



## Notice of meeting of

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

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

**Date:** Thursday, 17 September 2009

**Time:** 3.00 pm

**Venue:** The Guildhall, York

### **AGENDA**

**Site visits for this meeting will commence at 11.00 am on Wednesday 16 September 2009. The bus for Members will leave Library Square following the first visit.**

#### **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 20 August 2009.

#### **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 **by 5pm on Wednesday 16 September 2009**. 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 this meeting, contact details are 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 of the proposals and relevant policy considerations and the views and advice of consultees and officers.

- a) **12 St Aubyn's Place York YO24 1EQ (09/01328/FUL)** (Pages 15 - 22)

Single storey rear extension, with a covered patio area [*Micklegate Ward*] **[Site Visit]**

- b) **35 Wentworth Road York YO24 1DG (09/01491/FUL)** (Pages 23 - 28)

Single storey rear extension [*Micklegate Ward*]

- c) **Library, Museum Street - General Regulations (Reg3) (09/00841/GRG3)** (Pages 29 - 36)

Part change of use to include café [*Guildhall Ward*] **[Site Visit]**

- d) **Library Museum Street York YO1 7DS (09/00842/LBC)** (Pages 37 - 46)

Internal alterations and refurbishment [*Guildhall Ward*] **[Site Visit]**

- e) **Millthorpe School Nunthorpe Avenue York YO23 1PF (08/02056/GRG3)** (Pages 47 - 52)

Erection of 2.9m high weld meshed material fencing to tennis court (Retrospective) [*Micklegate Ward*] **[Site Visit]**

- f) **Park Farm Foss Field Lane Acaster Malbis York YO23 2XA (09/01353/FUL)** (Pages 53 - 66)

First storey pitched roof side extension [*Bishopthorpe Ward*]

- g) **3 Acomb Road York YO24 4EN (09/01382/FUL)** (Pages 67 - 78)

Variation of condition 1 of permission 05/01917/FUL to extend opening hours of cafe from 07:00 - 16:00 hours Monday to

Saturday, to 07:00 - 23:00 Sunday to Thursday and 07:00 - 24:00 on Friday and Saturday [*Holgate Ward*] [**Site Visit**]

**h) 34 St Mary's York YO30 7DD (09/01535/FUL)** (Pages 79 - 88)

Erection of garage (resubmission) [*Guildhall Ward*]

**5. Appeals Report** (Pages 89 - 98)

This report informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate in the 12-month and 3-month periods to 31<sup>st</sup> July 2009 and provides a summary of the salient points from appeals determined in the 3-month period.

**6. 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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- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

**A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088**

### Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

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If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

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### **Holding the Executive to Account**

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 Decision Session) 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:

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

### **Who Gets Agenda and Reports for our Meetings?**

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- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to;
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**WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE**

**SITE VISITS**

**Wednesday 16 September 2009**

**The bus for Members will leave Library Square following the first visit**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
<b>11.00</b>	<b>Library, Museum Street</b>	<b>4c &amp; 4d</b>
<b>11.30</b>	<b>Millthorpe School, Nunthorpe Avenue</b>	<b>4e</b>
<b>11:50</b>	<b>3 Acomb Road</b>	<b>4g</b>
<b>12:10</b>	<b>12 St Aubyn's Place</b>	<b>4a</b>

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City of York Council

Committee Minutes

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MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	20 AUGUST 2009
PRESENT	COUNCILLORS HORTON (CHAIR), SUE GALLOWAY (VICE-CHAIR), STEVE GALLOWAY, GALVIN, GILLIES, SUNDERLAND, B WATSON, MOORE (AS A SUBSTITUTE FOR CLLR REID) AND SIMPSON- LAING (AS A SUBSTITUTE FOR CLLR CRISP)
APOLOGIES	COUNCILLORS CRISP AND REID

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**13. INSPECTION OF SITES**

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
4 Trenchard Road, York	Councillors Galvin, Gillies, Horton, Moore and Brian Watson	As objections had been received and the recommendation was to approve.
Moor Farm, Moor Lane, Bishopthorpe, York	Councillors Galvin, Gillies, Horton, Moore and Brian Watson	As objections had been received and the recommendation was to approve.
Knavesmire Primary School, Trafalgar Street, York	Councillors Galvin, Gillies, Horton, Moore and Brian Watson	As objections had been received and the recommendation was to approve.
Odeon Cinema, Blossom Street, York	Councillors Galvin, Gillies, Horton, Moore and Brian Watson	At the request of Councillor B Watson

**14. DECLARATIONS OF INTEREST**

Members were asked to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

No interests were declared.

**15. MINUTES**

RESOLVED: That the Minutes of the West and City Centre Planning Area Sub-Committee held on the 16 July 2009 be approved and signed by the Chair as a correct record, subject to the first bullet point of Minute 10 (Public

Participation) detailing Councillor Merrett's comments being changed to refer to "train sheds" rather than "rail sheds".

**16. PUBLIC PARTICIPATION**

There were no registrations to speak under the Council's Public Participation Scheme.

**17. 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.

**17a Odeon Cinema Blossom Street York (09/00615/ADV)**

Members considered an Advert application from Mr K C Suri for the display of three non-illuminated signs on the canopy and one internally halo illuminated high level sign.

Members discussed the application and agreed that it was good to bring an old building back into use.

RESOLVED: That the application be approved subject to the conditions listed in the report.<sup>1</sup>

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance for the following reasons: In accordance with PPG:19 Advertisements and policies GP21, HE3, HE4 and HE8 of the City of York Local Plan the proposed signage, due to its location, scale, design, materials and the proposed means of illumination, respects the design of the listed building and would not detract from the character and appearance of the conservation area. There would not be an adverse impact on safety, due to the location of the signs and type of illumination proposed.

Action Required

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

**17b Odeon Cinema Blossom Street York (09/00616/LBC)**

Members considered an application for Listed Building Consent from Mr K C Suri for the display of three signs to the canopy and one halo illuminated high-level sign.

In line with comments received from the conservation Officer, Planning Officers advised that two further conditions be added requiring a sample of the finish of the lettering and details of the intensity of the illumination of the lettering of the high level sign to be submitted to and approved in writing by the Local Planning Authority.

RESOLVED: That the application be approved subject to the conditions listed in the report and the additional conditions listed below:-<sup>1</sup>

Additional Condition 4

Before the commencement of any work on site a sample of the finish of the lettering shall be submitted to and approved in writing by the local planning authority.

Reason: In order to protect the special architectural interest of the listed building in accordance with policy HE4 of the Development Control Local Plan.

Additional Condition 5

Before the commencement of any work on site details of the intensity of the illumination of the lettering of the high level sign shall be submitted to and approved in writing by the local planning authority.

Reason: In order to protect the special architectural interest of the listed building in accordance with policy HE4 of the Development Control Local Plan.

REASON: The proposal, subject to the conditions listed in the report and the additional conditions listed above, would not cause undue harm to interests of acknowledged importance for the following reasons: In accordance with PPG:15 Planning and the Historic Environment and policy HE4 of the City of York Local Plan the proposed signage, due to its location, scale, design, materials and the proposed means of illumination, respects the design of the listed building and would not detract from its special historic or architectural interest.

Action Required

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

**17c 4 Trenchard Road York YO26 6BG (09/01073/FUL)**

Members considered an application from Mr and Mrs A Gioiello for the subdivision of a dwelling to form two semi detached dwellings with two storey side and two storey/single storey rear extensions, new access drive and garage.

Representations were received from a neighbour (and member of the residents' group) in objection to the application. He raised concerns about the impact of the proposals on the amenity of neighbouring properties and stated that, if approved, the proposal would set a precedent for other similar proposals.

Representations were also received from the applicant in support of the application. She advised Members that the plot was a considerable size with enough space for 2 semi detached houses and indicated that in the neighbouring street, semi detached houses occupied similar sized plots. She stated that the streetscape has already been changed by previous developments and voiced the opinion that it was important to provide further residential properties in existing residential areas.

Members were of the opinion that the site was large enough to support 2 units but raised concerns about the potential loss of amenity space for neighbours and the loss of trees and asked that a condition be attached to retain the trees at the front of the site.

RESOLVED: That the application be approved subject to the conditions listed in the report and the additional condition listed below.<sup>1</sup>

Additional Condition 9

The two semi-mature trees within the Trenchard Road frontage of the site shall be retained and measures shall be taken during development to secure their protection comprising :-

- (i) Erection of a chestnut pale or similar fence not less than 1.2 metres high shall be erected at a distance from the trunks to be agreed in writing by the Local Planning Authority prior to commencement of work on site;
- (ii) Any development within or directly adjacent to the crown spread of the trees shall be the subject of a detailed written method statement incorporating foundation details to be submitted to and approved in writing by the Local Planning Authority before work on site commences;
- (iii) No materials (including fuel or spoil) shall be stored within the crown spread of the trees;
- (iv) No burning of materials shall take place within three metres of the crown spread of any tree;

(v) No services shall be routed under the crown spread of any tree without the express written permission of the Local Planning Authority.

Reason: In order to safeguard the existing landscape features of the site and to secure compliance with Policies GP1 and H7 of the York Development Control Local Plan.

REASON: 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 impact upon the visual amenity of the wider street scene, impact upon the residential amenity of neighbouring properties, impact of the proposal on the level of traffic and on-street parking generated, impact of the proposal on the local drainage pattern and impact of the proposal on the level of amenity space for the units generated. As such the proposal complies with Policies H7, GP1, GP10 and L1c) of the City of York Development Control Local Plan.

Action Required

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

**17d Knavesmire Primary School Trafalgar Street York YO23 1HY  
(09/01200/GRG3)**

Members considered a General Regulations (Reg3) application from Mrs Sam Judd, Learning, Culture and Children's Services, for external alterations and single storey extensions to provide new children's changing room facilities and a new Children's Centre.

Officers circulated a list of updates to Members as follows:

Councillor Merrett had submitted comments in support of the provision of the new children's centre, subject to necessary cycle parking, of which there was none on this side of the school at the moment. Councillor Merrett had advised that this was important for the potential volume of out of school hours activities (given access to the other side of the school is locked off out of hours) and in order to maximise cycling rather than vehicle traffic to the school.

In respect of neighbour objections, officers reported that a letter from an existing objector also commented that it would be irresponsible to grant permission when child safety would be compromised by locating the children's centre at the school when the existing road conditions (including traffic levels, parking on pavements and zig-zag lines, heavy lorries) were dangerous.

A further objection had also been received from an existing objector requesting that the application be deferred, stating that the applicant had given a false statement and the Development Control Officer had ignored many points of objection and made unsubstantiated claims. The objector asked that a tree survey and bat survey be submitted before the application was accepted for consideration.

Officers reported that a further comment had been received from Highways stating "It is appreciated that whilst any increase in vehicular traffic will compound any traffic problems that may be currently experienced it is considered that a refusal on highway safety grounds could not be substantiated based on an expected maximum of only six additional cars."

They also advised Members that the following comments had been submitted in respect of protected species and trees.

#### Bats

- No evidence to say there is a roost present within the building.
- Proposed single storey extensions do not affect any areas of the building that are most likely to house bats – as such no survey required and only basic precautions are necessary at the time of construction.
- Most likely species present is Pipistrelle.
- Unlikely that Noctules are roosting in the area. Tend to roost in trees rather than buildings and none of the trees on site are suitable as bat roosts, only for foraging.

#### Lighting and Bats

- Lighting can be significant, esp. for Noctules, although Pipistrelle actively hunt around street lights as they attract moths and other prey.
- Noctules are discouraged by lighting but are unlikely to be present, as for foraging this could have an effect but is usually compensated for by using low level lighting, which is what is proposed.

#### Owls

- With regard to Owls, the presence of Tawny Owl is possible although I do not consider that the Sycamore is a good roosting tree for Owl being too open and unprotected and is certainly unsuitable for nesting. It may be occasionally be used to roost or in passing through.
- Tawny owls are not protected and only the nest sites have any measure of protection, but this is not the case here.
- Likelihood of barn owls is very slim. They require open farmland with extensive areas of rough, tall grassland and hedges. None of this is present in the Knavesmire, even on the race course.
- No owl pellets found under the tree.

#### Trees

- Two limes are not protected by, or considered worthy of a TPO.
- The application form was incorrect, but the impact on trees and the value of the trees to be removed does not warrant a tree survey.

- The path should have a timber edge and not concrete foundation or kerb.
- The path should not to run in a straight line as shown on plans but should wind around the trees taking the best route.

Officers also circulated a photocopy of an annotated extract (Section 16 – Trees and Hedges) from the original planning application proforma for Members information which had been given to them at the site visit by a member of the public.

Officers advised Members that although the path, gate and store were shown on the drawing and are part of the proposals, in coming to a decision Members would have to consider the fall-back position allowed by local authority permitted development rights which would allow them to be implemented without planning permission. They also advised Members that an additional condition requiring a cycle shelter to be built should be added.

Officers provided information on the approximate numbers of people who were expected to visit the Children's Centre. They explained that the centre would operate a combination of open access sessions and programmes targeted at specific groups. They confirmed that most groups would run between 9.30am and 11.30am and 1.00pm and 3.00pm (therefore outside normal school hours) and the highest number of people was likely to be about 15 adults and 15 children visiting at different times during an open access session along with 3 members of staff.

Representations were received from a local resident in objection to the application. He stated that he did not want to see Trafalgar Street entrance used as the main entrance as this would encourage users to park on the road and this was a quiet residential area but advised that the existing entrance on Count De Burgh Terrace should be the main entrance. He asked for restrictions to be placed on hours of construction and suggested these should be consistent with restrictions placed on previous applications such as when the Multi Use Games Area (MUGA) was built (8am-6pm). He asked for the same restrictions to be placed on the hours of use of the new buildings.

Members raised concerns over restricting hours of use of the building as this would reduce flexibility of use such as for a breakfast club as these normally operate from 7.30am.

Members recognised the importance of increasing the use of school buildings and noted that most schools were now used for extended periods of time outside normal school hours.

RESOLVED: That the application be approved subject to the conditions listed in the report and the additional condition and informative listed below. <sup>1</sup>

Additional Condition 8

The proposed cycle shelter and stands detailed on drawing number 0841 (CC) P05 shall be erected prior to first occupation of the children's centre

and shall thereafter be retained as a cycle shelter for the use of staff and visitors to the children's centre.

Reason: In order to promote cycling in an area where on-street and off-street parking is limited with the overall aim of reducing pollution, noise and the physical impact of traffic, by restraining growth in the use of motor vehicles in accordance with policy T4 of the Development Control Local Plan.

REASON: The proposal, subject to the conditions listed in the report and the additional condition listed above and informative listed below, would not cause undue harm to interests of acknowledged importance, with particular reference to the character and appearance of the locality, highway safety, protected species or residential amenity. As such the proposal complies with Policies GP1, T4, ED1 and C1 of the City of York Development Control Local Plan.

**METHOD OF CONSTRUCTION OF PATH**

It is suggested that the path to the new access gate should not run in a straight line but should wind around the trees taking the best route to avoid removing or damaging trees. The path shall have a timber edge and should not have a concrete foundation or kerb.

Action Required

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

**17e Moor Farm Moor Lane Bishopthorpe York YO23 2UF (09/01146/FUL)**

Members considered a full application by Mrs Julia Medforth for the change of use of agricultural buildings to storage (use class B8) and the installation of roller shutter doors.

A Member questioned whether this was an appropriate application in the greenbelt and suggested that it would not be beneficial to the rural community and raised concerns that it could cause problems to adjacent properties

Members also raised concerns as they did not know what would be stored at the site and asked if it was possible to condition they type of storage in order to prevent loss of amenity for neighbours. Officers advised that it would not be practical to restrict the type of storage but that it would be possible to condition the hours of operation to exclude early mornings/late evenings to prevent disturbance to neighbours.

Councillor Galvin moved and Councillor Brian Watson seconded a motion to refuse the application on the grounds of inappropriate development in the greenbelt.

On being put to the vote, the motion to refuse the application was lost.

RESOLVED: That the application be approved subject to the conditions listed in the report.<sup>1</sup>

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to impact on the openness of the greenbelt, the impact on the residential amenity of the occupants of the neighbouring dwellings, habitat protection, and highway safety. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, Policies GP1, GP17, GB1, GB3, GB11, and NE6 of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

Action Required

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

Councillor D Horton, Chair

[The meeting started at 3.00 pm and finished at 4.20 pm].

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EXTERNAL

Micklegate Planning Panel

3.1 No objection subject to views of neighbouring residents being duly taken into account.

Neighbour Notification

3.2 One letter of objection from No. 10 St Aubyn's Place concerning overshadowing/loss of light to dining room; loss of visual amenity due to tunnelling effect further to length of extension; increased noise levels further to additional hard surfacing; proposed materials; sewers, retaining walls not shown on drawings.

