



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: Monday, 14 December 2009

Time: 3.00 pm

Venue: The Guildhall, York

AGENDA

Site visits – Members should meet at 1 Gray’s Court at 10.00am on Friday 11th December 2009. There will be a bus for the remaining visits.

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 - 12)

To approve and sign the minutes of the meeting of the West & City Centre Area Planning Sub-Committee held on Thursday 19 November 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 5:00pm the working day before the meeting, in this case **5.00pm on Friday 11th December**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

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

4. Plans List

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

- a) **1 Grays Court, York, YO1 7JH (09/01099/FUL)** (Pages 13 - 26)
Construction of new electrical substation and associated service ducts. [*Guildhall Ward*] [**Site Visit**]
 - b) **3 Acomb Road, York, YO24 4EN (09/01851/FUL)** (Pages 27 - 34)
Change of use to a mixed use comprising café and hot food take-away. [*Holgate Ward*]
 - c) **12 Dee Close, York, YO24 2XP (09/02004/FUL)** (Pages 35 - 44)
Single storey rear extension, porch to front (resubmission). [*Dringhouses and Woodthorpe Ward*] [**Site Visit**]
 - d) **30 Top Lane, Copmanthorpe, York (09/01702/FUL)** (Pages 45 - 52)
Extension to front, side and rear, raise height of building to create additional accommodation including rear dormer windows and additional vehicle access [*Rural West York Ward*] [**Site Visit**]
 - e) **Garages To The Rear Of 11 To 21 Holly Bank Grove York (09/01910/FUL)** (Pages 53 - 76)
Erection of 8no. two storey dwellings (including accommodation in roof - resubmission) [*Holgate Ward*] [**Site Visit**]
5. **Appeals Performance and Decision Summaries.** (Pages 77 - 90)

This report informs member's of the Council's performance in relation to appeals determined by the Planning Inspectorate in the 3 month period up to 31st October 2009 and provides a summary of the salient points from appeals determined in that period.

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

Democracy Officers:

Name: Catherine Clarke and Louise Cook (job share)

Contact Details:

- Telephone – (01904) 551031
- E-mail – catherine.clarke@york.gov.uk and louise.cook@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
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- Copies of reports

Contact details are set out above.

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

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WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE

SITE VISITS

Friday 11 December 2009

**Members should meet at 1 Gray's Court at 10.00am.
There will be a bus for the remaining visits**

TIME (Approx)	SITE	ITEM
10.00	1 Gray's Court, Chapter House Street	4a
10.30	30 Top Lane, Copmanthorpe	4d
11.00	12 Dee Close	4c
11.30	Garages rear of 11 to 21 Holly Bank Grove	4e

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City of York Council

Committee Minutes

MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	19 NOVEMBER 2009
PRESENT	COUNCILLORS HORTON (CHAIR), SUE GALLOWAY (VICE-CHAIR), CRISP, STEVE GALLOWAY, GALVIN, GILLIES, REID, SUNDERLAND AND B WATSON

30. INSPECTION OF SITES

The following site was inspected before the meeting.

Site	Attended by	Reason for Visit
St George's Hotel, 6 St George's Place	Councillors Crisp, Gillies, Horton, Reid and Brian Watson.	As objections had been received and the officer recommendation was for approval.

31. 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.

Councillor Reid declared a personal and prejudicial interest in Plans items 4b (Harewood Whin Landfill Site, Tinker Lane, Rufforth (09/00460/FUL)) and 4c (Harewood Whin, Tinker Lane Rufforth (09/01589/FUL)) as the Council's representative on Yorwaste. She left the room for these items and took no part in the debate or voting on the applications.

32. MINUTES

RESOLVED: That the minutes of the meetings of the West and City Centre Area Planning Sub Committee held on 17 September and 22 October 2009 be approved and signed by the Chair as a correct record.

33. PUBLIC PARTICIPATION

There were no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

34. 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.

**34a St George's Hotel, 6 St George's Place, York, YO24 1DR
(09/01514/FUL)**

Members considered a full application, received from Mrs C Livingston, for the demolition of an existing garage and the erection of a single storey detached annex, a single storey detached store to the rear and the extension of the car parking area.

Officers updated that they had received an email from a resident of Moorgarth Avenue. The resident raised concerns at the close proximity of the proposed annex and they reiterated their objections in relation to noise and loss of privacy.

Representations were received from three neighbours in objection to the application. The first confirmed that he had lived in his property adjacent to the site for 50 years during which time he had seen a number of conversions of outbuildings in the vicinity of the site. He felt that the scale of these proposals constituted backfilling and would set a precedent. The second neighbour stated that the development would affect the openness of his garden and affect his enjoyment and privacy. The third resident from Moorgarth Avenue, at the rear of the site, confirmed his neighbour's objections to the scheme. He also referred to the level of noise, which would emanate from the site both during and after construction.

Representations were received from the applicant's agent in support of the application. He confirmed that he had worked with the Planning Officers to amend the design of the property to reduce any overlooking or loss of privacy that would harmfully affect adjacent properties. He stated that the development would be low level, single aspect and environmentally friendly with a green roof and with as much green space as possible being retained.

Members questioned the height of the site boundary wall and whether the additional accommodation would be tied to the hotel use.

Certain Members expressed concern at the proposal to erect a bungalow as a separate dwelling in the rear garden of the property. They felt that this could set a precedent, as this was no longer an annex to the hotel but a 2-bedroom bungalow.

Cllr B Watson then moved and Cllr Reid seconded that the application be refused on the grounds of overdevelopment of the site and as inappropriate development in the Conservation Area. On being put to the vote this motion was lost.

Following further discussion it was

RESOLVED: That the application be approved subject to the conditions set out in the report. ¹.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- Principle of the proposed uses
- Visual impact- design, conservation area and natural environment
- Residential amenity
- Sustainability
- Car parking, Highway Safety
- Flood risk

As such, the proposal complies with Policies GP1, GP4a, GP15, HE2, NE1, H4a, H5a, of the City of York Development Control Local Plan; and national planning advice contained within Planning Policy Statement 1 "Delivering Sustainable Development;" Planning Policy Statement 3 "Housing;" and Planning Policy Guidance Note No.15 " Planning and the Historic Environment. "

Action Required

1. Issue the decision notice and include on the weekly planning decision list within the agreed timescales.

MM

34b Harewood Whin Landfill Site Tinker Lane Rufforth York YO23 3RR (09/00460/FUL)

Members considered a full application from Yorwaste Ltd (Mr Mark Hall) for the retention of the existing compost pad extension.

Officers reminded the Sub-Committee that this application had been deferred at their July meeting to examine whether there was a need to undertake a formal Environmental Impact Assessment (EIA) under Schedule 2 of the 1999 Town and Country Planning Act and to consider further concerns in respect of the volume of green waste passing through the site. Officers confirmed that a screening exercise had been undertaken to determine whether an EIA was required. It was the opinion of both Planning and Environmental Protection Unit Officers that the environmental impact of the temporary extension was not materially different from the existing operation and that a formal EIA was not required. It was confirmed

that additional conditions had been incorporated into the report to prevent nuisance being caused to local residents.

Representations were received from a representative of Rufforth and Knapton Parish Council in objection to the application. He confirmed that since the earlier deferral of this application the Parish Council had visited the Environment Agency and contacted the Planning Department regarding their concerns. He stated that they had grave concerns that the compost pad extension was too small and that the environmental impact of such a massive composting facility had not been properly dealt with. He went on to request Members to include conditions in any approval which:

- restricted the capacity of the pad to 5,000 tonnes to comply with the existing license;
- required an Environmental Statement for current and proposed operations;
- asked that green waste suppliers from outside the area made their own arrangements for composting and
- asked Yorwaste to produce projections of their green waste including areas of origin and disposal.

Representations were then received from the applicant in support of the application. He pointed out that this application was for an extension to an existing compost pad for a temporary period pending completion of the new facility at the southern edge of the site. He confirmed that an odour management scheme had been prepared but pointed out that it was difficult to accurately forecast the volumes of green waste that would pass through the site, as there was a high variance throughout the year.

The Local Member expressed concern that the need to undertake an EIA was based on individual applications rather than assessment of the overall site. He pointed out that there had been a material change to what had been envisaged for this site when permission was originally granted and he asked for further safeguards for residents.

In answer to Members questions an Officer of the Environmental Protection Unit confirmed that the odour management scheme would control any odour from the green waste and that a condition to this effect had been included in the conditions.

It was then moved by Cllr B Watson and seconded by Cllr Gillies that permission be granted for the compost pad extension for a 2 year period subject to a limitation of 70,000 tonnes, per year, being put on the amount of green waste processed at the site. On being put to the vote this motion was lost.

It was then

RESOLVED: That the application be approved subject to the imposition of conditions listed in the report.¹

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed, would not

cause undue harm to interests of acknowledged importance, with particular reference to the impact of the proposal on the open character and purposes of designation of the York Green Belt, the impact of the proposal upon the residential amenity of nearby properties by virtue of odour/bio aerosol, noise and traffic generation, the proximity principle, impact of the proposal on the local surface water drainage pattern and the retrospective nature of the development. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policies GB1 and MW5 of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

Action Required

1. Issue the decision notice and include on the weekly planning decision list within the agreed timescales.

MM

34c Harewood Whin Tinker Lane Rufforth York YO23 3RR (09/01589/FUL)

Members considered a full application from Yorwaste Ltd (Mr Mark Hall) for the variation of conditions 9 and 10 of planning application 08/002426/FULM to allow the delivery of fuel to the Bioflame plant and to extend the period of operation.

Officers circulated details of Conditions 9 and 10 as issued under the original Planning Application 08/002426/FULM:

9. Notwithstanding the application details hereby approved the biomass power plant shall remain ancillary to the waste disposal activity currently taking place at the site under planning permission 00/02689/FUL and no dedicated deliveries of fuel for the plant shall take place without the prior written authorisation of the Local Planning Authority.

Reason: To safeguard the character and amenity of the York Green Belt and to secure compliance with Policy GP1 of the York Development Control Local Plan.

10. In the event of the Biomass Plant permanently ceasing to operate or in the event of landfilling operations at Harewood Whin ceasing, all plant, associated structures and buildings shall be removed from the site and the land shall be restored in accordance with the previously approved scheme of restoration for the Harewood Whin site within six months of the cessation of operations.

Reason: To safeguard the character of the site in the interests of visual amenity and to secure compliance with York Development Control Local Plan Policy GB1.

Officers also confirmed that, as this proposal was considered to be inappropriate development in the Green Belt under PPG2, the applicant had put forward “very special circumstances” to justify the location of the proposal within the Green Belt.

Representations were received from a representative of Rufforth Parish Council who confirmed that the Parish Council were not against this proposal. He reminded the Sub-Committee that the Parish Council wished to see the end of waste related activities on the site by 2017 and the restoration of the site with an agreed landscaping scheme.

Representations were received from the applicant in support of the application. He confirmed that the modification of these conditions was to allow for the operation of the plant to continue for a further 10 years from it’s commissioning and to allow for the delivery of fuel to the site from outside sources. He stated that the number of vehicle movements to the site would be less environmentally damaging than that taking place at present.

Members stated that rather than receiving applications piecemeal for the site that it would be useful if the applicants could provide an outline of their future proposals. They also questioned whether a commissioning date should form part of any approval.

Following further discussion it was

RESOLVED: That the application be approved subject to the imposition of the conditions listed in the report and to the Assistant Director (Planning and Sustainable Development), in consultation with the Chair and Vice Chair, being delegated authority to agree and incorporate the commissioning date of the development in the decision notice.¹

REASON: 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 open character and purposes of designation of the Green Belt, impact of the proposed chimney stack on the visual amenity of the adjoining countryside, impact of the proposal on air quality and emission levels in the in the surrounding areas, cumulative impact upon amenity taken together with other activities taking place at the site, impact upon traffic volumes using the surrounding road network, impact upon the level of waste materials disposed to landfill and the contribution of the proposal to meeting energy need from sustainable sources. As such the proposal

complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policies MW5, GB1, of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

Action Required

1. Following agreement and inclusion of a commissioning date in the decision notice, issue the notice and include on the weekly planning decision list within the agreed timescales.

MM

Councillor D Horton, Chair

[The meeting started at 3.00 pm and finished at 4.35 pm].

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COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Guildhall
Date: 14 December 2009 **Parish:** Guildhall Planning Panel

Reference: 09/01099/FUL
Application at: 1 Gray's Court York YO1 7JH
For: Construction of new electrical substation and associated service ducts
By: Mr John Edwards
Application Type: Full Application
Target Date: 30 July 2009

1.0 PROPOSAL

1.1 This application is presented to the West/Centre Planning Committee for a determination at the request of Councillor Brian Watson due to its potential impact on the setting of adjacent listed buildings and the character and appearance of the conservation area.

1.2 The application seeks planning permission for an electricity sub-station within the grounds of No.1 Gray's Court, a Grade I Listed Building within the Central Historic Core Conservation Area. It would serve the property and the wider area of the Minster Precinct.

CONTEXT

1.3 No. 1 Gray's Court lies within the Minster Precinct and is bounded by the City Walls. This area has an outstanding collection of important buildings, with over 40% of its listed buildings listed at Grade I or II,* (this compares to the national average of less than 10%). The adjacent City Walls are scheduled as an ancient monument.

1.4 Minster Court, the Treasurer's House and No. 1 Gray's Court form a significant group of early buildings once associated with the Minster. Together Treasurer's House and No. 1 Gray's Court enclose a courtyard approached from Chapter House Street. The expansive gardens to the rear of these buildings form an extensive open area of landscaped gardens which contrast with the tight-knit built environment of the city centre. In his " Buildings of England" series (Yorkshire: York and the East Riding), Pevsner describes the view from the court as being " open to a beautiful garden and the city wall beyond. "

1.5 The Minster Precinct has lost its sense of separateness to the south of the Minster as demolitions and new road connections have resulted in the loss of the gated precinct. However to the north between Dean's Park and the City Walls, the historic seclusion remains; experienced in the outstanding sequence of panoramic views from the City Walls over green areas and large gardens towards the Minster.

This part of the conservation area is away from the commercial activity of the walled city.

1.6 In its recent history following WWII, Gray's Court was leased to St John's College to house teaching departments and associated offices. In 2006, Members may recall that planning permission and listed building consent were granted to create one private dwelling with bed and breakfast accommodation and one self-contained holiday flat within the structure (LPA Refs. 05/02557/FUL and 05/02583/LBC).

PROPOSAL

1.7 The current proposal for the electricity sub-station would be sited within the grounds of Gray's Court, close to the city wall and the former coach house. The applicant states in the submitted Design and Access Statement that the electricity supply company CE Electric UK requires a new sub-station to be built within the site to serve the development of the property and the wider area around the Minster Yard. The proposed sub-station would be sited just over 1 metre (not 4 metres as stated in the submission) from the City Walls on part of a landscaped area/ driveway that separates the access to the coach house from the City Walls. The footprint of the structure would measure 4 metres x 4 metres, and it would be 4 metres high. It would be constructed in facing brick, with a natural clay tiled roof, and painted doors and timber louvres. There would be associated earthworks for trenching leading to the substation and within the substation. The building would be surrounded by a gravel hardstanding.

1.8 Scheduled Ancient Monument Consent was granted by English Heritage on 20 May for the electricity sub-station, associated service trenches and below ground drainage subject to conditions that included the following conditions-

CONDITION (iv)- The proposed sub-station shall be constructed of those materials to provide a match for the existing garden building

CONDITION (viii)- Excavation of the footings shall be restricted to a depth not exceeding 800mm and the excavation of the central trench shall be restricted to a depth not exceeding 900mm. The height of the entire sub-station structure shall be the minimum necessary.

