



**Notice of meeting of
East Area Planning Sub-Committee**

To: Councillors Hyman (Chair), Cregan (Vice-Chair),
Douglas, Firth, Funnell, King, Moore, Orrell, Taylor and
Wiseman

Date: Thursday, 15 October 2009

Time: 2.00 pm

Venue: The Guildhall, York

AGENDA

If Members have any queries regarding Agenda Item 5, please email or telephone Mandy Swithenbank or Alan Kendall by Tuesday 13th October 2009 by 5pm.

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. Exclusion of Press and Public

To consider excluding the public and press from the meeting during consideration of agenda item 5 on the grounds that it contains information which is classed as exempt under Paragraph 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Sub-Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is **Wednesday 14th October at 5pm.**

4. Plans List

To determine the following planning applications related to the East Area.

a) 57 York Road, Haxby, York. YO32 3EE (Pages 5 - 12)

The application relates to the erection of a detached, 4-bedroom, pitch-roofed, single dwelling house with linked double garage within the rear garden of an existing dwelling fronting onto York Road. [Haxby and Wigginton] **[Site Visit]**

b) The Homestead, Murton Lane, York. (Pages 13 - 21)

This is a retrospective application for the change of use of land to a private gypsy site for a single gypsy family and the retention of a concrete hardstanding for a residential caravan. [Osbalwick] **[Site Visit]**

c) Westholme, 29 Church Street, Dunnington, York. YO19 5PP (Pages 22 - 36)

This application seeks planning permission for a detached two storey dwelling and detached single garage within the rear garden of 29 Church Street, Dunnington, accessed off Eastfield Lane. Amended plans were submitted on 13th July 2009 showing minor alterations to the design of the dwelling house and the siting of the garage. [Derwent] **[Site Visit]**

**d) Gateway to York(Kexby Bridge) Hotel, Hull (Pages 37 - 52)
Road, Kexby, York. YO41 5LD**

This is a full planning application for the erection of a two storey extension to the side of an existing building (formerly the Kexby Bridge Hotel) and now a nursing home. The building is to provide high dependency care for people with brain injuries, who are likely to be accident victims, requiring rehabilitation and care. [Derwent] **[Site Visit]**

**e) Marina House, Naburn Lane, Naburn, York. (Pages 53 - 63)
YO19 4RW**

This is a full planning application relating to the erection of a new detached dwelling at the above site. The scheme necessitates alterations to the existing house to remove the existing garage and provide replacement parking and access arrangements at the back of the house. [Wheldrake] **[Site Visit]**

f) 4 Derwent Road, Fulford, York. YO10 4HQ (Pages 64 - 76)

The application proposes the erection of a pair of semi-detached 1 1/2 storey houses following demolition of the existing dormer bungalow. [Fishergate] **[Site Visit]**

**g) Hollycroft, 20 Wenlock Terrace, York. YO10 (Pages 77 - 90)
4DU**

This application concerns the change of use of existing building from offices to 8 numbered self contained apartments. [Fishergate]

h) 19 Hyrst Grove, York. YO31 7TD (Pages 91 - 95)

This application seeks planning permission to erect a hipped roof dormer window on the side elevation of the existing roof slope of a semi detached dwelling. This application has been brought to Committee due to the applicant being a current employee of City of York Council. [Heworth]

5. Enforcement Cases-Update (Pages 96 - 180)

The purpose of this report is to provide Members with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by this Sub-Committee.

6. Urgent Business

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

7.

Democracy Officer:

Name- Judith Cumming

Telephone – 01904 551078

E-mail- judith.cumming@york.gov.uk

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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Scrutiny Committees

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

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

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**EAST AREA PLANNING
SUB-COMMITTEE****SITE VISITS****Wednesday 14 October 2009**

TIME	SITE
10:00	Depart Union Terrace Car Park
10:10	57 York Road, Haxby (4a)
10:40	The Homestead, Murton Lane (4b)
11:05	Westholme, 29 Church Street, Dunnington (4c)
11:35	Kexby Bridge Hotel (4d)
12:20	Marina House, Naburn (4e)
12:50	4 Derwent Road, Fulford (4f)

**Please note that there are no Site Visits for Agenda Items 4g and 4h:
Hollycroft, 20 Wenlock Terrace and 19 Hyrst Grove.**

CYGP1
Design

CYGP10
Subdivision of gardens and infill devt

CYT4
Cycle parking standards

CGP15A
Development and Flood Risk

CYL1C
Provision of New Open Space in Development

3.0 CONSULTATIONS

3.1 INTERNAL

Highway Network Management - No objections to the principle of residential development. Part of the driveway is below the minimum width for access by emergency vehicles but, in this case, is adequate. Add standard conditions regarding details of surfacing and provision of parking/manoeuvring areas.

Environmental Protection Unit - No objections. The standard demolition and construction informative should be attached.

Structures & Drainage - The development is in Flood Zone 1 and should not suffer from river flooding. No objections following receipt of the revised drainage statement. The applicant should provide details of ground levels, surfacing and run-off attenuation.

3.2 EXTERNAL

Haxby Town Council - Objection. The site is backland development. The close proximity of the driveway would disturb the neighbouring property.

Foss Internal Drainage Board (IDB) - Surface water drainage problems have been experienced in this area. The suitability of soakaways, as proposed, should be ascertained. If not proven amended drainage proposals should be submitted.

Public Consultation - The consultation period expired on 16 July 2009. Objections have been received from seven addresses raising the following planning issues:

Loss of privacy;
Loss of pleasant open outlook;
Loss of sunlight to garden;
Noise and disturbance;

General loss of amenity;
Flood risk;
Highway safety due to poor sight lines;
Construction noise and disturbance;
Demolition of the garage may compromise the existing boundary fence;
Demolition of the garage would leave a gap in the fence which should be replaced;
The existing boundary hedge should be allowed to grow to protect neighbours' privacy.

4.0 APPRAISAL

4.1 Key Issues

Principle of Development
Visual Appearance
Neighbour Amenity
Highway Issues
Drainage
Open Space
Landscaping and Boundary Treatment
Construction Impact

4.2 Policy Framework

Planning Policy Statement 1 (PPS1) sets out the Government's overarching planning policies. It sets out the importance of good design in making places better for people and emphasises that development that is inappropriate in context or fails to take the opportunities available for improving an area should not be accepted.

"The Planning System: General Principles " - Planning authorities should consider whether a proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

Planning Policy Statement 3 - "Housing" states that the planning system should deliver high quality housing that is well designed and built to a high standard. Development should be distinctive, maintain character, be developed in suitable locations and make effective use of land. Priority development sites are previously-developed land, in particular vacant and derelict sites and buildings. Design that is inappropriate in its context or which fails to take opportunities to improve the character and quality of an area should not be accepted.

Planning Policy Statement 25 ("Development and Flood Risk") aims to: ensure that flood risk is taken into account in the planning process; avoid inappropriate development in areas at risk of flooding; and direct development away from areas at highest risk.

Draft Local Plan Policy GP1 "Design" - Development proposals should be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and local character; respect or enhance the local environment; provide/protect amenity space; protect residential amenity; accord with sustainable design principles; include refuse facilities; and include, where appropriate, landscaping.

GP10 - Planning permission will only be granted for the sub-division of garden areas or infilling to provide new development where this would not be detrimental to the character and amenity of the local environment.

GP15a - Developers should ensure that the site can be developed, serviced and occupied safely and that discharges from new development should not exceed the capacity of existing/proposed sewers and watercourses.

GP4a -All proposals should have regard to the principles of sustainable development.

T4 - Seeks to promote cycling and states that all new development should provide storage for cycles in accordance with the standards in the local plan.

L1c - All housing sites shall 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.

The Application Site

4.3 The site accommodates a -storey, detached single dwelling house with access onto a classified road. The house has a large rear garden. The area of the house and garden is approximately 0.08ha. The site is in a suburban, predominantly residential area. The proposed house would occupy part of the rear garden. The plot is bounded on three sides by gardens of residential dwellings.

Principle of Development

4.4 The site is within the settlement limit of Haxby and is in a sustainable location with good access to jobs, shops and services. The principle of the use of the land for housing is acceptable.

Visual Appearance

4.5 The footprint of the house would be approximately 10.9m by 9.0m with a linked double garage. The building would face No.57 and have a traditional appearance. Main windows would face front and rear. The scale, design and appearance of the house are in keeping with the character of the existing building and the surrounding area, subject to appropriate materials being used.

Neighbour Amenity

4.6 The new dwelling would be approximately 19m from the nearest houses, which are in Calf Close. At this distance the dwelling would not be significantly overbearing or cause significant overshadowing, particularly as the gardens are partially screened by planting along the boundary. The north elevation (facing Calf Close) would have no windows at first-floor level so is unlikely to cause significant overlooking. The south elevation (facing 59 York road) would have rooflights and a secondary window to the master bedroom. This would result in some overlooking of the garden of No.59, however the affected area is 50m from the house at No.59 so any overlooking is likely to be minor, particularly as the shared boundary is partially screened by planting. The rear windows of the proposed house would face a remote part of the garden of 9 The Avenue. The area is used for growing vegetables and the impact on the occupiers of No.9 is likely to be insignificant. The house would face the rear garden of the

applicant's house at no.57. There would be some overlooking but it would be largely mitigated by boundary fencing and a substantial willow tree. The impact of the house on the occupiers of no.57 is not considered sufficient to justify refusal.

4.7 Any noise or disturbance generated by the residential use of the house and garden is unlikely to be materially different from the existing use.

4.8 No.57's existing drive is approximately 5m wide and passes down the long side elevation of the existing house. The drive, which would be shared by both houses, is close to habitable rooms on the south side of No.57. These rooms include a kitchen/breakfast room, dining room, sitting room and, at first floor level, three bedrooms. The drive would be separated from the existing house by a new, broken fence/hedge along part of the shared drive. The distance from the shared drive to the long side elevation of the existing house would vary from 1m to 1.6m. Vehicles belonging to the occupiers of the proposed house, together with those of visitors and associated delivery/service vehicles and all pedestrian movements, would all pass by this long side elevation of No.57. These additional movements, although fairly small in number (approximately four return trips per day), would represent a significant increase over and above the existing situation. The noise from vehicle engines and vehicles undertaking manoeuvres into and out of the drive access, supplemented by other noise sources such as car stereos, would be likely to be intrusive to the occupiers (including future occupiers) of No.57. This would particularly be the case if the disturbance was in the evening or early morning or at times when windows were open in rooms facing onto the drive. Consequently, despite the intervening fence/hedge along part of the drive, it is considered that the increase in noise and disturbance experienced by the occupiers of No.57 would be unacceptable.

4.9 In reaching this conclusion, regard has been had to the refusal of planning permission on other "backland" sites in the vicinity of the site, in particular 71 York Road, Haxby (single dwelling in rear garden refused under delegated powers 24 August 2008), 21 The Avenue, Haxby (consent for two dwellings in rear garden refused 9 May 2008, appeal dismissed 13 January 2009 - a subsequent application for a single dwelling has also been refused and is the subject of a further appeal), and 31 North Lane, Haxby (single dwelling in rear garden refused under delegated powers 2 April 2008, appeal dismissed 7 November 2008).

4.10 Furthermore, the proximity of the shared drive to the windows and garden of No.57, together with only-partial screening provided by the fence/hedge has the potential to result in loss of privacy currently enjoyed by the occupiers of No.57.

4.11 Whilst the vehicle movements would cause some impact on the occupiers of No.59 to the south it is unlikely to be significant due to the existing (unbroken) fence along the shared boundary, the presence of the neighbour's garage/outbuilding and the 3.8m separation distance.

4.12 Noise nuisance caused by traffic movements on the drive would be exacerbated by the existing surface material, which is gravel. The assessment of the impact of the movements is based on the assumption that drive would be sealed and surfaced in tarmac or other less noisy material.

Highway Issues

4.13 The access should be a minimum of 3.7m wide throughout to accommodate emergency vehicles. Whilst the access is only 3m wide for a distance of 12m it is straight and is considered adequate. Visibility at the proposed access is within guidelines. Adequate car parking and cycle storage would be provided.

Drainage

4.14 The development is in low risk Flood Zone 1 and should not suffer from river flooding. However, the ground is predominantly clay and is unsuitable for soakaways. The applicants' agent has submitted a drainage statement proposing a separate foul and surface water drainage system. Discharge of surface water would be controlled by a hydro-brake and stored in a length of oversized pipe. The proposed are acceptable subject to details being submitted for approval.

Public Open Space.

4.15 A developer contribution of £3,006 would be required for the provision of public open space in accordance with policy L1c of the Draft Local Plan. Where planning permission is granted the requirement for a financial contribution would normally be secured through a s.106 agreement. The applicant has agreed to pay the required sum and has submitted a unilateral planning obligation to that effect.

Landscape and Boundary Treatment

4.16 If planning permission were to be granted conditions should be attached requiring landscaping details to be submitted for approval. These would include

4.17 Construction Impact

Any construction nuisance would be temporary and is covered by other legislation. Nevertheless, if planning permission were granted a condition could be attached controlling construction hours of working. The Environmental Protection Unit have no objections to the application and consider that any noise nuisance and disturbance could be prevented by attaching the council's standard construction informative.

5.0 CONCLUSION

5.1 The proposal would result in unacceptable impact on the existing and future occupiers of the adjacent house at 57 York Road, contrary to Policies GP1 and GP10 of the Draft Local Plan.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The proposed development would result in a poor level of amenity for the occupiers of the existing dwelling at 57 York Road due to noise, disturbance and loss of privacy caused by the shared use of the access and driveway to the side of the existing dwelling. The application is therefore contrary to policies GP1 (Design) and GP10 (Sub-division of Gardens and Infill Development) of the City of York Deposit Draft Local Plan and Central Government advice at paragraph 29 of 'The Planning

System: General Principles' (2005) and paragraphs 34 & 35 of Planning Policy Statement 1: "Delivering Sustainable Development" (2005).