INTERNAL

Design, Conservation and Sustainable Development

3.3 The City Archaeologist has been notified as the application site is with the Area of Archaeological Importance. Any response will be reported verbally.

**4.0 APPRAISAL**

KEY ISSUES

4.1. Visual impact on the dwelling and surrounding area;

4.2 Impact on neighbouring properties

4.3 The relevant development plan is The City of York Council Draft Deposit Local Plan, which was placed on Deposit in 1998. Reflecting points made, two later sets of pre inquiry changes (PICs) were published in 1999. The Public Local Inquiry started in 1999 but was suspended by the Inspector for further work to be done on the Green Belt. A Third Set of Changes addressing this further work was placed on deposit in 2003. Subsequently a fourth set of changes have been drafted and approved by Full Council on 12th April 2005 for the purpose of making Development Control Decisions, on the advice of the GOYH

4.4 DRAFT LOCAL PLAN POLICY CYH7 states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours.

4.5 DRAFT LOCAL PLAN POLICY CYGP1 states that development proposals will be expected to (i) respect or enhance the local environment, (ii) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials; (iii) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (iv) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape

features which make a significant contribution to the character of the area, and take opportunities to reveal such features to public view; and (v) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.6 Supplementary Planning Guidance 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 states that (1.12) Good design and a scale of development that respects the original dwelling and established pattern of development are essential to making a quality extension. An extension in the style of the existing dwelling is likely to be the most acceptable.

## ASSESSMENT

4.7 This large semi-detached dwelling is sited within a residential area, outside of the Conservation Area. The road is made up of similar style traditional dwellings. The integral garage and driveway area to the front provide sufficient car and cycle storage space; and access from the front to the rear garden will still be maintained via access to the side of the dwelling. A large garden abuts the dwelling to the rear providing ample amenity space.

4.8 The rear garden slopes steeply upwards towards the rear of the garden, currently laid out in a terracing effect; with a patio area immediately adjacent to the dwelling, with steps up to a lawned area; then further steps up to a children's play area.

4.9 Fencing approximately 1.8 metres in height runs along both site boundaries with No. 10 and 14 St Aubyn's Place, along with some mature shrubbery in place. Brick built outbuildings to the Elm Bank Hotel are sited along the rear boundary.

4.10 As the proposed addition is all to the rear, it will not be open to public view. The extension is of a contemporary design but will be faced in matching brickwork. Though the proposal is rather long, the original dwelling is substantial and sited within a large plot. The proposed steps and retaining wall will not be any higher than the existing level of the lawn. It is therefore, not considered this addition will harm the appearance of the dwelling nor surrounding area.

4.11 Approximately only the first 3 metres of the extension will be visible from neighbouring dwellings/garden areas at ground floor level because of the height of the existing side boundary fencing. The length of the extension will be visible from the first floor of No. 10 St Aubyn's Place, though its appearance will be broken up by the canopy element being of a translucent nature. This neighbouring dwelling also has a large rear garden and it is not considered this will cause significant loss of visual amenity.

4.12 Rendered blockwork was originally proposed throughout, though further to amendments received, matching brickwork is now proposed. The side wall of the extension with No. 10 St Aubyn's Place will set in from the boundary by approximately 0.6 metres immediately adjacent to the dwelling, and be of matching brickwork. Due to the orientation of the dwellings it is not considered that significant overshadowing will occur to this neighbouring dining room, nor garden area. Again, due to the existing boundary treatment in place; modest proposed height at approximately 3.1 metres and

proposed siting off this joint boundary, it is not considered to cause significant loss of amenity, sufficient to warrant refusal, due to being overly dominant nor causing loss of light.

4.13 It is also important to consider what could be built under permitted development rights. The fall-back position is normally regarded as an important element in decision making which must be considered, although the weight to be given depends on the real likelihood of any fall-back actually being exercised in the event of refusal. Currently a 3m long extension no higher than 3m at eaves level and no higher in total than 4 metres could be constructed in this location without the need for planning permission.

4.14 It is not considered that a significant increase in noise will occur further to this extension and additional patio area, over and above that of the existing french doors and patio/garden area.

4.15 Building over a sewer is matter dealt with within Building Regulations and is not considered within the planning process.

## **5.0 CONCLUSION**

It is considered that the proposal will not seriously harm the living conditions of nearby neighbours or the appearance of the dwelling within the surrounding area.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

- |   |        |  |
|---|--------|--|
| 1 | TIME2  | Development start within three years                               |
| 2 | VISQ1  | Matching materials   |
| 3 | PLANS1 | Approved plans - Revised plans received on 12.08.09. and 13.08.09. |

## **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 the impact on the residential amenity of neighbours or the impact upon the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Local Plan Deposit Draft and City of York Supplementary Planning Guidance to Householders (Approved March 2001)

#### 2. PARTY WALL ETC ACT 1996

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. An explanatory booklet may be obtained from this section, alternatively it is available on the ODPM website:[www.communities.gov.uk](http://www.communities.gov.uk)

**Contact details:**

**Author:** Carolyn Howarth Development Control Assistant

**Tel No:** 01904 551344

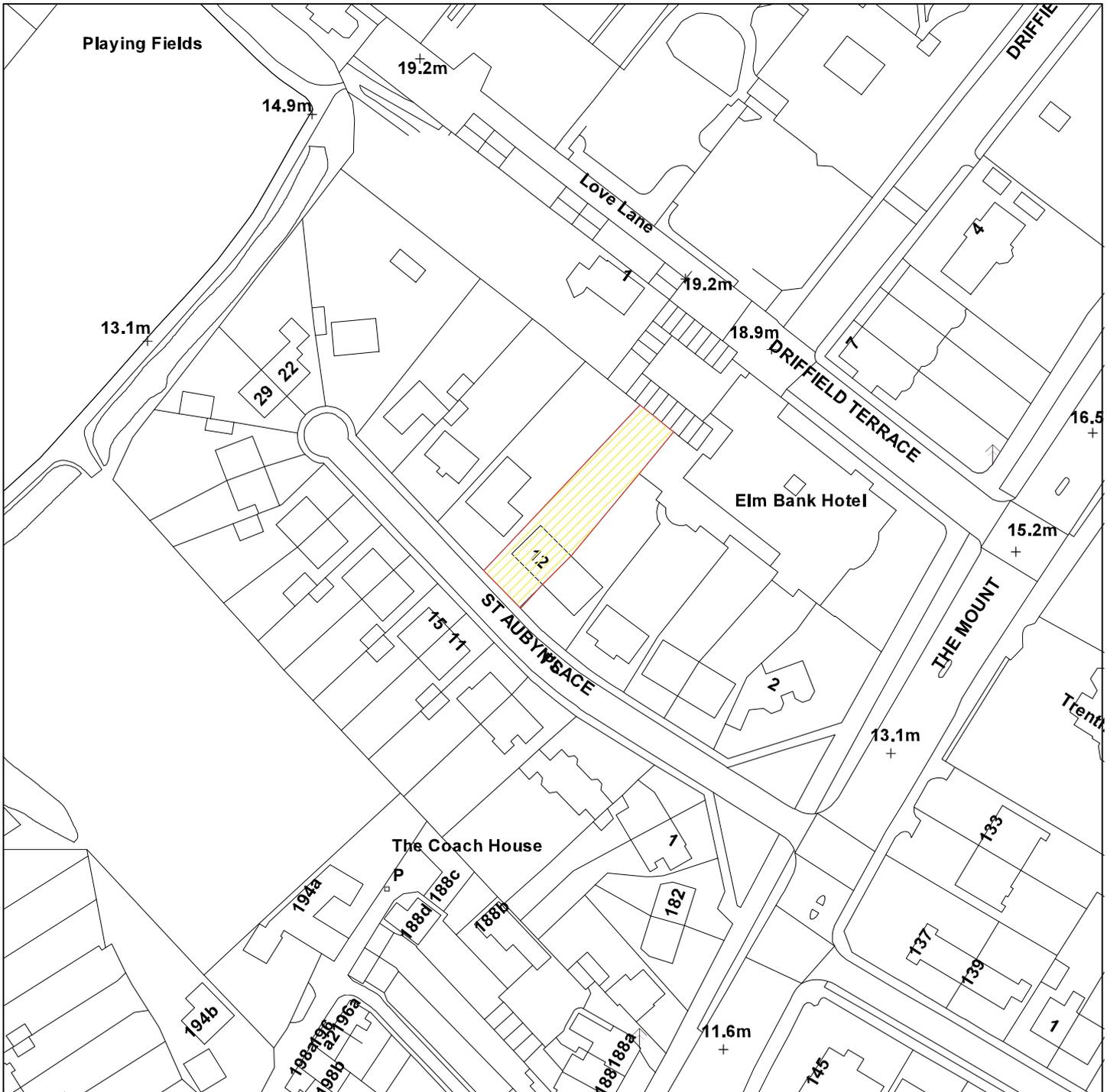
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# 12 St Aubyns Place

09/01328/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>	01 September 2009
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Micklegate  
**Date:** 17 September 2009                      **Parish:** Micklegate Planning Panel

**Reference:** 09/01491/FUL  
**Application at:** 35 Wentworth Road York YO24 1DG  
**For:** Single storey rear extension  
**By:** Mr Tony Dennis  
**Application Type:** Full Application  
**Target Date:** 2 October 2009

**1.0 PROPOSAL**

1.1 This application seeks permission for a single storey rear extension to form a porch and accessible WC and shower facilities which will be accessed via the side passage and courtyard.

1.2 The property is a two storey terraced dwelling in an area of similar properties. A small rear yard is currently accessed via a side door from the kitchen, double doors to the rear and the side passage from the front of the property.

1.3 The application is reported to sub-committee because the applicant has worked for the City of York Council within the last 4 years.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Schools GMS Constraints: Millthorpe 0251

Schools GMS Constraints: All Saints' RC 0242

2.2 Policies:

CYGP1  
Design

CYH7  
Residential extensions

**3.0 CONSULTATIONS**

INTERNAL

3.1 None

## EXTERNAL

3.2 Micklegate Planning Panel - No comments received at the time of writing the report

3.3 Publicity - The application was advertised by neighbour notification letter. No responses have been received to date.

## 4.0 APPRAISAL

### KEY ISSUES:-

- Visual impact on the dwelling and the area
- Impact on neighbouring property

### RELEVANT PLANNING POLICY

4.1 Draft Local Plan Policy GP1 states that development proposals will be expected to (i) respect or enhance the local environment, (ii) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials; (iii) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (iv) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape features which make a significant contribution to the character of the area, and take opportunities to reveal such features to public view; and (v) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.2 Draft Local Plan Policy H7 states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours.

4.3 The City of York Council Supplementary Planning Guidance - Guide to extensions and alterations to private dwelling houses (2001) 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. Proposed extensions should have pitched roofs and the materials should match those of the main property. For single storey extensions, obscured glazing should be fitted to any essential windows facing the neighbouring boundary where there may be a loss of privacy for neighbours.

### VISUAL IMPACT ON THE DWELLING AND AREA

4.4 The ground floor extension will form a wheelchair accessible access into the main house. Access will be from the front of the property via the side access passage and through the courtyard into the main house. A small ramp will be constructed in the access passage to enable wheelchair access from street level to the courtyard. The proposed extension will provide a small entrance porch with separate toilet and shower facilities which are required at ground floor level.

4.5 The proposed extension measures 1.8m in width and 3.8m in length leaving a gap of 0.2m from the side boundary wall. The extension will be situated within the rear yard of the property with access from the existing kitchen side door allowing a small courtyard to be left between the rear of the house and the extension. The extension is proposed in matching materials and has been designed to compliment the character of the property. It will have a roof light to each roof slope and a door to the front elevation and window to the rear. It is a small scale addition to the property.

#### IMPACT ON NEIGHBOURING PROPERTY

4.6 The proposed extension will be built adjacent to no. 37 Wentworth Road to the south of the application site. Whilst the extension will be 3.4m in height in close proximity to the boundary, it is situated away from the rear wall of the houses allowing sunlight to the main rear window of no. 37. It is considered that there may be some overshadowing in the early mornings to the ground floor side windows in the two storey offshoot, however due to the existing two storey offshoot belonging to no. 35 it is considered that there may not be much more impact with regards to overshadowing than at present.

4.7 A mature hedge along this boundary belonging to the neighbouring property will obscure a large proportion of the extension from view. The proposal is therefore not considered to unduly harm the amenity of neighbouring residents.

#### 5.0 CONCLUSION

5.1 The proposal, by virtue of its design, scale and position is not considered to harm the appearance of the property or residential amenity. It is considered to comply with policy H7 and GP1 of the Development Control Local Plan.

**6.0 RECOMMENDATION:** Approve

- |   |        |   |
|---|--------|---|
| 1 | TIME2  | Development start within three years                        |
| 2 | PLANS1 | Approved plans - Drawings 08031/001 - 005 received 06.08.09 |
| 3 | VISQ1  | Matching materials  |

#### 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 the appearance of the dwelling and residential amenity. As such the proposal complies with Policies GP1 and H7 of the City of York Development Control Local Plan and the 'Guide to extensions and alterations to private dwelling

houses' Supplementary Planning Guidance.

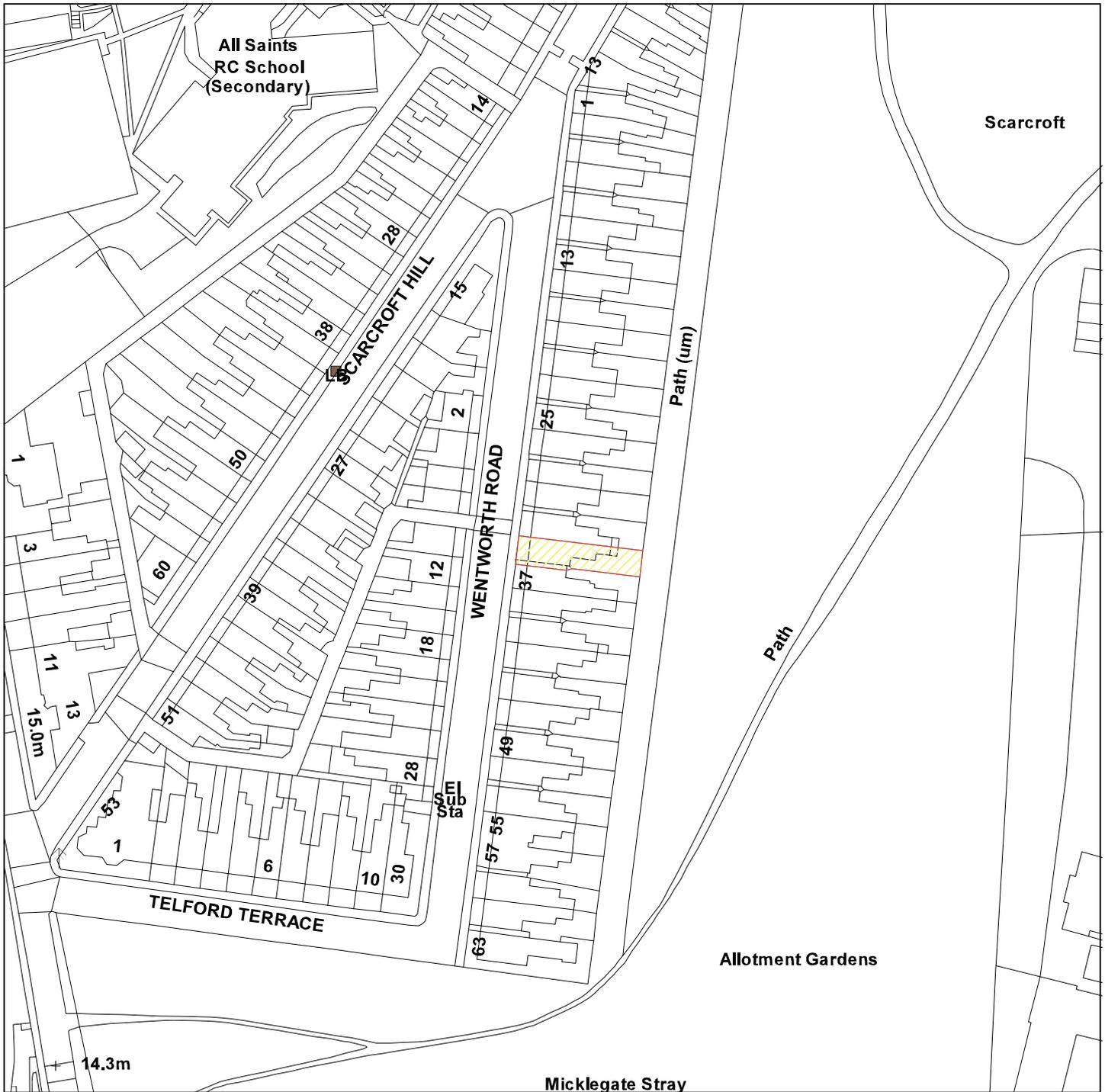
**Contact details:**

**Author:** Elizabeth Potter Development Control Assistant

**Tel No:** 01904 551350

# 35 Wentworth Road, YO24 1DG

09/01491/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>	01 September 2009
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Guildhall  
**Date:** 17 September 2009                      **Parish:** Guildhall Planning Panel

**Reference:** 09/00841/GRG3  
**Application at:** Library Museum Street York YO1 7DS  
**For:** Part change of use to include cafe  
**By:** Mrs Fiona Williams, City Of York Council  
**Application Type:** General Regulations (Reg3)  
**Target Date:** 13 July 2009

**1.0 PROPOSAL**

1.1 York Central Library comprises a two storey Grade 11 Listed brick and stone built structure dating from 1927 and 1938 designed by the York Architects Brierley and Rutherford. It also lies within the setting of St Leonards Hospital a Grade 11 Listed building and Scheduled Ancient Monument and in a prominent location within the Historic Core Conservation Area. The current proposal envisages the partial change of use of the building to provide a cafe area as part of a wider scheme of internal refurbishment and alteration for which Listed Building Consent has been applied for under reference 09/00842/LBC.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core 0038

Listed Buildings GMS Constraints: Grade 2; Library Library Square York YO1 2DS 0631

2.2 Policies:

CYHE4  
Listed Buildings

CYHE3  
Conservation Areas

CYS6  
Control of food and drink (A3) uses

**3.0 CONSULTATIONS**

## INTERNAL

3.1 Highway Network Management raise no objection to the proposal.

3.2 Environmental Protection Unit raise no objection to the proposal.

3.3 Design, Conservation and Sustainable Development raise no objection to the proposal.

## EXTERNAL

3.4 Guildhall Planning Panel raise no objection in principle to the proposal but express concern in respect of the level of toilet provision associated with the cafe, the loss of visible book shelving to enable space to be created for the cafe and the lack of disabled access to the building.