1.9 Members are also advised that the Local Planning Authority has been involved in previous discussions regarding the supply of electricity in the area. Since July 2008, officers have been involved in the Minster's search for a new sub-station to improve the provision of electricity to the Minster and St Williams's College and to allow replacement cabling to the Minster that is required for health and safety reasons. A number of sites have been considered, and a site at Stone Mason's Yard is now at an advanced stage of discussions with CE Electric UK and the historic and amenity bodies prior to the submission of a planning application. It is intended that this facility would have the capacity to serve the Minster Precinct, and would be funded by the Minster. At the time of writing, the electricity supplier in the area, CE Electric UK, has advised that they have not been provided with details for a sub-

station at Gray's Court nor been asked to quote for a supply to Gray's Court from any new sub-station funded by the Minster.

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

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

Listed Buildings GMS Constraints: Grade 1; City Walls Bootham Bar To Monk Bar 0577

Scheduled Ancient Monuments GMS Constraints: SMR 13280 York Minster Precinct Inc. Section Of City Walls

Schools GMS Constraints: St. Wilfrid's RC Primary 0230

2.2 Policies:

CYHE9
Scheduled Ancient Monuments

CYHE4
Listed Buildings

CYHE2
Development in historic locations

CYHE10
Archaeology

CYGP1
Design

CYHE11
Trees and landscape

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections.

Environmental Protection Unit

3.2 Further information is required from the applicant to demonstrate that the construction material of the sub-station would be sound absorbing such that the low frequency sound pressure emitted by the transformer at full load would only be audible within a metre of the housing unit.

Design, Conservation and Sustainable Development (Conservation Architect)

3.3 Objections

Design, Conservation and Sustainable Development (City Archaeologist)

3.4 The groundworks for the proposed sub-station would disturb or destroy archaeological features and deposits which relate to the development of the legionary fortress. No objections to the impact on buried archaeological deposits subject to a recording condition that relates to the construction of the sub-station, associated services and trenches, in accordance with the requirement in the Scheduled Monument Consent letter of 20 May 2009. Would not support the location of the structure, its scale and its relationship to the City Walls.

EXTERNAL

Guildhall Planning Panel

3.5 No objections but consider that the siting would be uncomfortably close to the City Walls and any features aiding blending into the landscape would help e.g. having green pantiles rather than a red roof.

English Heritage

3.6 The application site lies within the Scheduled Monument of the Minster Precinct, a multi-period site containing a number of nationally important monuments. Considered that the archaeological impact of the provision of a sub-station for Gray's Court could be mitigated by a scheme of archaeological recording during the works, whilst the fabric of the sub-station building should match that of the existing garden building to the north-west.

National Trust

3.7 Object as the proposal would affect one of the most iconic views of the city; the inter-visibility between the Treasurer's House and the City Walls. Highly visible from the nearby National Trust herb garden and the Treasurer's House. The apex of the roof and the proximity of the structure would rise half way up the railings and be visible to walkers of the Walls. Although the design of the structure would reflect existing garden buildings, it would be incongruous in such a sensitive location - off-set double garage doors and proliferation of warning signs. Note in the Scheduled Ancient Monument Consent for the ground works that there would be significant disruption to archaeology within the courtyard area, driveway and site. Disappointed

that alternative, less sensitive sites for the location of the building have not been openly considered. Consider the proposal would be contrary to Policy HE2 and HE9 of the Local Plan.

Civic Trust

3.8 Considers that there was confusion over pre-application advice for the proposal, raises questions about the scope of control of scheduled ancient monument consent, questions the need for a substation in this location if applicant does not intend to operate bed and breakfast operation. Considers that the proposal to operate a tea garden between the house and the Walls would be wholly unacceptable. The iconic view to the Minster from the City Walls would not be preserved or enhanced by any additional structure or inappropriate use of the garden in front of Gray's Court.

Other Representations

3.9 The application was advertised in the local press, near neighbours were consulted by letter, and site notices were displayed on the City Walls and on Chapter House Street. Thirty three representations and have been summarised into the following issues:

LOCATION

- Should be located closer to Minster and away from more densely populated area
- Site is not a suitable location for service provision for the Minster Precinct
- Inappropriate in a historical area, especially when seen from City Walls and surrounding properties; as such contrary to local plan policy HE2
- Should not be sited so close to protected buildings
- Better screened site location than garden area
- Would create a precedent in the area for developments close to City Walls
- Prejudicial to development of Monk Bar Garage site on Lord Mayor's Walk for residential purposes
- Impact on the amenity of walkers, joggers, tourist economy
- Location on landscaped edge of City Walls would erode and devalue the setting of the City Walls, proposed building would have no historic relevance to Walls

HEALTH CONCERNS

- No technical details about the installation
- Inappropriate in densely populated area near historic monuments- exploding; terrorism, vandalism. lightning strikes
- Not proven that there would be no harm to health
- Limit incoming voltage and megawatt capacity in densely populated residential area
- Impact assessment should have been carried out

DESIGN

- Eyesore, visually intrusive

- Poor match to existing garden structure
- Apex roof would be higher than City Wall and too close to it
- Tempting ingress point for vandals and criminals
- Contrary to Policy HE2 of the Local Plan

NOISE, POLLUTION/ LIVING CONDITIONS

- Low hum would be annoying to residents
- Disturbance during construction works

RADIO AND INTERFERENCE

- Poor TV reception would be aggravated

NEED

- Existing large 440v 3-phase supply in Ogleforth could be extended to serve Gray's Court
- Jeopardise historic walls and visual amenity of monument for applicant's own electricity needs
- No electricity supporting information
- No exceptional overriding circumstances have been demonstrated

OTHER

- Question validity of scheduled monument consent
- Incorrect information on application form misrepresents the position and consultation process
- Applicant has serious conflict of interest as an employee of the National Trust
- English Heritage comments are misleading, inaccurate and fail to address crucial aspects- location: commented on singular view from the Walls and not other views; any negative impact should be grounds for refusal; 2 garden buildings would not be read as a pair as 40 metres apart and separated by trellising and landscaping; works would not be reversible; need is not an issue that should be considered.
- Premature given the current liaison with the Dean and Chapter at the Minster about other sites for sub-stations

4.0 APPRAISAL

4.1 KEY ISSUES:

- proposed sub-station land use
- visual impact
- historic environment: archaeology and city walls
- living conditions of neighbours
- highway safety.

POLICY GUIDANCE:

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

4.3 Central Government advice in relation to listed building control is contained within Planning Policy Guidance Note 15: "Planning and the Historic Environment" (PPG15) seeks to ensure that the special characteristics of listed buildings and conservation areas are not adversely affected by inappropriate developments.

4.4 Planning Policy Guidance Note No. 16 " Archaeology and Planning " sets out the government's policy on archaeological remains on land, and how they should be preserved or recorded both in an urban setting and in the countryside. There is a presumption against proposals that would involve significant alteration or damage to nationally important archaeological remains, or have a significant impact on the setting of visible remains.

4.5 Planning Policy Guidance Note No. 24: Planning and Noise sets out national policy on noise issues related to new development.

4.6 The relevant development plan is the City of York Council 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. It is considered that the following policies are pertinent to the application-

4.7 POLICY HE2 " Development in Historic Locations " of the City of York Development Control Local Plan (Fourth Set of Changes), approved for development control purposes on 13 April 2005 states that within or adjoining conservation areas, and in locations which affect the setting of listed buildings, development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials.

4.8 POLICY HE4 " Listed Buildings " of the City of York Local Plan relates specifically to listed buildings and states that consent for development in the immediate vicinity of listed buildings, demolition, internal and external alteration, and changes of use will only be granted where there is no adverse effect on the character, appearance or setting of the building.

4.9 POLICY HE9 " Scheduled Ancient Monuments " advises that the desirability of preserving an ancient monument and its setting is a material consideration and planning permission will not be granted for development which would adversely affect a scheduled ancient monument or its setting.

4.10 POLICY HE10 " Archaeology " seeks to ensure that development in areas of archaeological interest respects the presumption in favour of the physical preservation of remains.

4.11 POLICY HE11 "Trees and Landscape " advises that landscape which is part of the setting of conservation areas, listed buildings and scheduled monuments should be retained.

ASSESSMENT:

PROPOSED SUB-STATION LAND USE

4.12 The applicant has submitted the current application for a sub-station within the grounds of Gray's Court that would supply electricity for future developments within Gray's Court and would additionally overcome the supply problems in the Minster Precinct. The applicant has advised that when the University of Ripon and St John vacated the premises approximately 4 years ago the electrical demand from the premises significantly reduced and the capacity in the network was re-allocated to meet demand elsewhere in the area. The applicant considers that the proposed sub-station in this site is needed to address this problem and promotes the proposed site as it is available, suitable, achievable and therefore deliverable. In his opinion the site has the benefit of being well screened, Scheduled Monument Consent has been granted for the structure, the site is supported by English Heritage (Letter of 6 July 2009), and a single sub-station would minimise operational development in this historic part of York.

4.13 CE Electric UK has advised the local planning authority and the applicant that the application site is premature as considerable negotiation would be required before agreeing to this location. In operational terms, the site is the least preferred option of a number of other locations that are being considered by the electricity company because it would be highly visible, would be the remotest from existing networks, and would require considerable lengths of excavation through sensitive areas. It is considered that the Minster would be unlikely to fund a sub-station at Gray's Court. Whilst it is appreciated that there is a pressing need to increase electricity supply in the wider area, it is considered that the application is premature in view of the wider search for the most suitable location for a replacement sub-station that would meet the technical and aesthetic constraints of the historic core of York.

VISUAL IMPACT

4.14 The proposed sub-station would be sited just over 1m (not 4m as stated on the submitted drawings) from the city wall in a slim bit of land adjacent to the access to the former coach house. The coach house forms an "end-stop" to the denser, smaller grained development towards Monk Bar before the site opens up to the expansive garden that is the setting of the Grade 1 Listed Building. The sub-station would be seen an independent structure unrelated in a meaningful way to the nearby buildings and garden walls. It would be closely associated with the City Walls having

its off-centre double doors facing towards the entrance to Gray's Court and would adversely affect the setting of the Walls as seen from the listed gateway in Gray's Court and from the surrounding garden areas. The proposed structure in this location would be inappropriate and would fail to take account of the wider landscape of the conservation area and adjacent buildings. The structure would relate uncomfortably with the City Walls, would be highly intrusive in views to the City Walls and views from the City Walls and existing gardens adversely affect the setting of the listed building/structures on the site. Policy HE11 of the Local Plan requires the retention of landscapes, including gardens, that are part of the setting for conservation areas, listed buildings and scheduled monument for buildings. The proposal would be contrary to this policy and Policy HE2 of the Local Plan that requires proposals to maintain or enhance existing urban spaces, views, landmarks and other townscape elements that contribute to the character and appearance of the area. The development of this area for a sub-station would create a precedent that would result in the erosion of the very special character and interest of the area

4.15 Although the proposed sub-station would be constructed in materials that would match an existing garden building, this structure is over 40m away from the application site, is separated by walling and trellising, and is of a differing scale and mass to the proposed structure with off-centre double doors and vents that give the appearance of a sub-station or garage building. This detail aggravates the prominence of the structure in its unsympathetic location, adding to the harmful impact to the area, adjacent Walls and surrounding listed buildings further conflicting with Policies GP1 and HE4 of the Local Plan.

HISTORIC ENVIRONMENT: ARCHAEOLOGY/ CITY WALLS

4.16 Planning permission is also sought for the installation of service ducts that would involve trenching and ground disturbance. The application site lies within the central Area of Archaeological Importance, within the area of Scheduled Ancient Monument, and in an area which has produced evidence for features and deposits relating to the Roman legionary fortress. The site of the proposed sub-station lies immediately adjacent to the north east gate (porta decumana) of the legionary fortress where to date, no remains of this gate have been exposed. On the other side, immediately to the south east of the proposed sub-station, lies the site of a large stone building that was partially excavated and revealed in plan in 1860-61. The building had been set deep into the back of the defences: the earth bank had been completely removed and the building was separated from the fortress wall only by a tile drain. The building clearly had a complicated structural history and insufficient evidence was recorded to enable this to be unravelled.

4.17 It is probable therefore that the groundworks for the proposed sub-station would disturb or destroy archaeological features and deposits which relate to the development of the legionary fortress. In particular these deposits may include elements relating to the porta decumana and to adjacent ancillary structures. An archaeological excavation of these areas would be required to allow these deposits to be recorded prior to any construction of the sub-station and associated service and drainage trenches. This would accord with the requirement placed on the applicant in the Scheduled Monument Consent letter dated 20th May 2009 and the

requirements of Policy HE10 of the Local Plan that seek to preserve where possible or record archaeological affect deposits, ensuring that less than 5% of any archaeological deposits are disturbed or destroyed.

4.18 The City Archaeologist is concerned about the impact of the location and scale of the sub-station structure on the City Walls. The location of the sub-station would be a significant and unwelcome visual intrusion into an open area to the north west of the coach house. Although it might be argued that as the site was occupied in the 19th century by the Albion Iron and Brass foundry, this new development would be an unwelcome re-introduction in a sensitive area. The apex of the roof of the proposed building would come up to approximately knee height of someone standing on the adjacent city wall, significantly detracting from the way in which people will see and experience this space both from the walls and looking towards the walls. In addition, the rear wall of the proposed structure would be approximately 1 metre from the City Wall, leaving very little room to carry out future repair and restoration works to this section of the walls. It is therefore considered that the proposed sub-station would adversely affect the City Walls and would be contrary to Policy HE9 of the Local Plan and national guidance contained in Planning Policy Guidance Note No. 16 " Archaeology and Planning."

IMPACT ON LIVING CONDITIONS OF NEIGHBOURS

4.19 The building is relatively small and would be located far enough away from adjacent residential properties so that it would not to result in any harm to their amenity in terms of shadowing, enclosure or dominance. Concern has been received from adjacent residents about the impact of noise emission on amenity. The Environmental Protection Unit has requested further information about the proposed construction material that would absorb low frequency sound pressure emitted by the transformer at full load such that it would only be audible within 1 metre of the housing. Members will be updated with any further response from this request to the agent for further information at the meeting, and any resulting implications.

IMPACT ON HIGHWAY SAFETY

4.20 The existing access to the coach house would provide access to the sub-station and Highway Network Management raises no objections to the proposal. It is unlikely that the introduction of a sub-station would result in significant intensification of the access, and existing highway safety levels on the public highway network would not be compromised.