7.0 INFORMATIVES:

Contact details:

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Tel No: 01904 552830

57 York Road, Haxby

09/01215/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	06 October 2009
SLA Number	Not Set

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYGB1

Development within the Green Belt

CYH16

Residential sites for gypsies/travellers

3.0 CONSULTATIONS

3.1 Internal

Highway Network Management - No objections subject to details being submitted of the design/construction of the access, parking and turning areas.

City Development (Planning Policy) - The North Yorkshire Gypsy and Traveller Accommodation Assessment (GTAA) identifies a shortfall of 36 pitches in York. The council will meet the majority of this shortfall by identifying suitable sites through the Allocations DPD but searches by the council to date have not found any suitable sites. Where planning applications are submitted for new sites they should be considered against the need identified in the GTAA. The current application would contribute to satisfying this need. There are not enough suitable housing sites in the urban area to meet the council's housing land requirements over the next 20 years. Many of the potential housing sites identified in the Strategic Housing Land Availability Assessment (SHLAA) are in the green belt and would not therefore be suitable for housing. These could be looked at as potential gypsy sites should the need of meeting the shortfall in the GTAA outweigh the impact on the green belt. In the present case, whilst the proposed use constitutes inappropriate development in the green belt, the identified need for gypsy sites amounts to exceptional circumstances outweighing the impact on the green belt.

3.2 External

Murton Parish Council - Objection. The application infringes green belt policy; Development on the site would erode the green gap around Murton village and be contrary to the village design statement; Approval would be inconsistent with the council's normally strict enforcement of green belt policy in the area; There are sufficient gypsy sites/pitches in elsewhere in York/North Yorkshire; Occupation of the site could increase if the applicant's extended family were to reside there; There are already two caravans on the site; Use as a gypsy site would not enhance security in the area as stated by the applicant.

Public Consultation - The consultation period expired on 23 July 2009. 18 objections have been received raising the following planning issues: Infringement of green belt

policy; There are no special circumstances to overcome green belt policy; Approval of this application would be inconsistent with the council's normally strict enforcement of green belt policy in the area; Development in the green gap around Murton village is contrary to the village design statement; Impact on the character of the village; Impact on Murton conservation area; Use as a gypsy site would worsen security in the area; There are other gypsy sites/pitches elsewhere in the area; The site should be reinstated as open land; Approval would set an unwelcome precedent.

The adjacent scrap metal business has no objections to the application subject to planning permission not being sought to allow material to be stored on the site or to allow more than one family to reside there.

4.0 APPRAISAL

4.1 Key Issues

Impact on the Green Belt

Impact on the Character of the Village and the Conservation Area

Local Services

Highway Issues

Occupier and Neighbour Amenity.

Security

4.2 Policy Context

National planning advice contained within Planning Policy Guidance Note 2 (PPG2) states that development in the Green Belt is inappropriate unless it is for a very restricted range of purposes. They do not include use as a gypsy site. There is a general presumption against inappropriate development, which is, by definition, harmful to the Green Belt. Planning permission should not be granted unless very special circumstances exist to outweigh the harm caused by inappropriateness and any other harm.

Policy H6 of the Adopted Regional Spatial Strategy for Yorkshire and Humber (RSS) sets out guidance for the provision of sites for gypsies. It requires local authorities to assess the housing needs of gypsies and travellers in their areas. It requires LDFs, housing investment programmes and planning decisions to ensure there is adequate provision for gypsy and traveller sites. The RSS identifies a need for an additional 57 pitches in North Yorkshire up to 2010.

Draft Local plan policy GB1 - Within the Green Belt, planning permission for development will only be granted where: (a) the scale, location and design would not detract from the open character of the green belt; (b) it would not conflict with the purposes of including land within the green belt; and (c) it would not prejudice the setting and special character of the City of York; AND it is for one of a limited number of particular purposes, including reuse of existing buildings. All other forms of development within the green belt are considered inappropriate. Very special circumstances will be required to justify instances where this presumption against development should not apply.

Draft Local plan policy H16 - In determining applications for gypsy/traveller sites the following criteria will be taken into account: proximity to local services; the potential for safe access; the extent to which the site impacts on important open areas; visual integration with the surrounding area; and potential impact on the amenity of the environment, neighbouring properties, sensitive agricultural land or other land uses.

The Application Site

4.3 The site comprises a yard occupying approximately 0.125 hectares on the east side of Murton Lane. The yard is surfaced throughout in gravel apart from a concrete hardstanding at the north-east corner on which is located a static caravan occupied by the applicant and his family. Near the caravan is a domestic shed used for storage and a camper van used by the applicant's family. The highway frontage to the site comprises a 2m-high wall with a gated vehicular access. To the north is agricultural land, to the east is a paddock (owned by the applicant) with a small stable block and to the south is a scrap metal business. The site is largely screened from outside the site by a tree belt to the north, the 2m wall to the west and a timber fence to the south.

4.4 The site, which is in the Green Belt, abuts an agricultural swathe of land between Murton Village to the north and a commercial enclave to the south. The site is occupied by the applicant - Mr Peter James - his wife and their four children. They have lived in the caravan on the site for nine months in 2005 and continuously since 2008. Mr James is a Romany gypsy.

Impact on the Green Belt

4.5 National advice contained within PPG2 states that planning permission should not be granted for use of Green Belt land as a gypsy site unless very special circumstances exist to outweigh the harm caused by inappropriateness and any other harm. A very special circumstance that could justify approval is where there is a demonstrable need for gypsy accommodation that is not being met in non-green belt areas.

4.6 The changes to the planning system set out in the 2004 Planning Act require local authorities to include gypsies and travellers in their accommodation assessments and to demonstrate how the accommodation needs of gypsies and travellers will be met. Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites) acknowledges that there is a national shortfall in provision and requires local authorities to carry out a gypsy and traveller accommodation assessment (GTAA). The GTAA should identify the number of pitches that each local planning authority is required to deliver. The GTAA for North Yorkshire was approved by the County Council in June 2008. It shows that North Yorkshire has a shortfall of 113 pitches. This is well above the target of 57 pitches set out in the RSS (2005). The GTAA identifies a shortfall in the York area of 36 pitches.

4.7 Circular 01/2006 reiterates the general presumption against development in the Green Belt and advises that alternatives should be explored before Green Belt locations are considered. However, whilst the council is in the process of identifying suitable sites, so far none has been found in the urban area. It is unlikely that the council will be able to find, within settlement limits, sufficient sites to provide for the

shortfall identified in the GTAA - or even the number identified in the RSS. Bearing in mind that almost all of the CYC area outside development limits is in the Green Belt it is likely that at least some of the shortfall will have to be provided on Green Belt land. The European Court of Human Rights has found that the taking of enforcement action to require the removal of gypsy caravans interferes with gypsies' rights under Article 8 of the European Convention on Human Rights. The British courts have held that a balancing exercise has to be taken, weighing harm to the public interest against the rights and personal circumstances of applicants. In this context officers consider that, in the current case, very special circumstances exist to outweigh Green Belt policy, subject to the proposal being acceptable in all other respects.

Visual Amenity

4.8 The application is for one caravan only. It is low in height and would be largely screened by the 2m-high wall along the highway frontage and by the fence and trees along the side boundaries. The site has had an urban appearance for many years. Whilst the mass of the caravan, shed and parked vehicles would have a visual impact it would be minor relative to the appearance the site would have without the change of use. Furthermore, it is not considered that the harm caused to the Green Belt due to the visual impact of the caravan and activity on the site is sufficient to outweigh the very special circumstances that support the application.

Impact on the Character of the Village and the Conservation Area

4.9 The site is approximately 220m from Murton conservation area. The impact of the proposal on the conservation area is negligible. The site lies at the edge of the 'green gap' between the commercial enclave to the south and Murton village to the north. Design Guideline 32 of the adopted Murton Village Design Statement seeks to preserve this green gap to maintain the integrity of the village. The site already has an urban character and the proposed use would not significantly alter its appearance. Moreover, the boundary between the site and the agricultural land to the north is clearly marked by a fence and a substantial screen of trees. Therefore any visual impact of the proposal will not encroach into the green gap or diminish its purpose.

Local Services

4.10 Whilst the facilities in Murton village are limited (post box, public house) it has a bus service to Osbaldwick and the centre of York. Facilities at Osbaldwick include shops, schools and a church. There are frequent bus services along Hull Road 750m to the south and there is a Park & Ride at Grimston Bar. Murton Lane is an advisory cycle route. However there are no pedestrian footpaths in the immediate vicinity of the site, nor street lighting. On balance whilst local services (including public transport) are limited in the immediate vicinity of the site the overall provision is considered to be adequate.

Occupier and Neighbour Amenity

4.11 There are no residential neighbours in the vicinity of the site. The only immediate neighbour is the scrap business immediately to the south. The business premises mainly comprise a large shed and an open yard. The occupiers of the

caravan site could experience noise and dust nuisance, particularly caused by activities in the yard. However, the shed has no openings facing the application site and the yard is separated from the site by the shed. Any nuisance caused by the business is therefore unlikely to be significant.

Highway Issues

4.12 The existing vehicular access is adequate for the traffic movements likely to be generated by the proposal. Whilst there is a lack of footways and street lighting in the vicinity of the site this is not sufficient reason to justify refusal. The council's highways officer has requested that details be submitted of access, parking and turning arrangements. The current access and the gravel surfacing have been in existence since at least 1999 when planning permission for the boundary wall was granted. Bearing in mind the low level of traffic generated by the current proposal, requiring submission of details is considered unreasonable.

Security

4.13 Some residents are concerned that approval of the current application could/would lead to crime and anti-social behaviour. Officers understand that theft and vandalism (mainly directed towards local businesses) are a problem in the area. Much of the blame for this activity appears to be directed at the local gypsy community. However, there is no evidence to link the current applicant or the use of the site to local crime levels.

Other Matters

4.14 A camper van is parked on the site, in addition to the static caravan. Whilst both vehicles are defined as caravans the use of the camper van is ancillary to the applicant's use of the caravan. Therefore separate consent for the camper van is not required. Control over campers and touring caravans on the site can be made a condition of approval.

4.14 Whilst the site is large enough to accommodate a number of caravans consent is being sought for just one. This should be made a condition of approval. Any future applications for additional caravans would be treated on their merits.

5.0 CONCLUSION

5.1 Whilst the proposal is inappropriate development in the Green Belt it is considered that very special circumstances exist justify approval. The application accords with policy H16 of the Draft Local Plan.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approved

1 The development hereby permitted shall be carried out only in accordance with the approved 1:200 site plan received 5 June 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.

2 The land hereby approved shall be used only as a residential gypsy site and not for any other type of domestic or business use.

Reason: To safeguard the character of the area and the openness of the Green Belt.

3 The number of caravans at the site shall be restricted to no more than one static and one tourer at any one time.

Reason: To safeguard the character of the area and the openness of the green belt.

4 The occupation of the caravan site shall be restricted to gypsies and travellers as defined in ODPM Circular 01/2006, that is: 'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently but excluding members of an organised group of travelling show people or circus people travelling together as such'.

Reason: The development would be unacceptable unless justified by the local need for gypsy and traveller accommodation.

5 The area occupied by the static caravan shall be restricted to the area marked 'Caravan' on the approved 1:200 site plan received on 5 June 2009, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To maintain the character and appearance of the area.

6 The area used for storage and/or car parking shall be restricted to the area shown hatched on the 1:200 site plan received on 5 June 2009 and subsequently amended by City of York Council on [TO BE ADVISED], unless otherwise agreed in writing by the Local Planning Authority.

Reason: To maintain the character and appearance of the area.

7.0 INFORMATIVES: Notes to Applicant

1. 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 visual appearance, occupier amenity, neighbour amenity,

access, highway safety and impact on the openness of the Green Belt. As such the proposal complies with policies GB1 and H16 of the City of York Local Plan Deposit Draft.