3.5 Three objections have been received from local residents and businesses on the grounds that the proposed cafe would take up space more appropriately devoted to traditional library uses and would lead to unfair competition with other local cafes and hot food outlets.

## 4.0 APPRAISAL

### 4.1 KEY CONSIDERATIONS:-

- Impact of the proposal on the character and appearance of the Conservation Area.
- Impact of the proposal on the historic character and integrity of the Listed Building.
- Impact of the proposal on the viability of other cafes and hot food businesses in the area.

4.2 Policy HE3 of the York Development Control Local Plan sets a firm policy framework establishing that planning permission for change of use will only be given in a Conservation Area where there would be no adverse effect on the character or appearance of the area. The character of the Conservation Area surrounding the Library encompasses a range of town centre uses with a preponderance of offices and entertainment related uses. The proposal envisages the change of use of a section of the ground floor of the Library to form a cafe area serving coffee, cakes and light meals primarily to those using the Library in the traditional way or attending events taking place there. Servicing requirements for the cafe envisage the delivery of bread, cakes and milk on a daily basis, fruit and vegetables delivered twice a week and other deliveries once a month. Deliveries would take place early in the morning before the library opens at 10 am and there would be no preparation of hot food on the premises. The Library building occupies a prominent location within the Conservation Area and the nature of the use and its immediate surroundings add significantly to its overall character. The current scheme forms part of a wider package of mainly internal measures to secure the long term future of the building and its surroundings. On balance the proposal would secure the longer term future of the property whilst having

a minimal impact upon its contribution to the Conservation Area. The terms of Policy HE3 would thus be complied with in relation to the proposal.

4.3 Policy HE4 of the York Development Control Local Plan sets a firm policy presumption in favour of new development involving changes of use to Listed Buildings where there would be no adverse impact on their character, appearance or setting. York Central Library was constructed in the early 20th century by the reknowned local architectural partnership of Brierley and Rutherford to provide a range of traditional Library services for the City. Central Government advice on Listed Building Control outlined in PPG 15 "Planning and the Historic Environment" specifically in paragraph 3.10 encourages sensitive alteration and refurbishment to enable Listed Buildings to be retained in the use for which they were initially designed and built. The current proposal which forms part of a wider scheme of mainly internal refurbishment is intended to increase the usage of the building in a sensitive manner in order to secure its long term future in its current use. As such the proposal complies with the terms of Policy HE4 of the Draft Local Plan.

4.4 Policy S6 of the York Development Control Local Plan sets a clear policy presumption in favour of the extension, alteration or development of premises for A3 uses (restaurants and cafes) subject to any impact upon the amenities of surrounding occupiers as a result of traffic ,noise, smell or litter would be acceptable and acceptable external flues and means of extraction have been provided. The current proposal envisages the change of use of a section of the ground floor of the Library to provide an area where users maybe served with hot drinks, cakes and sandwiches in the manner of the cafes associated with a number of larger bookshops. No food ordinarily requiring an extraction system would be prepared on the premises. In terms of impact upon the viability of other cafes and food outlets in the area impact upon competition is not a material planning consideration. Deliveries accessing the site would also not be materially greater than currently, as a consequence the terms of Policy S6 would thus be complied with in relation to the proposal.

4.5 In terms of disabled access to the Library the current arrangements would remain in place pending a second phase of work in the adjacent Library Square. The current arrangements in terms of toilet provision would broadly remain in place, however disabled facilities and a baby changing area would be provided within an existing staff toilet as part of the overall scheme.

## **5.0 CONCLUSION**

5.1 York Central Library comprises a broadly two storey brick and stone built Grade 11 Listed Building by local architects Brierley and Rutherford dating from 1927 and lying in a prominent location within the Central Historic Core Conservation Area. The proposal envisages a partial change of use of the ground floor of the premises to provide a cafe supplying hot drinks and light snacks for users of the library in the manner of the coffee shops commonly associated with the larger bookshops. The scheme forms part of a wider package of mainly internal alterations to refurbish and upgrade the level of accommodation available at the Library. The Library building in its location adds significantly to the character of the Conservation Area with its mix of retail and entertainment related uses in the direct vicinity. The current proposal would seek to secure this role and would not adversely affect the surrounding area. In the

absence of preparation of hot food on the premises there would be no requirement for a sophisticated extraction system and the level and volume of deliveries to the site would not be materially different from those currently taking place to the site. On balance the scheme is considered acceptable and approval is therefore recommended.

## **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:-

Drawing Ref: 0913/100 Rev A . Date Stamped 6th August 2009

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.

## **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 Historic Core Conservation Area, impact upon the historic character and integrity of the Listed Building and impact upon the viability of other cafes and food outlets in the vicinity. As such the proposal complies with Policies HE3 , HE4 and S6 of the City of York Development Control Local Plan.

#### 2. DEMOLITION AND CONSTRUCTION:-

i) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

ii) 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".

iii) 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.

iv) 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.

v) 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.

**Contact details:**

**Author:** Erik Matthews Development Control Officer

**Tel No:** 01904 551416

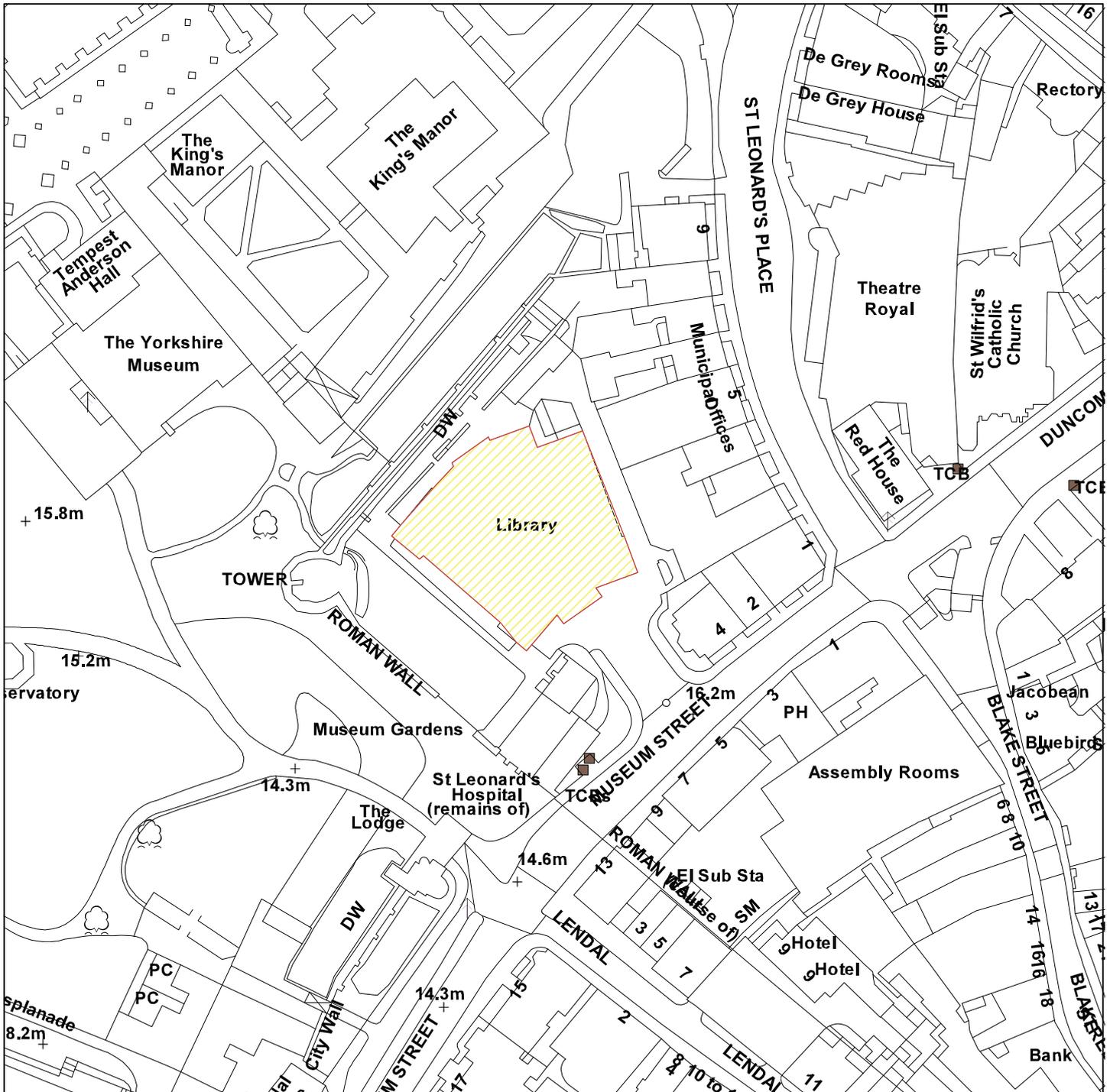
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# Library, Museum Street, YO1 7DS

09/00841/GRG3



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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>	01 September 2009
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Guildhall  
**Date:** 17 September 2009                      **Parish:** Guildhall Planning Panel

**Reference:** 09/00842/LBC  
**Application at:** Library Museum Street York YO1 7DS  
**For:** Internal alterations and refurbishment  
**By:** Mrs Fiona Williams, City Of York Council  
**Application Type:** Listed Building Consent  
**Target Date:** 13 July 2009

**1.0 PROPOSAL**

1.1 York Central Library comprises a broadly two storey brick and stone built Grade 11 Listed structure constructed by the local architectural partnership Brierley and Rutherford in 1927 and extended in 1938. It contains a significant Neo-Baroque interior characteristic of the partnership's work. The proposal which forms part of a wider scheme to refurbish and upgrade the range of facilities provided by the Library (including the cafe proposal reported elsewhere on this agenda ref:09/00841/GRG3) envisages the erection of a glazed entrance screen to replace the existing automatic sliding doors, the provision of a new handrail to the existing access ramp to additionally help provide access to the upper floor, the removal of existing shelving to facilitate the formation of a cafe and a relocated Children's Library, the removal and refurbishment of the existing fixed shelving in the fiction area to create a "flexible space", the refurbishment of an existing staff wc to form a "changing places" facility, the formation of a multi-purpose learning room with an acoustic suspended ceiling and a decorative suspended ceiling above the Children's Library. The scheme has been amended to deal with concerns previously raised in respect of the areas of suspended ceiling, the alteration and removal of the fixed timber shelving, the construction of the glazed entrance screen and the erection of a handrail to the main entrance ramp and staircase.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core 0038

Listed Buildings GMS Constraints: Grade 2; Library, Library Square York YO1 2DS 0631

2.2 Policies:

CYHE4  
Listed Buildings

### 3.0 CONSULTATIONS

#### INTERNAL

##### Design, Conservation and Sustainable Development

3.1 Raise no objection to the proposal as amended subject to a number of detailed conditions being appended to any permission given.

#### EXTERNAL

##### Guildhall Planning Panel

3.2 Raise no objection in principle to the proposal but express some concern with regard to the reduction in community display space, provision of appropriate toilet accommodation for the cafe and the reduction in book shelving.

##### English Heritage

3.3 Raise no objection in principle to the scheme as amended but wish to see a number of detailed conditions appended to any consent reserving elements of the scheme such as the glazed screen for further approval.

##### Third Party Objections

3.4 One letter of objection has been received objecting to the re-ordering of the accommodation within the library, the inclusion of a cafe within the scheme and the removal of the purpose built timber book shelving.

### 4.0 APPRAISAL

#### 4.1 KEY CONSIDERATIONS: -

- Removal of fixed timber shelving
- Details of the proposed suspended ceiling panels
- Provision of handrails to entrance ramp and staircase accessing first floor
- Glazed entrance screen
- Exposure of original flooring

4.2 Central Government advice on Listed Building Control outlined in PPG 15 "Planning and the Historic Environment" sets out a clear framework for assess developments such the current one in paragraphs 3.12 and 3.13. Here it is argued that a balancing exercise must be undertaken between the need to maintain a building in its original and continuing use and the special interest of the building and its capacity to accommodate alteration. Policy HE4 of the York Development Control Local Plan similarly sets a firm policy presumption against development involving internal alterations, which would have an adverse effect on the character or appearance of a Listed Building. The current scheme comprises a comprehensive scheme of

refurbishment and modernisation, some elements of which are entirely acceptable and others which have given rise to significant issues of concern. The principles behind the proposed internal works are accepted as is the need to remove the existing offices within the Children's area , the removal of the book despatch area adjacent to the existing fiction area and the formation of a " changing places" wc. Each of the areas of concern will be examined in relation to the requirements of PPG 15 and Policy HE4.

### REMOVAL OF EXISTING SHELVING

4.3 The existing oak shelving within the Library was purpose built for the structure by Brierley and Rutherford. Following extensive negotiations sections of the shelving would be retained where it directly abuts the internal walls of the Non-Fiction area. Sections of the existing island shelving would also be retained and up-graded or rendered movable and the currently under-utilised fixed shelving within the Children's Area would be brought back into use. The remainder of the fixed shelving and island shelving would be carefully removed and kept in storage for possible re-use. The remainder of the shelving within the existing fiction and children's areas is of more recent construction and so not considered to form part of the special interest of the Listed Building. New timber furniture which could easily be relocated would be brought in to satisfy remaining requirements. The applicant has stated their intention as being to create a series of flexible spaces in which shelving and seating can be relocated to allow for special events and particular promotions. The remaining areas of fixed and island shelving would be retained to give a clear indication of the earlier building design and layout. As amended the proposals for removing the existing shelving would preserve the historic character of the building in accordance with the advice contained in PPG15.

### DETAILS OF SUSPENDED CEILING PANELS

4.4 Two sections of the refurbished area are intended to accommodate areas of suspended acoustic panelling because of the nature of the activities envisaged. The Children's Library and associated Play Area are intended to have a series of suspended acoustic panels of cloud design to lessen noise and to also act as a means of delineating the area. Also the learning room to be formed at the rear of the library complex would have three more substantial acoustic panels to deal with an existing problem of poor acoustics. Neither area of suspended ceiling would disrupt the understanding of the relevant section of the building interior and in each case fulfils a functional requirement associated with maintaining the building in use. Subject to the precise details of both elements being conditioned for further approval then the requirements of Central Government advice on Listed Building Control contained in PPG 15 would be fulfilled.