5.0 CONCLUSION

5.1 It is concluded that the proposed sub-station is not appropriate in such close proximity to the City Walls. It would harm the setting of a Grade 1 Listed Building, and would detract from important views and the character and appearance of the conservation area. No circumstances have been demonstrated that would justify

overriding the harm that is contrary to adopted planning policy and national planning guidance.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The proposed sub-station due to its close proximity to the City Walls, its obtrusive and prominent impact in the open character of this part on the conservation area, its alien design in an historic setting would harm the visual amenity of and from the adjacent scheduled monument, have an adverse impact on the visual amenity of important landscape and iconic views, and harm the setting of the surrounding listed buildings contrary to Policies HE2, HE4, HE10, HE11, and GP1 of the City of York Development Control Local Plan (2005) and national planning guidance contained in Planning Policy Statement 1 " Delivering Sustainable Development ," Planning Policy Guidance Notes Nos. 15 " Planning and the Historic Environment " and No. 16 " Planning and Archaeology. "

7.0 INFORMATIVES:

Contact details:

Author: Fiona Mackay Development Control Officer (Tues - Fri)
Tel No: 01904 552407

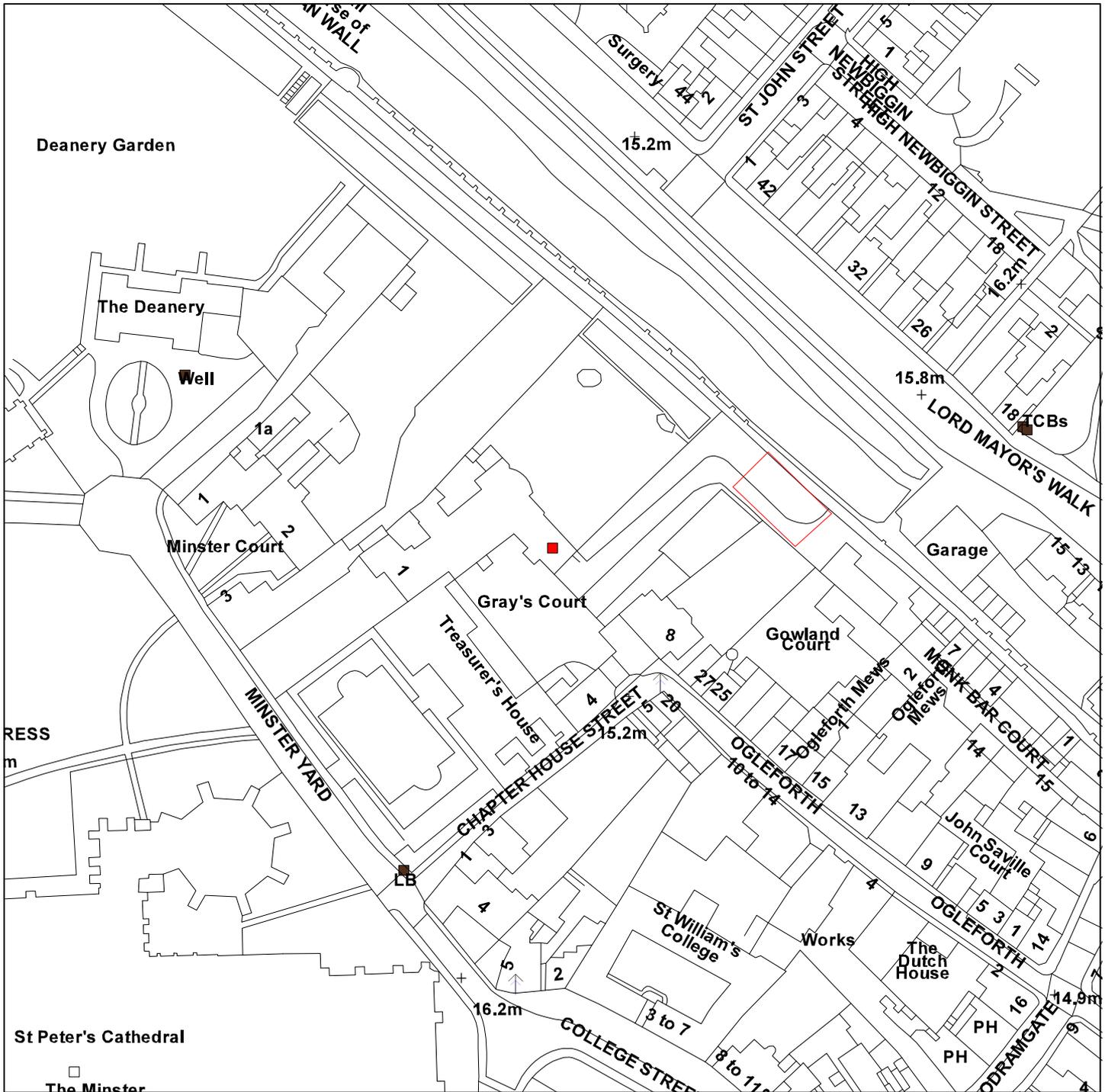
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1 Grays Court

09/01099/



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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	30 November 2009
SLA Number	Not Set

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COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Holgate
Date: 14 December 2009 **Parish:** No Parish

Reference: 09/01851/FUL
Application at: 3 Acomb Road York YO24 4EN
For: Change of use to a mixed use comprising cafe and hot food take-away
By: Mr M Altin
Application Type: Full Application
Target Date: 28 December 2009

1.0 PROPOSAL

APPLICATION SITE

1.1 The application relates to the cafe at 1-3 Acomb Road. 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, next door at 5 Acomb Road and at no.8 also. 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 The application is for planning permission to allow takeaway sales from the premises. This would include a delivery service.

SITE HISTORY

1.3 1-3 Acomb Road was previously in retail and office use until planning permission was granted to convert it into a cafe in 1999. Originally the premises were opened to serve workers in the surrounding area and the hours were predominantly during the daytime and not on Sundays. In 2005 permission was granted to allow Sunday opening. At planning committee in September 2009 planning permission was granted to extend the hours of opening to 07:00 to 23:00 and 24:00 (midnight) on Friday and Saturday evenings. There were objections from 5 different households with regards the proposals and permission was granted on a temporary basis only, to assess the impact on amenity .

COMMITTEE

1.4 The application comes to committee as members decided the last application at this site. Councillor Bowgett has also requested the application be determined at committee on the grounds of impact on residential amenity and due to a lack of parking.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Floodland GMS Constraints: Flood Zone 3
Floodland GMS Constraints: Flood Zone 2

2.2 Policies:

CYS6 Control of food and drink (A3) uses
CYS7 Evening entertainment including A3/D2
CYGP1 Design

3.0 CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 No objection to the proposed takeaway use. Report that there is no written confirmation on file that the delivery vehicle may park at the nearby public house. As such the application was appraised on the assumption that the delivery vehicle would either park in a res-park area nearby or on the 'double yellow lines' on Falconer Street (the latter is permitted under highways legislation, for 'loading'). Officers advise that the res-park zone would allow vehicles to wait for 60 mins. and then return 60 mins. later during the day. Res-park restrictions only apply until 17:00 Monday to Saturdays.

SAFER YORK PARTNERSHIP

3.2 No objection. Advise that based on evidence held by the police and local knowledge the host premises, and the existing takeaways in the area do not directly generate crime or anti-social behaviour.

COUNCILLOR ALEXANDER

3.3 Objects on the grounds that delivery vehicles park on Acomb Road, to the detriment of highway safety, hours of operation, including deliveries, exceed 23:00 hours and the premises have offered free alcohol to customers.

PUBLICITY

3.4 The application was publicised by site notice and letters of neighbour notification. The deadline for comments being 4.12.09.

3.5 Two objections have been made to date -

- Question whether the Council will act in the interest of residents, or the business, who operate as they please regardless of any consents they may have from the Planning and Licensing departments. The premises has opened until late and

operated the takeaway service prior to obtaining planning permission and without applying for a premises licence.

- Opening hours of this type of premises lead to noise disturbance from customers and groups congregating in the area. This is already experienced and would worsen as a consequence of the proposed takeaway.
- Litter caused by food outlets. This will increase with further takeaways in the area. Suggest the applicant is required to carry out a litter pick of the surrounding area after closing.

4.0 APPRAISAL

KEY ISSUES

4.1 The main issues relating to this proposal are the amenity of surrounding residents and highway safety.

POLICIES OF THE LOCAL PLAN

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:

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

4.3 Policy S7 relates to evening entertainment, it includes uses such as take-aways. It states that proposals for such uses that complement the city centre or district centres will be permitted provided that there is no adverse cumulative effect on the vitality and viability of the respective centre, and there is no adverse effect on residential amenity.

4.4 Policy GP1 relates to all types of development and asks that there is no undue harm caused to residential amenity through noise disturbance.

RESIDENTIAL AMENITY

4.5 Permission is sought for the takeaway service to operate until 24:00 (midnight) on Friday and Saturday evenings and 23:00 otherwise. The takeaway element would also include home delivery, for which the applicant has a private vehicle. The supporting statement advises that there is an agreement in place with the Fox public house over the road, which allows the vehicle to park in their car park. However, there is conflicting information as to whether an agreement is in place. Officers have contacted the public house and been informed that there is no agreement, and the

vehicle has been observed parked on Falconer Street. Residents report this is a regular occurrence.

4.6 Persons visiting the premises by vehicle to collect food, and also the delivery van are likely to park on Falconer Street or Park Lane. This would be most convenient due to the volume of traffic on Acomb Road and as there are no waiting spaces on Acomb Road outside the premises. Falconer Street and Park Lane are both residential streets. In officer's opinion, the noise that would occur from associated activity; persons coming and going from vehicles (including the delivery van), manoeuvring of vehicles, engines running, amplified music, and raised voices would occur at random times, and may involve short sharp increases in noise level. This noise would cause significant harm to the existing levels of residential amenity as it would occur in the evening when people are in the home and potentially trying to sleep.

4.7 There is less concern about persons walking to the premises to obtain food and take it away. There is already a takeaway next door and Acomb Road is a main route between Acomb and the City Centre. Persons frequenting the premises are likely to be passing through, or in the area already. Such practice is unlikely to cause a material increase in any disturbance in the area, in particular during the daytime.

4.8 There is a litter bin directly between 1-3 and 5 Acomb Road. Furthermore if the premises does apply for a premises licence (required if hot food is served after 23:00), then a condition of the licence would be to carry out a litter pick after closing. It has been reported that litter from takeaways is a problem in the area therefore the litter pick requirement could also be a condition if planning permission were granted, in case a premises licence were not required. It is also noted that it would be difficult to attribute litter creation directly to this premises. There are two other takeaways nearby, and there may not be a material change in litter creation whether or not this premises offered takeaway food.

4.9 The premises is existing and has acceptable kitchen flues and means of extraction.

HIGHWAY SAFETY

4.10 Due to the location of the premises and parking restrictions in place customers are likely to park vehicles in the adjoining residential streets. They may wait in the res-park zones here for up to 60 minutes, until 17:00. After 17:00 the res-park restrictions no longer apply. Whilst this may at times obstruct residents from parking directly outside their premises, this activity would not in itself have a material impact on highway safety.

5.0 CONCLUSION

5.1 In officer's opinion customers visiting by car and the delivery vehicle(s) are likely to park on the nearby residential streets; Falconer Street and Park Lane. The noise that would occur as a consequence of such practice in the evenings would harm the

amenity of surrounding residents. As such the proposal is contrary to the requirements of policies GP1, S6 and S7 of the York Local Plan. Refusal is recommended.

6.0 RECOMMENDATION: Refuse

1 The proposal would cause harm to the levels of amenity presently enjoyed by the residents in Falconer Street and Park Lane. Customers visiting by car and the delivery vehicle(s) used by the premises are likely to park on the nearby residential streets, in particular Falconer Street and Park Lane due to convenience and the lack of parking available on Acomb Road. The noise that would occur as a consequence of such practice in the evenings: the manoeuvring of vehicles, engines running, amplified music, and raised voices would occur at random times, and may involve short sharp increases in noise level. On such occasions there would be significant harm to the levels of amenity presently enjoyed, and reasonably expected by residents. As such the proposal is contrary to policies GP1, S6 and S7 of the York Local Plan.

7.0 INFORMATIVES:

Contact details:

Author: Jonathan Kenyon Development Control Officer
Tel No: 01904 551323

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3 Acomb Road

09/01851/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	30 November 2009
SLA Number	Not Set

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3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

None

EXTERNAL CONSULTATIONS/REPRESENTATIONS

4 LETTERS OF OBJECTION (3 from the same objector)

- Proposed rear extension would result in a loss of aspect and openness from the kitchen door of No. 14
- The elevation facing No. 14 would be a brick wall, would result in a long dark alleyway measuring 41 inches between the extension and the side elevation of No. 14. Would cause a wind tunnel effect
- Loss of light to kitchen/dining area of No. 14 will result in an increase in the use of electricity
- Retain the legal light to air and light
- Unacceptable to have a living area directly outside kitchen of No. 14
- Would result in a loss of property value of No. 14
- The block plan does not show the existing extension which is built up to the boundary. The block plan shows the extension set away from the side boundary with No. 14
- The proposed ground floor plan does not show the porch nor the chimney
- Proposed rear extension would result in a loss of aspect to No. 8 and would cause a sense of enclosure
- Would result in a loss of light to 8 Dee Close

DRINGHOUSES AND WOODTHORPE PLANNING PANEL - No objections

4.0 APPRAISAL

RELEVANT SITE HISTORY

4.1 09/01386/FUL - Single storey and first floor extension to rear – Refused for the following reason:

The proposed first floor extension by virtue of extending the two storey brick wall the full length of the rear boundary of 8 Dee Close would create an unacceptable sense of enclosure and a loss of outlook to the occupants of 8 Dee Close resulting in an un-neighbourly development that would harm the residential amenity of the occupants of 8 Dee Close

4.2 7/12/6431/PA - Single storey side and rear extension to form kitchen, dining room and hobbies room - Approved

ADDITIONAL PLANNING POLICY

CYC Supplementary Design Guidance - A guide to extensions and alterations to private dwelling houses, 2001
Planning Policy Statement 1 - Delivering Sustainable Development

KEY ISSUES

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

ASSESSMENT

PLANNING POLICY

4.3 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. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.4 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.

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

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

4.7 The City of York Council's supplementary planning guidance - Guide to extensions and alterations to private dwelling houses states that the basic shape and size of the extension should be sympathetic to the design of the original dwelling. The scale of the new extension should not dominate the original building. An inappropriately designed extension can spoil the appearance of the area. It is particularly important that the design of side extension takes account of the height of the new building in relation to the distance from neighbouring properties.

VISUAL IMPACT ON THE DWELLING AND THE AREA

4.8 The proposed porch to the front of the building would be 1.8 metres in depth and 3.27 metres in height. Whilst the elevations have not shown it is presumed that there would be a door to the front elevation rather than an open porch. The proposed porch is considered to have a rather bulky appearance by virtue of its scale and lack of windows in the side elevations. However the majority of the front garden would be retained. The proposed porch would be viewed against the dwelling and the brick side elevation of the detached garage which is set forward of the dwelling thus reducing its impact on the streetscene.

4.9 The proposed rear extension in the revised plans has been set 0.1 metres away from the shared side boundary with 14 Dee Close to prevent the guttering overhanging the boundary. The revised plans show the proposed rear extension having a depth of 4.7 metres and a width of 4.3 metres. The proposed extension would have a height of 3.95 metres to the roof ridge, and 2.8 metres to the eaves. There is an existing single storey side and rear extension to the building built up to the boundary with 14 Dee Close. The proposed rear extension would be an addition to the existing single storey rear and side extension. The proposal for the rear extension still retains much of the rear garden. The dwelling is part of a housing estate that was built in the 1980s, there are differing styles of dwellings within the street but with a common design theme. The proposal would increase the size of the dwelling in terms of content and footprint, however the design of the proposed extension is not considered to be out of keeping with the area.

IMPACT ON NEIGHBOURING PROPERTY

4.10 The original detached dwelling is set forward of 14 Dee Close, and the proposed extension would not project beyond the rear elevation of the extended 14 Dee Close. The occupant of 14 Dee Close has raised a number of objections to the proposed extension. It is not considered that the proposed extension would impact significantly on the residential amenity of the occupants of the neighbouring dwellings. There is an existing extension built up to the boundary with 14 Dee Close and the proposal would project the extension along the boundary but stepped slightly back from the boundary by 0.1 metres. The proposed extension would enclose the access path to the side however this is not considered to result in harm to the amenity of the occupant, the path is already relatively enclosed. The proposed extension would result in a long brick elevation along the shared boundary, however as this elevation would only be viewed from the path running to the side of No. 14 rather than the rear garden of No. 14 it is not considered that it would be overbearing or over dominant.

4.11 The occupants of 14 Dee Close have raised concerns about then potential loss of light to the obscurely glazed kitchen door in the side elevation (the main kitchen window is in the rear/north elevation and would be unaffected). It is not considered that the loss of light to a glazed door would be significant enough to warrant refusal.