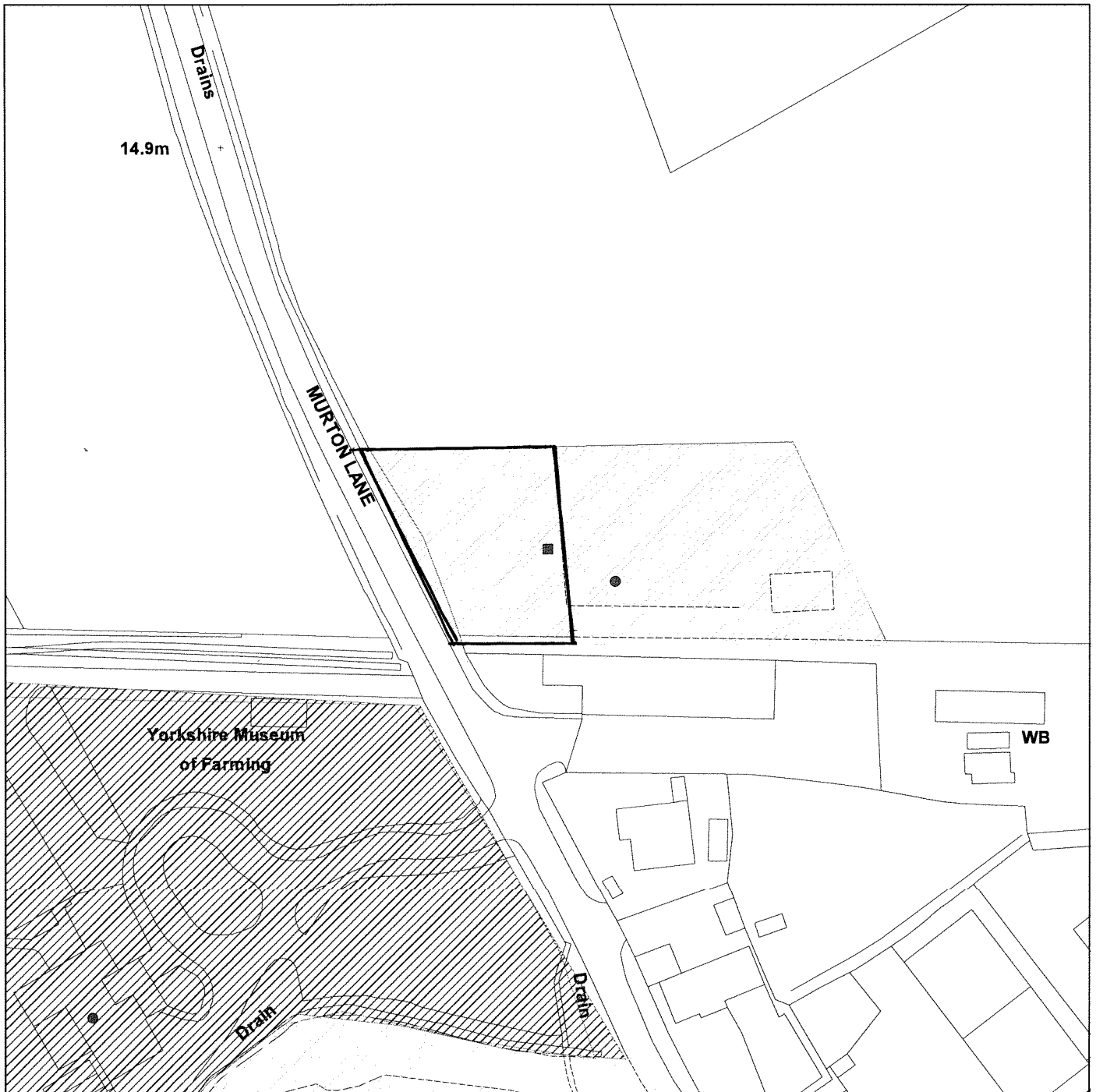
Contact details:

Author: Kevin O'Connell Development Control Officer

Tel No: 01904 552830

Gypsy Site, The Homestead, Murton Lane

09/01125/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	06 October 2009
SLA Number	Not Set

This application is referred to Committee following a request from Councillor Brooks on the following grounds; impact on Conservation Area, impact on neighbours and contrary to Village Design Statement. A site visit is also recommended.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area : Dunnington Conservation Area

City Boundary : York City Boundary 0001

DC Area Teams : East Area (1) 0003

2.2 Policies:

CYGP1
Design

CYGP10
Subdivision of gardens and infill devt

CYHE2
Development in historic locations

CYH4A
Housing Windfalls

CYH5
Residential densities over 25 per ha

3.0 CONSULTATIONS

3.1 Internal

Highway Network Management - No objections. The proposed dwelling would be served by an existing access from Eastfield Lane. Visibility at the access is to be improved to accord with government guidelines. Car parking, turning and cycle storage are provided in accordance with CYC standards for both dwellings. Several conditions are suggested to be included with any approval.

Environmental Protection Unit - Concerns over potential land contamination. Looking at historical mapping of the area there is nothing to suggest that the site has been used formally for activities that could have resulted in contaminated land. The concerns are the result of a site visit of the proposed development area. Articles of concern on this

site included, abandoned vehicles, oil drums, abandoned workshops with machinery inside, tyres, open paint tins, petrol canisters, engine parts and waste motor oil. There were also a lot of building materials, old radiators and metal car parts. All the materials suggest that the site has been used recently for activities that could have resulted in soil contamination from a variety of activities the most obvious being soil contamination from hydrocarbons. The application is for a residential dwelling incorporating a garden/amenity area. This type of application introduces sensitive receptors (people) to a site. PPS23 states that if applications introduce residential properties to an area where there is evidence of activities that could have resulted in land contamination, it must first be investigated to ensure any contamination that is present can be remediated. It is recommended that a 5 point contamination condition be placed onto this application if approved.

Conservation - In principle, the development of a two storey house within the rear garden of Westholme is likely to alter the distinctive character of this former garth situated within Dunnington Conservation Area. The setting of the former garth has been compromised in the past by the modern dwelling houses that surround the site. The proposed dwelling house is unlikely to have a negative impact on the appearance of the conservation area, as the development will not be open to public view from Church Street. With regard to the proposed design, the scale and massing of the two storey dwelling house generally respects the original house, Westholme. The orientation of the dwelling house follows the pattern of existing buildings within the plot. With regard to the revised design of the dwelling house, the first floor windows appear to have been repositioned further away from the eaves to the front and rear elevations and the revised design of the principal entrance to the side is elevation is acceptable.

Trees - Objects to application due to proximity of proposed dwelling to a eucalyptus tree and hedge along the southern boundary of the site. Construction of the dwelling could sever the roots and result in damage to the tree and hedge.

Housing - The site is over the threshold for providing affordable housing in rural areas.

Lifelong Learning and Leisure - As there is no on-site public open space a commuted sum should be paid to the Council for amenity space, play space and sports pitches.

Drainage - Object to the application due to lack of information.

3.2 External

- Dunnington Parish Council / Dunnington Parish Councillor Maggs - Object to proposal on the following grounds; residential amenity; character of conservation area, loss of open space; pollution and noise; subdivision of garden is detrimental to character and amenity of area; impact on eucalyptus tree; archaeology; contrary to village design statement.

- Conservation Advisory Panel - Felt that the application was contrary to Local Plan Policy GP10 and detrimental to the Conservation Area. The panel felt that this would set a precedent in the village and asked officers to refer to the Village Design Statement for Dunnington.

- Neighbour Consultation - Nine letters of objection were received from eight local residents. The following points were raised:
- house is too high, scale and design is out of keeping with neighbouring houses and character of the Conservation Area, detrimental to rural nature of the area / loss of green space, loss of trees.
- proposal could set a precedent for future development.
- site previously used for industrial/storage purposes and may be contaminated (including asbestos).
- what is the width of access track required? Concerns regarding large vehicles using access track and damaging hedges/boundary fences.
- access would result in cars causing noise and pollution.
- detrimental to residential amenity; overlooking from windows; detract from outlook / views, overbearing / over dominant.
- contrary to the Village Design Statement which opposes garden infill / backland development.
- outdoor lighting

4.0 APPRAISAL

Key Issues

- impact on residential amenity
- impact on conservation area
- impact on trees
- highway safety
- drainage
- affordable housing
- land contamination
- noise and pollution
- precedent

4.1 Local Plan Policy GP1 states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings. The design of any extensions should ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. Developments should avoid the loss of important gaps within development and other features that contribute to the quality of the local environment.

4.2 Local Plan Policy GP10 states that planning permission will only be granted for the sub-division of existing garden areas to provide new development where this would not be detrimental to the character and amenity of the local environment.

4.3 Local Plan Policy HE2 states that within conservation areas development proposals must respect adjacent buildings and open spaces and have regard to local scale, proportion, detail and materials.

4.4 Local Plan Policy H4a proposals for residential development on land not already allocated on the Proposals Map will be granted planning permission where: a) the site is within the urban area and involves infilling; b) the site has good accessibility to jobs, shops and services by non-car modes AND c) it is of an appropriate scale and density to surrounding development, and d) it would not have a detrimental impact on existing landscape features.

4.5 Local Plan Policy H5a states that the scale and design of residential developments should be compatible with the character of the surrounding area and must not harm local amenity. The residential density aim should be 30 dwellings per hectare within areas such as Dunnington.

4.6 The previous application was refused on three grounds, namely size and scale, loss of privacy through overlooking, and impact on the character of the Conservation Area.

Residential Amenity

4.7 The proposed dwelling would be approximately 3 metres from the north western boundary of the site, which is shared, with 3 and 4 Stockhill Close. In comparison the previously refused scheme, the proposed dwelling has been reduced from 13 m in length and 8.2 m in height, to 11 m in length and 6.8 m in height. The proposed dwelling would be sited opposite the gap between 3 and 4 Stockhill Close and given the orientation of these two properties, views from windows in their rear elevations would look beyond the front and rear elevations of the proposed dwelling. It is considered, therefore, that given the reduction in size and scale of the proposed dwelling and its revised siting, it would be difficult to sustain a refusal on the grounds that the proposal would result in a dominant structure significantly detrimental to the outlook from these two properties.

4.8 The six windows within the north western side elevation facing Stockhill Close, incorporated within the previous scheme, have been removed. Within this elevation there will now will be a secondary lounge window and doorway at ground floor and a landing window at first floor. The ground floor windows would be obscured by boundary treatment (a condition is suggested to deal with proposed boundary treatment) and the first floor window will be conditioned to be obscure glazed with permitted development rights removed to prevent any additional windows from being inserted. Given these alterations and suggested conditions it is not considered that the proposed dwelling would result in a significant loss of privacy for the residents of 3 and 4 Stockhill Close.

4.9 It is considered that the revised scheme has addressed the two previous reasons for refusal relating to residential amenity.

4.10 It is not considered that the use of the access road, which enters Eastfield Lane between numbers 15 and 17, would significantly harm neighbouring amenity. This access point is already in place and would only serve one dwelling.

4.11 The introduction of security lighting within a domestic curtilage does not normally require planning permission and is therefore outside of the Local Authority's control.

Impact on Conservation Area

4.12 When determining planning applications within conservation areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character and appearance of the conservation area. This duty is re-iterated in national planning advice contained within Planning Policy Guidance Note 15 ("Planning and the Historic Environment").

4.13 The development site is situated to the rear of Westholme, a detached two storey house facing Church Street, within Dunnington Conservation Area. The rear garden of Westholme consists of a narrow strip of land containing single storey outbuildings, sheds and a garage. The garden ground also contains a number of mature trees, shrubs and hedges. The former garths, or long rear gardens to the rear of Church Street remain largely undeveloped creating a rural character to this section of the Conservation Area.

4.14 The proposed house has been reduced in size and scale and its siting and design has been altered to take account of the traditional character of Westholme so as to appear as a subservient building to the main dwelling. The orientation of the dwelling house follows the pattern of existing buildings within the plot. With regard to the visual impact of the proposal on the character and appearance of the Conservation Area, although the house will be visible from the dwellings in Stockhill Close which are outside the Conservation Area it will be largely concealed from public view from Church Street, which is located within the Conservation Area.

4.15 Whilst the Village Design Statement advises that proposals should respect the form, layout and density of development in the locality, it does not specifically advise against garden infill or backland development. The proposed dwelling respects the form of Westholme, is sited to reflect the orientation of development along the garths to the rear of Church Street and reflects the density of surrounding residential development.

4.16 The following issues were not previous reasons for refusal, but have been raised during the consideration of the application.

Trees

4.17 The Council's tree officer objects to the proposal due to the proximity of the proposed dwelling to a eucalyptus tree. No such reason for refusal was included in relation to the previous application, and as the proposed dwelling has been moved further away from the tree (from being 1 m from the boundary and tree to 4.4 m from the boundary and tree), it is not considered that refusal of the application on these grounds would be reasonable. A number of conditions are suggested to protect this tree and others (including boundary hedging) during site preparation and construction works.

Highways

4.18 No objections are raised on highway safety grounds to the use of the existing access serving one dwelling. Highways advise that a minimum width of 3.7 m is required in order for the access road to be accessible by emergency vehicles. The

access road has been measured on site by the case officer and does measure 3.7 m in width.

Drainage

4.19 The site is located in Flood Zone 1 and is therefore at a low risk from flooding. A standard drainage condition is suggested which requires details of foul and surface water drainage details to be submitted for approval prior to development commencing.

Housing

4.20 Whilst the site may fall above the threshold for affordable housing provision, given the constraints of the site in terms of shape, access, Conservation Area status and location of surrounding dwellings, it is not considered suitable for more than 1 dwelling.

Land Contamination

4.21 The advice provided by the Council's Environmental Protection Unit is noted and conditions are suggested to deal with the potential contamination on the site.

Noise and Pollution

4.22 It is not considered that the introduction of one dwelling to the rear of properties on Stockhill Close would result in unacceptable levels of noise or pollution once constructed. In order to minimise potential nuisance during the construction phase, a condition restricting hours of construction is recommended.

Precedent

4.23 Concerns have been raised that this development, if allowed, could set a precedent and lead to similar developments being allowed in the area. Whilst it is important to be consistent in decision making, each proposal is considered on its own unique merits and assessed against relevant planning policy and all material planning considerations. If planning consent is granted for this proposal it does not mean that planning permission will automatically be forthcoming for any similar proposals.