### PROVISION OF HANDRAILS TO CENTRAL STAIRWELL AND ENTRANCE RAMP

4.5 The character of the entrance to the library with an open full height stairwell, the use of Doric pilasters and a John Carr style arch provides a firm statement of the building as a Neo-Baroque structure. As part of the scheme it is intended to extend a handrail to either side of the existing entrance ramp around the base of the stairwell in order to improve access for those with mild movement impairments. By negotiation it has been agreed to keep the fixings for the handrail away from the edge of the Doric

pilasters in order that the character of the space may be maintained. Details of the fixings and general arrangement have been submitted as part of the revised scheme, which show a minimal impact upon the character and appearance of the building in accordance with the terms of Draft Local Plan Policy HE4.

#### GLAZED ENTRANCE SCREEN

4.6 The applicant has requested the erection of a glazed screen within the entrance lobby incorporating a warm air curtain as a shelter against noise and draughts from outside and at the same time to act as an architectural statement in respect of the current programme of refurbishments. It would replace the existing wood veneered automatic doors that were inserted in the late 1980s and have come to look tired and dishevelled. As part of the amended scheme the applicant has submitted details of the screen, which would closely follow in terms of its proportions, layout and alignment the John Carr style foyer arch to the rear. The arrangement of the screen would enable the visitor to fully appreciate the proportion and overall appearance of the arch directly behind whilst at the same time making a clear statement in respect of the current alterations. The glass within the screen will need to be "faceted" to lessen the risk of collision; details of this faceting should be reserved by condition for further approval on any permission. On balance the details of the screen as amended would comply with the requirements of Central Government advice on Listed Building Control outlined in PPG 15.

#### EXPOSURE OF ORIGINAL FLOORING

4.7 It is intended to expose the stone flooring from the entrance lobby, which would emphasise the essentially grand Neo-Baroque nature of the space. The original flooring of the main library area was a varnished wooden parquet tile used to create the appropriate acoustic impact. The floor largely survives below areas of Modern carpet. The applicant has indicated a willingness to consider exposing sections of the flooring especially in the area of the bookcases to be retained. Sections are however in a poor state of repair having suffered from water ingress whilst others have slipped. Notwithstanding that, the future of the surviving flooring should be secured below what ever floor covering is chosen and areas which are suitable for exposure should be suitably treated and exposed for public use. This may be most appropriately secured by condition on any consent given.

### 5.0 CONCLUSION

5.1 York Central Library comprises a broadly two storey brick and stone built early 20th Grade 11 Listed structure by the local architects Brierley and Rutherford. It also lies in an important location with the Central Historic Core Conservation Area. The proposal forms part of a wider package of measures to refurbish and upgrade the level of facilities available at the site, a planning application in respect of the proposed cafe is also reported on this agenda. Central Government advice in respect of Listed Building Control outlined in PPG 15 "Planning and the Historic Environment" highlights the need to undertake a balancing exercise between the desirable aspiration of retaining a Listed Building in the use for which it was built, the sensitivity of the proposed change and the capacity of the Listed Building to absorb any potentially

detrimental change. Policy HE4 of the York Development Control Local Plan similarly counsels against inappropriate alterations internal or external to Listed Buildings within the City. Following two amendments to the scheme, the development as proposed subject to appropriate conditions would have a minimal adverse impact upon the character and appearance of the building in line with the requirements of Central Government Guidance outlined in PPG15 and Policy HE4 of the York Development Control Local Plan.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve following Sec of State Decision

1 TIMEL2 Development start within 3 yrs (LBC/CAC)

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

Drawing Refs: 0913/100 Rev A ; 0913/200 Rev A ; 0913/201 ; 0913/202 ; 0913/202 ; 0913/203 . Date Stamped 6th August 2009

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 Notwithstanding the application details hereby approved, full details including height, location, decoration and structural members of the glazed screen to separate the cafe area from the children's library shall be submitted to and approved in writing by the Local Planning Authority before work on site commences. Work shall thenceforth be undertaken in strict accordance with the details hereby approved.

Reason: To secure the historic character and integrity of the Listed Building and to secure compliance with Policy HE4 of the York Development Control Local Plan

4 Notwithstanding the application details hereby approved full details of the internal decorative scheme including details of paints and other decorative finishes shall be submitted to and approved in writing by the Local Planning Authority before work on site commences. Work shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: To safeguard the character and integrity of the Listed Building and to secure compliance with Policy HE4 of the York Development Control Local Plan

5 Notwithstanding the application details hereby approved full details of the glazed entrance screen including the heat curtain and manifestation contained within the glazing shall be submitted to and approved in writing by the Local Planning Authority before work on site commences. Work shall thenceforth be undertaken in

strict accordance with the details thereby approved.

Reason: To safeguard the historic character and integrity of the Listed Building and to secure compliance with Policy HE4 of the York Development Control Local Plan.

6 Notwithstanding the application details hereby approved full details of the acoustic ceiling panels and associated lighting including colours and mode of fixing shall be submitted to and approved in writing by the Local Planning Authority before work on site commences. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: To safeguard the historic character and integrity of the Listed Building and to secure compliance with Policy HE4 of the York Development Control Local Plan

7 Notwithstanding the application details hereby approved a method statement detailing the mode of removal of the existing fitted bookcases to be removed both free-standing and wall mounted, the method of restoration for those to be retained and the mode and location of storage for those to be removed, shall be submitted to and approved in writing by the Local Planning Authority before work on site commences. Development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: -

To safeguard the historic character and integrity of the Listed Building and to secure compliance with Policy HE4 of the York Development Control Local Plan.

8 Notwithstanding the application details hereby approved full details of the proposed treatment for the existing wooden tile floor which shall include areas to be exposed and surface treatments where it is to be covered shall be submitted to and approved in writing by the Local Planning Authority before work on site commences. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: To safeguard the historic character and integrity of the Listed Building and to secure compliance with Policy HE4 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 details of the proposed suspended ceiling panels, removal of fixed timber shelving, provision of handrails to the entrance ramp and staircase accessing the first floor, glazed entrance screen and exposure of original flooring. As such the proposal complies with Policy HE4 of the City of York Development Control Local Plan and Central Government advice on Listed Building Control outlined in PPG 15 "Planning and the Historic Environment".

**Contact details:**

**Author:** Erik Matthews Development Control Officer

**Tel No:** 01904 551416

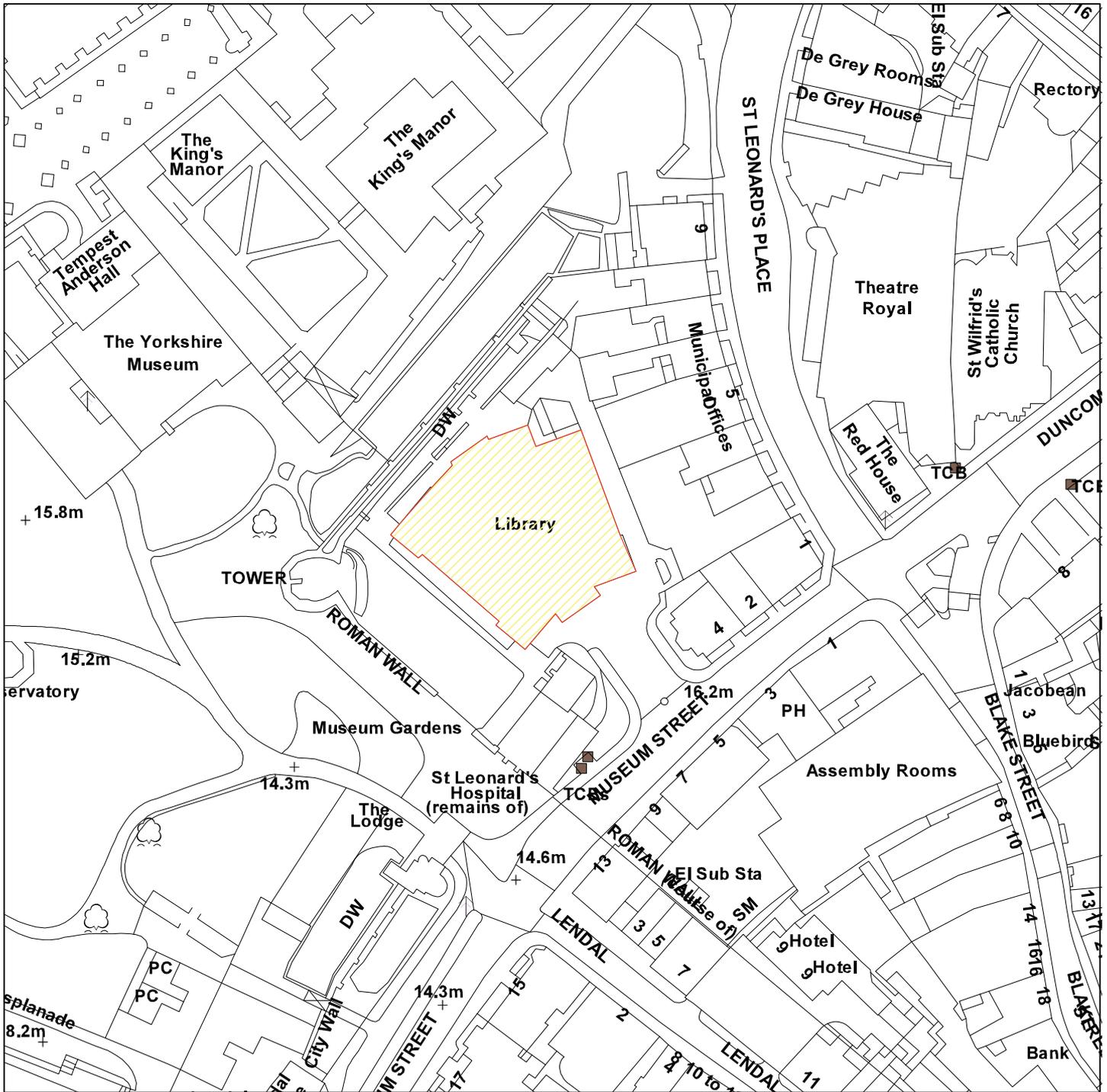
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# Library, Museum Street, YO1 7DS

09/00842/LBC



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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>	01 September 2009
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Micklegate  
**Date:** 17 September 2009                      **Parish:** Micklegate Planning Panel

**Reference:** 08/02056/GRG3  
**Application at:** Millthorpe School Nunthorpe Avenue York YO23 1PF  
**For:** Erection of 2.9m high weld meshed material fencing to tennis court (Retrospective)  
**By:** Millthorpe School  
**Application Type:** General Regulations (Reg3)  
**Target Date:** 16 October 2008

**1.0 PROPOSAL**

1.1 The application relates to the tennis courts at Millthorpe School. The tennis courts are located at the North Eastern boundary of the site, adjacent to main the School entrance. Millthorpe School is situated in a residential area and Victorian Terrace properties border the tennis courts to Nunthorpe Avenue and the rear of properties on Millfield Road. A gated alleyway runs between the tennis courts and the properties on Millfield Road.

1.2 The application seeks retrospective permission to retain new tennis court fencing which was erected in 2007. The new fence is mesh welded and powder coated green. As originally erected the fence measured 2.9 metres high on three boundaries of the tennis court and 4.1m high on the eastern boundary, facing the rear of Millfield Road. However the fence on the eastern boundary has been reduced on site to 2.9m and it is now considered that the application is to retain the fence at 2.9m in height along all four boundaries.

1.3 The school has stated that the old chain link fence was corroded and falling into disrepair and that the new fence is only 40mm higher than that replaced.

1.4 Councillor Merrett has requested that the application be reported to Committee and that a Site Visit be conducted from a resident's house on Millfield Road to assess the impact of the application.

**2.0 POLICY CONTEXT**

CYGP1 Design

**3.0 CONSULTATIONS****GUILDHALL PLANNING PANEL**

3.1 No objection in principle. Unclear whether the fencing is any higher. If there is any change in the height of the fencing, residents' views must be given proper consideration.

## NEIGHBOURS

3.2 Three letters have been received from local residents objecting to the application. The main issue relates to highest part of the fence facing the rear of properties on Millfield Road and the objectors' properties are located directly behind this section of fencing.

3.3 The objections relate to the design and height of the mesh, that it is visually oppressive and gives the impression of a high security compound. That the new fence is significantly higher than that replaced. That the fence is only 3.9 metres away from the rear of one of these properties (7.6 metres from the nearest window) and it projects above the first floor bedroom window by 0.6 metres. It is noted that the rest of the fence is set at a much lower level (2.9 metres high) and that the higher section should be reduced to match. The remainder of the fence is at a similar height to that which was replaced. The purpose of the fence is to reduce tennis balls coming over the fence, but just as many have been returned since the new fence has been installed. The fence blocks and impairs views and reduces property values.

## HIGHWAY NETWORK MANAGEMENT

3.4 No objection.

## 4.0 APPRAISAL

### POLICY

4.1 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.

4.2 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 design that is compatible with neighbouring buildings and spaces and ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

### ASSESSMENT

4.3 The key issue relates to the visual impact of the proposed fence and the impact upon residential amenity of the neighbouring occupiers.

### VISUAL IMPACT AND IMPACT UPON THE AMENITY OF NEIGHBOURING PROPERTIES

4.4 As originally submitted the 2.9 metre high fence installed to three sides of the tennis courts was considered to be acceptable with the main issue being the higher section of fence. That section of fence faced the rear of properties to Millfield Road, the closest of which are located approximately 4.5 metres away (just 2.5 metres to

the rear garden boundary). The properties are also set down at a lower level than the tennis courts and a gated alley way runs between the properties and tennis courts. Because the properties are set at a lower level (some 0.4 metres) and because the mesh, although painted green, is substantial, the fence appeared over bearing. This section of the fence has now been reduced to 2.9m, to bring it in line with the fencing to the other 3 sides. There remains a projection above the red brick wall to the rear of about 1m, however this is considered to strike an acceptable balance between the needs of the school and the living conditions of the residents. The revised proposal therefore meets the requirements outlined in Policy GP1 of the City of York Development Control Local Plan 2005.

## **5.0 CONCLUSION**

The height of the proposed fence nearest to the neighbouring properties on Millfield Road has been reduced to 2.9 metres in line with the rest of the fencing already installed to the tennis courts. There would still be some projection above the red brick wall to the rear, but this is considered to be acceptable. The reduction in height means that the fencing would appear less visually intrusive and would not adversely impact upon the neighbouring properties. The application is considered to accord with the requirements of policy GP1 of the local plan.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 Notwithstanding the annotation on drawing number 4229/08/PP3 the fencing shall be retained at its existing height of 2.9m.

Reason: For the avoidance of doubt and to ensure that residents backing on to the site are not unduly dominated by the fence in accordance with policy GP1 of the Development Control Local Plan.

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

### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the revised proposal, subject to the condition listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to visual impact and the impact upon residential amenity. As such the proposal complies with Policy GP1 of the City of York Development Control Local Plan and PPS 1 'Delivering Sustainable Development'.