4.12 It is not considered that the proposed extension would affect the air supply to the dwelling.

4.13 The rear garden of 14 Dee Close is not considered to be affected by undue overshadowing or loss of light given the siting of the single storey rear extension in relation to the garden. 12 Dee Close causes an existing element of overshadowing to 14 Dee Close is it not considered that the proposed single storey rear extension would significantly increase the loss of light and overshadowing to the rear garden of 14 Dee Close by virtue of the orientation of 12 Dee Close.

4.14 There are no windows proposed in the elevations facing 14 Dee Close and if approval is granted it is recommended that there is a condition removing permitted development rights for additional windows to prevent windows being added to the elevation at a later date. The boundary of the rear garden of 12 Dee Close is demarcated by a 1.8 metre high fence. There are windows proposed in the rear elevation and the side/east elevation, the existing fencing would provide screening of the windows from the neighbouring dwellings and they are not considered to result in a loss of privacy to the occupants of the neighbouring dwellings.

4.15 Objections have been received by 8 Dee Close that the proposed rear extension would cause a sense of enclosure, loss of light, and loss of outlook. The proposed extension would be 12 metres from the rear elevation of 8 Dee Close. In addition to the distance the proposed extension would be viewed obliquely, with a 1.8 metre high fence creating an element of screening. The proposed extension would be viewed against the side elevation of No. 14 and it is not considered it would impact on the openness of the area. It is not considered that the proposed rear extension would result in a loss of outlook or create a sense of enclosure. Given the height of the proposed extension and the distance to No.8 is it not considered to result in a loss of light.

4.16 The proposed porch is not considered to impact on the residential amenity of the occupants of the surrounding dwellings.

4.17 A concern was raised regarding the potential for the extension to harm the property value of the neighbouring dwellings, however impact to property values are not a planning consideration.

5.0 CONCLUSION

5.1 The proposed porch is not considered to cause undue harm to the character and appearance of the dwelling, streetscene and surrounding area. It is not considered to result in a loss of residential amenity to the occupants of the neighbouring dwellings.

5.2 The proposed rear extension would not extend beyond the rear elevation of 14 Dee Close and is not considered to result in an undue loss of residential amenity to the occupants of the neighbouring dwellings. Sufficient garden space to the rear is retained and the proposed extension would not appear cramped or overdeveloped. It is not considered out of keeping with the character and appearance of the dwelling or the area. Approval subject to the following conditions is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

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

Proposed side elevation (west) received 20 November 2009
Proposed ground floor layout received 20 November 2009
Proposed rear extension received 20 November 2009
Site Plan received 20 November 2009
Block Plan received 20 November 2009
Proposed Front Elevation received 3 November 2009
Proposed side elevation (east) received 3 November 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.

2 TIME2 Development start within three years

3 VISQ1 Matching materials

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

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

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions

listed above, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, and the visual amenity of the dwelling and the locality. As such, the proposal complies with Policies H7 and GP1 of the City of York Council Development Control Local Plan (2005); and supplementary design guidance contained in the City of York Council's "A guide to extensions and alterations to private dwelling houses".

2. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available from City Strategy at 9 St Leonard's Place or at:

<<http://www.communities.gov.uk/publications/planningandbuilding/partywall>>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

Contact details:

Author: Victoria Bell Development Control Officer

Tel No: 01904 551347

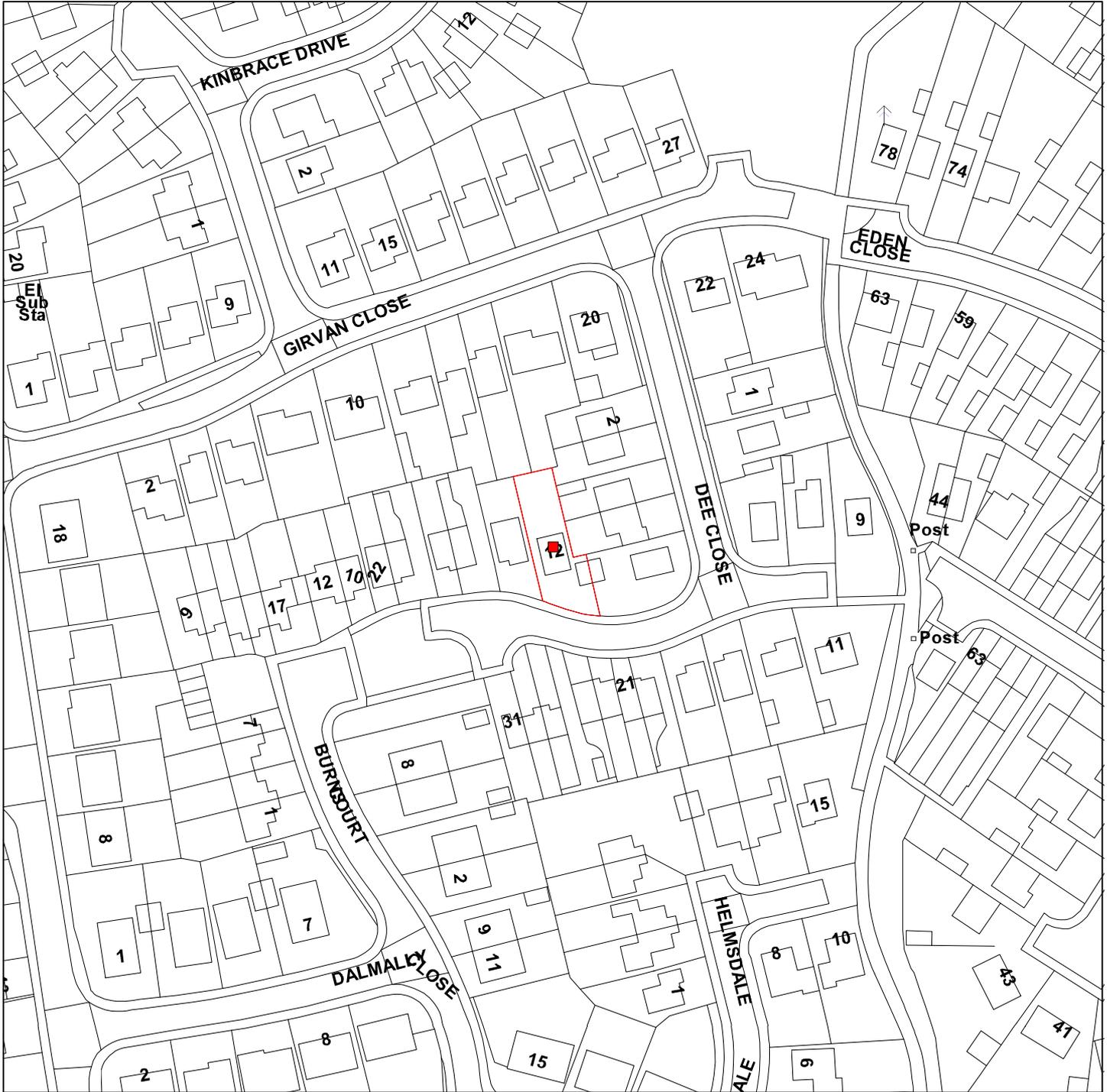
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12 Dee Close

09/02004/FUL



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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	30 November 2009
SLA Number	Not Set

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COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Rural West York
Date: 14 December 2009 **Parish:** Copmanthorpe Parish Council

Reference: 09/01702/FUL
Application at: 30 Top Lane Copmanthorpe York YO23 3UJ
For: Extension to front, side and rear, raise height of building to create additional accommodation including rear dormer windows and additional vehicle access
By: Mr Nigel Travis
Application Type: Full Application
Target Date: 4 December 2009

1.0 PROPOSAL

1.1 The application seeks permission for large scale extensions to 30 Top Lane. These include extensions to the side, front and rear, raising the ridge height and constructing two dormer windows to the rear elevation.

1.2 The application has been brought to committee at the request of Cllr Healey. A site visit will take place because an objection has been received and the recommendation is to approve.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

2.2 Policies:

CYGP1
Design

CYH7
Residential extensions

3.0 CONSULTATIONS

Internal

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 Tree Officer - To the front of the site it is proposed to construct a drop kerb adjacent to a tree that borders the public highway. This work will see the trees critical rooting zone damaged. However whilst this tree does have a degree of amenity value, having carried out a visual inspection of the tree from the ground it is noted that the tree has a structural defect and that the tree accordingly has a shortened life expectancy. It would be unreasonable to object to this application due to a negative impact on a tree that has a shortened life expectancy. The applicant is willing to replant at least 2 trees in mitigation for the tree to be lost at the front of the property.

3.2 The development will also be located close to the boundary hedge in the rear garden. The hedge base has a concrete path, which will protect the root zone during construction. However, ground protection up to 2m from the base of the hedge should be provided and conditioned accordingly.

HIGHWAY NETWORK MANAGEMENT

3.3 No objections. The applicant is creating an additional dropped crossing, which is in close proximity to a bus stop. Condition requested to protect pedestrian visibility.

External

NEIGHBOURS

3.4 One email received (address unknown) questioning the total habitable area compared to the original, area of the new footprint, height of the new structure and concerned that the dormers imply a third floor but there are no floor plans. Refers to a property in Merchant Way, which was refused planning permission to create an additional floor and wants to know if this regulation will be implied if this structure is too high.

COPMANTHORPE PARISH COUNCIL

3.5 Object to the application on the following grounds:

- The massing of the proposed extension will overpower adjoining properties
- No roofline drawing to allow comparison with neighbouring properties. There property is to the south of a small bungalow
- Properties along Top Lane drain along their rear gardens joining the main drain in Millers Croft. Request Yorkshire Water are consulted.

4.0 APPRAISAL

4.1 Key issues

- Impact upon the streetscene
- Impact upon residential amenity

4.2 The relevant City of York Council Draft Deposit Local Plan Policies are GP1 and H7. Policy GP1 'Design' of the City of York Local Plan Deposit Draft includes the expectation that development proposals will, inter alia; respect or enhance the local

environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

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

4.3 In addition the Copmanthorpe Village Design Statement applies. This states that extensions should be a 'Good Neighbour' by being set back from plot boundaries; retain neighbours right to light and privacy; avoid terracing effects; complement existing buildings with the building line normally set back with the roof line normally lower than the main building; careful detailing and ensure discrete car parking.

SCHEME

4.4 The application site is a detached 1970's property located within substantial grounds along Top Lane, Copmanthorpe. The dwelling is 2 storeys with a relatively low pitched roof, with a ridge height of 6.6m. It incorporates an attached flat roof garage and store to the front. A single storey extension is currently being erected under permitted development to the north-eastern elevation.

4.5 The majority of the proposed works would be confined to the south-western end of the dwelling, with the exception of the raising of the roof height. It is proposed to raise this to 9.1m with a gable end towards 34 Top Lane and a hipped roof towards 28 Top Lane. The eaves height would only increase by 0.2m. Two small pitched roof dormers are proposed to the rear elevation, which sit comfortably within this rear roofslope and do not detract from the character of the dwelling or impact upon neighbours residential amenity.

4.6 A small pitched roof single storey extension is proposed to the front elevation of the existing dwelling along with a two storey projecting element. This would project out by 2m and would be constructed with a gable end to the front. These elements are small scale and relatively unobtrusive within the streetscene.

4.7 The scheme also seeks permission for the erection of a substantial two storey side, front and rear extension. This would project out to the side at ground floor by 8m and by 6.8m to the rear and would incorporate a garage to the front elevation and a large open plan kitchen/diner to the rear with large glass door opening into the rear garden. The first floor element would only project out by 6m, running flush with the front elevation of the original dwelling, creating a single storey pitched roof element close to the boundary with 28 Top Lane. It would project out to the rear of the original

dwelling by 5.3m and would include large glazed doors to the rear elevation opening onto a small balcony area.

4.8 The front element incorporates a large two storey gable end extension, which would project out by 4.8m and have a width of 5.6m. It would attach to the original dwelling in part and the proposed two storey side extension in part. It would incorporate a 4.2m wide single storey element to the side, adjacent to the boundary, which forms part of the proposed garage. Its front elevation would lie on the line of the existing flat roof garage, still some 7m back from the footpath.

4.9 The dwelling at present is part brickwork and part rendered. The proposed scheme indicates that the ground floor would be constructed of brick whilst the first floor would be rendered.

IMPACT UPON RESIDENTIAL AMENITY

4.10 The neighbouring resident at number 34 Top Lane is located some 22m away from the application site and as such the raising in the ridge height will not have any impact upon their amenity. However the neighbour at number 28 Top Lane lies within 1.6m of the site boundary and adjacent to the majority of the proposed works. This property is a small bungalow constructed with gable ends to all elevations and a ridge height of in the region of 5m.

4.11 Concerns are raised that the proposed extension would have an over-dominant impact upon this neighbouring bungalow. However, the applicant has designed the scheme to try to reduce this impact. The bungalow would be at a distance of 2.8m from the single storey side element of the scheme. This has been designed with relatively low eaves, at 2.3m, and a shallow pitched roof to appear subservient in relation to the bungalow. The two storey element would be at a distance of 4.6m from the side elevation of the bungalow and would be set back 2m from the bungalows front elevation. It would be constructed with a hipped roof, again to reduce the over-dominance, which has an eaves height of 4.9m, similar to the ridge of the bungalow. Whilst the proposed extensions are large scale, on balance, the scheme does not appear to over-dominate the neighbouring property to an unacceptable level.

4.12 In addition there would be no loss of light to the neighbouring bungalow as the application site lies to the northeast. There would, however, be a loss of light to the obscure glazed window to the side elevation of the bungalow, which appears to open into a bathroom, but this would not warrant a refusal. As for the proposed balcony to the rear views into the neighbours garden would be obscured by a tall conifer hedge to the boundary.

IMPACT UPON THE STREETSCENE

4.13 Again concerns were raised in relation to the impact the works would have upon the streetscene and the character of the area. Top Lane is varied in its character and incorporates a mixture of detached and semi-detached properties of varying styles and ages. The dwellings opposite the site are all detached and set well back from the street. They incorporate rendering and brickwork along with hipped and pitched roofs. The properties on the same side as the application site are located closer to the

highway but again are varied in design. As such there is no uniform feel to the area and it would be difficult to argue that this scheme detracted from its character.

5.0 CONCLUSION

5.1 Whilst the proposed works to the dwelling are large scale they appear to be acceptable. The impact upon the adjacent bungalow has been reduced by creating a single storey section close to the boundary and by setting the two storey side extension back from the front elevation of the bungalow by 2 metres. Its impact upon the character of the area is minimal due to the varying degree of house types and styles within the immediate vicinity. The plot has retained adequate amenity space around the dwelling and it would be difficult to argue that the works would constitute overdevelopment of the site. Officers recommend approval.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing numbers 30/TOP/001 and 30/TOP/003 received 14th September 2009
Drawing numbers 30/TOP/002 Rev A received 24th November 2009

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

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

3 VISQ1 Matching materials

4 Before the commencement of and during building operations, adequate measures shall be taken to protect the existing hedging to the rear garden. This means of protection shall be in accordance with BS 5837 (2005) and shall be agreed in writing with the Local Planning Authority and shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works.

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

5 Prior to the development coming into use the frontage boundary should be free of all obstructions which exceed the height of the adjacent footway by more than 0.6m at both sides of the junction of any access with the footway, and thereafter be so maintained.

Reason: In the interests of pedestrian safety

7.0 INFORMATIVES:

Notes to Applicant

1. HIGHWAY INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

2. 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 character of the area or residential amenity. As such the proposal complies with Policies GP1 and H7 of the City of York Development Control Local Plan the 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance and the Copmanthorpe Village Design Statement.

3. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available from City Strategy at 9 St Leonard's Place or at:

<<http://www.communities.gov.uk/publications/planningandbuilding/partywall>>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

Contact details:

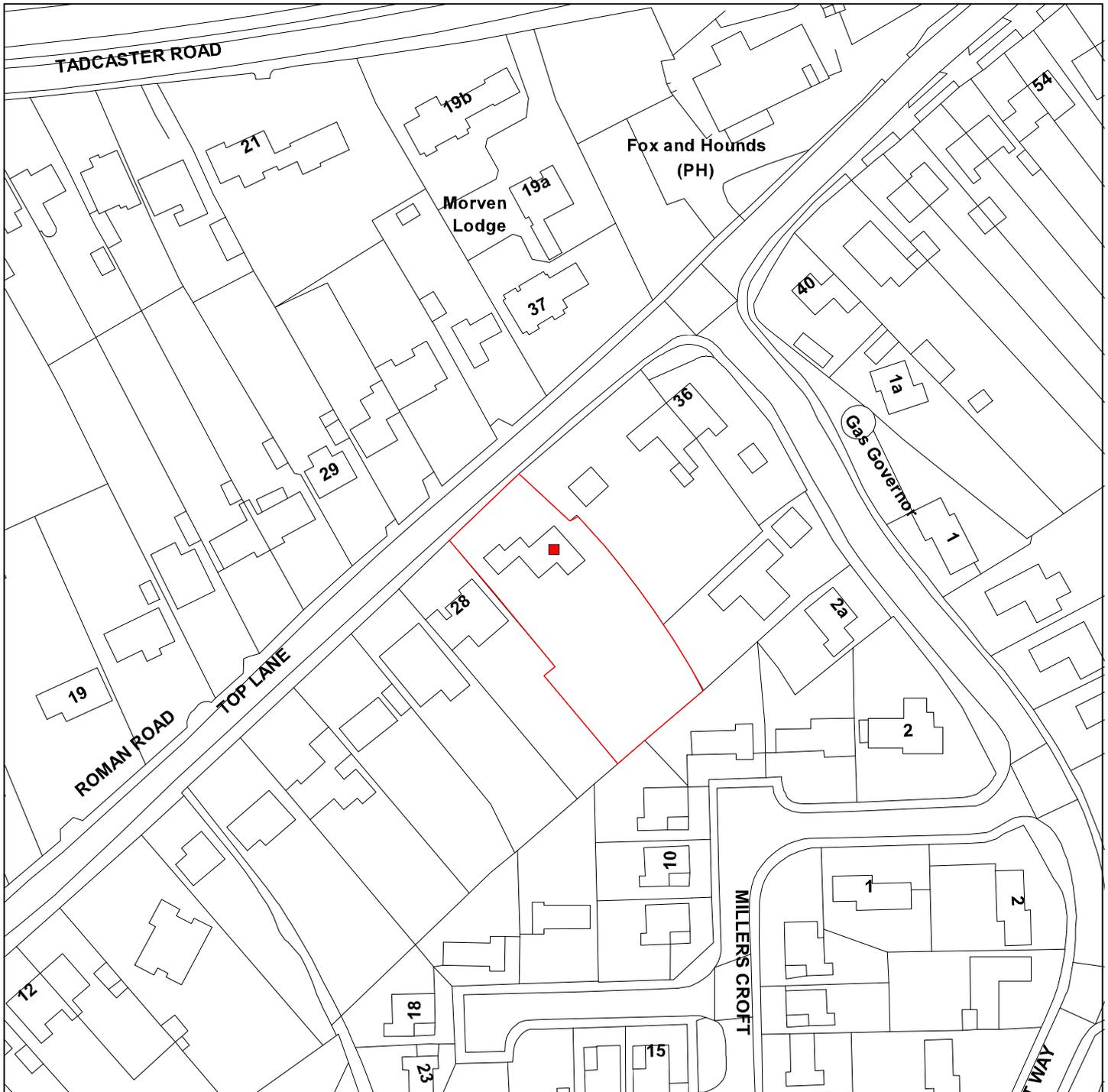
Author: Heather Fairy (Mon - Wed) Development Control Officer
Tel No: 01904 551668

30 Top Lane, Copmanthorpe

09/01702/FUL



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Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	30 November 2009
SLA Number	Not Set

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COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Holgate
Date: 14 December 2009 **Parish:** No Parish

Reference: 09/01910/FUL
Application at: Garages To The Rear Of 11 To 21 Holly Bank Grove York
For: Erection of 8no. two storey dwellings (including accommodation in roof
- resubmission)
By: Mr Peter Mortimer
Application Type: Full Application
Target Date: 17 December 2009

1.0 PROPOSAL

1.1 The application is for the erection of 8 no. two storey dwellings (including accommodation in the roof). There would be a terrace of three dwellings to northern end of the site and a terrace of 5 dwellings to the south of the site abutting the main east coast rail line.

1.2 The application is a resubmission of a previous application. This application differs from the previous application in the 3 no. three storey dwellings have been reduced to two storey dwellings. The parking arrangements within the site have been revised.

1.3 The application comes before committee at the request of Cllr Alexander as there are concerns regarding the density of development and the potential increase in parking in the surrounding streets. As there has been objections to the application there will be a committee site visit.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

Floodland GMS Constraints: Flood Zone 2

Floodzone 2 GMS Constraints: Flood Zone 2 CONF

2.2 Policies:

CYSP3
Safeguarding the Historic Character and Setting of York

CYGP1
Design

CYGP4A

Sustainability

CYGP10

Subdivision of gardens and infill devt

CYGP15

Protection from flooding

CYH4A

Housing Windfalls

CYED4

Developer contributions towards Educational facilities

CYL1C

Provision of New Open Space in Development

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

3.1 EDUCATIONAL PLANNING OFFICER

- Requesting a Section 106 contribution of £18,968 to provide 2 additional secondary pupils at Millthorpe Secondary School

3.2 PUBLIC RIGHTS OF WAY

- The site of the application lies within the former County Borough area of York for which at present there is no Definitive Map of Public Rights of Way
- Noted at present there is currently a path leading from Jennifer Grove which is shown as gated access on the proposed block plan and also a path/vehicular access leading from Holly Bank Grove
- The site may well be used as a short cut between the two streets and public rights of way may well have come into being
- It is not clear why the access from Jennifer Grove is proposed to be gated or who would have access through it
- If the route is intended to be used as a private access only and objections to the application are received as a result of the through route being gated to prevent public use, then it might be pertinent for the developers to treat it as a public right of way and apply for it to be either diverted or extinguished under the Town and Country Planning Act 1990. This would be required to be done after the application has been granted but before development takes place.

3.3 ENVIRONMENTAL PROTECTION UNIT

- The environmental protection unit has concerns regarding noise and contaminated land at the proposed site.
- The applicant has submitted a noise report that demonstrates that the proposed dwellings will be in NEC B and are satisfied that it is possible to mitigate this noise using appropriate glazing and acoustic ventilators.
- Concerns that noise, particularly low frequency noise associated with trains, may have a detrimental effect on amenity of occupiers of the proposed development. Following further discussions with the applicant's consultant, further analysis of the noise environment would be necessary in order for a sufficient scheme to be submitted. Therefore, would recommend a condition is attached to ensure that amenity of the occupiers of this development are protected from noise should the

- application be approved
- As this is a resubmission particularly disappointed that the applicant has completed Section 15 of the application form incorrectly again. The proposed use (dwellings) will be particularly vulnerable to the presence of contamination, therefore would recommend that conditions relating to contaminated land should the application be approved.

3.4 HIGHWAY NETWORK MANAGEMENT - No objections

Comments on revised plans

- This Council has a policy that where more than five properties are served off a street then that street should be capable of being one that is maintainable at public expense i.e. adopted. This street is not considered capable of being adopted principally due to shortcomings in the layout of its junction with Holly Bank Grove, its restricted access width and the inability to independently turn servicing vehicles around within the site. It should therefore be a requirement of any planning permission to ensure that the maintenance of all shared/public areas within the site are the responsibility of a management company in perpetuity. However that a refusal on highway terms could be not substantiated on this basis due to the basic consideration that traffic movements generated by eight houses would be less than those currently / potentially generated by 37 garages.
- All of the amended drawings are annotated "Drawing updated as per highway officer's recommendations", whereas the only recommended amendment that has been included in the revision is the provision of a footway element fronting three units of the five-block. The combination of the retention of car park bay nos 1 and the inclusion of the footway element reduces the ability for vehicles entering and leaving the site to simultaneously pass at the site entrance.
- There are no details of cycle storage but it is considered that this aspect could be covered by a condition.
- The retention of the parking layout as proposed would result in cars visiting the site not being able to readily turn around within the site without using one of the parking bays; although in reality it is thought likely that cars will turn-around by multi-shunting rather than reversing out onto the highway.
- The proposed total of 11 parking bays accord with the recommended maximum number of bays in relation to the overall size of the development.
- The amended details do not include swept paths of fire tenders at the access point as requested. The access is wide enough and clear of height restrictions sufficient to allow fire tenders to enter the site but in applying simple standard overlays to the original drawings suggests that manoeuvring at the access point could be restrictive. It is a standard recommendation that fire tenders should be able to stand within 45m of the entrance to two storey buildings and within 35m of three storey buildings: Plot five of the block of five would be approximately 52m from Holly Bank Grove and plot one of the block of three would be approximately 34m from Jennifer Grove. It is suggested therefore that North Yorkshire Fire and Rescue be consulted as to whether they consider that accessibility by emergency vehicles is not affected to the extent that safety is compromised.
- It is noted that the access is 3.7m wide but to achieve this the kerbs would be removed, but this could possibly affect drainage onto neighbouring properties. Not considered that the presence of these kerbs would affect the ability of a fire tender to access the site, The 3.7m figure in the "Manual for Streets" states "between kerbs" but their removal would not reduce the width below the 2.75m minimum width. It is recommended that the kerbs therefore remain in situ or drainage details/cross sections be submitted that demonstrate that neighbouring properties will not be affected. The retention of the kerbs would result in an access in excess of 3.2m and therefore still permit a car to pass a pedestrian.
- The existing access would need to be able to withstand the laden weight of a fire

tender - assumed to be 12 tonne.

- The collection point for bins is acceptable in that it is reasonably adjacent to the public highway and would not unduly obstruct the passage of cars and pedestrians accessing the site, however it may be more practicable to have the bins for the block of three to be left at the Jennifer Grove entrance.
- A system of street lighting within the site is not shown. It would seem probable that some form of lighting would be required and to ensure its' adequacy and that it would not disturb neighbours then it is suggested that the scheme be submitted for approval by the councils' Street Lighting Engineer. It is considered that this could be secured by an appropriate condition.

3.5 STRUCTURES AND DRAINAGE - Object

Insufficient information has been provided by the Developer to determine the potential impact the proposals may have on the existing drainage systems

3.6 LIFELONG LEARNING AND LEISURE

As there is no on site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used to improve a local site such as West Bank Park or Hob Moor (b) play space - which would be used to improve a local site within such as West Bank Park (c) sports pitches - would be used to improve a facility within the West Zone of the Sport and Active Leisure Strategy. The contribution to off site provision is to be based on the latest York formula through a Section 106 Agreement

3.7 CITY DEVELOPMENT - No comments received to date

EXTERNAL CONSULTATIONS/REPRESENTATIONS

3.8 POLICE ARCHITECTURAL LIAISON OFFICER

- If public allowed access from Jennifer Grove would seriously compromise the security of the development. The path runs immediately alongside the gable wall and boundary fencing of Unit 8 with no defensible space between. The path is not overlooked, and there is a problem of graffiti in the area.
- The proposed design and layout of the development are excellent from a "designing out crime" point of view
- Lacking provision of secure covered cycle storage
- The garages are located in a vulnerable and isolated position with very little opportunity for natural surveillance. Obvious that anti-social behaviours is a problems

3.9 MARSTON MOOR INTERNAL DRAINAGE BOARD

The site is now the responsibility of the Environment Agency

3.10 ENVIRONMENT AGENCY - No objections

If planning permission granted would like a condition regarding additional information for drainage

3.11 YORKSHIRE WATER - No objections

Would like details of the foundations within the stand-off distance conditioned

3.12 NETWORK RAIL - No objection,

Would like a number of requirements to be met mainly relating to keep works away from the railway line, maintenance of the boundary, some types of trees should not be planted adjacent to the railway line.

3.13 FIRE AND RESCUE PREVENTION OFFICER - No objections

3.14 Petition has been received containing 21 addresses

3.15 25 LETTERS OF OBJECTION (2 x 2 letters from same address, 3 letters from same address)

- Problems with the access to the site
- Cause more parking in the surrounding streets
- Disturbed by construction noise, construction vehicles would be unable to access the site
- Problems with the drains
- Refuse lorries will not be able to access the site. Associated refuse bins on Holly Bank Road, no space has been shown for recycling
- No parking space for guests to the proposed dwellings, causing parking in the surrounding streets
- Street lights for the development would cause disturbance
- There is no footpath adjacent to the vehicle access into the site
- Emergency vehicle would be unable to access the site
- The number of dwellings would appear cramped
- Style of dwellings not in keeping with surrounding
- Question the market for such dwellings given the proximity to the railway line, noise disturbance caused by the rail line
- Increase in traffic on Holly Bank Grove, potentially dangerous to residents within the street
- Loss of privacy, overlooking caused
- Application does not address the issues raised in the previous application
- Residents who park their cars in the garages will be displaced to the surrounding streets together with the parking from the new dwellings
- Overdevelopment of the site not in keeping with the character of the area
- At present the movement of traffic to and from the garages is minimal, will increase if dwellings built
- Network Rail required that the absolute minimum requirement for the width of the access road for fire and rescue is 3.7metres; the proposed bin collection point reduces the road to 3 metres
- To allow this development would set a precedent
- There has been a path of this site since before 1936, removing a viable path used by existing residents
- Dispute the police report. There was graffiti, but was cleared away by the local residents (not the owner) over a year ago, no further incidents have occurred. Anti-social behaviour is not a major ongoing problem
- Removal of the kerbstones along the vehicles access may cause surface water problems to the neighbouring dwellings
- View of the city will be lost
- Cause harm to living standards and health and safety of the occupants of the neighbouring dwellings
- The site was bought in 1962 with the view to building a dwelling on it, however due to the culvert and the problems of access planning permission was not granted
- Cause noise disturbance once the development has been constructed e.g. vehicles using the access road
- Would result in people within Holly Bank Grove putting hard standing in the front gardens for vehicles parking
- Increase pollution from the number of vehicles using the site
- Lorries would not be able to access the site causing them to unload contents in Holly Bank Grove
- If roofs were lowered and hipped would afford more daylight
- Proposed gates would further reduce the width of the vehicle access

- Regulations state that the road surface should not be placed adjacent to existing buildings; there should be a 0.5 metres distance between the two
- Proximity of refuse bins to No. 19 Holly Bank Grove would be unsightly and unhealthy
- Question the extra capacity of the sewer
- Noise issues of the vehicle access in close proximity to 17 and 19 Holly Bank Grove
- Does not conform the City of York requirements, Access courts for 5 -25 dwellings, the access road is not 6.5 metre wide and the length is in excess of 25 metres
- North Yorkshire Fire and Rescue Services access requirements - minimum width of 3.7 metres and a minimum radius of 9 metres
- Impact on property values of the surrounding dwellings
- A smaller scale development would be more realistic given the vehicle access issues
- Roof lights will overlook 13 and 23 Holly Bank Grove
- The proposed gardens are a limited size would cause an increase in children playing in the street. Dwellings next to the railway causing trespass on the railway line, at present not easily accessible

4.0 APPRAISAL

RELEVANT SITE HISTORY

09/01114/FUL - Erection of 5no. two storey and 3no. three storey dwellings (all with rooms in the roof) - Withdrawn

685H (1966) - The use of six lockup private garages as store accommodation - Refused
- The garages are intended to serve a need in a residential area and were approved as private lockup garages by the LPA. It is considered that their use for commercial and business purposes is introducing a use contrary to the approval, and is resulting in additional commercial traffic using residential streets to the detriment of the residents. Appeal to the Ministry of Housing and Local Government to the refusal of Application 685H was dismissed (1967)

685G (1963) - The erection of 29 lockup private garages, in brick construction and 4 lockup private garages and shed of light construction - Approved

685F (1962) - 33 Lock up garages - Refused

685E (1961) - 2 detached bungalows incorporating garages - buildings were sited over sewer, revision of siting was requested but not submitted, application was abandoned

685D (1961) - Use of land for the erection of two dwellings - Approved

685C (1961) - Use of the land for erection of dwelling - Refused - unsatisfactory access and "barely planned development"

ADDITIONAL PLANNING POLICY

CYC Interim Planning Statement on Sustainable Design and Construction, 2007

CYC Developer contributions to education facilities

CYC Commuted Sum Payments for Open Space in New Developments - A Guide for Developers, 2007

CYC Strategic Flood Risk Assessment, 2007

CYC Strategic Housing Market Assessment, 2007

Planning Policy Statement 1 - Delivering Sustainable Development

Planning Policy Statement 3 - Housing
Planning Policy Guidance 24 - Planning and Noise
Planning Policy Statement 25 - Development and Flood Risk

KEY ISSUES

1. Visual impact on the area
2. Impact on neighbouring property
3. Impact on highway safety
4. Drainage
5. Other issues

ASSESSMENT

PLANNING 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. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.2 PPS3 supports PPS1 with regards high quality new housing and encourages sustainable and environmentally friendly new housing development through the reuse of previously developed land, more efficient use of land through appropriate densities, reducing dependency on the private car and provision of affordable housing. It states that careful attention to design is particularly important where the chosen local strategy involves intensification of the existing urban fabric. More intensive development is not always appropriate. However, it also states that the density of an existing development should not dictate that of new housing by stifling change or requiring replication of existing styles and form. When well designed and built in the right location, new housing development can enhance the character and quality of an area.