5.0 CONCLUSION

It is considered that the revised scheme has addressed the previous three reasons for refusal. Since the previous application was refused it is not considered that there has been any changes in circumstances to warrant introducing any new reasons for refusal. It is not considered that the scheme is contrary to the policies or guidance contained within the City of York Draft Local Plan or the Dunnington Village Design Statement and is therefore recommended for approval, subject to conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approved

1 TIME2 Development start within three years

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

Location plan BHCL/01/A received on 06.04.09
Detached garage details BHCL/08 received on 11.03.09
Existing site plan BHCL/1/02 received on 11.03.09
Proposed site plan BHCL/1/03/A received on 13.07.09
Proposed site entrance details BHCL/1/04 received on 01.03.09
Proposed cross sections BHCL/1/12 received on 13.07.09
Proposed elevations BHCL/1/07/A received on 13.07.09
Proposed first floor plan BHCL/1/06/A received on 13.07.09
Proposed ground floor plan BHCL/1/05/A received on 13.07.09

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

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

- | | | |
|---|-------|---|
| 3 | VISQ8 | Samples of exterior materials to be app |
| 4 | VISQ7 | Sample panel ext materials to be approv |
| 5 | VISQ4 | Boundary details to be supplied |

6 Before the commencement of development including building operations, installation of utilities, the importing of materials, any excavations, and any development-related tree works, a method statement regarding protection measures for the existing trees shown to be retained shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing to be shown on a plan; phasing of works; site access during construction; parking arrangements for site vehicles; arrangements for loading/off-loading; locations for storage of materials; location of site cabin. The protective fencing line shall be adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, parking or manoeuvring of vehicles. Within the exclusion zones there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new service runs et al.

Reason: To ensure protection of existing trees before, during and after development which make a significant contribution to the amenity of the area and/or development.

7 Development shall not commence until a scheme detailing the siting of the contractors storage and car parking areas within the site, including any means of enclosure, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and maintained throughout the construction period.

Reason: In order to protect the trees on the site which contribute to the visual

amenities of the area.

8 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 6.8 metres to the ridge or 7.5 metres to the chimney, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

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

9 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C, and E of Schedule 2 Part 1 of that Order shall not be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of residential amenities of neighbouring dwellings the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may be carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008.

10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), unless otherwise agreed in writing with the Local Planning Authority the windows in the first floor north western and first floor south eastern elevations of the dwelling shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

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

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no door, window or other opening additional to those shown on the approved plans shall at any time be inserted in the first floor of the north western or south eastern side elevations of the property.

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

12 Prior to the commencement of the development, the developer shall submit for

the written approval of the Local Planning Authority an initial Code for Sustainable Homes (CSH) Design Stage assessment for the development. Unless otherwise agreed in writing with the Local Planning Authority, this shall indicate that at least the minimum code level 3.*.* rating will be achieved. This shall be followed by the submission of a CSH Post Construction Stage assessment, and a CSH Final Certificate (issued at post construction stage). These documents shall be submitted to the Local Planning Authority after completion and before first occupation of the building. Both documents submitted shall confirm that the code rating agreed in the initial CSH Design Stage assessment has been achieved.

Reason: In the interests of sustainable development.

13 All demolition, construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours; Monday to Friday 08.00 to 18.00, Saturday 09.00 to 13.00 and not at all on Sundays and Bank Holidays.

Reason: In the interests of residential amenity.

14 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space 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 £2124.

15 DRAIN1 Drainage details to be agreed

16 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts a to c of this condition have been complied with:

a. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by

competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases, where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing

immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the previous condition, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18 Prior to the dwelling being brought into use, the driveway shall be constructed and thereafter maintained at a minimum width of 3.7 and with a minimum height clearance of 4.5 metres along its whole length.

Reason: To ensure that the dwelling is accessible by emergency vehicles.

19 Vehicular access shall be from the existing site access of Eastfield Lane and details of the design of this access, together with associated sightlines, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Reason: In the interests of highway safety.

20 HWAY12 Initial 10m surfaced, details reqd

21 HWAY19 Car and cycle parking laid out

22 HWAY21 Internal turning areas to be provided

23 HWAY23 Vehicular sight lines protected

24 No gates shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

25 HWAY31 No mud on highway during construction

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance,

with particular reference to

- impact on residential amenity
- impact on character and appearance of conservation area
- impact on trees
- highway safety
- drainage
- affordable housing
- land contamination
- noise and pollution
- precedent

As such the proposal complies with Policies contained within the City of York Draft Local Plan.

2. 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: Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

3. INFORMATIVE:

The applicant is advised that if they would like the sightlines at the access point adopted, then they should contact in the first instance Mr M Kitchen - Section 38 Engineer on 01904 551336 to discuss the procedures.

4. INFORMATIVE - DEMOLITION AND CONSTRUCTION

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

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

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

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

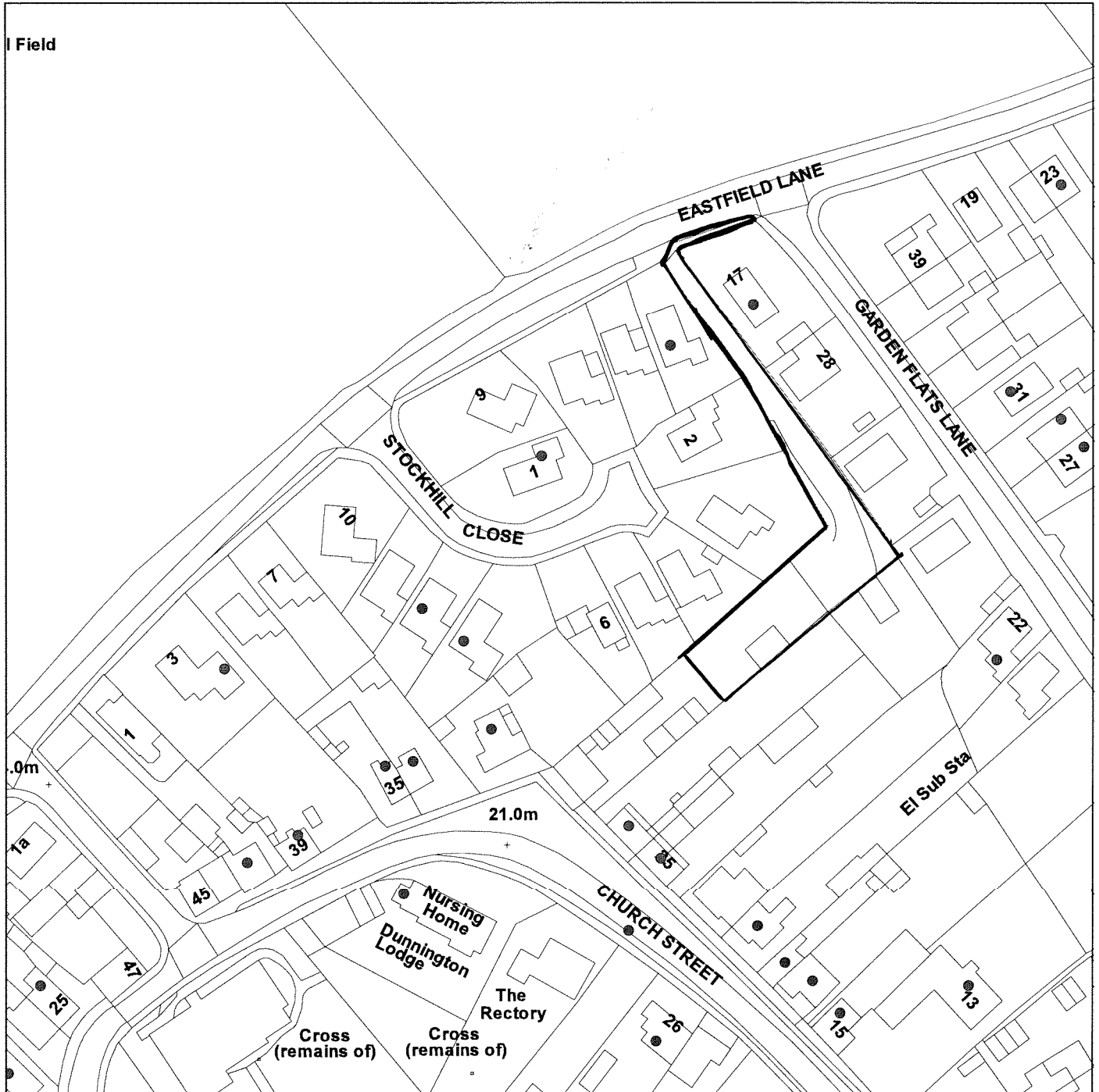
(v)There shall be no bonfires on the site.

Contact details:

Author: Kirsty Catlow Development Control Officer
Tel No: 01904 551325

Westholme. 29 Church Street, Dunnington

09/0447/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	06 October 2009
SLA Number	Not Set

1.4 The application is supported by a design and access statement, flood risk assessment, biodiversity assessment, greater crested newts survey and an outline transport assessment. Additional information has also been submitted addressing the need for the facility and providing more detail about the use of the building.

HISTORY

1.5 There is a substantial site history on this property dating back to 1979. However the most recent and /or relevant to this application are as follows: -

- Permission was granted in 1998 for the erection of pitched roof two storey extension to form additional bedrooms and conference and wedding facilities. (Planning reference 98/02859/FUL)

- In 2004 a renewal of the 1998 permission was granted. This permission was due to expire in June 2009 however having discharged the pre-commencement conditions the development was commenced in January 2009 and the permission therefore remains extant.

- Permission was refused in 2006 for the erection of 6 single storey, detached timber lodge guest bedroom units in connection with the hotel use. The refusal was based on the impact on the Green Belt and lack of information relating to the natural environment and drainage.

- Permission was granted in February 2008 for the change of use of the hotel into a care home for the elderly. This permission was subject to a condition that restricted the use to use as a care home for the elderly only and to no other use within class C2.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

2.2 Policies:

CYGB1
Development within the Green Belt

CYH17
Residential institutions

CYC1
Criteria for community facilities

CYGP1

Design

CYGP4A
Sustainability

CYGP9
Landscaping

3.0 CONSULTATIONS

INTERNAL

Highways Network Management - the assertions regarding traffic and the highway contained in the submitted statements are accepted. Conditions are requested to ensure that the development is carried out in accordance with the submitted scheme.

Countryside Officer - happy with the findings of the biodiversity assessment. A bat survey carried out on the site in May 2009, considered the building to have medium potential for supporting roosting bats, the Countryside Officer agrees with this conclusion. The overall surrounding area is of high value to Bats the bridge is a designated site of importance for nature conservation for this Bat interest. The proposal represents a good opportunity to carry out some Bat habitat enhancement works and further increase the wildlife value of the site, particularly as the extension is on the side adjacent to the River Derwent. A condition is suggested to ensure that bat habitat features are incorporated in to the new extension. Also of importance is the River Derwent, which runs adjacent to the site directly to the east and is a designated SSSI and an SAC (special area of conservation). Any application, which could potentially have a significant affect on a European site such as an SAC, may require an Appropriate Assessment to be carried out. However in this case, it is not considered that the proposed extension to the hotel is likely to significantly impact on the SAC, and therefore no Appropriate Assessment is required.

Otters have also been recorded regularly along the River Derwent within this location, and whilst no evidence of otters using the site was found following an otter survey, their presence along this stretch of the river again still needs to be taken into account. Within the site itself there are also areas of suitable habitat, which otters could potentially use to rest up in. It is unlikely that these areas will be affected by the proposals, but it is recommended that they are retained and enhanced where possible for their wildlife interest. Further lying up habitat, for example, could be created to enhance existing habitat, and would be particularly beneficial near the smaller pond close to the river in the North East corner of the site. Again, the biodiversity report also highlights some mitigation recommendations with regard to this matter.

City Strategy - it is considered that the proposal can be considered against the extensions policy GB4 'extensions to existing dwellings' in this context officers should be satisfied that the proposed extension is appropriate in terms of design and materials and would not cause undue visual intrusion. In terms of Policy H17 Officers should be satisfied that there will be no adverse impact on residential amenity and is positively located relative to local facilities and public transport. The site is on a bus

route but is not close to local services. Under Policy C1 the need for the development should be assessed.

Structures and Drainage - Object to the application on the basis of a lack of information in relation to the potential impact the proposals may have on the existing drainage systems.

EXTERNAL

Natural England - Advise the Authority to ensure that the development is carried out strictly in accordance with the mitigation strategy provided in the biodiversity assessment and to condition that no building or engineering operations are carried out within 50 metres of the bank top of the River Derwent. Based on the details provided it is considered that the location, scale and nature of the proposed development will not be likely to have a significant effect on the interesting features of the River Derwent SAC. The biodiversity features incorporated in to the scheme to benefit protected species are welcomed.

Yorkshire Water - No comments are required from Yorkshire water (Foul water is to existing package treatment plant with surface water to existing soakaway)

Environment Agency - no objections to the development as submitted. Would like informatives adding with regard to the designation of the River Derwent and protected species. At no stage should the proposed work impact upon the river. All materials involved in demolition or construction must stored well away from the river bank and if needs be bunded to prevent accidental spillage. If alterations to the roof are proposed then the applicants are advised to have a check made for bats, by an appropriately licensed and experienced person.

2 letters of objection have been received covering the following points: -

- The use of the specialist care unit is not stated
- The development could be detrimental to neighbouring properties and is within the green belt
- The submitted details do not say much about staffing levels
- There will be a significant increase in the number of vehicles to the site, parking will not be adequate and the access is dangerous without a slip road on a very busy road
- utility services in the area are very poor. electricity and water supplies are shared with the care home and residents on the same side of the road. A condition should be attached to any permission that they should have their own water supply. When the hotel was closed the supply was noticeably better.
- The owner assured the parish council at the time of the previous application to change the hotel that there would be no escalation of the use at the site
- specialist care would be much more labour intensive than a normal residential care home
- the footings for the extension have already been put in.
 - question whether the banks of the River Derwent are a safe place to have a special care facility.

4.0 APPRAISAL

4.1 Key Issues

- Policy Background
- Principle of the development within green belt and consideration of very special circumstances
- Need for the facility
- Proximity to Local Facilities
- Design and Landscaping
- Highways, access and parking
- Ecology
- Drainage
- Sustainability
- Restriction of use

Policy Background

4.2 The application relates to the erection of an extension to a nursing home (recently converted from a hotel) to provide specialist care to people with brain injuries. The site is within an area of Green Belt. Policy YH9 of the Regional Spatial Strategy sets out the extent of the Green Belt around York.