### **Contact details:**

**Author:** Gareth Arnold, City Centre/West Team Leader  
**Tel No:** 01904 551320

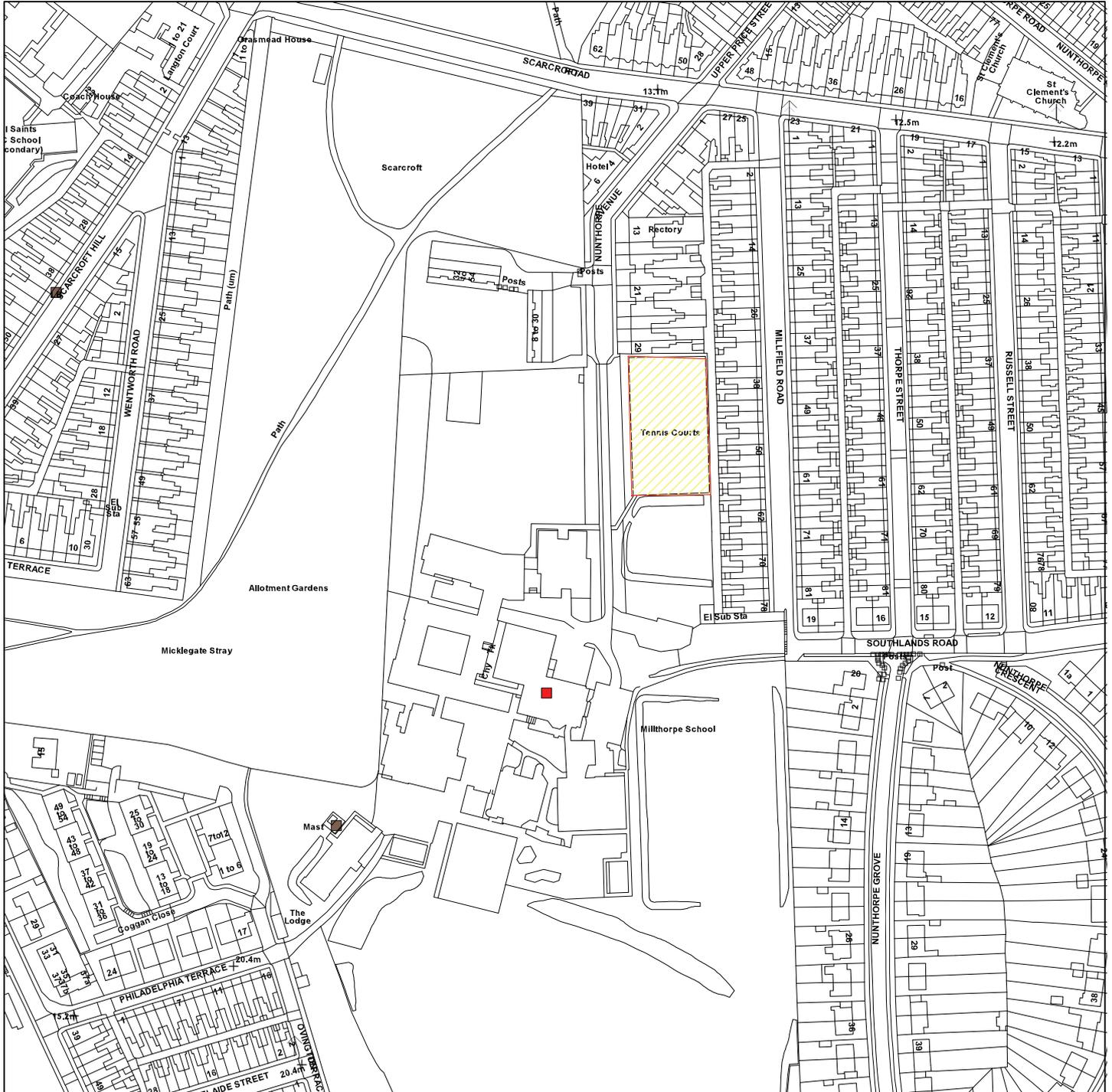
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# Millthorpe School, YO23 1PF

08/02056/GRG3



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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>	01 September 2009
<b>SLA Number</b>	Not set

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### **3.0 CONSULTATIONS**

3.1 Acaster Malbis Parish Council - Any response will be reported verbally.

3.2 Any response to neighbour notification letters will be reported verbally.

### **4.0 APPRAISAL**

#### 4.1 Key Issues

1. Impact upon the openness of the greenbelt
2. Impact upon neighbouring properties
3. Impact upon appearance of dwelling and area.

4.2 The relevant development plan is The City of York Council Draft Deposit Local Plan, which was placed on Deposit in 1998. Reflecting points made, two later sets of pre inquiry changes (PICs) were published in 1999. The Public Local Inquiry started in 1999 but was suspended by the Inspector for further work to be done on the Green Belt. A Third Set of Changes addressing this further work was placed on deposit in 2003. Subsequently a fourth set of changes have been drafted and approved by Full Council on 12th April 2005 for the purpose of making Development Control Decisions, on the advice of the GOYH

4.3 DRAFT LOCAL PLAN POLICY CYGB4 - states inter alia that extension of dwellings in the Green Belt will be permitted providing the proposal a) would not cause undue visual intrusion; and b) is appropriate in terms of design and materials; and c) is small scale compared to the original dwelling.

4.4 DRAFT LOCAL PLAN POLICY CYGB1 'Development within the greenbelt' states inter alia that planning permission for development will only be granted where: a) the scale, location and design of such development would not detract from the open character of the Green Belt; and b) it would not conflict with the purposes of including land within the Green Belt; and c) it would not prejudice the setting and special character of the City of York; AND it is for an approved use - including limited extension, alteration or replacement of existing dwelling.

4.5 DRAFT LOCAL PLAN POLICY CYH7 states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours.

4.6 DRAFT LOCAL PLAN POLICY CYGP1 states that development proposals will be expected to (i) respect or enhance the local environment, (ii) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials; (iii) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (iv) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape features which make a significant contribution to the character of

the area, and take opportunities to reveal such features to public view; and (v) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.7 Policies YH9 and Y1 of The Yorkshire and Humber Plan (Regional Spatial Strategy to 2026) defines the outer boundary of the York Green Belt at about 6 miles from York City Centre and states that its general existing extent should not be changed.

4.8 National planning policy is set out in Planning Policy Statement 1: Delivering Sustainable Development (PPS1) and Planning Policy Guidance Note 2: Green Belts (PPG2). PPS1 encourages good design. PPG2 outlines the presumption against inappropriate development within the Green Belt and considers limited extension of existing dwellings in the Green Belt to be appropriate, providing it does not result in disproportionate additions over and above the size of the original building and that the visual amenities of the Green Belt are not injured by its siting, materials or design.

4.9 Supplementary Planning Guidance 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 states that (1.12) Good design and a scale of development that respects the original dwelling and established pattern of development are essential to making a quality extension. An extension in the style of the existing dwelling is likely to be the most acceptable.

#### 4.10 Relevant Site History

Application No. 03/03998/FUL - Two storey rear extension - Approved 02.04.04.  
Application No. 08/00025/FUL - Two storey pitched roof side extension - Refused 11.02.08. - Appeal dismissed 27.02.09.  
Application No. 08/02370/FUL - Two storey pitched roof side extension (resubmission) - Refused 03.1.08.

#### Assessment

4.11 This two-storey detached cottage is sited within the greenbelt and forms part of the domestic curtilage of a working farm. The dwelling has previously been extended by the addition of a conservatory to the front, two-storey rear extension, single storey porch/utility area to the rear and single storey side extension (forming an office).

4.12 Documentation has previously been provided to show an existing two-storey side extension and porch (though now re-built) were erected prior to 1948, thus should be considered as part of the original footprint. Though this existing two-storey side extension may be taken as original to the dwelling when calculating the area of the footprint, it does give the appearance of an extension. The cumulative scale of existing additions, ie. two-storey rear extension; rear porch/utility front conservatory and single storey side extension have resulted in the footprint of the original dwelling being increased in size in excess of 50%. It is considered any further addition due to the scale and height would further add to the harm to its appearance within the green belt and would result in inappropriate development.

4.13 Though the ground floor element is now being constructed within permitted development rights, the erection of the proposed first floor would result in an extension which is identical to both of the previously refused schemes, including that refused by the appeal Inspector.

4.14 As part of the appeal process mentioned above, documentation in support of the use of the ground floor office was received for its use in conjunction with the working farm - this element now under construction. An additional bathroom for the dwelling was provided within the two-storey rear extension, within the application approved in 2003. It is understood that this element of the dwelling is currently let, to provide additional income for the farm. This first floor proposal, again seeks consent for an additional bathroom (3 in all) for the dwelling, along with a balcony. This use is not considered to constitute the very special circumstances needed to justify development in the green belt; and this was the view taken within the Planning Inspectors Appeal Decision - appendix 1.

4.15 The proposed side extension would be highly visible from the highway and also within the surrounding green belt, with little screening surrounding the site.

4.16 A low hedge measuring approximately 1 metre abuts the dwelling to the front and side, with orchard of low trees to the side of the site. Sufficient amenity space is available within the gardens surrounding the dwelling, along with sufficient car and cycle parking provision within the curtilage and garage.

## 5.0 CONCLUSION

It is considered the proposal would harm the openness of the Green Belt and fails to demonstrate very special circumstances which are required to outweigh the general presumption against inappropriate development in the Green Belt. Furthermore the proposal would conflict with national policy advice in PPG2 and local plan policies GB1 and GB4 of the City of York Local Plan, therefore, refusal is recommended.

## 6.0 RECOMMENDATION: Refuse

1 The application site is within the Green Belt. Supporting text to policy GB4 of the City of York Draft Local Plan (incorporating 4th set of changes) approved April 2005, states that extensions within the Green Belt should not cause undue visual intrusion and should be small in scale compared to the original dwelling. The proposed extension by virtue of its volume and height, in conjunction with existing additions, the footprint of the original dwelling having already been extended in excess of 50%, would be a disproportionate addition that would harm the openness of the Green Belt and would be contrary to City of York Council Supplementary Planning Guidance to Householders (dated March 2001); policies GB1 and GB4 of the City of York Draft Local Plan and Central Government Guidance contained in Planning Policy Guidance 2 "Green Belts"

**Contact details:**

**Author:** Carolyn Howarth Development Control Assistant

**Tel No:** 01904 551344

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# Appeal Decision

Hearing held on 10 February 2009

Site visit made on 10 February 2009

**by Christopher Millns BSc (Hons) MSc  
CEng FICE FIHT**

**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  
email:enquiries@pins.gsi.gov.uk

**Decision date:  
27 February 2009**

## Appeal Ref: APP/C2741/A/08/2080633

### Park Farm, Foss Field Lane, Appleton Road, Acaster Malbis, York YO23 2XA

- 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 Richard Blacker against the decision of City of York Council.
- The application Ref 08/00025/FUL, dated 1 January 2008, was refused by notice dated 11 February 2008.
- The development proposed is described as a two storey house extension, ground floor study, first floor en suite to master bedroom, with pitched roof, at the end of the house.

### Decision

1. I dismiss the appeal.

### Clarification

2. There is disagreement between the appellant and the Council on the percentage increase in the floor area due to the proposed development and earlier extensions to the property when compared with that of the original dwelling. The Council's decision notice on the planning application referred to an increase of 98% in the footprint of the original dwelling. The Council accept that this figure was in error and now estimate that the increase would be 62.3%. The appellant claims it would be 52%.
3. Both parties agreed at the hearing that the above difference is largely due to the appellant including the existing front porch as part of the original dwelling whereas the Council treated it as an extension. I saw no convincing evidence to establish which party was correct. It was accepted however by both parties that the difference in their estimates was not so significant as to affect their respective positions with regard to the proposal.

### Main issue

4. The main issue in this case is whether the proposed extension is inappropriate development in the green belt.

### Reasons

5. The appeal dwelling is located on Foss Field Lane which is a no through road terminating at Park Farm. There are other dwellings and farms along the lane but generally the surrounding area is characterised by open agricultural land. There is no dispute between the parties that the site is within the York Green Belt.

6. In its reasons for refusal of the planning application, the Council has referred to Policies GB1 and GB4 contained in the City of York Draft Local Plan incorporating the 4<sup>th</sup> set of changes (CYDLP) approved in April 2005. These policies seek to protect the Green Belt from inappropriate development. The CYDLP has not been formally adopted and therefore I have given Policies GB1 and GB4 little weight in reaching my decision. The Council has also referred to national policy advice set out in Planning Policy Guidance 2: Green Belts (PPG2) which I regard as an important material consideration in this case.
7. PPG2 makes it clear that the most important attribute of Green Belts is their openness. It also advises that limited extensions to existing dwellings are not inappropriate inside a Green Belt provided they do not result in disproportionate additions over and above the size of the original dwelling. In this case, the proposed extension, taken together with the earlier extensions, would represent a substantial increase in the footprint of the original dwelling. Both parties accept that this increase would be more than 50% and on this measure the proposed extension cannot reasonably be argued in my view to be limited in scale or proportionate to the size of the original dwelling.
8. The appellant notes that use of a percentage increase in the footprint of a dwelling does not take into account other important Green Belt issues. He points out that this measure would not reflect substantial increases in volume of a dwelling, for example by extending a single storey building to two storeys. Such a proposal would he argues, increase the size of a dwelling in a similar way to the appeal development without increasing the footprint. I accept that this point has merit.
9. It seems to me that the physical parameter most appropriate for assessing the impact on the openness of the Green Belt will depend on the circumstances of each individual case. The key factor in any assessment of inappropriateness is proportionality and size, not the visual impact or prominence of the extension. In this case a two storey extension is proposed and on the appellant's own figures the cumulative increase in volume on the size of the original dwelling would be 45%. Again, on this measure, I am of the view that the proposed increase would be substantial and could not therefore reasonably be described as limited in scale or proportionate to the size of the original dwelling.
10. I conclude that the proposed extension would be a disproportionate addition over and above the size of the original building. For this reason it would be inappropriate development in the Green Belt for the purposes of PPG2 and development plan policy. Inappropriate development is, by definition, harmful to the Green Belt (para. 3.2 PPG2) and I have attached substantial weight to this in reaching my decision.
11. With respect to other aspects of the scheme, I note that the Council did not take issue with the style of the proposed extension or the materials to be used. I accept that these would be in keeping with the character and appearance of the existing dwelling and the surrounding area. For these reasons, the proposal would also not give rise to any significant visual intrusion in my view. I conclude therefore that there would be no additional harm in these respects.
12. The appellant also argues that the proposal would not conflict with any of the five purposes of including land within the Green Belt. I am not persuaded that

this is the case particularly with respect to safeguarding the countryside from encroachment. I recognise however, and have taken into account, that the proposed development would extend the existing dwelling towards an area of the property which already includes an orchard, garage and small outbuilding. Whilst the buildings would help to reduce the effect of the proposed extension on the openness of the Green Belt, there would still be an impact in this respect.

13. I appreciate that the ground floor of the proposed extension would provide much needed office space and that this would be of considerable benefit to the appellant in running his farming business. This is clearly apparent from the list of documents and registers, supplied by the appellant, which need to be maintained. It is a significant factor in support of the proposal in my view.
14. The bathroom and balcony proposed for the second storey adds to the overall size of the extension and therefore its effect on the openness of the Green Belt. There do not appear however to be any significant factors in support of their inclusion within the overall scheme. I note that the earlier two storey extension to the rear of the property also includes a bathroom which the appellant indicated forms part of accommodation which is currently let. The appellant also pointed out that his family already had the use of another bathroom in the dwelling. Whilst I recognise that there would be some benefit from the bathroom proposed as part of this development, I consider that this aspect of the scheme adds very little weight in its favour.
15. I have noted the appellant's argument that a two storey extension as proposed would be more in keeping with the character and appearance of the existing dwelling than a single storey extension for an office. It seems to me that this need not necessarily be the case. In any event, this is not in my view a significant factor to weigh against the harm caused as a result of inappropriate development in the Green Belt.
16. The considerations set out above in support of the proposed extension do not in my view outweigh the harm to the Green Belt caused by the inappropriateness of the development. The very special circumstances needed to justify the development do not therefore exist.
17. I was made aware by the appellant that permission has recently been granted on appeal for a development in the Green Belt on the adjacent property. Apparently this was for a stand alone building in connection with an ice cream business. The circumstances of that case would seem to be very different from those in this appeal which I have assessed on its own merits.
18. I have also taken into account the lack of objections from the Parish Council and neighbours. However, for the above reasons, I conclude that the appeal should be dismissed.