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

4.4 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

4.5 Policy SP3 'Safeguarding the Historic Character and Setting of York' in the City of York Council Development Control Local Plan (2005) states that high priority will be given to the protection of the historic character and setting of York. The following principles will be applied when considering planning applications: The protection of key historic townscape features, particularly the protection of the environmental assets and landscape features which enhance the historic character and setting of the City. These can comprise and views into the City from a number of main transport routes; the protection of the main gateway transport corridors into York from development which, cumulatively, could have an adverse impact on the character and setting of the corridor and the surrounding environment.

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

4.7 Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development.

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

4.9 Policy GP15a 'Development and Flood Risk' in the City of York Council Development Control Local Plan (2005) states that all applications in the low to medium risk or high risk areas should submit a Flood Risk Assessment (FRA) providing an assessment of additional risk arising from the proposal and the measures proposed to deal with these effects.

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

4.11 Policy ED4 ' Developer Contributions Towards Educational Facilities" in the City of York Council Development Control Local Plan (2005) states that in considered proposals for new residential development any consequences for existing schools, early years and other community facilities will be assessed in accordance with the approved supplementary planning guidance. Where additional provision is necessary as a direct result of the proposal, developers will enter into a Section 106 agreement to make a financial contribution towards the provision of these facilities.

4.12 Policy L1c requires that all housing sites make provision for the open space needs of future occupiers. For sites of less than 10 dwellings a commuted payment will be required towards off site provision.

VISUAL IMPACT ON THE AREA

4.13 The site is largely constrained by the access road and a culvert running under the site with the accompanying easement requirements, the proximity of the railway line to the southern boundary, and the proximity to neighbouring dwellings on the north, east and west boundaries.

4.14 The proposed dwellings are two storey gable roofed buildings. The development is split into two terraces. There would be a terrace of three dwellings to northern end of the site and a terrace of 5 dwellings to the south of the site abutting the main east coast rail line. Each dwelling would have accommodation in the roof space. Each terrace has staggered each dwelling, which provides an element of visual interest. The terrace of three dwellings would

be 8.6 metres in height and the terrace of 5 dwellings would be 8.4 metres. The surrounding dwellings are approx 7.5 metres

4.15 The dwellings surrounding the site are terraces of 4 and 6 dwellings all dating from the same period. The dwellings have a common design theme which is common of the time they were built. The proposed dwellings have a gable roof rather than the hipped roof of the surrounding dwellings, but replicate the terraced character of the area. The proposed development would be visible from the surrounding streets through gaps between the buildings and would be visible from the railway line however it is considered that it would not be unduly prominent. There have been some objections that the style is not similar to the neighbouring dwellings. The different style is relatively simple and is not considered to be harmful, PPS3 states that replication of existing styles should not be insisted on. The neighbouring buildings represent the style of the time they were built and it is considered that the proposed design of the dwellings would reflect the period of construction.

4.16 PPS3: Housing requires Local Planning Authorities to adopt an evidence based approach to housing delivery. Policies should be informed by housing need and demand, through housing market and housing land availability assessments. The Council has carried out a Strategic Housing Market Assessment (SHMA), adopted by the Council for Development Control purposes on the 27 September 2007. The report looks at what is appropriate in York in terms of housing tenure, size and type, in order to help create mixed and balance communities. The Study reveals a demand for a range of dwelling sizes, with 21% looking for 1 bed, 29% for 2 bed, 29% for 3 bed, and 21% for 4 bedrooms. Over 60% of households are looking for houses rather than flats. In the urban area, where the application site is located, the demand is highest for 3-bed houses.

IMPACT ON NEIGHBOURING PROPERTY

4.17 Both terraces face into the site onto a courtyard that would be used for parking. The side elevation of Unit 1 would face the rear of 19 Holly Bank Grove. There would be a distance of 14 metres between the buildings. There would be a first floor bathroom window in this elevation, it is shown on the plans as obscure glazed and it could be conditioned as such. Unit 1 would be to the east of No. 19, there may be a slight overshadowing during early morning during the summer months but it is not considered that it would cause sufficient harm to warrant refusal.

4.18 The principal room windows of the south terrace face towards the railway line or over the courtyard to the front of the buildings, therefore not creating any overlooking or loss of privacy issues.

4.19 Unit 5 and Unit 8 each have a side elevation facing the dwelling and garden of 10 Jennifer Grove. Neither elevation would have a window facing this property. The proposed units would be to the west of 10 Jennifer Grove and it is considered by virtue of the siting of both terraces neither would unduly reduce the sunlight to this dwelling or garden. By virtue of the distances between the dwellings and the large size of the garden it is not considered that either terrace would be overbearing, or dominant the outlook from the rear garden of 10 Jennifer Grove.

4.20 Unit 3, 4, 5 would have first floor balconies to the rear elevation these would overlook the railway line to the rear. The balcony to Unit 5 would give an oblique view of the end of the garden of 10 Jennifer Grove however it is not considered to cause harm to the residential amenity of the occupants of that dwelling by virtue of the large size of the garden

4.21 At present the boundary of the site is a tall wall approx 2.6 metres in height, which is the rear elevation of the garages. The developer intends to retain this wall; the wall at

present creates a degree of privacy to the gardens abutting the proposed site. The wall would also create a significant degree of screening of the proposed dwellings.

4.22 Unit 8 is sited close to the boundary with 11 Jennifer Grove (8 metres between the buildings) the boundary wall would prevent overlooking from the ground floor, and the windows in the first floor of all this terrace facing north are either for a stairwell or bathroom and are indicated on the plans as obscure glazing. The roof lights in the rear roof slope are for a stairwell and an en-suite shower room and therefore not considered to result in overlooking. In addition the windows in the first floor of 11 Jennifer Grove are an obscurely glazed window, and a landing/bedroom window neither of these windows are to primary living rooms. It is not considered that the proximity of the dwellings would be overbearing or create an undue harmful sense of enclosure, as the garden is dominated by the existing tall boundary wall. The proposed dwellings would be to the south of 11 Jennifer Grove, and by virtue of the existing wall there is an existing loss of light, the proposed dwelling specifically Unit 8 is not considered to unduly impact further on this loss of light.

4.23 Some concern has been expressed over the noise disturbance of traffic using the vehicle access. The proposed access road would have a distance of 5.6 metres from 17 Holly Bank Grove and 4 metres from 19 Holly Bank Grove. It is not considered that it would cause an undue noise disturbance by virtue of the distance of the properties to the access road would be sufficient to mitigate any potential noise disturbance. In addition the traffic movements generated by 8 dwellings would be less than those currently/potentially generated by 37 garages.

IMPACT ON HIGHWAY SAFETY

4.24 There have been a number of objections received regarding existing traffic issues in Holly Bank Grove and the concern that the proposed development would intensify the current problems and move the parking from the garages to the surrounding streets.

4.25 Highway Network Management have stated that the vehicle access is not considered capable of adoption by the Local Authority by virtue of its shortcomings in the layout of the junction with Holly Bank Grove, its restricted access width, and the inability to independently turn servicing vehicles around within the site. The applicant states that only 10 of the 37 garages are used for the parking of vehicles and only 4 are used on a frequent basis. The predominant use of the garages is for storage. It is not considered that a refusal on highway grounds could be substantiated by virtue that traffic movements generated by 8 dwellings would be less than those currently/potentially generated by 37 garages.

4.26 Highways Network Management have requested that the maintenance of the shared areas within the site be the responsibility of a management company in perpetuity. The agent has stated in the supporting information that a management company financed by the residents of the proposed dwellings would undertake the maintenance of the shared areas and landscaping. It is considered that a management company could not be conditioned as it would be difficult to enforce. The owners of the proposed dwellings would have responsibility of the upkeep for shared space. It is not considered that the inability to condition a management company would require that the application be refused. The existing site is not adopted and the upkeep is the responsibly of the owner.

4.27 The 11 parking spaces proposed for 8 dwellings in addition to the site's close proximity to the city centre and other facilities accord with the CYC recommended maximum number of bays in relation to the size of the development, this includes a 25% allowance for visitor parking. There is some concern that the development would cause the displacement of parking from the existing garages to the surrounding streets. However the applicant has confirmed that only 4 of the garages are regularly used for parking and therefore on the

basis of the information submitted there would be limited displacement parking and it is not considered to be significant enough to warrant refusal.

4.28 The plans and the supporting information indicate that the vehicles access could be widened by removing the kerbstones. This has raised concerns about surface water flooding to the properties either side of the vehicles access. No drainage details have been submitted by the applicant as to how this would be prevented. This information could be requested as part of a condition. Highways Network Management have suggested that the kerbstones do not have to be removed, it would reduce the width of the vehicle access, below 3.7 metres. The 3.7 metre figure in the "Manual for Streets" (2007) states "between kerbs" but their retention would not reduce the width below the 2.75 metre minimum width also stated in the Manual for Streets. The retention of the kerbs would result in an access in excess of 3.2 metres and therefore still permit a car to pass a pedestrian. There has been some concern regarding access to the site by emergency vehicles, the Fire and Rescue Prevention Officer has no objections to the proposed development.

4.29 It is considered that the collection point for the refuse bins is acceptable; it is adjacent to the public highway and would not obstruct the passage of cars and pedestrians accessing the site.

4.30 No cycle storage details have been submitted; it is considered that this could be dealt with by way of a condition if the application was approved.

4.31 The revised plans show minor alterations to the proposed parking layout, it does not alter the number of parking places. The applicant was requested to rearrange the parking spaces so Units 6 to 8 did not have an immediate view of parked cars, to provide a larger turning area, and provide a buffer between the vehicle access and the front doors of Units 3, 4, and 5 such as a small front garden. The revised plans do not show the parking layout as recommended by the Highway Network Management Officer, it does show a "buffer zone" that would act as pedestrian path to the front of the buildings. This is not considered to be sufficient, a pedestrian pathway directly to the front of Units 3 to 5 would harm the residential amenity of the occupants of this building. It is considered that if the application were to be approved a condition be placed on the consent requiring a garden or paving with a kerb to demarcate the area, so the occupants of the buildings are not entering directly onto the vehicle access. Whilst the agent/applicant has not followed the advice given by the HNM Officer, HNM have confirmed that refusal could not be recommended on these grounds, as the development accords with CYC standards.

4.32 Objections have been raised to the closing of the footpath over the site from Jennifer Grove to Holly Bank Grove. A gate is proposed to the vehicle access. However no justification has been submitted for the gate. In addition a gate has been shown to the pedestrian access into the site from Jennifer Grove. It is not considered that the appearance of the gates would be a positive addition from the views into the site. There is the issue of a potential public right of way over the site. No claim has been received to formalise it as a right of way, however the Public Rights of Way Officer recommends that it would be prudent to treat it as a public right of way and apply either for it to be diverted or extinguished under the Town and Country Planning Act 1990. The closure of this path does not form part of this application and it is something the applicant should carry out after the application has been granted but before development commences. However if they decided not to close/divert the path then the gates should be removed from the development. This comes into conflict with the advice from The Police Architectural Liaison Officer who has requested that the gate to the pedestrian access be retained as this helps to prevent anti-social behaviour. The Police Architectural Liaison Officer has concerns that the path is used as an 'escape route', and that the path to the side of Unit 8 may become a focus of anti-social behaviour. It is considered that the dwellings within the site would provide a greater degree of surveillance

than what there is at present on the existing site and therefore the gates to each access are not considered necessary. If the path is not to be closed then the gates should be removed, this would be covered by Public Rights of Way legislation and therefore the removal of the gates does not need to be conditioned.

DRAINAGE

4.33 The site is within a Flood Zone 2 and the proposed use for residential is classified as 'more vulnerable' in PPS25 and the CYC Strategic Flood Risk Assessment, however an exception test is not required. The Environment Agency have no objections to the proposed development but would require additional drainage details as part of a condition.

4.34 The Structures and Drainage team have objected to the proposed development on the grounds of insufficient information to determine the impact of the development to surface water flooding. However it is considered that if the application was approved the additional information could be conditioned as part of the planning permission. The proposed plans show a reduction in hardsurfacing across the site.

4.35 A revised plan has been submitted (Drawing Number MOR/098/08 001 Revision B received 30 November 2009), the revised plan has added a notation regarding the depth of the foundations. Yorkshire Water have removed their concerns subject to appropriate conditions regarding the foundations of the proposed dwellings closest to the sewer running under the site.

OTHER ISSUES

4.36 In line with Policy L1c the applicant has been aware that a contribution of £13,104 would be required to do towards open space facilities such as nearby sports pitches and improvements to sites such as West Bank Park and Hob Moor. In addition in line with ED4 a contribution of £18,968 towards 2 additional secondary places at Millthorpe Secondary School has also been requested. The applicant has agreed to make the contributions.

4.37 It is considered that if the application was approved a condition could be placed in the consent requiring the development is constructed to Code for Sustainable Homes to at least Level 3. The CYC Interim Planning Statement on Sustainable Design and Construction states that for development of 5 dwellings plus should produce at least 10% of the energy requirement on site, it is also considered this would be reasonable to condition.

4.38 The Environmental Protection Unit (EPU) has concerns regarding noise disturbance to the occupants of the proposed dwellings back onto the rail line. The applicant has submitted a noise report that demonstrates that the proposed dwellings will be in Noise Exposure Category B as defined by PPG24, and EPU are satisfied that it is possible to mitigate this noise using appropriate glazing and acoustic ventilators. They have recommended that further analysis of the noise environment would be necessary. It is considered that this additional information can be conditioned if the application was approved. It is not considered that the proximity of the proposed dwellings to the rail line could be a reason for refusal there are dwellings in the surrounding area of a similar proximity to the rail line and it is considered that if acceptable sound insulation is used it would not cause harm to the living conditions of the future residents. The occupants would be aware of the rail line and potential noise issues before relocating to the dwellings.