4.3 Central Government advice in Planning Policy Guidance Note 2 "Green Belts" (PPG2) is relevant to the proposal. This states that there are five purposes of including land in Green Belts: to check the unrestricted sprawl of large built up areas; to prevent neighbouring towns from merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. It also states that one of green belts most important attributes is its openness and that there is a general presumption against inappropriate development within the Green Belt. Such development should not be approved, except in very special circumstances. PPG2 states that inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. PPG2 states that the construction of new buildings inside a Green Belt is inappropriate unless it is for agriculture or forestry, essential facilities for outdoor sport or outdoor recreation, limited extension, alteration or replacement of existing dwellings, limited infill within existing villages or limited infill on major developed sites. The advice within PPG2 is reflected in policy GB1 of the City of York Draft local Plan (CYDLP)

4.4 Other Local Plan policies relevant to the consideration of this proposal are: -

- Policy H17 which states that planning permission will only be granted for residential institutions where the development, together with existing residential institutions or unimplemented planning permissions for that use, would not give rise to a concentration likely to have an adverse impact on residential amenity and where it is positively located relative to local facilities and public transport.
- Policy C1 says that planning applications for social, health, community and religious facilities will be granted provided that that the proposed development is of a scale and

design appropriate to the character and appearance of the locality and it would meet a recognised need.

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

- Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development and sets out those issues to consider as part of a sustainably designed development. The interim planning statement on Sustainable Design and Construction supports Policy GP4a in setting out ways to achieve sustainability furthermore the document requires that 10% onsite renewables are achieved. Policy ENV5 of the regional spatial strategy supports the requirements of the Interim planning document by saying that non residential floorspace over 1000 square metres should secure at least 10% of their energy from decentralised and renewable or low-carbon sources.

- Policy GP9 requires where appropriate developments to incorporate a suitable landscaping scheme

Principle of the Development Within Green Belt and Consideration of Very Special Circumstances

4.5 It is considered, and accepted by the applicant, that within the meaning of PPG2 and policy GB1 of the CYDLP the proposal represents inappropriate development. Paragraph 3.2 of PPG2 says that any harm, by reason of inappropriateness would need to be clearly outweighed by the presence of very special circumstances. Within the design and access statement supporting the submitted application the applicant sets out the issues that are considered to outweigh harm by reason of inappropriateness. The three considerations put forward by the applicant as 'very special circumstances', relate to the extant permission for an extension to the side of the building and are; the physical differences between the two schemes are limited, the use of the extension as a care facility will have less impact on the openness of the Green Belt and the landscape quality of the scheme.

4.6 In terms of the extant permission for the extension, this would have expired in June 2009, however, the extension has commenced on site within the definition of commencement set out in section 56 of the Town and Country Act 1990 and there has been written confirmation of this. Therefore the extension can be lawfully constructed. However the extension was granted as an extension to an hotel and the site is now in use as a nursing home. The Council's solicitor considers that the extension can still be constructed and used in connection with the nursing home and therefore it is reasonable to consider the approved extension as a 'fall back position' (in other words

assess the likely impact of the extant consent as compared to the proposed scheme). Furthermore the applicant has submitted evidence of need for the development as discussed in paragraph 4.12 below and given this need/ demand it is considered that there is a reasonable prospect that the extant permission would be implemented were no other consents to be granted.

Very Special Circumstances

4.7 Physical differences - The existing permission allows for two storey accommodation in an "L " shape. The front wall of the extension is set back from the existing frontage by 5 metres and then half way along by a further 3 metres. The front elevation runs parallel with the Hull Road for a distance of 27 metres then extends 22 metres back into the site. The existing approval provides 990 square metres of accommodation. The proposed extension would have a very similar frontage length although the step in the middle of the front elevation is omitted. The returning depth is greater at almost 28 metres and the building would be squared off rather than L-shaped to the rear. The approved scheme shows a balcony in a semi- circular arrangement on the east elevation extending 6 metres out from the flank wall this has been altered to a simple 2 metre projection on the proposed scheme. The total floor area of the proposal would be 1247 square metres, an additional floor area of 267 square metres over the original approval. In terms of the development of outside space the original consent provided access road and 21 parking spaces to the front of the site in a single row along the frontage. The car parking and access road extending significantly beyond the built area of the development. By contrast the proposal includes 7 additional parking spaces and a corresponding reduction in access road, thus reducing the overall level of hard surfacing to the front of the site. The conclusion of the applicant is that the revised built form would have no greater impact on the openness of the Green Belt and that the revised external arrangements would have a reduced impact. Officers would concur with this conclusion and therefore consider the physical form of the proposed scheme will have no greater impact on the openness of the Green Belt than that which could be implemented.

4.8 Use of building - the applicant points out that on the application for the change of use of the existing building to a nursing home Highways Network Management acknowledged that the change would be likely to reduce the overall traffic movements to the site. The extant permission is for wedding and conference facilities. It can be seen in paragraph 4.7 above that the use as a care home has already resulted in the proposed scheme having a reduced car parking requirement from 21 spaces to 7, thus again implying that the number of visitors to the extended use will be far below that of a wedding /conference facility. The main activity associated with the proposed use is also likely to be during the normal day much the same as a domestic residential arrangement albeit on a larger scale. The use of outside space and traffic movements would similarly be during the day. Conference and wedding use would be much less predictable and in officers' opinion more likely to consist of heavy peak weekend use for weddings with conference, vehicle generating, uses during the week. In Green Belt terms the movement of vehicles and use of outside space is capable of impacting on openness and in officers view the proposal, when compared with the hotel use, represents a significant reduction in the overall visual consequences of the development, thereby reducing the impact on openness. Officers further conclude that a general nursing care unit is unlikely to differ significantly from elderly care home use

and this is supported by the fact that they are both categorised within the same use class within the Town and Country Planning Use Classes Order 2004. In Green Belt terms, therefore, there are no concerns regarding the impact on openness resulting from traffic movements specific to a brain injury unit when compared with a care home for the elderly.

4.9 Landscape - the proposal has resulted in a significant reduction in the hard surface at the front of the site. The proposal provides for an appropriate landscaping scheme, which retains much of the existing tree cover on the site and concentrates on enhancing the front of the site rather than changing the parkland setting of the building to the rear. The landscape strategy for hard and soft surfacing means that the proposed scheme provides a greener less intrusive setting for the extension as compared with the original proposal so that the openness of the area will be maintained to a greater extent.

4.10 Officers believe that the above considerations represent very special circumstances sufficient to outweigh harm to openness caused to the Green Belt.

4.11 A further consideration is that the 2004 permission was granted subject to a very limited set of conditions. This proposal would be subject to an extensive range of conditions reflecting current government advice and having regard to the sensitive location of the site adjacent to an SSSI and SAC. The addition of such conditions will safeguard the future uses of the site by restricting the extension to a care home, help to enhance biodiversity, ensure the site is properly drained and that sustainable measures are incorporated into the building. The ability to attach these conditions is, in combination with the issues discussed above, considered to be a very special circumstance sufficient to outweigh any harm by reason of inappropriateness.

Need for the Development

4.12 Policy C1 of the CYDLP says that community facilities should meet a recognised need. The applicant points out that the principle of need for a care home facility has already been accepted at this site by virtue of the planning permission granted for the nursing home. However this proposal is to provide an additional facility of a further 20 bedrooms and is to provide high dependency care for accident victims requiring rehabilitation and care. This facility will be aimed at helping victims of accidents in the Yorkshire region.

4.13 The applicant, subsequent to the submission of the original application has forwarded a report that is based on research by Mencap and the learning disabilities coalition, which predicts a significant rise in the number of people needing care who have learning disabilities. A further document produced by BNP Paribas Real Estates addresses need for both elderly persons facilities and those suffering from other illness or injuries requiring nursing care within a nursing home. The report states that the majority of the provision in terms of specialist facilities is found in Goole, Harrogate and Leeds. The report concludes that that it is considered that there is a market in the locality arising from the needs of the local population.

4.14 The text to policy C1 states that the purpose of the policy is to ensure that proposals are needed and that they are designed in a way that compliments the local

area. The report submitted is written in very general terms and in officers view is not specific enough to the issue of whether a care facility is needed in this locality for brain injured people. Officers have therefore forwarded the reports to Housing and Adult Services for their consideration. Their comments will be reported direct to Committee.

Proximity to local facilities

4.15 Policy H17 only supports residential institutions where there development would not give rise to a concentration likely to have an adverse impact on residential amenity and where it is positively located relative to local facilities and public transport. Officers have examined appeal cases where this issue has been considered and it appears that there is little support for refusal on the basis of a lack of local facilities. In the main this is because the registering authority for care homes (The Commission for Social Care Inspection) considers this issue through the licensing process. Consideration of the issue through the planning process would, therefore, merely duplicate controls that already exist under licensing legislation. Furthermore paragraph 65 of circular 3/2005 states that in relation to care homes that have to be registered, registration can be refused on the grounds that the home would not provide adequate services or facilities reasonably required by residents or patients. Therefore, it is considered that the main impact that needs to be considered is the impact of the proposed use on amenity and the environment.

4.16 The nearest properties to the site are located on the western side of the site, separated from the site by a public footpath. The proposed extension is located on the east side of the building away from existing properties. There will be no impact on adjacent residents as a result of the siting of the extension. The vehicle movements to and from the site and the use of the outside garden area can also be accommodated without detriment to the nearest neighbours.

Design and Landscape Considerations

4.17 Kexby is a small settlement of well dispersed development. On the approach to the site, on the north side of Hull Road, are a small number of semi and detached properties. The existing former hotel building is a two storey brick built structure with low pantile roof, which is mainly hipped. To the front of the building is a tarmac car park providing 30 parking spaces. The proposed extension is set back from the face of the existing structure by approximately 5 metres and is designed in a similar style to the main building using brick construction and hipped roof. In terms of materials, design, scale, layout and density the building is considered to be compatible with the existing structure and to accord with the principles set out in GP1 of the CYDLP.

4.18 From a landscape perspective the existing hedging to the front boundary will be maintained and trees to the frontage will be retained and enhanced with further planting. The existing planting on the frontage will be significant in minimising the bulk of the building. New planting will soften and enhance the setting of the building and of the new car park area. In terms of policy GP1 and GP9 the landscape proposals are considered to be acceptable.

Highways, Access and Parking

4.19 The application is supported by an outline transport assessment, which says that the proposal will result in a care facility that will in total have 51 bedrooms. The total facility will have a staffing requirement of 30 with 12 staff being on duty after 8 pm and 23 working, to a large extent, normal office hours. None of the 51 residents would have their own cars. The operational requirements of the home are considered to be 5 or 6 deliveries per week with ambulance/doctor requirements on top of this. Laundry would be carried out in-house. In terms of staff it is considered that there would be 34 inward movements per day or 68 two-way movements, with the majority of the traffic movements taking place when shifts change at 8am and 8 pm.

4.20 The proposal includes the provision of 7 additional car parking spaces giving a total for the site of 37 spaces (this includes the 30 that exist at the site).

4.21 Highways Network Management are satisfied with the information put forward in the outline transport assessment, and the car parking arrangements shown on the submitted plans, subject to conditions that ensure the development is implemented in accordance with the submitted scheme.

Ecology

4.22 The River Derwent corridor is an SSSI and an SAC and is located on the eastern boundary of the site. The application is supported by a Great Crested Newts survey and an ecology assessment. The Great Crested Newts survey concludes that there are no Great Crested Newts in either of the two ponds within the site. The biodiversity assessment examined the species and habitats of bats, ponds, Great Crested Newts, Water Vole and Otter. The assessment concurs with the newt survey in its conclusions and also concludes that there is no evidence of Water Vole or Badgers within the study area. The study says that the east elevation of the building is unlikely to support bat roosts consequently the impact to bats of extending the building is considered to be negligible. However it is considered that the existing building has a medium probability of bat interest as the building has features, which could support roosting bats. The Countryside Officer concurs with this view and proposes a condition, which requires bat roosting boxes to be provided. The ecology report also concludes, and their conclusions are supported by our Countryside Officer and Natural England, that the study area may be occasionally used by resting Otters and suggests an exclusion zone of 50 metres, adjacent to the River Derwent be created for the development. Natural England have suggested a similar condition, which it is proposed to include.

4.23 In overall terms, Natural England and the Countryside Officer consider that the proposals subject to conditions would not be likely to have a significant effect on the internationally important interest features of the River Derwent SAC or any of the features of special scientific interest of the River Derwent SSSI

Drainage

4.24 The site is located within flood zone 1 (low probability of flooding). The Environment Agency has not raised any objections to the principle of the development although they make reference to the ecological value of the site and suggest an informative with regard to this. This issue is dealt with in the ecology section above and appropriate conditions are proposed. The Council's Structures and Drainage Section

are objecting to the application because it is not supported by a full drainage strategy for the disposal of surface water. In particular Structures and Drainage want to be sure that the site can be drained via soakaways. Additional information regarding the drainage system has been requested from the applicant and further comments on the drainage strategy will be reported direct to Committee.

Sustainability

4.25 The application is supported by a sustainability pre-construction assessment which indicates that the development will be designed to achieve a BREEAM 'very good' rating. The comments of the Sustainability Officer are awaited on the submitted information, however based on the information submitted a condition requiring a BREEAM "very good" rating to be achieved for the building is proposed.

4.26 The applicant has submitted a report indicating how it is proposed to achieve 10% renewables on site. The Sustainability Officers comments on the report will be reported direct to Committee.