*Christopher Millns*

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Lee	The Land and Development Practice, 1 Horsefair, Wetherby, Leeds LS22 6JG
Mr R Blacker	Park Farm, Foss Field Lane, Appleton Road, Acaster Malbis, York YO23 2XA
Councillor JG Galvin	8 Bridge Road, Bishopthorpe, York YO23 2RR

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Kenyon	City of York Council, 9 St. Leonard's Place, York YO1 7ET
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DOCUMENTS

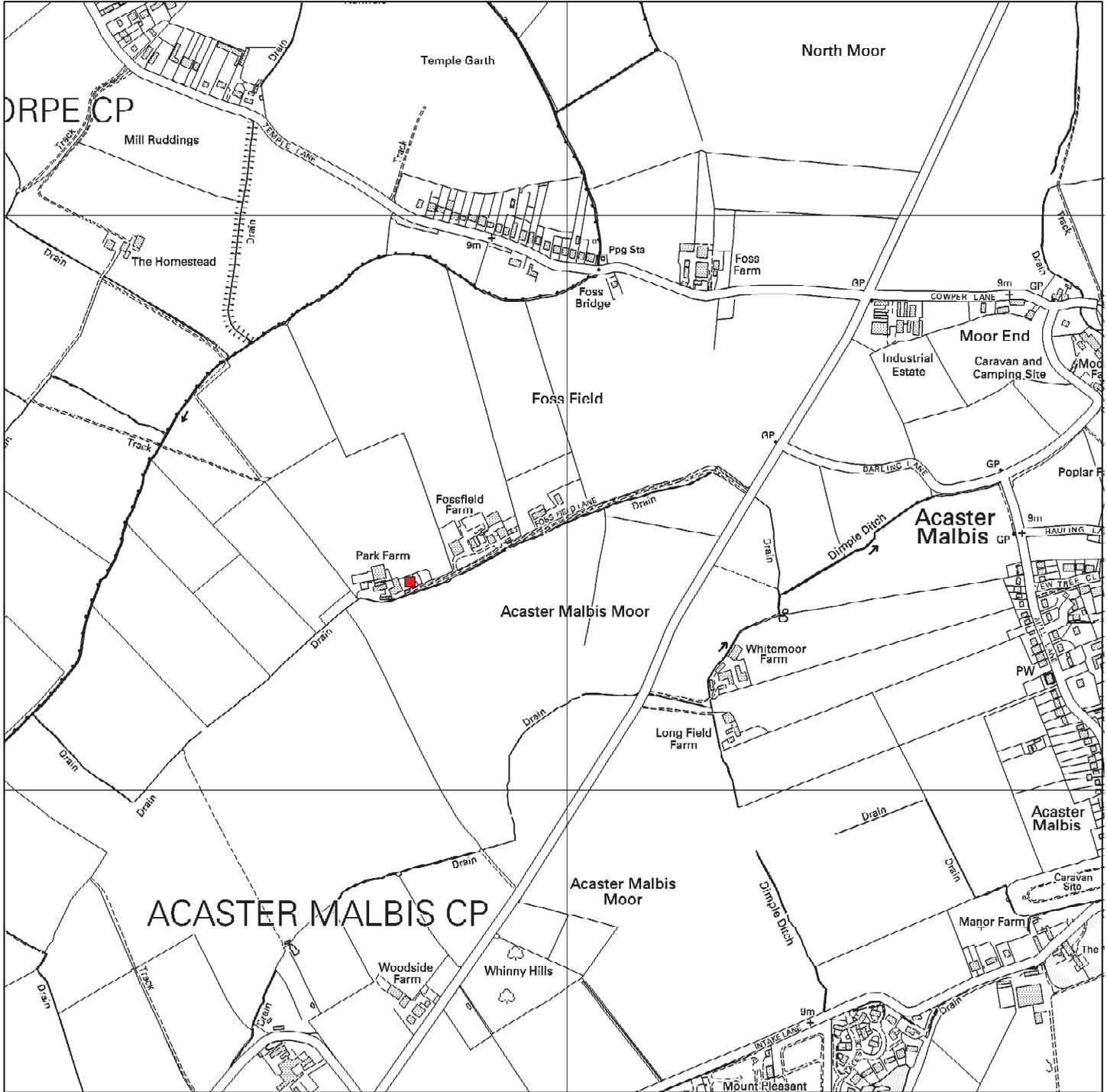
- 1 Notice of hearing supplied by the Council
- 2 Extract from case law supplied by the appellant
- 3 Points for consideration supplied by the appellant

# Park Farm, Acaster Malbis

09/01353/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>	01 September 2009
<b>SLA Number</b>	Not set

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# Park Farm, Acaster Malbis

09/01353/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>	01 September 2009
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Holgate  
**Date:** 17 September 2009                      **Parish:** No Parish

**Reference:** 09/01382/FUL  
**Application at:** 3 Acomb Road York YO24 4EN  
**For:** Variation of condition 1 of permission 05/01917/FUL to extend opening hours of cafe from 07:00 - 16:00 hours Monday to Saturday, to 07:00 - 23:00 Sunday to Thursday and 07:00 - 24:00 on Friday and Saturday  
**By:** Mr M Altin  
**Application Type:** Full Application  
**Target Date:** 11 September 2009

**1.0 PROPOSAL**

## APPLICATION SITE

1.1 The application relates to the cafe at 1-3 Acomb Road. The premises do not sell alcohol, but advertises that customers may bring such onto the premises to consume with meals. There is a hot food takeaway at no.5 next door. The site is at a traffic junction where Holgate Road forks into Poppleton Road and Acomb Road. There are some commercial premises nearby, including a public house, Spar convenience store and two takeaways, none of which have opening hours, which are controlled by planning. However the surrounding area is predominantly residential, there are two streets comprising of housing, Park Lane and Falconer Street to the south of the application site along with a house (no.171) on the corner of Holgate Road/Falconer Street.

## PROPOSALS

1.2 Planning permission is sought to extend the opening hours, to 23:00 Sunday to Thursday and midnight on Fridays and Saturdays. These hours have been reduced by an hour since the original submission.

## SITE HISTORY

1.3 Planning permission was granted in March 1999 for the use of nos. 1-3 Acomb Road as a cafe (application 99/00052/FUL). The permission was subject to conditions restricting the use to being a cafe or restaurant only (i.e. not a takeaway), restricting the opening hours to 19:30 Monday to Saturday only and requiring the flat above the cafe to be used in conjunction with the cafe.

1.4 Originally 1-5 Acomb Road was a single unit. In 2002 planning permission was granted to divide the use, leading to a takeaway at no.5 and a café at 1-3 (see application 02/02763/FUL). The approval was subject to the conditions that 1-3 only opened during the day, the proposal was on the basis it would cater for workers in the

surrounding area, and that the means of extraction were supplied - as the only kitchen was in no.5.

1.5 In October 2005 permission was granted (05/01917/FUL) to extend the opening hours, to include Sunday Mornings (09:00 to 13:30).

## COMMITTEE

1.6 The application is brought to planning committee at the request of Councillor Bowgett on the grounds of noise, nuisance and anti-social behaviour.

## 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Floodzone 2 GMS Constraints: Flood Zones 2 & 3

2.2 Policies:

CYS6            Control of food and drink (A3) uses  
CYGP1          Design

## 3.0 CONSULTATIONS

### ENVIRONMENTAL PROTECTION UNIT (EPU)

3.1 EPU have not objected to the application, but do have some concern over people leaving the premises late at night. Officers are particularly concerned that people leaving the establishment will have a detrimental impact on the noise environment and amenity of local residents. As such recommend that the hours are restricted to those applied for, and that a temporary permission be given so the impact on residential amenity could be monitored. If disturbance were to occur residents would be expected to keep a log of incidents and report them to the Council's EPU section.

### HIGHWAY NETWORK MANAGEMENT

3.2 No objection.

### SAFER YORK PARTNERSHIP

3.3 No response to date.

### PUBLICITY

3.4 The application was publicised by site notice and letters of neighbour notification. The deadline for comments was 3.9.09. 5 letters have been received. They make the following points -

Oversupply of takeaways in the area.

Loss of business for similar premises.

Cooking smells occur as the kitchen has no fan or extractor

Associated with use are people congregating and litter. Reports of people hanging around this premises and anti-social and violent behaviour (an incident was reported to the policy in late July according to one letter). Persons passing by the area will be encouraged to loiter, due to the open premises. This will cause noise disturbance in the evening, in what is essentially a residential area.

Lack of parking facilities lead to persons parking illegally on the adjacent residential streets, meaning residents with permits are unable to park. This is likely to be a problem in the evening when residents who commute by car return from work.

#### **4.0 APPRAISAL**

##### KEY ISSUES

4.1 The main issues with regards the extension of hours are any additional impact on residential amenity and highway safety.

##### PLANNING POLICY

4.2 Policy S6 states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted provided -

- a) There is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter.
- b) The opening hours of hot food takeaways are restricted where this is necessary to protect the amenity of surrounding occupiers.
- c) Car and cycle parking meets the standards defined in the Local Plan.
- d) Acceptable external flues and means of extraction have been proposed.
- e) Where security issues have been addressed.

##### RESIDENTIAL AMENITY

4.3 Noise could occur from customers coming and going, noise inside the premises, if it were to break out onto the street and possibly from the day to day operation, for example staff putting out bins and noise from the kitchen and staff cleaning or leaving the premises. Although there will be traffic noise in the area, it is likely to reduce somewhat later in the evening when the extended opening hours are asked for. The sources of noise would, unlike traffic noise, not be constant, but at random times, and may involve short sharp increases in noise level, which are more likely to cause disturbance.

Noise from persons coming and going

4.4 Previously the opening hours have been limited to daytime opening, as this was the stipulated market for the premises. However later opening hours could lead to noise disturbance from people coming and going, which is difficult to control. On such occasions noise can arise from talking/raised voices, slamming doors, starting engines, manoeuvring of vehicles and so on which can cause disturbance late at night if cars are present in any numbers near the housing frontages to side roads.

4.5 As the site is a café/restaurant people would spend more time in the premises, opposed to a takeaway where people come to collect food only. There is restricted parking on the two residential streets behind the premises, vehicles without a residents parking permit can only stop for an hour. The closest unrestricted parking area is some 75m to the west on Acomb Road. As such and due to the size of the host premises it is unlikely noise from people coming and going from cars would have a material impact on residential amenity.

4.6 Of more concern is persons leaving the premises after the consumption of alcohol. The premises advertise customers may bring their own alcohol to consume with meals. Customer behaviour can be controlled when they are inside the premises, but not after leaving, and there is concern that as this is predominantly a residential area, persons leaving the premises could cause disturbance to residents. On this basis the applicants have agreed to reduce the proposed hours of opening, to 23:00 on weekdays and midnight on Friday and Saturdays. A trial period of opening until such hours would allow officers to ascertain whether there were noise disturbance. Residents would be expected to report or log incidents if noise caused disturbance and report these to EPU - see paragraph 3.1.

#### Noise from the premises

4.7 The hours/times at which litter is put out can be controlled by condition as putting out bins, which include waste such as glass can cause considerable noise disturbance. This would have an undue impact on residential amenity at this site if it occurred late at night, as there is a house immediately behind the premises on Falconer Street. Because the premises are a restaurant, not a takeaway, customers leaving litter in the street should not arise from this premises.

4.8 Planning conditions can be applied to restrict any music emanating from the premises to an acceptable level.

#### Cooking smells

4.9 The statement submitted along with the application advises the kitchen has adequate extraction. There are two flues on the back of the building, outside the kitchen area which discharge at a high level above the eaves of the building. As such it is likely that cooking smells are dealt with adequately. EPU have received no complaints regarding cooking smells at the premises.

#### HIGHWAY SAFETY

4.10 Objections made suggest that this proposal would lead to visitors parking illegally in areas reserved to residents. It would not be unreasonable for customers to park and

walk from Acomb Road to the premises. Additionally it is suspected a significant amount of custom would come from the surrounding area and customers would use alternative means of transport.

4.11 The premises already have permission to operate during the day and highways have not objected to the proposed extension of hours. The concerns raised by residents are more so that people would not abide by the residents parking system, rather than that such practice would have a material adverse impact on highway safety. Overall officers consider the proposal would not have a material impact on highway safety.

## SECURITY ISSUES

4.12 Reports have been made with regards anti-social behaviour occurring at or nearby the premises. It is considered that this should be either dealt with by the Police or the premises licence, which is required for premises trading after 23:00.

## 5.0 CONCLUSION

5.1 A temporary permission is recommended to allow a trial run for the later opening to assess the impact on residential amenity. Conditions are suggested to prevent any noise as a consequence of the premises operating causing harm to the amenity of surrounding occupants. Should noise and disturbance occur residents should log times of such disturbance and if necessary report it to the EPU section of the Council.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 PLANS1 Approved plans - ARY/01

2 The restaurant/cafe shall not be open to customers, and all customers shall have vacated the building outside the following hours:

Sundays to Thursdays 07:00 to 23:00  
Fridays and Saturdays 07:00 to 24:00 (midnight).

The use shall adhere with these hours for a period of one year from the date of this permission after which the opening hours shall revert to 07:00 to 16:00 hours Mondays to Saturdays and 09:00 to 13:30 hours on Sundays, unless planning permission has been obtained from the Local Planning Authority for the continuation of the hours hereby permitted.

Reason: In the interests of amenity, so the Local Planning Authority may assess the impact of this use, in accordance with policy S6 of City of York Draft Local Plan.

3 No music, sound reproduction or amplification equipment shall be used that

would be audible outside the premises.

Reason: In the interests of amenity

4 Waste bins shall be stored within the curtilage of the premises at all times, apart from immediately before collection, and no emptying of waste shall occur outside the building between the hours of 22:00 and 08:00 the following day, on any day of the week.

Reason: To protect the amenity of neighbouring residents.

5 The flat above the cafe shall only be used in conjunction with the cafe.

Reason: In order to prevent the residents of the flat being affected by noise and odour.

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

### 1. REASON FOR APPROVAL

Temporary permission is granted for a trial period to assess the impact on amenity, the conditions listed above seek to prevent undue harm to interests of acknowledged importance, with particular reference to residential amenity and highway safety. As such the proposal complies with Policies S6 and GP1 of the City of York Development Control Local Plan.

### 2. INFORMATIVE

#### USE OF PREMISES

You are reminded that the building has planning permission for a cafe / restaurant only and not to sell food for takeaway purposes.

#### **Contact details:**

**Author:** Jonathan Kenyon Development Control Officer

**Tel No:** 01904 551323

1<sup>st</sup> September 2009

Our Ref: 56Y/09/JS

Mr Jonathan Kenyon  
Development Control Officer  
City of York Council  
Environment & Development Services  
9 St Leonard's Place  
York YO1 7ET

Dear Mr Kenyon,

**Re: Planning Application 09/01382/FUL – Variation of condition 1 of permission 05/01917/FUL to extend opening hours of café from 0700 – 1600 hours Monday to Saturday, to 0700 – 2400hrs Sunday to Thursday and 0700 – 0100hrs on Friday and Saturday.**

**Location: Star Coffee and Barbe-Q, 3 Acomb Road, York.**

Thank you for your recent email notification in respect of the above planning application.

I have read through the application and the associated documents and conducted a site survey of the area. I note from correspondence that the applicants would be agreeable to the premises closing at midnight as opposed to 0100hrs on a Friday and Saturday.



*Star Coffee & Barbe-Q Café/takeaway on left and Hot Chilli Pepper takeaway on right*

Application reference Number: 09/01382/FUL

An analysis of police-recorded incidents within a 50m radius of the site has been carried out by Safer York Partnership Crime Analyst, Ian Cunningham. This analysis covers a period from 1<sup>st</sup> August 2008 to 31<sup>st</sup> July 2009 and is attached to this document for information.

The analysis shows that the area surrounding the application site has suffered from problems of crime and anti-social behaviour in the past twelve months. However, there have been no reported incidents of crime or anti-social behaviour from the application premises themselves. There was only one reported crime from Hot Chilli Pepper, the hotfoot takeaway situated immediately next door (1 x Assault) and no reported incidents from the Silver Star Chinese takeaway opposite.

It would therefore be fair to say that there is no evidence that any of the hotfood takeaway premises located in this area have directly generated crime or anti-social behaviour.

I have spoken with Sgt John Bostwick, the officer responsible for policing this area, and he informed me that he was aware of only two incidents, one being criminal damage to a window and the other an assault outside Hot Chilli Pepper. He is not aware of any other crime and disorder issues associated with any of the hotfood takeaway premises.

I visited the site on Friday 28<sup>th</sup> August and whilst there, I was approached by the applicant who invited me into his premises. I noted that a CCTV camera system was already installed and that cameras were situated both inside and outside the premises. I noted that this system had a four day recording facility.

I can confirm that the operating hours of surrounding premises, as highlighted in the report by Raymond Barnes, Town Planning Consultant, are correct.

Safer Places: The Planning System and Crime Prevention (Companion Guide to PPS1) states that "Places should be structured to minimise opportunity for conflict, especially when designing for mixed use development. The siting and design of potential honeypots (places where people congregate and linger) and hotspots (places where criminal and anti-social behaviour is concentrated) require particular attention so as not to bring crime to particular types of area. In certain circumstances it may be easier to manage a concentration of such places, so long as such concentration is not excessive."

Allowing the application premises to extend operating hours could have an impact on the amenity currently enjoyed by local residents and could have the potential for generating crime and anti-social behaviour problems. With this in mind, I would support the view of Craig Delorenzo, Environment Protection Officer, that should this application be successful, then the proposed operating hours should be subject to review after a 24 month period. This condition would allow for a crime impact assessment to be carried out.

I have liaised with our Police Licensing Department and the premises will require a Premises Licence to operate after 11pm at night. If the developer is successful and applies for a Premises Licence then our Licensing Department would ask for the same conditions as Hot Chilli Pepper to apply, e.g. CCTV coverage of the premises and all areas to which the public have access, including entrance area (already fitted), and the carrying out of a litter pick after closing.

I hope you find this information useful. Please do not hesitate to contact me if you require any further details or information.

Yours sincerely,

.....

Jim Shanks  
Police Architectural Liaison Officer

Crime Prevention advice is given free without the intention of creating a contract. The Police Service do not take any legal responsibilities for the advice given. However, if the advice is implemented, it will reduce the fear of crime and the opportunities for crime to be committed.