4.39 EPU considered the proposed dwellings will be vulnerable to the presence of contamination on the land, and have requested that conditions relating to a desk study, site investigation, risk-based remedial strategy, and validation report be attached if the

application is granted approval. It is considered that it would be reasonable to request this further information.

4.40 There is a notation on the plans stating that layout, form, content and dimensions of the finished construction may differ from those shown in the plans. Any deviation from the approved plans will require either an application for non-material change or full planning permission.

5.0 CONCLUSION

5.1 The proposed dwellings are of a simple design and reflect the terraced character of the area, the proposed development is not considered to be visually intrusive or prominent.

5.2 The proposed development is not considered by virtue of the distance and orientation of the proposed dwellings to the surroundings dwellings, together with the existing tall boundary wall (approx 2.6 metres), and obscure glazing of windows to result in a loss of light or privacy. In addition the proposed dwellings are not considered to be overbearing or result in a loss of outlook from the surrounding dwellings.

5.3 The proposed development by virtue that traffic movements generated by 8 dwellings could not be demonstrated as having a greater impact than the 37 garages and therefore is not considered to create an increase in current/potential traffic issues.

5.4 The proposed development is not considered to result in a displacement of parking to surrounding streets by virtue of only 4 of the existing garages being used frequently for parking.

5.5 The proposed dwellings have a similar relationship and distance to the rail line than existing dwellings in the area and therefore the proposed dwellings are not considered subject to appropriate measures to result in harm to the residential amenity of the occupants of the proposed dwellings. Approval subject to the following conditions is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

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

Drawing Number MOR/098/08 001 Revision B received 30 November 2009
Drawing Number MOR/098/08 002 Revision A received 19 November 2009
Drawing Number MOR/098/08 003 Revision A received 19 November 2009
Drawing Number MOR/098/08 004 Revision A received 19 November 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.

2 TIME2 Development start within three years

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

Reason: In order to comply with the provisions of Policy L1c of the Development Control Local Plan which requires that all new housing sites make provision for the open space needs of future occupiers.

INFORMATIVE:

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £13,104;.

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

4 No development shall commence unless and until a scheme to ensure the provision of adequate additional foundation and secondary school places within the local catchment area has been submitted to and approved by the local planning authority.

Reason: The education provision within the catchment area of the development has insufficient capacity to take more pupils, such that additional places are required in the interests of the sustainable development of the city in accordance with Policy C6 of the Development Control Local Plan and the Council's Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

INFORMATIVE:

The provisions of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, The obligation should provide for a financial contribution calculated at £ 19,968. The basis for this calculation is contained within the Council's Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

No development can take place on this site until the condition has been has been discharged and you are reminded of the Local Planning Authority's enforcement powers in this regard.

5 VISQ8 Samples of exterior materials to be app

6 No work shall take place on site except between the hours of 0800 and 1800 on Mondays to Fridays and 0900 to 1300 on Saturdays. No work shall take place on site on Sundays or Bank Holidays.

Reason: To safeguard the amenities of local residents.

7 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees

or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

8 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

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

9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking or re-enacting that Order), the first floor window in the side elevation of Unit 1, the first floor bathroom and landing windows in the rear elevation of Units 6, 7 and 8 shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above.

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

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

Reason: To prevent overdevelopment of the dwelling in the interests of the visual amenity of the area and the residential amenity of the neighbouring properties in accordance with policy GP1 and H7 of the local plan.

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

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

12 Notwithstanding the submitted plans and prior to the commencement of the development hereby permitted full details of the method and design of the system of street lighting to be installed within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason: In order to protect the amenities of neighbours and the character and appearance of the area from excessive illumination.

13 Prior to development a suitable noise scheme shall be submitted and approved in writing by the local planning authority. This scheme must include sufficient mitigation measures and demonstrate that these mitigation measures shall be sufficient to ensure that noise will have no adverse impact on residential amenity of occupiers of the development. Once approved this scheme shall be fully implemented prior to the first occupancy of the

development.

Reason: To protect the amenity of proposed occupiers of the development

14 A desk study shall be undertaken in order to identify any potentially contaminative uses which have or are currently occurring on the site. This shall include a site description and a site walkover and shall be submitted to and approved by the local planning authority prior to development commencing at the site.

Informative: This should where possible date back to 1800.

A site investigation shall be undertaken based upon the findings of the desk study. The investigation shall be carried out in accordance with BS10175: Investigation of potentially contaminated land: code of practice. The results of the investigation shall be submitted to and approved by the local planning authority in writing prior to any development commencing on the site.

A risk-based remedial strategy shall be developed based on the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing at the site.

A validation report shall be submitted to and approved by the local planning authority, detailing sample locations and contaminant concentrations prior to any development commencing at the site.

Reason: For the protection of human health and the wider environment.

15 Any contamination detected during site works that has not been considered within the remedial strategy shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development at the site.

Reason: For the protection of human health and the wider environment.

16 Prior to the commencement of development, a report demonstrating that the dwelling would comply with the Code for Sustainable Homes Level 3 assessment for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved report.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction

17 Renewable Energy

Prior to the commencement of development, full details of a renewable energy strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include (i) the dwelling's proposed renewable energy generation, which shall be at least 10 % of total energy generation (ii) measures to reduce energy demand (iii) measures to reduce CO2 emissions to a level lower than required under Building Regulations Part L. The development shall then be carried out in accordance with the approved assessment.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design

and Construction

18 HWAY10 Vehicular areas surfaced, details reqd

19 HWAY14 Access to be approved, details reqd

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

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

Reason: To enable vehicles to enter and leave the site in a forward gear thereby ensuring the safe and free passage of traffic on the public highway.

22 Prior to the commencement on site details of foul and surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Details to include:

- Calculations and invert levels of the existing surface water system should be provided together with details to include calculations and invert levels of the proposals for the new development. This will enable the impact of the proposals on the downstream watercourse to be assessed.

- Proposed ground levels to ordnance datum for the site and adjacent properties should be shown.

- The applicant should provide a topographical survey showing proposed finished floor and ground levels to ordnance datum, to ensure that there will not be any detriment to the drainage of existing properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

- Additional surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

- As the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, carried out in winter - to prove that the ground has sufficient capacity to except surface water discharge, and to prevent flooding of the surrounding land and the site itself. The proposed permeable paving should also be shown to work through the above assessment.

The above assessment should be carried out to prove that the ground has sufficient capacity to except surface water discharge from the proposed permeable paving.

- If the above soakaways prove to be unsuitable then in accordance with PPS25 and in agreement with the Environment Agency / City of York Council, peak run-off from developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable areas). Storage volume calculations, using computer modelling,

must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. As percolation tests have not been provided then only the proposed garden areas can be included in the above calculations as permeable areas.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system, and in accordance with PPS 25: Development and Flood Risk.

23 Notwithstanding the submitted plans the kerbs to the vehicles access should be retained in situ. Alternatively details including cross sections and drainage details demonstrating that neighbouring dwellings would not be affected by additional surface water should be submitted to and agreed in writing by the Local Planning Authority.

Reason: To protect the residential amenities of the occupants of 17 and 19 Holly Bank Grove.

24 Notwithstanding the submitted plans, details regarding the surfacing and delineation of the "buffer zone" in front of Units 3, 4 and 5 should be submitted to and agreed in writing to the Local Planning Authority.

Reason: For the residential amenity of the occupants of Units 3, 4, and 5 of the development.

25 No development shall take place until the applicant has submitted to and the approved in writing to the Local Planning Authority a foundation design and statement of working methods

Reason: The site lies over a sewer; foundation design is required so the LPA and Yorkshire Water can be satisfied that the proposed dwellings do not affect the sewer or access to it.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the dwellings and the locality, and highway safety. As such, the proposal complies with Policies GP1, GP10, H4a, ED4 and L1c of the City of York Council Development Control Local Plan (2005); national planning guidance contained in Planning Policy Statement 1 "Delivering Sustainable Development" and Planning Policy Statement 3 "Housing".

2. DEMOLITION AND CONSTRUCTION INFORMATIVE

If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a scheme remediation to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect

contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

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

a. All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00
Saturday 09.00 to 13.00
Not at all on Sundays and Bank Holidays.

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

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

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

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

f. There shall be no bonfires on the site

g. Any piling operations shall be carried out using the quietest practicable method available. Local residents should be notified of the dates, times, likely duration and works to be undertaken. Details of the piling method chosen must be submitted to and approved in writing by the Local Planning Authority prior to any works being carried out.

3. THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available from City Strategy at 9 St Leonard's Place or at:

<<http://www.communities.gov.uk/publications/planningandbuilding/partywall>>

Furthermore the grant of planning permission does not override the need to comply with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

4. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment.

You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

5. NETWORK RAIL INFORMATIVE

By virtue of the proximity of the site to the railway line Network Rail have the following requirements:

- a) All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plan all soakaways must be located so as to discharge away from the railway infrastructure.
- b) All operations, including the use of cranes or other mechanical plant working adjacent to network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0 metres of the nearest railway line, or where the railway is electrified, within 3.0metres of overhead electrical equipment or supports.
- c) All excavation/earthworks carried out in the vicinity of Network Rail property/structures must be designed and executed such that no interference with the integrity of that property/structure can occur.
- d) Security of the railway boundary will require to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Territory Outside Parties Engineer.
- e) Because of the nature of the proposed development there may be an increased risk of trespass on the railway. The developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary and make provision for its future maintenance and renewal. Network Rail's existing fencing/wall must not be removed or damages.
- f) Method statement may be require to be submitted to Network Rail's Territory Outside Parties Engineer at the following address for approval prior to works commencing on site:

Network Rail's Territory Outside Parties Engineer
2nd floor, George Stephenson House
Toft Green
York
YO1 6JT

Where appropriate an assist protection agreement will have to be entered into. Where any works cannot be carried out in "fail safe" manner, it will be necessary to restrict those works to periods when the railway is closed to railway traffic i.e. "possession" which must be booked via Network Rail's Territory Outside Parties Engineer and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10 metres of the railway boundary a method statement should be submitted for Network Rail approval.

- g) Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affect the safety of, or encroaching upon Network Rail's adjacent land.
- h) Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary.
- i) Where new lighting is to be erected adjacent to the operational railway the potential for train driver to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with signalling arrangements on the railway.

6. PUBLIC RIGHTS OF WAY

A pedestrian route currently crosses the site and the applicant is requested to contact the

Public Rights of Officer (Alison Newbould-01904 551481) prior to the commencement of any development on site with regard to the measures and procedures required to secure the route as a public right of way

Contact details:

Author: Victoria Bell Development Control Officer

Tel No: 01904 551347

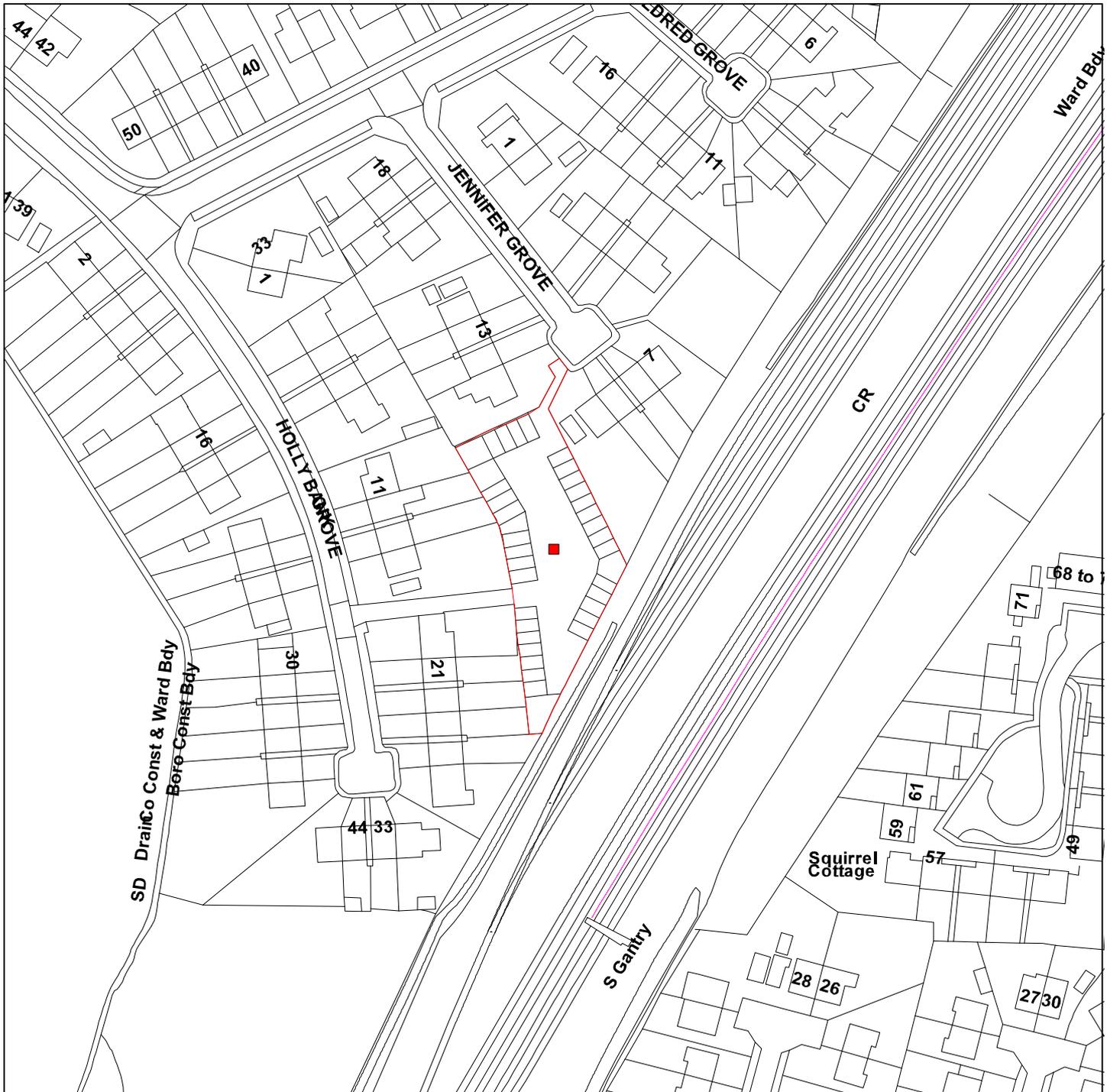
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Garages to the rear of 11 to 21 Holly Bank Grove

09/01910/FUL



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	30 November 2009
SLA Number	Not Set

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East Area Planning Sub Committee	10 th December 2009
West and City Centre Area Planning Sub Committee	14 th December 2009
Planning Committee	17 th December 2009

Appeals Performance and Decision Summaries

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 3 month period up to 31st October 2009, and provides a summary of the salient points from appeals determined in that period.

Background

- 2 Appeal 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 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 and lawful development certificates. Figure 1 gives a breakdown of appeals decided by the Inspectorate, both by CYC area and decision type for the 3 months and also the combined area (CYC)12 month performance.

