removed, wilfully damaged or reduced in height below 2.00 m in height, without prior written consent of the Local Planning Authority. In addition the boundary hedge adjacent the lane shall also be retained. Should either hedge be damaged, die back or be removed within 5 years of the date of this approval, details of their replacement/additional planting should be submitted to the Local Planning Department within 3 months of the date of its failure/removal and thereafter be so retained.

Reason: In order to preserve the amenity of adjacent neighbours.

7 Notwithstanding the information contained on the approved plans, the height of the bungalow shall not exceed 7.00 m, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding

area.

8 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1 of the City of York Draft Local Plan.

**INFORMATIVE:**

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £1242.

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

9 HWAY19 Car and cycle parking laid out

10 Prior to the hereby approved dwelling first being occupied, turning facilities shall be provided within the site or at the junction of the site with School Lane, which are capable of accommodating refuse vehicles in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority and thereafter be so retained.

Reason: In the interests of highway safety and to prevent traffic congestion and allow safe manoeuvring within School Lane.

11 Prior to the commencement of development on site, a scheme for the replanting/making good of the existing hedge which divides the hereby approved dwelling from Beehives shall be submitted in writing to the Council. The written approved scheme shall then be carried out in strict accordance with the written approval from the Council. Any part of the new hedging which within a period of five years from the completion of the development dies, is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with hedging of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: To protect the residential amenity of Beehives by providing an adequate screen between each dwelling.

12 Prior to commencement of commencing on site, written details regarding the proposed solar voltaic system shall be submitted to the Local Planning Department for approval. Work shall then be carried out in strict accordance with the details of

approved in writing by the Local Planning Department.

Reason: In the interest of visual amenity.

13 The design of the hereby approved scheme shall be in accordance with the contents of the planning, design, access and environmental statement dated 20<sup>th</sup> October 2008 submitted by the applicants' agent which will satisfy the requirements of policy GP4a.

Reason: In the interests of sustainable development

14 All construction and demolition or refurbishment works and ancillary operations, including deliveries to the site and despatch from the site shall only be carried out between the hours of 08.00 and 18.00 Mondays to Fridays and 09.00 to 13.00 on Saturdays and not at all on Sundays and Bank Holidays.

Reason: To safeguard the amenities of local residents

15 Any suspect contaminated materials detected during the site works shall be reported to the Local Planning Authority. Any remediation for this contamination shall be agreed with the Local Planning Authority and fully implemented prior to any further development of the site.

Reason: To safeguard the amenities of local residents.

16 DRAIN1 Drainage details to be agreed

17 Before the commencement of and during building operations, adequate measures shall be taken to protect the existing trees, hedges and shrubs shown to be retained on approved plans This means of protection shall be agreed in writing with the Local Planning Authority and shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area.

## **7.0 INFORMATIVES: Notes to Applicant**

### 1. Reason for approval

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the locality, highway safety. As such, the proposal complies with Policies H3c, NE1, HE3, H4a, H5a, T4, GP4a and GP1 of the City of York Local Plan Deposit Draft; national planning guidance contained in Planning Policy Statement 1 " Delivering Sustainable Development ", Planning Policy Statement 3 " Housing and PPG15.

2. The developer's attention should also be drawn to the various requirements for the



control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

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

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

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

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

v. There shall be no bonfires on the site

3. The Council's Countryside Officer recommends a bat box could be attached to the garage to enhance the habitat for bats in the area. I would advise you to contact the officer, Rachel Midgely 551662, to discuss this matter.

**Contact details:**

**Author:** Richard Beal Development Control Officer  
**Tel No:** 01904 551610

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# Appeal Decision

Site visit made on 1 July 2008

by **Malcolm Rivett BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
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**Decision date:**  
**22 July 2008**

## **Appeal Ref: APP/C2741/A/08/2068881** **Greenthwaite, Upper Poppleton, York, YO26 6DU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr B Britton and Ms J Liney against the decision of City of York Council.
- The application Ref 07/02196/FUL, dated 11 September 2007, was refused by notice dated 15 November 2007.
- The development proposed is to erect single dwelling on vacant building plot with separate access off School Lane.

### **Decision**

1. I dismiss the appeal.

### **Main issues**

2. The main issues of the appeal are the effect of the proposal on:
  - highway and pedestrian safety;
  - the character and appearance of the Upper Poppleton Conservation Area (CA); and
  - the living conditions of the occupants of Beehives with particular regard to light and outlook.