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# 3 Acomb Road, YO24 4EN

09/01382/FUL



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>	01 September 2009
<b>SLA Number</b>	Not set

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**COMMITTEE REPORT**

**Committee:** West/Centre Area                      **Ward:** Guildhall  
**Date:** 17 September 2009                      **Parish:** Guildhall Planning Panel

**Reference:** 09/01535/FUL  
**Application at:** 34 St Marys York YO30 7DD  
**For:** Erection of garage (resubmission)  
**By:** Mr Daniel Rose  
**Application Type:** Full Application  
**Target Date:** 9 October 2009

**1.0 PROPOSAL**

## APPLICATION SITE

1.1 The application relates to 34 St Marys where a pair of semi-detached 5-bed dwellings is under construction, granted planning permission in application 07/02969/FUL.

1.2 The street is in the Central Historic Core conservation area. There is a hotel at no.32, flats at no.35; a grade II listed building, and the railway line beyond the rear garden.

## PROPOSALS

1.3 Planning permission for the houses, nos. 33 and 34, gave each a single detached garage, setback 3.5m from the rear elevation. Subsequently application 09/00552/FUL was approved increasing the length of each garage by 2m to 9.3m. The garages would be 2m back from the main rear elevation of the houses.

1.4 This application seeks to increase the height of the garage at no.34 to gain space in the roof, for a playroom. The ridge height of the approved garages was 3.8m; in this application the proposed ridge height would be 5.3m.

1.5 Planning permission has already been refused in July this year to increase the height of the garage to a proposed ridge level of 5.6m (application 09/01096/FUL). The application was refused on the grounds that due to the location, size and height of the proposed garage it would -

a) detract from the openness of the rear gardens/space behind the buildings on the northwest side of St Mary's. As such the proposal would harm the character and appearance of the conservation area and the setting of the neighbouring listed building no.35 St Mary's.

b) have a detrimental impact on the living conditions of no. 35, as it would be overbearing and overdominant.

## COMMITTEE

1.6 The application is brought to planning committee at the request of Councillor B Watson, due to the history of applications at the site, which have been determined at planning committee.

## 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core 0038

Floodzone 2 GMS Constraints: Flood Zone 2 CONF

2.2 Policies:

CYGP1	Design
CYH7	Residential extensions
CYHE2	Development in historic locations
CYHE3	Conservation Areas
CYHE4	Listed Buildings

## 3.0 CONSULTATIONS

### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 No response to date. Officers did not support the previous scheme. Comments to that proposal (which was an identical scheme but with a higher ridge level of 300mm) were as follows -

3.2 Do not support the proposals due to a) the adverse effect on the character and appearance of the conservation area and b) the negative impact on the on the amenity and setting of the adjacent listed building.

3.3 The site is within the Central Historic Core conservation area in the area extended in 1975 to include the approach roads and adjacent Georgian, Regency and Victorian development outside the city walls. St Mary's itself is defined by a relatively consistent tall terrace of mid Victorian townhouses built in an unbroken line on the SE side, and a series of closely spaced contemporary houses (1860s) on the opposite side of the street. A pair of houses, sympathetic to the architecture and scale of existing dwellings, is being built to replace an incongruous 1930s building on the NW side. The new houses are set back from the building line of adjacent properties to protect a mature tree, which gives some relief to the hard environment of the street. Ground levels fall away from the street and so the two garages, which have been approved to serve the new dwellings, recede from view thereby maintaining views through to the rear gardens and mature trees beyond. The houses on this side of the street have relatively generous gardens which extend to the tree lined boundary of the main

railway line; and the gardens are otherwise uninterrupted by backland development. A substantial listed building (grade 11) occupies the adjacent site to the NE.

3.4 Although the outbuilding has been well designed to relate to the architecture of the primary building it is considered that the massing and height of the new building would be harmful to the character and appearance of the conservation area in this location. The increased volume of the structure would be a significant solid interruption within the open landscape gardens to the rear of St Mary's. It would intrude on the tree canopy of the mature garden trees. The front gable would be more visible to the street, partially removing one of the few glimpsed views providing relief from within the street to the gardens beyond. The effect of proposals on landscape character and views are legitimate considerations when assessing their impact on the character and appearance of a designated conservation area (ref Local Plan policy HE2 & English Heritage document "Guidance on Conservation Area Appraisals" paras 4.8 & 4.12).

3.5 In addition the structure would unacceptably compromise the amenity of the neighbouring property by introducing a high blank wall onto the boundary where previously an open aspect has been enjoyed. The increased height of the garage would add to the overshadowing already introduced by the new house, as it is located to the SW of the adjacent garden. The character of the garden setting of the adjacent listed building would also be altered by the proposals, which affect a significant length of the exposed boundary.

## HIGHWAY NETWORK MANAGEMENT

3.6 No response to date.

## PLANNING PANEL

3.7 No response to date.

## CONSERVATION AREAS ADVISORY PANEL

3.8 No response to date.

## PUBLICITY

3.9 The application was publicised by site notice, press notice and letters of neighbour notification. The deadline for comments is 16.9.09. No written representations have been made to date.

## **4.0 APPRAISAL**

### KEY ISSUES

4.1 The key issues are the impact on the character and appearance of the conservation area, the setting of no.35 St Mary's, which is grade II listed, and the amenity of neighbours as a consequence of the proposed higher building than that approved under application 09/00552/FUL.

POLICY

4.2 It is a requirement of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve the setting of listed buildings and the character and appearance of conservation areas.

PPG15: Planning and the Historic Environment

4.3 Paragraph 4.2 of PPG15 advises the quality of the area is dependent not only upon the quality of buildings, but also includes other considerations including, the historic layout of property boundaries and thoroughfares, character and materials, scaling and detailing of contemporary buildings, and vistas along streets and between buildings.

City of York Draft Local Plan

4.4 HE2 states that within conservation areas, or locations which affect the setting of listed buildings development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regards to local scale, proportions, details and materials. 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.

4.5 Policy HE3 states that within conservation areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

4.6 Policy HE11 states that existing trees and landscape, which are part of the setting of conservation areas and listed buildings will be required to be retained, and provision made for planting within new development where appropriate. Where trees are allowed to be removed they should be replaced with appropriate specimens.

4.7 Policy H7 states that planning permission will be granted for house extensions where: the design and materials are sympathetic to the main dwelling and the locality of the development; the scale is appropriate; there is no adverse impact on residential amenity; proposals respect space between dwellings; and that the proposed development does not result in an unacceptable loss of private amenity space within the curtilage of the dwelling.

4.8 GP1 Refers to design, for all types of development. It states that development proposals will be expected to, respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area; using appropriate materials; avoid the loss of open spaces, vegetation and other features which contribute to the quality of the local environment; retain, enhance, or create urban spaces; provide and protect amenity space; provide space for waste storage; ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from overdominant structures.

4.9 The 2005 appeal decision which regards refused applications 04/01465/FUL and 05/00409/FULM to develop the site is also relevant. In the appeal decision the inspector advised of the importance of retaining an element of space around buildings,

which formed part of the character/appearance of this part of the conservation area. When viewed from Bootham Terrace and the private areas to the rear of the premises on St Mary's, the report deemed that development with a significant additional rear projection beyond the existing building line would have an adverse impact on the setting of nos.35, 37 and the spacious character of the conservation area.

#### APPEARANCE AND IMPACT ON THE SETTING

4.10 The previous approval for a longer garage was granted permission on the basis that due to the proposed ground level, only its roofslope would be visible when looking along the rear gardens of the houses on this side of St Mary's. As such the development would be reasonably inconspicuous and would not detract from the appearance of this part of the conservation area. It would also be of acceptable design and materials.

4.11 Between the houses on the northwest side of St Mary's and the railway line the conservation area is defined by open gardens, with a row of mature trees at the end. The trees are protected as they have tree preservation order status. This layout makes a positive contribution to the setting.

4.12 The garage has been reduced in height from the previous scheme, which was refused. However it is considered the reduction does not overcome the previous reasons for which the application was refused.

4.13 With the proposed taller garage, 2.9m of the structure would be viewed above the boundary wall with 35 St Mary's (3.2m in previously refused application), some 1.3m of which would be a solid brick wall (1.7m previously), giving the appearance of a boundary wall around 2.7m high from the side of no.35, in relation to 1.3m currently. Considering this height, the length of the garage (9.3m), and as the house itself also goes beyond the established building line, cumulatively, there will be a significant loss of openness. Views along the rear gardens will be lost and the garage will appear incongruous. This open vista and the row of trees forms part of the historic setting, makes a positive contribution to the character and appearance of the conservation area and forms part of the setting of the listed building - no35 (a view shared by the inspector in the 2005 dismissed appeal to develop the site - see paragraphs 28-29). The proposed development would interrupt and thus detract from such. The submitted design and access statement advises the existing trees mean the development would not be prominent in views of the garden. Due to its position and height it would be seen from no.35 and further away. Of the trees that would partially screen the garage, their coverage would not be so great when out of leaf and at least the closest one would need to be removed to accommodate the development.

4.14 Due to the increased height of the garage it would also impede views of the open rear garden area and trees along the railway line from the street, and to some extent the symmetry between the two new houses will be lost. However given the setback of the garage from the street (23m) and the lower ground level at which the garage would be located, in officers opinion the harm to the appearance of the conservation area would not be material and does not warrant grounds to refuse the application.

4.15 Overall the proposed garage would detract from the character and appearance of the conservation area and the setting of no.35; a listed building.

#### RESIDENTIAL AMENITY

4.16 The proposed extension due to its height, proximity to the rear elevation of no.35, and the cumulative impact including the rear building line of the house, would have an adverse impact on the amenity of occupants of no.35, in particular those of the basement flat. From this level, and to a lesser extent the ground floor level the extension would lead to a loss of outlook and would appear overbearing.

#### OTHER MATTERS

4.17 There is no objection to the scheme on highway safety grounds; in this respect the application is no different to the previous two schemes at the site - the application for the two new houses and the recently approved application to increase the length of the garages.

4.18 Given the size of the building proposed it could potentially be occupied as a separate dwelling. However this could be prevented through a planning condition, which would be applied on the grounds that there would be harm to the setting/conservation area as a result of ancillary requirements.

### 5.0 CONCLUSION

5.1 Despite reducing the ridge and eaves level, around 300mm and 400mm respectively, it is maintained that the proposed development would have an adverse effect on the character and appearance of this part of the conservation area, the grade II listed building, no.35 St Mary's, and the amenity of the occupants of that building. Officers recommend refusal.

### 6.0 RECOMMENDATION: Refuse

1 The proposed garage due to its location, size and height, and considering the building line of the host dwelling, would significantly detract from the openness of the rear gardens/space behind the buildings on the northwest side of St Mary's. This open vista forms part of the historic character of the area and makes a positive contribution to both the character and appearance of the conservation area and the setting of no.35 St Mary's, which is a grade II listed building.

The proposal is therefore contrary to national planning policy contained in PPG15 which requires development proposals to at least maintain the character and appearance of conservation areas, and advises that the quality of such areas is dependent not only upon the quality of buildings, but also includes other considerations including, the historic layout of property boundaries and thoroughfares, character and materials, scaling and detailing of contemporary buildings, and vistas along streets and between buildings. The proposal also conflicts with policies GP1, HE2, HE3, HE4 and H7 of the City of York Local Plan.

2 The proposed garage building would have a detrimental impact on the living conditions of no.35, as it would be overbearing and overdominant, due to its location, size and height. As such the proposal is contrary to policies GP1 and H7 of the City of York Local Plan.

## **7.0 INFORMATIVES:**

### **Contact details:**

**Author:** Jonathan Kenyon Development Control Officer

**Tel No:** 01904 551323

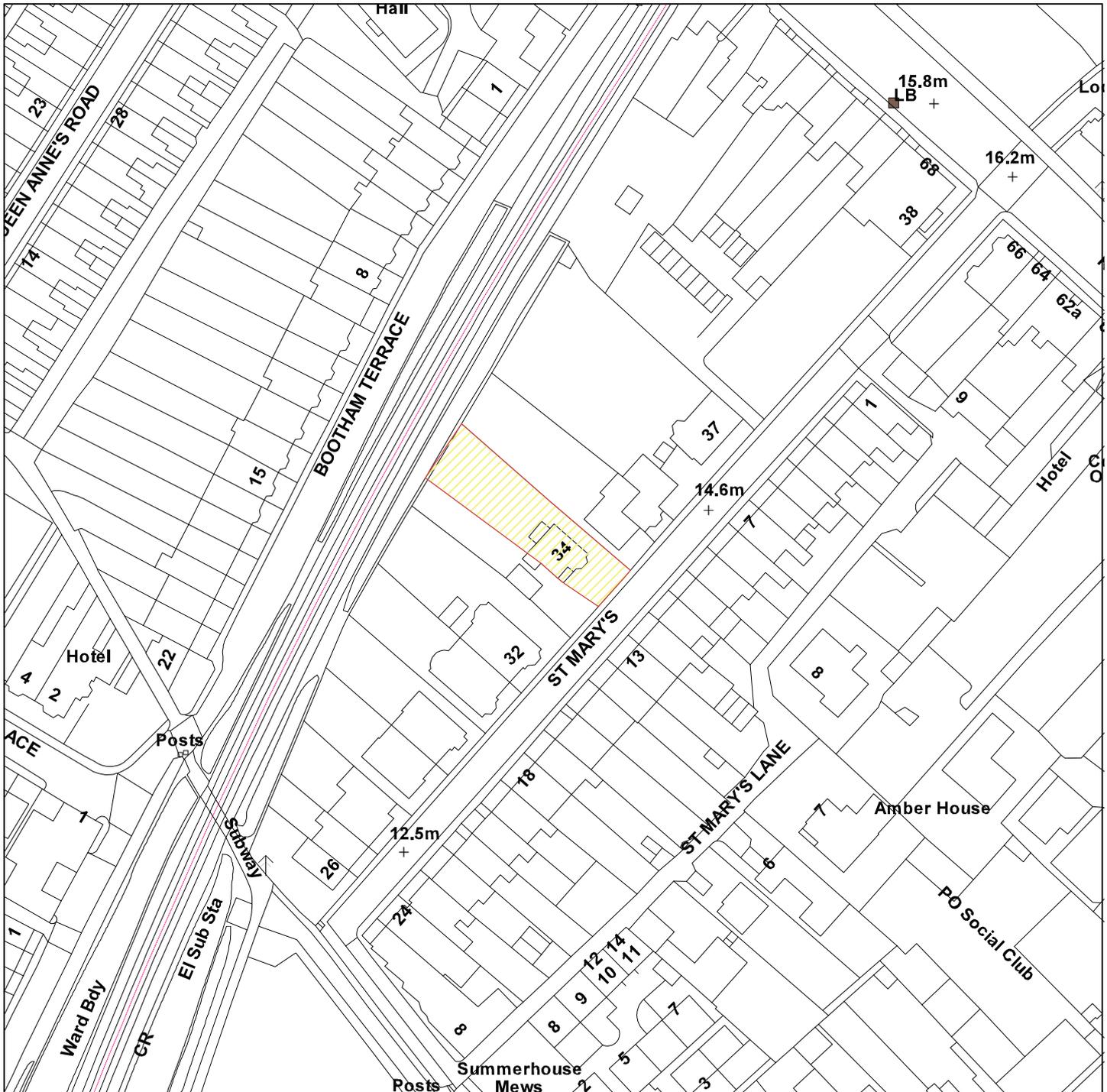
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# 34 St Marys, YO30 7DD

09/01535/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>	01 September 2009
<b>SLA Number</b>	Not set

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<b>East Area Planning Sub Committee</b>	10 <sup>th</sup> September 2009
<b>West and City Centre Area Planning Sub Committee</b>	17 <sup>th</sup> September 2009
<b>Planning Committee</b>	24 <sup>th</sup> September 2009

## **Appeals Performance**

### **Summary**

- 1 This report (presented to both Sub Committees and Main Planning Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate in the 12-month and 3 month periods to 31<sup>st</sup> July 2009 and provides a summary of the salient points from appeals determined in the 3 month period. Going forward it is intended that a quarterly report will be presented to regularly update Members on appeals determined in the previous 3-month period.

### **Background**

- 2 Appeals statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a Best Value Performance Indicator, it has been used to abate the amount of Housing and Planning Delivery Grant (HPDG) received by an Authority performing badly against the average appeals performance. To date, there has been no abatement of this Council's level of HPDG as a result of appeals performance, as performance has been close to the national average for a number of years.
- 3 Members will be aware that appeal decisions are currently circulated directly to Members when received. However the decisions are not accompanied by an analysis of appeal performance or a case summary. The summaries of appeals determined in the last 3 months to 31<sup>st</sup> July 2009 at Annex A of the report is provided following requests from Members for a precis of the relevant points for future reference in considering applications. Details as to whether the application was dealt with under delegated powers or Committee (and in those cases the original officer recommendation) is included with each summary.