Restriction of the use within Class C2

4.27 Members may recall that in considering the change of use application for the hotel a restriction was placed on that permission so that the building can only be used for care of the elderly. Officers reported in that case that

' Circular 11/95 - "The Use of Conditions in Planning Permission" makes it clear that there is a presumption against conditions designed to restrict future changes of use which, by virtue of the Use Classes Order or the General Permitted Development Order, would not otherwise constitute development..... The Secretary of State will regard the imposition of such conditions as unreasonable unless there is clear evidence that in the particular circumstances the uses excluded could have serious adverse affects on the environment or on amenity not susceptible to other control. Paragraph 26 goes on to say that if exceptionally conditions restricting changes of use are justified they should be drafted so as to prohibit a change to a particular potentially unacceptable use or uses, rather than in terms, which require future approval of any change of use.

In officers view any use that provides care is likely to have similar impacts in terms of amenity and the environment and therefore to restrict the use to care for the elderly only or to restrict the use of the building to a hospital would not fall within the guidance within circular 3/2005. However, officers are concerned that the use of the site for a residential education or training centre may have different characteristics, may attract more traffic and visitors and the impact of this use on the openness of green belt and on the nearby residents would need to be considered on their own merits. It is therefore proposed to restrict the permission such that any future application for residential education or training centre would need a separate planning permission.'

4.28 Members will note that officers were of the view that any type of care at this site was unlikely to have such different characteristics that it warranted restricting the permission to a particular kind of care. Officers' views remain the same, and consider that the brain injury unit is likely to have very similar requirements and characteristics

to that of elderly care. It is still proposed that training centres are restricted because of their potential differing impacts on the openness of Green Belt, and given the increase in the size of the building and therefore potential intensity of any use, the restriction of a hospital use is also considered appropriate.

Other Matters

4.29 The objectors and the Parish Council have both raised concerns about the low water pressure to properties on the north side of the Hull Road. Section 37 of the 1991 Water Industry Act requires that water undertakers maintain an efficient and economical system of water supply and make supplies available to owners and occupiers of premises in the locality. Section 146 of the Act provides for a charge to be made for connection to a water supply, which is in addition to requisitioning costs under Section 42. Paragraph B52 of circular 05/2005 further points out that the use of planning obligations for infrastructure should not be necessary in respect of water supply, sewerage or sewage disposal because it will already be the developers responsibility to requisition the provision of connections by the water company under Sections 46 and 98 of the Water Industry Act 1991. Any associated infrastructure improvements to enable these connections to function without detriment to existing networks are financed by infrastructure charges levied by water companies under Section 146 of the Water Industry Act 1991. It is Officers view that it is the responsibility of the Water Authority to resolve the problems with water supply and is not a basis to refuse planning permission.

5.0 CONCLUSION

5.1 It is considered, and accepted by the applicant, that within the meaning of PPG2 and Policy GB1 of the CYDLP the proposal represents inappropriate development within the Green Belt. Paragraph 3.2 of PPG2 says that any harm, by reason of inappropriateness would need to be clearly outweighed by the presence of very special circumstances. The main thrust of the argument for very special circumstances is the existence of the extant permission for the erection of an extension to the side of the building. This permission was last approved in 2004 but remains extant because the development has been commenced. It is considered reasonable to treat the extant permission as a 'fall back position'. Officers consider that the very special circumstances put forward by the applicant namely that the physical differences between the two schemes are limited, that the use of the extension as a care facility will have no greater impact on the openness of the Green Belt and the landscape quality of the scheme are sufficient to outweigh any harm caused by inappropriateness. Furthermore the proposal would be subject to an extensive range of conditions reflecting current government advice and having regard to the sensitive location of the site next to an SSSI and SAC. The ability to attach these conditions is, in combination with the issues discussed above, considered to constitute very special circumstances sufficient to outweigh any harm by reason of inappropriateness.

5.2 Reports have been submitted indicating that there is a need for care facilities in the region. The report submitted is written in very general terms and in officers view is not specific enough to the issue of whether a care facility is needed in this locality for brain injured people. Officers have therefore forwarded the reports to our Housing and Adult Services for their consideration. Their comments will be reported direct to Committee.

5.2 In terms of policy GP1 the design and landscape proposals are considered to be acceptable. Highways Network Management are satisfied with the information put forward in the outline transport assessment and the car parking arrangements shown on the submitted plans are acceptable

5.3 There is still insufficient information with the application with regard to drainage. It is hoped that this issue will be resolved prior to the meeting. The comments of the Sustainability Officer are awaited on the sustainable credentials of the scheme and the achievement of 10% on site renewables.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approved

- | | | |
|---|--------|--|
| 1 | TIME2 | Development start within three years |
| 2 | PLANS2 | Apprvd plans and other submitted details |
| 3 | HWAY9 | Vehicle areas surfaced |
| 4 | HWAY19 | Car and cycle parking laid out |
| 5 | HWAY21 | Internal turning areas to be provided |
| 6 | HWAY31 | No mud on highway during construction |

7 No development shall take place until details have been submitted to and approved in writing by the Local Planning Authority of measures to be provided within the design of the new buildings to accommodate bats. The approved works shall be completed in accordance with the approved details before the extension hereby approved is occupied.

Reason -In order to take account of and enhance the habitat for bats in accordance with national advice contained within Planning Policy Statement 9: "Biodiversity and Geological Conservation".

8 No building, engineering or other operations shall be carried out within 50 metres of the top of the bank of the River Derwent without the prior written approval of the Local Planning Authority.

Reason: To ensure that the local otter population is not adversely affected by the development in accordance with the submitted biodiversity assessment dated May 2009.

9 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted

Development) Order 1995 or any subsequent re-enactments thereof, the development hereby approved shall be used as a care home only and for no other purpose whatsoever, including any other purpose in Class C2 of the Town and Country Planning (Use Classes) Order 1987 or any subsequent re-enactment, without formal planning permission first being obtained.

Reason: The site is prominently located within an area of Green Belt and in close proximity to existing residential properties. Any change of use will need to be considered in terms of the impact of the development on the openness of Green Belt, the proximity of the site to an SSSI and SAC and impact on residential amenity.

10 The development hereby approved shall be constructed to a BREEAM standard of very good. A formal post construction assessment by a licensed BREEAM assessor is to be carried out and a copy of the certificate shall be submitted to the Local Planning Authority prior to occupation of the building. Should the development fail to achieve a "very good" BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a "very good" rating. The remedial measures shall then be undertaken within as a timescale to be approved in writing by the Local Planning Authority.

Reason: To ensure that the development is sustainable and accords with Policy GP4A of the draft City of York Local Plan and the Interim Planning Statement on Sustainable Design and Construction

11 ARCH2 Watching brief required

12 VISQ8 Samples of exterior materials to be app

13 The landscaping scheme shown on Drawing no. AL (9) 903 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.

14 No development shall commence unless and until details of a full renewable energy strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include details of the site's proposed renewable energy generation, which shall be at least 10% of total energy generation for the development. The development shall be carried out in accordance with the submitted details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is sustainable and conforms with Policy GP4a of the City of York Draft Local Plan April 2005

15 Prior to the commencement of the development or within such longer period as

may be agreed in writing with the Local Planning Authority (LPA) details of all proposed external lighting for the extra care facility shall be submitted to and approved in writing by the LPA. Thereafter the scheme shall be implemented to the satisfaction of the LPA and no other lighting shall be installed without the written consent of the LPA.

Reason: In the interests of residential amenity

7.0 INFORMATIVES:

Notes to Applicant

1. 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:

- design and landscape considerations
- traffic, highway and access issues
- sustainability
- drainage
- ecology

As such the proposal complies with Policies GB1, GP1, GP4a and GP9 of the City of York Local Plan Deposit Draft.

In addition, the Local Planning Authority is satisfied that there are very special circumstances in this case sufficient to clearly outweigh the limited harm that would be caused to the Green Belt. In particular, it is considered that the extant permission represents a 'fall back position' and that the physical differences between the two schemes are limited, the use of the extension as a care facility will have less impact on the openness of the green belt and the landscape quality of the scheme will reduce the impact on the openness of the green belt. Furthermore the approval of the extension will allow for the imposition of conditions to ensure that the development meets sustainability, ecology and drainage objectives.

Contact details:

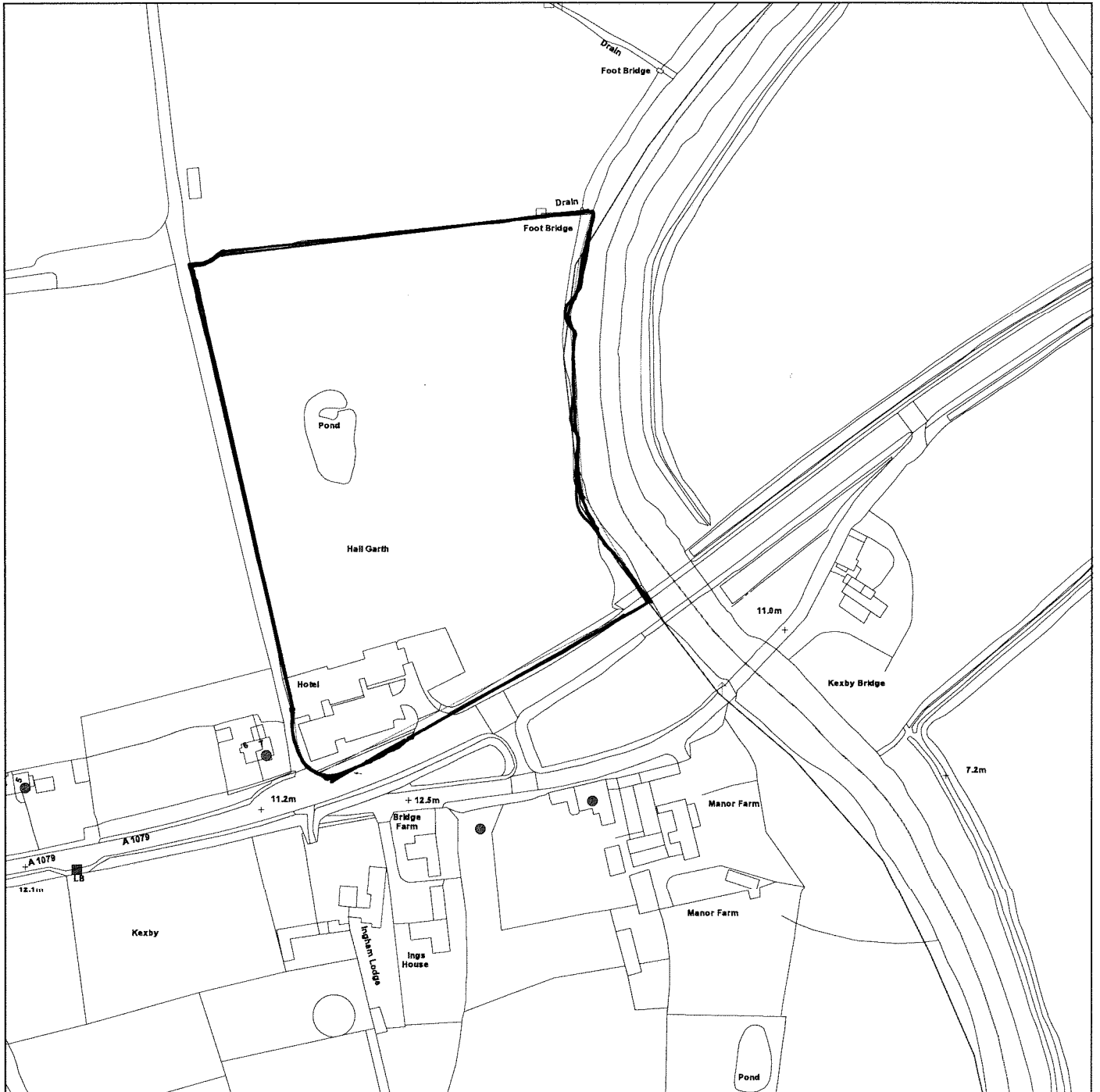
Author: Diane Cragg Development Control Officer (Mon/Tues)

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GATEWAY TO YORK (KEXBY BRIDGE) HOTEL

09 01310 FULM

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Scale : 1:2500

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	06 October 2009
SLA Number	Not Set

1.6 A planning application for the erection of a dwelling on the same site was applied for in January 2009 and subsequently withdrawn in March 2009. The application was withdrawn because the applicant wished to reconsider the design of the dwelling.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

Floodland GMS Constraints: Flood Zone 2

Floodzone 2 GMS Constraints: Flood Zone 2 CONF

2.2 Policies:

CYGB2

Development in settlements "Washed Over" by the Green Belt

CYGB6

Housing devt outside settlement limits

CYGP1

Design

CYL1C

Provision of New Open Space in Development

3.0 CONSULTATIONS

INTERNAL

3.1 Highways Network Management - The existing access suffers from sub-standard sight lines but having regard to the number of existing users both domestic and commercial no objections are raised. The level of car parking is adequate but to facilitate turning it is suggested that the bays be at right angles to the general access and manoeuvring area. A condition is requested to ensure the provision of cycle parking.

3.2 Environmental Protection Unit - conditions are required with regard to unexpected contamination. There are no concerns with regard to noise and other amenity issues.

3.3 Structures and Drainage - The site is within Flood Zone 2 medium risk and the Environment Agencies comments should be sought on this. There is insufficient information to support the application with regard to surface water drainage. Structures and Drainage object until such information is received.