### **Reasons**

3. Access to the proposal would be via School Lane which I understand currently serves 9 dwellings. Whilst narrow and unsurfaced from my visits to the site it appears that the volume of traffic on the lane is very limited. The junction of School Lane and Main Street is adjacent to a pedestrian entrance to the nearby primary school and close to a bus stop. However, visibility at the junction is in my view adequate given that this part of Main Street is a 20mph zone.
4. One of my visits was at the end of the school day and although the area was busy with parents and children, both in cars and on foot, no safety problems were apparent. Whilst no vehicles entered or left School Lane during this period I am satisfied that one could do so without causing any danger to pedestrians or other vehicles and I understand that there have been no personal injury accidents at this location in recent years. I appreciate that the junction is not wide enough to allow vehicles to simultaneously enter and leave School Lane. However, given the volume of traffic using the lane I envisage that 2 opposing



vehicles would approach the junction, or indeed each other elsewhere on the lane, only rarely. In any case I see no significant harm arising from a vehicle waiting on Main Street for a few moments whilst another turns out of School Lane. Concern has been raised about the safety of pedestrians on School Lane itself, including children chasing balls. However, given its surface it appears to me that drivers, including those of delivery vehicles, are likely to travel at such a speed that they could readily stop and give way, if necessary, to any pedestrians in the lane. I understand that large delivery vehicles have to reverse out of the lane but it seems unlikely to me that the proposal would result in a significant increase in such manoeuvres.

5. I see no reason why traffic generated by the proposal would cause significantly more damage to the surface of the lane than that associated with the existing dwellings. Existing residents refer to the need to take care when driving along the lane. I have no reason to believe that residents of, or visitors to, the proposal would not do likewise. I consider therefore that the traffic generated by one additional dwelling would be unlikely to cause any significant highway or pedestrian safety problems.
6. The Upper Poppleton CA is characterised by the wide variation in the style, form and age of its properties. Indeed, in my view, the juxtaposition of dwellings of different heights and roof forms is an attractive element of the village's character and appearance. Whilst the proposal would be higher and have a larger footprint than the dwellings immediately to its north, I do not accept the Council's contention that the reduction in size of properties as one travels southwards towards the more rural end of School Lane is a key element of the character and appearance of the CA. This is particularly so given that larger properties are visible from the appeal site.
7. The size and height of the proposed dwelling would be in keeping with many others in the village and, given the juxtaposition of properties of different sizes/heights, I consider that it would preserve the character and appearance of the CA. I find that, in this respect, the proposal would thus have no conflict with policies GP1, GP10 and HE2 of the City of York Draft Local Plan (incorporating the 4<sup>th</sup> set of changes) Development Control Local Plan or design guidelines 3, 8 and 12 of the Poppleton Village Design Statement. These policies and guidelines indicate that new development should be compatible with neighbouring properties and the character of the area and should maintain townscape elements which contribute to the character and appearance of CAs.
8. The proposal would be sited close to the boundary with Beehives and would extend for more than 10m along and beyond the length of that property's small rear garden. It appears to me that the existing boundary hedge, where it borders Beehive's rear garden, is not as tall or dense as shown on the plans and I envisage that it has a minimal effect in blocking light to the garden. I consider that the mass of the proposal, situated immediately to the south of Beehives, would be likely to overshadow the garden and rear facing rooms of this dwelling in the middle part of the day for significant periods of the year. In addition, in view of its proximity and length, the roof of the proposed dwelling would be very dominant in the outlook from Beehives' garden and, to a lesser although still material extent, from its rear facing rooms.



9. In my judgement this would cause significant harm to the living conditions of the occupants of Beehives, particularly when using their garden. I find therefore that the proposal conflicts with the requirement of policy GP1 of the Local Plan that new development does not unduly affect nearby residents with regard to overshadowing and dominance by overbearing structures. I appreciate that the Local Plan has not been formally adopted although the effect of a proposal on neighbours' living conditions is, in my view, an important consideration in the determination of a planning application and has therefore carried significant weight in my decision.
10. The appellants argue that Beehives has been constructed nearer to School Lane than indicated in the approved plans. However, even had it been built in accordance with the planning permission, as described by the appellants, the effect of the proposal on Beehives', albeit smaller, rear garden would be the same as I have identified above. The appellants also contend that Beehives, as approved, would have had a greater effect on the dwelling to its north than the appeal proposal would have on Beehives. I do not accept this argument as it appears to me that the proposal would project significantly further beyond the rear of Beehives than that property would have done so beyond its northern neighbour. That Beehives has been built close to the boundary with the appeal site is not good reason to permit a dwelling in close proximity to it, given the harm I have found it would cause.
11. Reference has been made to the possibility of the operation of a business from the proposal. However, other than for purposes which would be ancillary to the use of any dwelling, permission has not been sought for such a use. I accept that the construction of the dwelling would be likely to cause some disruption to local residents although this would be short term and is an inevitable consequence of most building schemes. This has therefore carried little weight in my decision.
12. In conclusion I have found that the proposal would be unlikely to be detrimental to highway/pedestrian safety or to the character and appearance of the CA. Nevertheless, I have found that it would cause material harm to the living conditions of the occupants of Beehives and I consider that for this reason alone the proposal should not be permitted. I recognise that Council officers recommended approval of the scheme and I note the circumstances in which the application was refused. I also appreciate that the dwelling would be constructed to a very high environmental specification. However, I consider that these are not good reasons to allow the appeal given the harm I have found the proposal would cause.
13. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Malcolm Rivett*