- 4 As this is first appeals performance report , it contains statistics on appeals decided in the 12 months to 31<sup>st</sup> July, as well as the 3 month period as below. Whilst the Inspectorate breaks down the appeals by type in reporting performance, the table below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications, lawful development certificates. The intention is to present updates on appeal performance with summaries on a quarterly basis.

**Fig 1 : Appeals Decided by the Planning Inspectorate  
For 12 and 3 months to 31<sup>st</sup> July 2009**

	East Area		West Area		Combined	
	12 mths	3 mths	12 mths	3 mths	12 mths	3 mths
Allowed	7	0	15	3	22	3
<b>% Allowed</b>	<b>21.21%</b>	<b>0%</b>	<b>45.45%</b>	<b>50%</b>	<b>33.33%</b>	<b>27.27%</b>
Part Allowed	2	0	2	2	4	2
<b>% Part Allowed</b>	<b>6.1%</b>	<b>0%</b>	<b>6.1%</b>	<b>33.33%</b>	<b>6.1%</b>	<b>18.18%</b>
Dismissed	24	5	16	1	40	6
<b>% Dismissed</b>	<b>72.27%</b>	<b>100%</b>	<b>48.48%</b>	<b>16.66%</b>	<b>60.61%</b>	<b>45.45%</b>
<b>Total Determined</b>	<b>33</b>	<b>5</b>	<b>33</b>	<b>6</b>	<b>66</b>	<b>11</b>
Withdrawn	2	1	2	1	4	2

## Analysis

- 5 The table shows that for the year up 31<sup>st</sup> July 2009, a total of 66 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 33.33% were allowed and 6.1% part-allowed (e.g in the case of an Advertisement Consent application for a shop, an Inspector may approve a fascia sign but not a hanging sign). This rate of appeals allowed is about the current national average. However for the last 3 months of the period, the proportion allowed was 27.27%, which is a notable improvement.
- 6 Whilst the number of appeals is very similar for the two teams, there is a discrepancy between the number of appeals allowed in each area. The figures were to some extent affected by the upholding of a contentious triple appeal in the West area at Stud Farm in Middlethorpe during this period.

## Consultation

- 7 This is essentially an information report for Members and therefore no consultation has taken place regarding its content.

## Options

- 8 This is the first information report on appeals, and so whilst in future there will be no specific options provided, views are sought here as to the content, frequency and format of future reports as follows: -

Option A - Receive quarterly reports with the annex of case summaries as presented (recommended).

Option B - Receive reports in an amended format, as may be resolved by Members, with different performance information and/or frequency e.g. 6 monthly.

Option C - Do not receive future appeals performance reports.

### **Corporate Objectives**

- 9 The report is relevant to the furthering of the Council's objectives of making York a sustainable City, maintaining its special qualities, making it a safer city, and providing an effective organisation with high standards.

### **Implications**

- 10 Financial – There are no financial implications directly arising from the report
- 11 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information
- 12 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 13 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

### **Risk Management**

- 14 In compliance with the Council's risk management strategy, there are no known risks associated with the recommendations of this report.

### **Recommendation**

- 15 That Members agree to Option A, to approve the format, content and frequency of this update report.

Reason: So that Members can continue to be appraised of appeal decisions within the CYC area and be informed of the planning issues surrounding each case for future reference in determining planning applications.

## Contact Details

**Author:**

Jonathan Carr,  
Head of Development Control  
Directorate of City Strategy

**Chief Officer Responsible for the report:**

Mike Slater  
Assistant Director Planning & Sustainable  
Development, Directorate of City Strategy

01904 551303

**Report Approved**

**Date**

28<sup>th</sup> August 2009

**Specialist Implications Officer(s)** None.

**Wards Affected:**

**All**

 Y

**For further information please contact the author of the report**

Background Papers: None

Annexes: Annex A – Appeal cases Summaries

**ANNEX A****Appeal Summaries for Cases Determined 1<sup>st</sup> May 2009 to 31<sup>st</sup> July 2009**

**Application No:** 08/01238/FUL  
**Appeal By:** Mr Daniel Scott  
**Proposal:** Two storey side extension and single storey rear extension with skylight after demolition of existing garage  
**Site:** 2 The Covert York YO24 1JN  
**Decision Level:** Delegated

Delegated refusal of an application for a single storey rear extension and a two-storey side extension to a two storey semi-detached house. The proposed side extension was not subservient to the existing property in terms of massing and scale and was considered to be too large and dominant when viewed in the street scene contrary to policy H7 and the Householder Design Guide SPG.

The Inspector considered that the design objectives behind the SPG were laudable but that it was difficult to achieve consistency against the background of the variety of design that he had seen within the estate. He opined that the cul-de-sac was symmetrical and the proposed design would match that of the semi on the other side of the street; the proposed design would therefore assist in creating a balanced approach to the cul-de-sac as a whole. He concluded that the extension would not have a detrimental impact on the appearance of the dwelling or wider street scene. He added that there would be other situations within the estate, where such an approach would not be appropriate and he did not consider that allowing the present proposal undermined the importance of the SPG.

**Appeal Allowed.**

**Application No:** 08/02281/FUL  
**Appeal By:** Ms Tracey Sinclair  
**Proposal:** Single storey rear extension, two no. rear dormers and rooflight windows to front and rear  
**Site:** 63 Huntington Road York YO31 8RL  
**Decision Level:** Delegated

Delegated refusal of an application for a single storey rear extension, two no. rear dormers and front and rear roof lights at a two-storey terraced house. The refusal reason concerned the siting of the two dormers in the rear roof slope which were considered to be incongruous and harmful to the character and appearance of the conservation area.

The Inspector considered that, viewed from Diamond Street, the uniformity of the unaltered roofs was a pleasing part of the character of the conservation area and that there would have been a sound case for resisting any dormer windows in the roof slope. However, he noted that permission had been granted for a single dormer window by an earlier permission and that this introduced the principle of dormers in the terrace and undermined the Council's case. The two dormers would introduce a degree of symmetry that a single dormer would not and as such the proposal would not be harmful to the character and appearance of the conservation area. **Appeal Allowed**

**Application No:** 08/01962/FUL  
**Appeal By:** Mr Raymond Fresson  
**Proposal:** First floor front extension over existing garage  
**Site:** 18 College Road Copmanthorpe York YO23 3US  
**Decision Level:** Delegated

The detached dwelling lies within a row of similar dwellings, with a strong building line, all of which have small single storey front extensions in place. The application sought a first floor front extension over existing garage. The reasons for refusal were: The proposal would be an unsympathetic addition to the front elevation of this detached dwelling. The massing of the proposal would not harmonise with the uniformity of surrounding buildings and would be unacceptable having a detrimental impact on the host dwelling and the visual amenity of the surrounding area and that which neighbouring residents could reasonably enjoy.

The Inspector noted that there are a variety of dwelling types in the street with no predominant house type or pattern. Several of these have been previously extended. Whilst the proposed extension would bring the first floor elevation forward by 1.8m the ground floor building line would be retained. It was not considered that the proposal would have a significantly harmful effect on the street scene. The design is considered sympathetic to main dwelling. **Appeal Allowed.**

**Application No:** 08/02274/FUL  
**Appeal By:** Mr Patten  
**Proposal:** Two storey side extension and first floor extension to part of the existing dwelling (resubmission)  
**Site:** Knoll Cottage Cinder Lane Upper Poppleton York  
**Decision Level:** Delegated

The appeal was determined by the method of written representations

The key issues were identified as: whether the proposal was inappropriate development in the Green Belt, the effect of the proposed development on the openness of the Green Belt, the effect on the character and appearance of the surrounding area and the Green Belt and whether harm by reason of inappropriateness would be outweighed by other considerations so as to amount to very special circumstances to justify the development.

The application for a substantial two storey extension to an essentially single storey property had previously been refused as having a detrimental impact upon the local street scene and being inappropriate development in the Green Belt by virtue of its scale and design.

The inspector having weighed up the case put forward by the appellant notably the nature and scale of recent and proposed development in the vicinity, decided to dismiss the appeal on the basis that the proposal by virtue of its scale and design represented inappropriate development within the Green Belt and additionally had a materially adverse impact upon the openness of the Green Belt and the character and appearance of the surrounding area. **Appeal Dismissed.**

**Application No:** 08/01478/FUL  
**Appeal By:** Mr Peter Addyman  
**Proposal:** Three storey rear extension, including external steel staircase. Also detached double garage  
**Site:** 15 St Marys York YO30 7DD  
**Decision Level:** Delegated

The application related to a 4-storey (including basement) terraced house in the conservation area. A rear extension covering just over half the width of the house a 2-storey extension was proposed at ground and first floor level, which would extend outward 3.4m. A smaller element was also proposed at ground floor level. Although the extensions were described as single and two-storey, in appearance they were taller as the ground floor level immediately outside the house was at basement level.

The rear of the house had an ordered and simple form, as it had not been extended and due to the arrangement and design of windows. Also within the terrace predominantly there were no extensions at the height proposed which interrupted the building line, although there were some old extensions which were prominent and detracted from the appearance of the terrace.

The application was refused as due to the shape, detailing and scale of the extension, it would detract from the appearance of the house and the terrace. Also as the taller extension was adjacent the side boundary, it would be overbearing and overdominant over the neighbour.

The inspector ruled :-

- Due to the size of the extension it would appear 'obtrusive' & 'dominant'.
- The window design and arrangement would 'complicate and clutter' the rear elevation.
- Despite no objection from the neighbours (flats), the extension due to its height and projection from the building would be overdominant & overbearing. **Appeal Dismissed.**

**Application No:** 08/02546/ADV  
**Appeal By:** Mr Tony Pinkstone  
**Proposal:** Display 2 No. externally illuminated built up logo signs, 1 No. double sided externally illuminated projecting sign and 2No. internally illuminated poster cases (resubmission).  
**Site:** Tru Nightclub 3 Toft Green York YO1 1UA  
**Decision Level:** Delegated

Consent was refused for a side hung sign and 2 internally illuminated poster cases.

Signage is low key on this street and it was considered the projecting sign, due to its modern design would detract from the appearance of the area and the overall amount of signs and illumination made them over dominant. The inspector agreed that the hanging sign harmed the appearance of the building / street, and that a more traditional sign would be more appropriate.

Because there were only 2 poster cases on the premises, their size was restrained and the illumination subtle, the inspector found these were an appropriate means of advertising upcoming events and did not detract from the appearance of the building or area.

**Appeal Part Allowed (poster cases) Part Dismissed (hanging sign)**

**Application No:** 07/01843/CLU  
**Appeal By:** Barbara Wood  
**Proposal:** Lawful Development Certificate for the existing use of the riverbed as residential boat mooring and use of riverbank as residential curtilage with uses ancillary to boat mooring  
**Site:** M V Gringley Fulford Reach Mooring St Oswalds Road York YO10 4PF  
**Decision Level** Delegated

CYC had issued a Certificate for the residential mooring for one houseboat but refused to certify that the adjacent riverbank could lawfully be used for purposes ancillary to the boat mooring. The site had the appearance of a yard and garden with a car, domestic storage and other domestic paraphernalia associated with the houseboat. Submitted evidence including Council tax records showed occupation of the houseboat since 1997.

The Inspector felt a distinction between the to continuous use of the mooring for domestic purposes since 1997 as opposed occasional, casual use, was required to demonstrate a lawful use. Submissions including photos suggested since 2003. Evidence from the Parish Council and a local resident convinced the Inspector that before 2000, the moored boats here were largely screened by vegetation and that a garden did not fully develop until 2003. Further photographs taken in 1999 showed the appellant's houseboat moored elsewhere along the river. The inspector concluded that the appellant did not occupy the mooring with continuously prior to 2000, and so the residential use of the land adjoining mooring cannot have been continuous. **Appeal Dismissed.**

**Application No:** 08/02559/FUL  
**Appeal By:** Mr Martyn Inwood  
**Proposal:** Erection of detached dwelling (resubmission)  
**Site:** Stockton Lodge Sandy Lane Stockton On The Forest York YO32 9UT  
**Decision Level** Delegated

This application proposed the erection of a detached, 1.5-storey, 5-bedroom dwelling with attached, pitch-roofed double garage. Access would be from Sandy Lane via an existing crossover, which would continue to be used for accessing the agricultural land to the rear. The proposal was refused on the grounds that, its size, scale, design and narrow, back land location result in an over-prominent and incongruous form of development that would be out of keeping with the character and appearance of the street scene, contrary to Central Government advice in Planning Policy Statement 1: "Delivering Sustainable Development" and Planning Policy Statement 3: "Housing" and policies GP1, GP10 and H5a.

The inspector agreed that the applicant had failed to demonstrate that the site could not accommodate two dwellings, and therefore should not provide for a level of affordable housing. The inspector considered that the outstanding drainage issues could be conditioned, and open space provision secured through a section 106, or unilateral undertaking. However, she did not consider that would outweigh the harm to the character and appearance of the surrounding area, and the implications for affordable housing provision. **Appeal Dismissed.**

**Application No:** 08/01844/FUL  
**Appeal By:** Mr Martin Cockerill  
**Proposal:** Extension to existing farmhouse to form self contained living accommodation for employee  
**Site:** Providence Farm Stamford Bridge Road Dunnington York YO19 5LQ  
**Decision Level** Delegated

Application was refused on the grounds that the proposal represented inappropriate development in the Green Belt due to the disproportionate size of the extension over and above the size of the original building and that this harmed the openness of the Green belt. Appellants argued that the footprint was not increasing and that the first floor extension merely filled in a gap that was unseen anyway from public views. It was also claimed that greater weight should be attached to the need for the extension because it was required in connection with a full time stud manager who could foal the horses at short notice or in case of emergency.

Council argued that this did not represent Very Special Circumstances and that the appellant had not provided sufficient information to prove this need. With regard to the impact on the green belt the Council argued that whilst the footprint of the property was not increasing the first floor extension extended the ridge line of the house and that if filled an otherwise quite extensive gap between the appeal building and a two storey barn next door, so extending the built form of the site. The Council disagreed that this extension could not be seen from public views and showed the Inspector from where the extension would be visible. The Inspector agreed with the Council on all points and dismissed the appeal. **Appeal Dismissed.**

**Application No:** 09/00082/FUL  
**Appeal By:** Mr Anthony Clarke  
**Proposal:** Raise roof to create second floor extension (resubmission)  
**Site:** 37 St Marks Grove York YO30 5TS  
**Decision Level** Delegated

This application proposed the extension of 37 St. Marks Grove through the addition of a second floor and a side dormer. The dwelling had previously been extended through a two-storey side extension, which created two additional bedrooms bringing the total to five. It was considered that the proposed raised roof extension with dormer would, by virtue of its design and height, harm the character and appearance of the street scene. St. Marks Grove is characterised by dwellings of a consistent design and scale located within a rhythmic pattern. The proposed extensions were considered to upset the balance of the street scene through the addition of an incongruous design feature on a dwelling, which follows the design principles of the surrounding area.

The inspector considered the key issue in this case was the effect of the proposed development on the character and appearance of the street scene. She considered that, as the extension would result in both the eaves and ridge height being notably higher than surrounding dwellings, it would impact adversely on the streetscene. She did not afford full weight to policies GP1 and H7, given the status of the local plan. However, she did consider the proposal would conflict with Government advice in PPS1. *Delivering Sustainable Development.* **Appeal Dismissed.**

**Application No:** 08/00181/FUL  
**Appeal By:** Mr Kevin Marsden  
**Proposal:** Erection of 2 no. two storey pitched roof detached dwellings after demolition of existing dwelling and garage  
**Site:** 8 Hall Rise Haxby York YO32 3LP  
**Decision Level:** Committee (Officer Recommendation Approve)

This application was refused on the grounds that its siting, design, external appearance and materials of construction would constitute a form of development that would be incongruous, out of keeping and inappropriate in its context. As such, the visual appearance and amenity of the area would be compromised by the development.

The Inspector agreed with the Council's reasons for refusal. In his opinion, although this is a corner site and the degree of prominence is somewhat reduced on the Station Road frontage by the existing trees and vegetation, the plot facing Hall Rise would be clearly visible from Station Road junction and from Hall Rise. In the context of the area he considered that the proposed design and external materials conflict with those of neighbouring properties and introduce a style and design that is out of keeping with the character of the area. The scale of the development would also be visible and incongruous when viewed alongside neighbouring development. Hence the inspector concluded that the proposal would be harmful to the character and appearance of the area and contrary to the aims of policy GP1 of the draft local plan. **Appeal Dismissed.**