EXTERNAL

3.4 Naburn Parish Council - Object to the erection of detached house. In recent months concerns have arisen on the sewage problems in this area of the village, the existing dwelling is served via a septic tank, which at present is emptied by tanker parked on the B1222. Although the height of the resubmission is lower, the Parish Council still have concerns on the overall size of the property and proximity to the existing property. This would cause high density infill, which is unacceptable in the opinion of the rural Parish Council who suggest a small affordable bungalow would be more appropriate. The construction of the proposed dwelling is within the area of green belt, which surrounds the outskirts of the village. The Parish Council have concerns in allowing increased infill of green belt areas surrounding the village.

3.5 Environment Agency - The development is only acceptable if the measures referred to in the flood risk assessment are implemented. Conditions are proposed to ensure the development is carried out in accordance with the flood risk assessment and to ensure that the use of soakaways is an effective method of draining the site.

3.6 Two letters of comment have been received covering the following points: -

- There may be some issues in the context of Local Plan policy GB2. No information has been submitted to show how the proposal meets the criteria in policy GB2
- The removal of the new access from Naburn Lane is welcomed however the proposed parking is cramped and soil removal to achieve the new parking needs to be elaborated on.
- The site available for the house is uncomfortably small. The interface between the new house and Marina House is far from satisfactory particularly the outlook from the balcony.
- Quite an attractive house that needs a larger plot.
- Site is outside the development limits for Naburn therefore cannot be described as infilling
- As the site is enclosed by other buildings fail to see how it can detract from the green belt.
- Circumstances of the site adjacent to The Old Vicarage are somewhat different and cannot be paralleled with the issues on this site
- If it proposed to grant permission it is urged that the front wall be set back so that visibility can be improved to the north.

PUBLICITY

3.7 The application has been advertised by means of a site notice posted on the 1st September 2009 and via neighbour consultation letters.

4.0 APPRAISAL

4.1 Key Issues

- Policy background
- Green belt and the principle of residential development on the site
- Design and Landscaping
- Highways, access and parking
- Impact on surrounding properties
- Sustainability
- Open Space
- Drainage
- Affordable Housing
- Application approved adjacent to the Vicarage Naburn

Policy Background

4.2 This planning application is for the erection of a 4 bedroom dwelling.

4.3 Planning Policy Guidance Note 2 'Green Belts'(PPG2) sets out the purposes of including land within Green Belts and establishes specific categories of development that are appropriate within Green Belts. All other development is deemed inappropriate and by definition harmful to the Green Belt. For such development to be acceptable in Green Belts very special circumstances must be demonstrated to show that the harm is outweighed by other considerations. Policy YH9 of the Regional Spatial Strategy refers to the extent of the York Green Belt. The boundaries of the Green Belt are detailed on the Proposals Map of the City of York Development Control Local Plan (CYDCLP) and this site clearly falls within the Green Belt.

4.4 Policy GB1'Development in the Green Belt' of the CYDCLP follows the advice contained in PPG2 in stating that permission for development will only be granted where: the scale, location and design would not detract from the open character of the Green Belt; it would not conflict with the purposes of including land within the Green Belt; and it would not prejudice the setting and special character of the City, and is for a type of development listed as appropriate development. All other forms of development are considered to be inappropriate and very special circumstances would be required to justify where the presumption against development should not apply.

4.5 Policy GB2 of the CYDCLP states that the erection of buildings in settlements 'washed over' by the Green Belt but within the defined settlement limit is in principle acceptable provided that: it would be within the built-up area of the settlement; and, its location, scale and design would be appropriate to the form and character of the settlement and neighbouring property; and, it would constitute limited infilling that would not prejudice the openness or purposes of the Green Belt.

4.6 Policy GB6 of the CYDLP states that housing development outside defined settlement limits in the Green Belt and open countryside will only be permitted where it is essential to agriculture or forestry or where it is for affordable housing on an "exception site" in accordance with policy GB9.

4.7 Planning Policy Statement 1 ("Delivering Sustainable Development") (PPS1) states that a number of key principles should be applied to ensure that decisions taken on planning applications contribute to the delivery of sustainable development. In particular, PPS1 promotes high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but also over the lifetime of the development. Design which fails to take the opportunities available for improving the character and quality of an area should not be accepted. High quality and inclusive design should create well-mixed and integrated developments, which avoid segregation and have well planned public spaces that bring people together and provide opportunities for physical activity and recreation. PPS1 also states that planning authorities should ensure the provision of sufficient, good quality new homes (including an appropriate mix of housing and adequate levels of affordable housing) in suitable locations, whether through new development or the conversion of existing buildings.

4.8 Planning Policy Statement 3 - 'Housing' (PPS3) sets out Government policy on housing development and encourages more sustainable patterns of development through the reuse of previously developed land, more efficient use of land, reducing dependency on the private car and provision of affordable housing. PPS3 also advises that car parking standards that require more than 1.5 spaces per dwelling are unlikely to secure sustainable development. In terms of design PPS3 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 when well designed and built in the right location it can enhance the character and quality of an area. Paragraphs 12 to 19 sets out further criteria for achieving high quality design.

4.9 Other Local plan policies relevant to the consideration of the detail of this application are: -

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

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

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

- Policy GP9 requires where appropriate developments to incorporate a suitable landscaping scheme

- Policy GP10 states that the subdivision of gardens and infilling will only be granted to provide new development, where this would not be detrimental to the character and amenity of the local environment.

- 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.

- Policy H2a of the CYDLP requires that proposals on sites over 0.03Ha of land in villages where the population is less than 5,000 should provide 50% affordable housing.

Green belt

4.10 The village of Naburn is 'washed over' by the green belt and has a defined "settlement limit" around the built up area of the village, which was set through the Local Plan process. The application site is located within a cluster of buildings located to the north of, and some considerable distance outside, the settlement limits. As an open countryside, green belt location the erection of new dwellings does not fall within the definition of "appropriate development" as set out within PPG2. The proposal therefore represents inappropriate development, which is by definition harmful to the Green Belt. It is for the applicant to demonstrate that very special circumstances exist to justify approval of inappropriate development. The statement supporting the application does not set out any very special circumstances, which would overcome the harm by reason of inappropriateness.

4.11 Paragraph 1.4 of PPG2 says that the most important attribute of Green Belts is their openness. Marina House is located centrally within a plot of land that has a frontage to Naburn Lane of approximately 56 metres. The existing property to the south of Marina House known as 1 York Road is sited with a gable end facing on to the main road with its main front elevation facing the site. The two frontage properties are set in reasonably sized plots. The remaining buildings forming the cluster of development at this location are not visually prominent from the road frontage. The proposed house would be located on the garden area to the south of Marina house. The plot is roughly triangular and currently provides access, driveway and grassed

area to the existing house. The new dwelling is sited so that the front elevation will project beyond the front of Marina house and the space between the existing houses will be significantly reduced, and it is considered that this would detract from the rural qualities of the site and reducing the openness of the Green Belt. This is contrary to advice in both PPS2 and Policy GB2 of the CYDLP.

Design and Landscaping

4.12 The proposed house is of a fairly traditional design with a pitched tiled roof and predominantly brick construction. Development adjacent to the site is of varying styles, although the older buildings such as Station House reflect the origins of the site as land associated with the former railway line to the north. Marina House is a more modern 1960's style dwelling. It is the most prominent of the structures at the site when viewed from Naburn Lane. The new dwelling would be equally prominent from the lane. However in terms of density, layout, scale, mass and design the proposed dwelling is considered to accord with its surroundings and therefore the design of the dwelling and its siting are considered to be acceptable.

4.13 There are no significant landscape features on the site, which are significant to the consideration of this proposal.

Highways, access and parking

4.14 The previous withdrawn application for this site proposed a new access from Naburn Lane. The current application seeks to use the existing access and provide new entrance arrangements for both Marina House and the new property from the existing private drive serving all the development in this area. The parking as proposed is quite restricted and is laid out so that spaces, particularly for the existing house, may be difficult to access. However Highways Network Management do not object to the proposals and therefore no objections are raised from a highway perspective. A letter from an adjacent resident raises the issue of improving visibility for the access to Naburn Lane by setting the existing boundary wall back on the Naburn Lane frontage. As it is not proposed to recommend this application for approval this possibility has not been pursued. Furthermore our own Highways advice does not draw attention to the need to improve visibility at the existing access.

Impact on surrounding properties

4.15 The proposed house is to be sited so that the side elevation is 5.2 metres away from the side elevation of Marina House. The side (south) elevation of Marina House is designed as a main elevation with significant windows at ground and first floor levels and a balcony across the full length of the elevation. The positioning of the windows and balcony would result in the existing property having a clear view onto the paved patio area and garden areas of the new house. It is considered that this will be detrimental to the living conditions of future occupiers of the house as a result of significant overlooking. Equally, with a distance of 5.2 metres between the balcony and the side flank wall of the new house it is considered that the side elevation of the new house will dominate the outlook from balcony to the detriment of the occupiers of Marina House.

Sustainability

4.13 The application is supported by a sustainability statement, which indicates that the development will be designed to sustainable standards but does not clearly indicate that the dwelling will achieve Code for Sustainable Homes Level 3. The submitted information is considered to meet the requirements of GP4a and the Interim Planning Statement on Sustainable Design and Construction in principle subject to a condition requiring that Code for Sustainable Homes level 3 is achieved within the development.

4.14 The comments are awaited from the Sustainability Officer as to whether the proposals for sustainability are sufficient to achieve 5% on site renewables.

Open Space

4.15 Under Policy L1c there is an open space provision requirement for this site. The provision of open space could be addressed by condition, unilateral undertaking or section 106 agreement.

Drainage

4.16 The development is in medium risk flood zone 2. The application is accompanied by a flood risk assessment (FRA). The Environment Agency is only satisfied with the development if conditions are attached to ensure that the measures within the FRA are conditioned. The Environment Agency also require it to be demonstrated that soakaways would be effective on this site. Further information is sought by Structures and Drainage in relation to drainage details. It is considered that the requirements of Structures and Drainage for a suitable drainage scheme could be achieved for the site by attaching appropriate conditions.

Affordable Housing

4.16 Policy H2a of the local plan seeks to provide affordable housing in residential developments of 0.03ha or more in villages such as Naburn. The application site has an area of approximately 0.09ha including the whole of Marina House and 0.04ha on the area where the dwelling is proposed, which is above the threshold in policy H2a. Therefore the council would expect at least two houses to be provided on the site, one of which would be affordable in line with approved policy. Alternatively the council would require the applicant to demonstrate that provision of two houses on the site would not be practicable, due to site constraints, or not viable, as demonstrated by a financial appraisal of the proposed development. This information has not been submitted.

Application approved adjacent to the Vicarage Naburn

4.17 The agent makes reference to an application approved outside the defined settlement limits at a site adjacent to The Old Vicarage Naburn (Planning reference 07/01167/FUL). His conclusion is that allowing that application sets a precedent for the current proposal as both developments, in his opinion, represents infill development beyond the settlement limits of Naburn. However, it is considered that the

circumstances of The Old Vicarage site are very different. That site had an extant permission for the conversion and extension of an existing building, both properties on either side of the proposal are wholly within the settlement limits, and evidence was put forward that in landscape terms there was benefit in setting the house back into the site. Although the application was recommended for refusal, the report acknowledged that the proposal would not adversely affect the openness of the Green Belt. Officers are satisfied that the granting of planning permission for this proposal did not set a precedent in relation to the consideration of the current proposal.

5.0 CONCLUSION

5.1 The application site is located within a cluster of buildings located to the north of, and some considerable distance outside, the settlement limits of Naburn. As an open countryside, green belt location the erection of new dwellings does not fall within the definition of appropriate development within the Green Belt as set out within PPG2. The proposal therefore represents inappropriate development, which is by definition harmful to the green belt. It is for the applicant to demonstrate that very special circumstances exist to justify approval of inappropriate development. The statement supporting the application does not set out any very special circumstances, which would overcome the harm by reason of inappropriateness.

5.2 The positioning of the windows and balcony would result in the existing property having a clear view into the paved patio area and garden areas of the new house and the new flank wall will be the dominating view from the balcony of Marina House. It is considered that the proposed relationship between the two properties would be detrimental to the living conditions of both properties, and would thus be harmful to the residential amenity of occupiers of the properties.

5.3 The site area of the current application is approximately 0.09ha including the whole of Marina House and 0.04ha on the area where the dwelling is proposed, which is above the threshold set out in policy H2a, 'affordable housing'. Therefore the Council would expect at least two houses to be provided on the site, one of which would be affordable in line with approved policy. Alternatively the council would require the applicant to demonstrate that provision of two houses on the site would not be practicable, due to site constraints, or not viable, as demonstrated by a financial appraisal of the proposed development. No such information has been submitted.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The application site is located beyond the defined settlement limit of the village of Naburn and is within an area of Green Belt. It is considered that the proposal would constitute inappropriate development within the Green Belt that, by definition, would be harmful to the Green Belt. It is considered that there are no very special circumstances that clearly outweigh this identified harm to the Green Belt. The proposed siting of the dwelling, projecting beyond the front elevation of Marina House,

is also considered to impact on the openness of the Green Belt. As a consequence, it is considered that the proposal conflicts with Central Government advice contained within Planning Policy Guidance Note 2: "Green Belts" and Policies GB1 and GB6 of the City of York Draft Local Plan (incorporating Fourth Set of Changes, April 2005).

2 The site area is above the rural affordable housing threshold of 0.03ha set out in Policy H2a of the City Of York Draft Local Plan, and the proposal does not demonstrate that development of the site could not accommodate two smaller dwellings, either due to on-site constraints or economic viability. The proposal therefore fails to address local and national efforts to maximise opportunities to provide affordable housing contrary to Central Government advice contained within Planning Policy Statement 3: "Housing", Policies GP1 and GP10 of the City of York Draft Local Plan, and the council's adopted Strategic Housing Market Assessment.