INSPECTOR



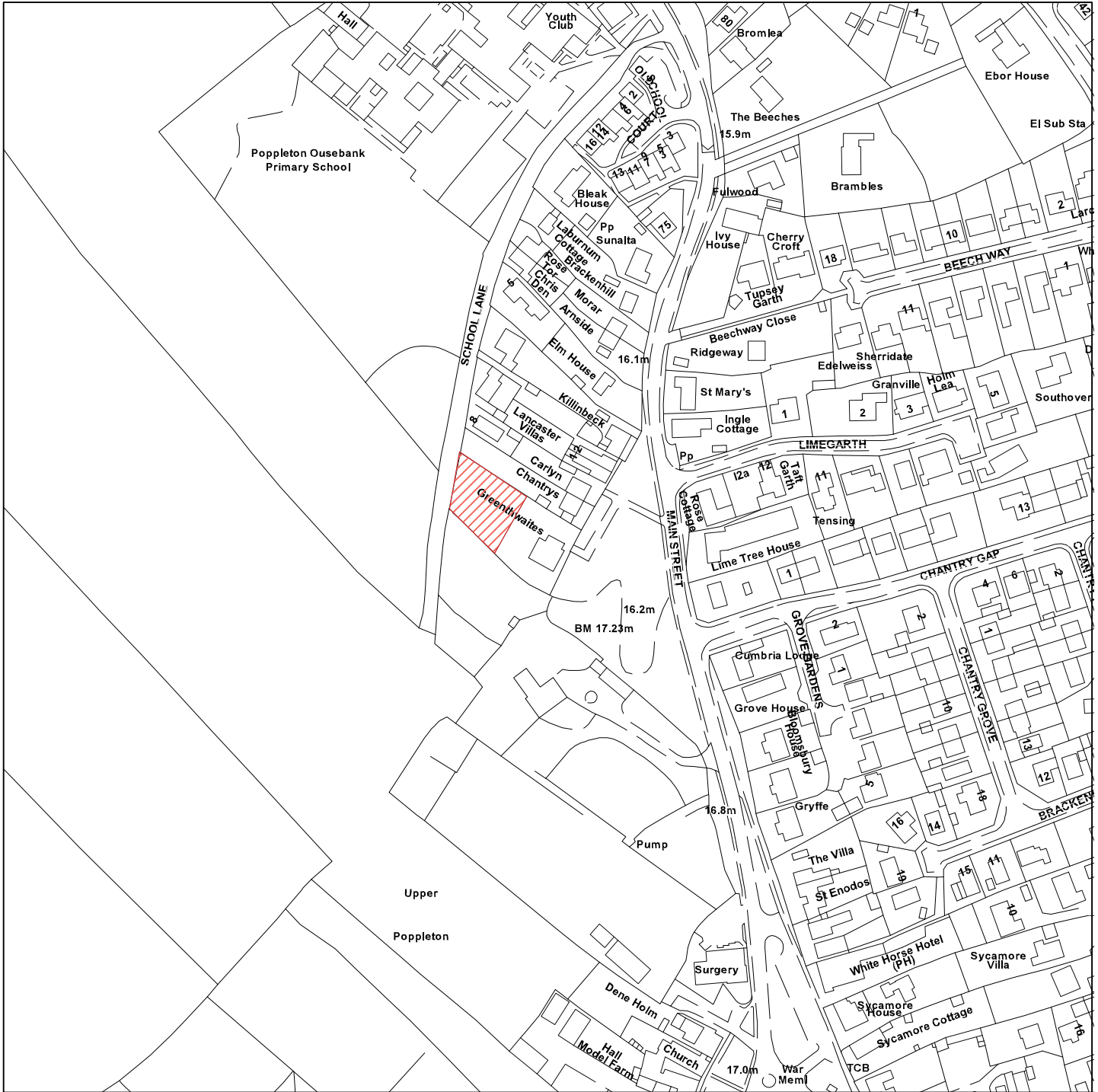
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# Greenthwaite, Main St, Upper Poppleton

08/02440/FUL



GIS by ESRI (UK)



Scale : 1:2500

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<b>Organisation</b>	City of York Council
<b>Department</b>	Planning & Sustainable Development
<b>Comments</b>	Application Site
<b>Date</b>	05 December 2008
<b>SLA Number</b>	Not set

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