**Fig 1 : Appeals Decided by the Planning Inspectorate
For 3 months to 31st October 2009**

	East 3 months	West & CC 3 months	CYC 3 months	CYC 12 months
Allowed	1	0	1	15
% Allowed	12.5%	0%	9.09%	26.32%
Part Allowed	1	0	1	4
% Part Allowed	12.5%	0%	9.09%	7.02%
Dismissed	6	3	6	38
% Dismissed	75%	100%	81.81%	66.67%
Total Determined	8	3	11	57
Withdrawn	0	0	0	4

Analysis

- 4 The table shows that for the 3 months to 31st October 2009, a total of 11 appeals relating to CYC decisions were determined by the Inspectorate. Of those, one was allowed and one part-allowed. At just over 9%, the rate of appeals allowed is well below the national average of around 33% and a significant improvement over performance in the preceding 3 month period (27.27% allowed).
- 5 For the 12 months up to 31st October 2009, CYC performance was 26.32% allowed, an improvement over the previously reported 12 month period of 33.33%.
- 6 The summaries of appeals determined in the last 3 months to 31st October 2009 are included at Annex A. Details as to whether the application was dealt with under delegated powers or Committee (and in those cases the original officer recommendation) are included with each summary. In the period covered only two of the appeals determined related to applications considered by Committee, namely 08/02441/TCNOT - telecoms mast Oak Tree Lane Haxby, and 08/00525/OUTM – Laverack Joinery, Birch Park.

Consultation

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

Corporate Objectives

- 8 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

- 9 Financial – There are no financial implications directly arising from the report

- 10 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
- 11 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 12 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

Risk Management

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

Recommendation

- 14 That Members note the content of this report.

Contact Details

Author:

Jonathan Carr,
Head of Development Control
Directorate of City Strategy

01904 551303

Chief Officer Responsible for the report:

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

Report Approved **Date** 25th November
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 Case Summaries

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Appeal Summaries for Cases Determined 01/08/2009 to 31/10/2009

Application No: 05/02470/FUL
Appeal by: Mr S N Smallwood
Proposal: Retention of agricultural buildings to house livestock and equipment
Site: Fircroft □ Moor Lane □ Haxby □ York □ YO32 2QW □
Decision Level: DEL
Outcome: DISMIS

A farmer had built two sheds for industrial use on agricultural land in the green belt. A subsequent enforcement notice (upheld at appeal) required the farmer to remove the buildings. Instead, he sought planning permission to use the buildings for agriculture. The council refused planning permission on the grounds that agricultural need had not been demonstrated and that the design of the buildings was out of keeping with the rural/green belt location. The inspector found that: (a) The buildings were inappropriate development in the green belt because they were built for a non-agricultural purpose, did not look like agricultural buildings and were not needed for agriculture even though they currently had farm machinery in them; (b) The buildings eroded the openness of the green belt and their stark industrial appearance was harmful to the rural character of the area. He took into account that the farm had permitted development rights for new buildings. But they would only allow a much smaller volume of development, would have to be reasonably needed for agriculture and, in any case, would need prior approval from the council. The inspector concluded that the case made by the applicant did not amount to very special circumstances that outweighed the harm caused by the development. The appeal was dismissed.

Application No: 08/00525/OUTM
Appeal by: Robert Laverack
Proposal: Erection of 14 dwellings after demolition of existing factory
Site: Laverack Joinery□Unit 1□Birch
Park□Huntington□York□YO31 9BL□
Decision Level: CMV
Outcome: PAD

The council granted outline planning permission, subject to conditions, for the erection of 14 dwellings. The appeal was against nine of those conditions. The inspector's findings are as follows: Condition 4 (Details of security gate). The substance of the condition could be included within Condition 17. Condition 5 (Submit sustainability assessments to show compliance with CoSH Level 3) was allowed subject to slight rewording. Condition 6 (Minimum of 10% of energy from on-site renewable sources) was allowed. Condition 8 (A noise survey shall be carried out and any sound insulation measures installed prior to first occupation). Whilst in this case there is some uncertainty over the potential for noise disruption from an existing business, a noise survey and possibly noise mitigation is necessary. The condition was allowed subject to slight rewording. Condition 12 (No development until details of the road layout have been approved). The appellant felt that the timing set by the condition was too onerous. During the hearing more onerous wording was agreed and the condition was varied accordingly. Condition 13 (Measures to prevent mud, etc during construction) was deleted. Condition 15 (£31,500 for public open space) agreed subject to very minor rewording. Condition 16 (£32,540 education) was deleted because two secondary schools in the adjacent catchment, and not much further from the appeal site than Huntington School, have available spaces and the nearest primary school had surplus places. Condition 17 (Secured by Design) was allowed subject to a variation to include reference to the security gate. See Condition 4.

Application No: 08/00770/FUL
Appeal by: Mr And Mrs Gatenby
Proposal: Alterations and extensions to existing dwelling and erection of a detached double garage
Site: The Old Gatehouse□Wheldrake Lane□Elvington□York□YO41 4AZ□
Decision Level: DEL
Outcome: DISMIS

The works mainly comprise an extension to a modest detached house to provide enlarged living accommodation and a new double garage in connection with the adjacent caravan park/B&B. The council refused planning permission on the grounds of (a) inappropriate development in the Green Belt due to disproportionate additions to the original dwelling; and (b) cumulative impact on the openness of the Green Belt. The site lies within open countryside in the green belt. The premises mainly comprise bed and breakfast accommodation and a seasonal caravan park, both operated by the applicants. The business has a range of buildings including a large house (which has been considerably enlarged over the years to provide separate living and B&B accommodation). The rear part of the site comprises the caravan park. Within the grounds is a modest brick building which the applicants converted it to a residential dwelling without planning permission. It subsequently became established. This is the building the applicants wanted to extend and add the garage. The inspector found that although the size of the extended dwelling would still be modest the additions proposed amounted to disproportionate additions to the very small existing building. It was therefore inappropriate development in the Green Belt. Existing screening from most vantage points would not prevent the loss of openness. Enlarging the residential use would have an urbanising effect on the site, harming its character. Whilst the proposed removal of some of the outbuildings on the site would increase openness their removal would not arise from the development. The existing dwelling has been occupied by the applicants for some years, during which their circumstances have not significantly changed, so there is little evidence of need for the extension. The inspector concluded that the case made by the applicant did not amount to very special circumstances that outweighed the harm caused by the development.

Application No: 08/02361/FUL
Appeal by: Mr Simon Crowther
Proposal: Erection of a replacement dwelling
Site: Newlands □ Back Lane South □ Wheldrake □ York □ YO19 6DT □
Decision Level: DEL
Outcome: DISMIS

Planning permission was refused by the Council for a replacement dwelling. The existing house is a small, timber clad, single storey dwelling which offered a modest level of accommodation space. The replacement dwelling was approx. 6 m longer, 5 metres deeper and 2.5 m higher than existing. The application was refused on the grounds that it amounted to inappropriate development in the Green Belt as the replacement was much larger than the one it was replacing. It was also deemed to harm the openness of the Green Belt. A further reason for refusal was on flooding grounds as no drainage information was submitted with the application. The Inspector agreed with the Council that the 'far larger building than the one it would replace' was inappropriate development and therefore, by definition, harmful to the Green Belt. He also concluded that the larger building would also 'erode the character of the Green Belt'. He concluded this not only on the basis of size, but also on design grounds. The existing house is a timber building with 'rustic character that fits easily within its rural setting'. The replacement was a larger, brick built bungalow which the Inspector concluded would have an 'urbanising effect on the site' which would harm its character further, particularly against the backdrop of open fields. This effect, he concluded, further harmed the openness of the Green Belt. On the question of flooding, given there was an existing house on the site, the Inspector concluded that the additional effect on drainage was likely to be minimal and no evidence had been forwarded by the Council that the existing house had caused any drainage problems in the past. Therefore a condition could reasonably be imposed to agree details which would be acceptable, even though the proposed house would be larger. Appeal therefore dismissed on the harm to the Green Belt only.

Application No: 08/02441/TCNOT
Appeal by: Vodaphone Limited
Proposal: Proposed installation of 12.2 metre high telecommunications mast with associated equipment
Site: Proposed Telecommunications Pole Fronting 39 Oak Tree Lane Haxby York
Decision Level: COMM
Outcome: DISMIS

The appeal was against a refusal, by the Council, to grant approval for a Telecommunications mast and associated equipment. Its height, including antenna, was 12.2 metres and was sited on a footpath fronting a two storey parade of shops with flats above in a locality that is predominantly residential in character. Officers recommended that approval be granted but members overturned this at committee on the grounds that by virtue of its appearance and height it represented an intrusive development which harmed the character of the streetscene. The Inspector agreed with this view saying that the mast would be considerably higher than adjacent lampposts and distinctly thicker. This was made worse by there being no scope to provide effective landscaping or other screening to reduce the impact of the mast, as PPG8 advocates. It would therefore be a prominent feature within the street scene which would project significantly above the ridge line of adjacent buildings and dominate the skyline. It would also be visible from surrounding dwellings and gardens, which added weight to the Inspector's concerns. The Inspector also considered that the appellant had not clearly demonstrated why a less visually harmful site could not be provided within the search area. For example, the appellant rejected an installation could not be provided at the nearby church as it required 'significant structural works' but did not specify what these works entailed. It was also noted that a number of nearby grass verges and open areas nearby had not even been considered, let alone rejected. Other concerns expressed by residents over the appearance of the equipment cabinet, health and restricting the footway width were not considered reasons for dismissing the appeal. Therefore, appeal dismissed on grounds of the intrusive impact of the development and effects on the character of the streetscene.

Application No: 08/02487/FUL
Appeal by: Mr White
Proposal: Bungalow to rear garden of 10 Burton Avenue with access from rear of Cromer Street
Site: 10 Burton Avenue □ York □ YO30 6DE □
Decision Level: DEL
Outcome: ALLOW

A bungalow to the side/rear of a two storey semi detached dwelling (10 Burton Avenue) served by a separate vehicular access to the side off Cromer Street. Two main issues were effect on character and appearance of area and on living conditions of neighbouring dwellings. Several properties on Burton Avenue have established vehicular accesses off Cromer Street and the proposed driveway off Cromer Street would not be appear contrived or at odds with the general residential layout of the area. The Inspector considered that a single storey dwelling, which would be modest in size, would not be harmful to the character or appearance of the surrounding area. The driveway would run along the rear gardens of adjacent properties away from existing dwellings. The amount of traffic generated by a one bedroom bungalow would be minimal and thus not create so much noise and disturbance that it would be harmful to the living conditions of adjacent dwellings. 10 Burton Avenue would retain a good sized rear garden, the eaves of the bungalow would be only slightly higher than a 2 metre high boundary fence. The hipped roof pitched away from the boundary would have very limited visual impact. The issue of security was referred to by residents, however the Inspector considered that the proposal would lead to an increased presence of people in the area and improve natural surveillance.

Application No: 08/02737/FUL
Appeal by: Paul Cooper
Proposal: Erection of studio apartment after demolition of garage
Site: 162 Burton Stone Lane □ York □ YO30 6DF □
Decision Level: DEL
Outcome: DISMIS

Application was for the demolition of an existing garage and erection of a 1 bedroom studio apartment in its place. It was refused on the grounds that by virtue of its size, scale, design and location, it would harm the character and appearance of the area. Considered the dwelling would appear shoehorned into the site which would result in an overdeveloped appearance to the area which would appear out of keeping with the surrounding area. A previous, larger scheme had been refused and rejected on appeal. □ □ Inspector agreed with the Council. He concluded that even this smaller scheme would be twice as high as the building it would replace, with a significantly greater width. Consequently, the openness of the area would be reduced, harming its character. The appellant said that the building would be far smaller than the terraced properties but the Inspector took his reference from the domestic garages and outbuildings serving these properties. He noted that the proposal had 3 windows on the gable fronting the road and this further identified it as a building containing an upper floor. The Inspector concluded that this would appear as an 'oddity' relating to neither the dwellings, nor their outbuildings. This would strike a 'jarring' note in the street scene, harming its character and appearance.

Application No: 09/00221/FUL
Appeal by: Aligul Kala
Proposal: Variation of condition 2 of planning permission 97/02348/FUL (granted on appeal) to extend opening hours of existing take away to 1100-0100 Mon-Thurs, 1100 - 0200 Fri-Sat and Sun to 1100 - 2400 (midnight) (existing permitted hours 11.00-2400 Mon-Sat and 1100-2330 Sun)
Site: 51 Blossom Street □ York □ YO24 1AZ □
Decision Level: DEL
Outcome: DISMIS

The application was recommended for refusal on the grounds that extended hours would harm the residential amenity of those living near to the site from increased noise and disturbance. The applicant wanted to extend the hours to 11.00 - 01.00 Monday to Thursday, 11.00 - 02.00 Friday to Saturday and 11.00 to 24.00 on a Sunday (the existing permitted hours are 11.00 - 24.00 Monday to Saturday and 11.00 - 23.30 on a Sunday). A previous application has been refused for the extension of the hours (06/02689) to Sun-Thurs and 0900 - 0145 Fri-Sat 11.00 - 24.00 Monday to Saturday. The inspector agreed with the council, that whilst the takeaway was on a busy principle route into York and of a prevailing commercial character the area would be much quieter after midnight and therefore the extended hours and the noise and disturbance caused by patrons of the site would harm the living condition of the residents living nearby. The Inspector also noted that all the nearby takeaways did not open beyond midnight. The Inspector did not consider that the support from a number of businesses and other occupiers in the area was sufficient to outweigh planning objections.

Application No: 09/00331/FUL
Appeal by: Mrs Carolynne Crosbie
Proposal: Detached dwelling and garage to rear of property (resubmission)
Site: Elmgarth □ Malton Road □ Heworth □ York □ YO31 9LT □
Decision Level: DEL
Outcome: DISMIS

Application was for a detached dwelling in the rear garden of the host house called Elmgarth. Planning permission was refused on the grounds that the use of the access to the proposed dwelling would result in an unacceptable loss of amenity for the occupiers of Elmgarth. The Inspector concluded that the development represented 'tandem development'. He agreed with the Council that the length and proximity of the access to the new dwelling would result in noise and disturbance and a lack of privacy to the occupiers of Elmgarth from comings and goings of the occupiers and delivery services etc. This could not be overcome by conditions requiring the re-siting of existing side doors and windows. Appeal dismissed.

Application No: 09/00410/FUL
Appeal by: Mr Terry Wheatley
Proposal: Retention of UPVC windows and door frames to flats 1-4,
 10 St Marys
Site: Flat 1 □ 10 St Marys □ York □ YO30 7DD □
Decision Level: DEL
Outcome: DISMIS

Officer recommendation of refusal. This appeal relates to the retention of Upvc doorframes and double glazed windows to the front and rear elevations of a mid terraced property, which has been split into 4 flats. The property is located within the Central Historic Core Conservation Area but is not listed. The application was refused by reason of the appearance and detailed design of the frames harming the architectural character and appearance of 10 St. Marys and the streetscene. The Inspector notes the predominance of timber sliding sash windows and comments that the impression of St. Marys is a street where period fenestration is consistent. The Inspector comments that the windows installed in No.10 St. Marys, because of their materials, opening mechanism and design, have a poor appearance and look out of place in this street and diminish the qualities of the conservation area. With reference to the rear elevation, it is noted that although uPVC windows are more common here than at the front, they similarly detract from the conservation area.

Application No: 09/00717/FUL
Appeal by: Mr Charles Kemp
Proposal: Dormer to front
Site: 13 Ullswater □ York □ YO24 2RY □
Decision Level: DEL
Outcome: DISMIS

The host dwelling is a small modern semi-detached bungalow. A side extension with front dormer has already been erected (having been recommended for refusal but overturned at committee). This submission was for another larger dormer within the original roof, and was refused due to the fact it would harm the appearance of the dwelling within the surrounding area. Differing styles of dwellings, one and two-storey, are in place along this long street, but only 1 small front dormer currently in place, some distance from the host. Inspector agreed that the scale and mass, would appear incongruous within the streetscene and harm the appearance of the dwelling

Decision Level:	Outcome:
DEL = Delegated Decision	ALLOW = Appeal Allowed
COMM = Sub-Committee Decision	DISMIS = Appeal Dismissed
COMP = Main Committee Decision	PAD = Appeal part dismissed/part allowed

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