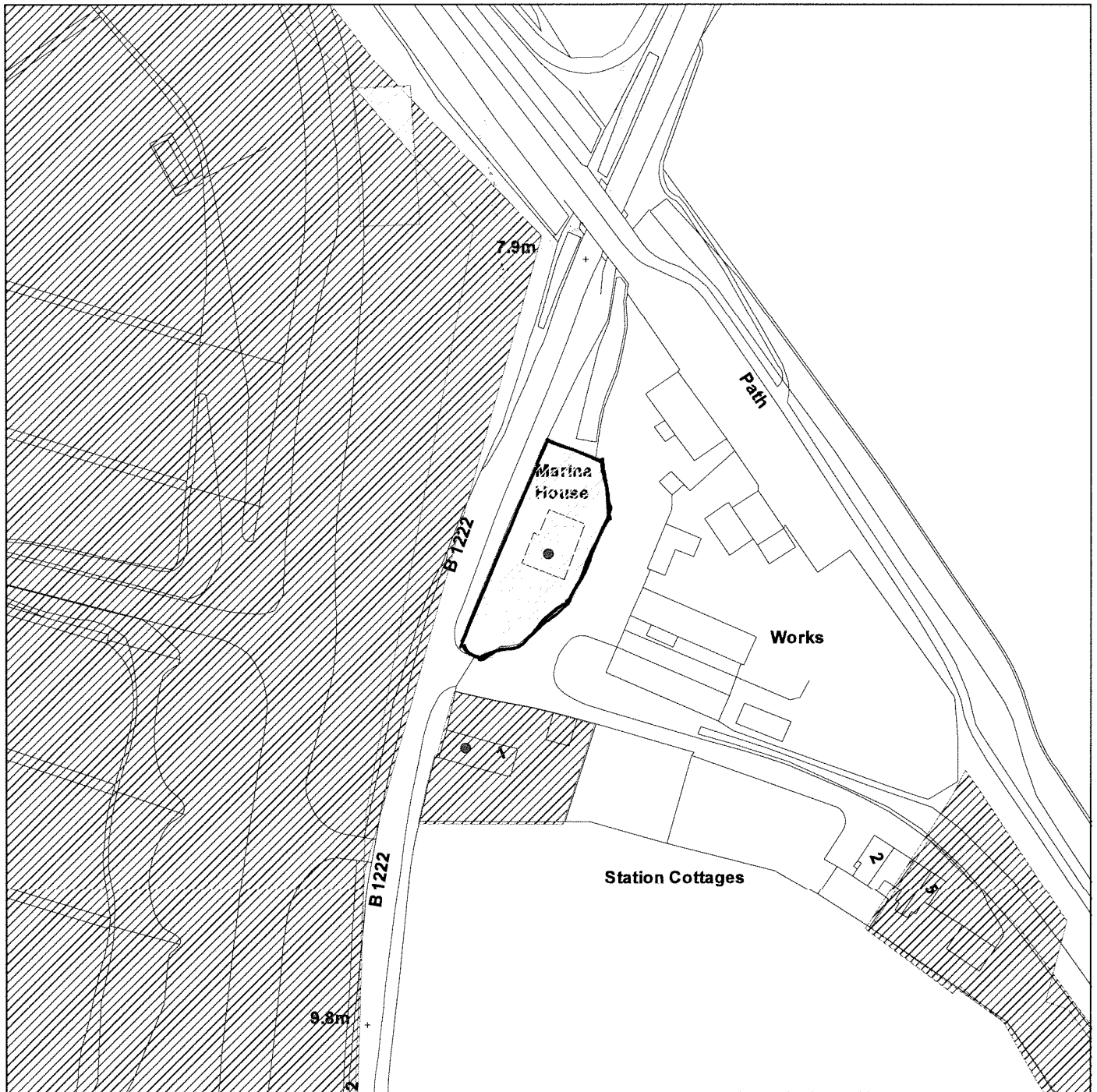
3 It is considered that the proposal, due to its size, height and proximity to Marina House, would have an overbearing and over dominant impact on the occupiers of that property and result in a loss of outlook that would be harmful to residential amenity. Furthermore the siting of the house in close proximity to a main elevation of Marina House, which incorporates an external balcony, would result in future occupiers of the proposed dwelling being unacceptably overlooked to the detriment of residential amenity and privacy, contrary to Central Government advice in Planning Policy Statement 1: "Delivering Sustainable Development", Planning Policy Statement 3: "Housing" and Policies GP1 and GP10 of the City of York Draft Local Plan.

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Marina House, Naburn Lane

09/01351/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	06 October 2009
SLA Number	Not Set

applicant entered into pre-application correspondence with various CYC Planning Officers.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYSP6
Location strategy

CYGP1
Design

CYGP4A
Sustainability

CYGP10
Subdivision of gardens and infill devt

CGP15A
Development and Flood Risk

CYH3C
Mix of Dwellings on Housing Site

CYH4A
Housing Windfalls

CYH5A
Residential Density

CYT4
Cycle parking standards

3.0 CONSULTATIONS

3.1 PUBLICITY: The application was publicised by a site notice as well as letters to local residents and internal/external consultees. The consultation period expired 23.7.09.

3.2 INTERNAL

Lifelong Learning and Culture - Request financial contribution to off site provision of public open space in lieu of on site provision.

Environmental Protection Unit - No objections. Request hours of construction condition and that developer are made aware of obligations the demolition and construction process.

Highway Network Management - Notes that application is resubmission. Main difference is provision of one parking space per unit, which complies with recommended parking standard (maximum of two spaces per three bedroom unit). No objections subject to conditions.

York Consultancy (Drainage) - Development is in low risk Flood Zone 1 and should not suffer from river flooding. Object to proposed development on grounds of insufficient information to determine the potential impact of the proposals on the existing drainage systems. An appropriate assessment should be submitted to demonstrate that soakaways would work as a method of surface water disposal. If the soakaway is unsuitable than peak run-off rates from the development must be attenuated to 70% of the existing rate in accordance with PPS25. The proposed drainage layout (drawing no. 09/06/104) shows foul and surface water as one system. Separate foul and surface water systems should be used.

3.3 EXTERNAL

11 letters of objection from or on behalf of local residents:

- loss of privacy from upper windows to houses either side or opposite;
- loss of daylight and sunlight from additional height;
- two semi detached houses between existing bungalows would appear out of place and would "sandwich" no.2 between two taller properties;
- two houses on site of one bungalow, extending close to site boundaries, represents inappropriate density on site;
- impact of construction works on noise, pollution and congestion;
- impact on appearance of line of similar styled bungalows, character of adjacent properties and nature of this part of road;
- impact on drainage from extra hard surfaces/increase in bathrooms and kitchens;
- potential traffic hazard and highway safety issues due to increase in traffic and on-street parking in a very congested narrow road and subsequent impact on emergency services access;
- reduction in on-site parking spaces to serve increased number of dwellings is not realistic or an improvement;
- existing dwelling is adequate and it would be unsustainable to demolish perfectly good family home;
- inadequate amenity space for three-bedroom family homes;
- question whether SUDS and solar panels are workable by future residents;
- should not reward active neglect of building to justify demolition and new build;
- loss of view of series of bungalows of different designs and good amount of sky;
- a precedent would be set for similar proposals;

- appears to be inbuilt bias in favour of applicant by planning officers, who have given pre-application advice to help application succeed.

1 letter of support from prospective owner/resident of one of the two houses:

- excellent location close to York centre with nearby links to major road networks;
- no compelling case to retain an unlisted building, not in a conservation area, that will struggle to provide modern standards of insulation and energy efficiency;
- considers thrust of objections are from 'NIMBY' school;
- claims re: overlooking in suburban area not credible;
- solar water heating and rainwater harvesting systems based on simple, proven, easily maintained technology.

4.0 APPRAISAL

4.1 Key issues:

- principle of development;
- design and sustainability;
- character and amenity;
- affect on living conditions of neighbours;
- flood risk and drainage;
- access, parking and highway safety;
- impact on local facilities and services.

4.2 POLICY CONTEXT

4.2.1 National Planning Policy - Central Government planning policy is set out in Planning Policy Statement 1: Delivering Sustainable Development (PPS1), Planning Policy Statement 3: Housing (PPS3), Planning Policy Guidance Note 13: Transport (PPG13) and Planning Policy Statement 25: Development and Flood Risk (PPS25):

PPS1 seeks the provision of sufficient, good quality new homes in suitable locations and promotes high quality and inclusive design, which avoid segregation and provide opportunities for physical activity and recreation. It states that design, which fails to take the opportunities to improve the character and quality of an area, should not be accepted.

PPS3 supports PPS1 with regard to 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.

The objectives of PPG13 are to promote sustainable transport choices, accessibility to facilities by public transport and reduce the need to travel, especially by car.

PPS25 sets out the approach to be taken in applying the Government's policy on flood risk management in planning decisions.

4.2.2 Local Planning Policy - Local planning policies contained in the City of York's Draft development Control Local Plan (incorporating 4th set of changes) are material to the consideration of the application. These are summarised in section 2.2 above. The following are of particular relevance:

Policy SP6 requires development to be concentrated on brownfield land within the built up urban area of the city and urban extensions

Policy H3c seeks to achieve a mix of house types, sizes and tenures on all residential development sites where appropriate to the location and nature of the development.

Policy H4a states that proposals for residential development on land not already allocated on the Proposal Map will be granted planning permission where the site is within the urban area and is vacant, derelict or underused or it involves infilling, redevelopment or conversion of existing buildings, and the site has good accessibility to jobs, shops and services by non-car modes. It requires new developments to be of an appropriate scale and density to surrounding development, and not to have a detrimental impact on existing landscape features.

Policy H5a requires the scale and design of proposed residential developments to be compatible with the surrounding area and not to harm local amenity. Within the city centre, new residential developments should seek to achieve a net residential density of greater than 40 dwellings per hectare.

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

Policy GP4a states that proposals for all development should have regard to the principles of sustainable development, in relation to accessibility of the site by means other than the car, the quality of the design, with the aim of conserving and enhancing the local character and distinctiveness of the City, minimising use of non-renewable resources, management of waste. The 'whole life' costs of the materials should be considered.

Policy GP10 deals in particular with the subdivision of gardens and infilling, which will only be granted to provide new development, where this would not be detrimental to the character and amenity of the local environment.

4.3 PRINCIPLE OF RESIDENTIAL DEVELOPMENT

4.3.1 The proposal involves residential redevelopment of a site currently occupied by a single bungalow and located within a predominantly residential area in a sustainable location close to existing local services and facilities as well as accessible by public transport and non-car modes of travel to the city centre. The site constitutes brownfield land in terms of the definition in PPS3. The development would increase the density of development on site from approximately 21 dwellings per hectare to 42 dwellings per hectare, which is in line with the aims of PPS3 and Policy H5a of the Draft Local Plan (seeks 40 dph in urban areas outside city centre). The principle of residential development on the site accords with the key objectives of national and local planning policies for more efficient and effective use of land.

4.4 DESIGN

4.4.1 The semi-detached properties have been designed to appear as one dwelling with an asymmetrical design and 1 1/2 storeys in height (first floor partially within the roof space). They would appear as a dormer bungalow, with three dormers at the front, but taller and with a greater massing than the existing bungalow. The eaves and ridge would be higher than the existing bungalow and those bungalows either side (eaves approx 1.4m higher and ridge 1m higher than original and adjacent bungalows) and the main element of the building would be wider (by approx. 1.8m) and the side element would be 1.8m higher than the existing side extension. The design of the building, on its own, is acceptable, especially taking into account the varied design and type of properties on Derwent Road.

4.4.2 The site is in a sustainable location and the replacement building is to be orientated so that the main living spaces face south. The proposal includes the provision of solar water heating panels and a rainwater harvesting system. As new build properties and to comply with the aims of PPS1 and RSS, the development would be expected to meet as a minimum, level 3 of the Code for Sustainable Homes and provide 5% on-site renewable energy. These could be addressed by condition.

4.5 CHARACTER AND AMENITY

4.5.1 Whilst the design of the proposed building would differ to any other on the street, it would be situated in a residential street that comprises a mix of houses and bungalows of varying design, form, set back and plot size. Whilst the proposed building would be read in this context, it has a strong relationship with the bungalows on either side. The current property forms one of four bungalows on the south side of the street, which are of differing design.

4.5.2 The building would be higher by 1m and with an eaves level approx. 1.8m higher than those adjacent to it. It would appear as a 1 1/2 storey property rather than bungalow. However, the building (other than the bay windows) would be set back from the front walls of the properties either side, nos.2 and 6. The side element to the building appears to sit somewhat uncomfortably with the neighbouring bungalow, no. 6, when viewed on the submitted street scene drawing. This is due to the combination of its height and roof design in relation to no.6 and the presence of a detached single

storey garage belonging to no.6, but situated in front of the proposed dwellings. However, the relationship of a larger structure behind the garage of no.6 already exists. Furthermore, the side element would be set back from the front wall of the proposed building by 5.6 metres and from that of no. 6 by 6.4 metres and as a result the visual impact on the streetscene would be significantly reduced. As a result, the additional height would not be so jarring when viewed along Derwent Road and consequently it is not considered that the proposal would significantly harm the visual character and appearance of this suburban residential street.

4.6 RESIDENTIAL AMENITY

4.6.1 Concern has been expressed about the impact of the proposal on the residential amenity of surrounding occupiers, in terms of light and privacy, due to the increase in footprint, mass and height. Disturbance and adverse affect during construction is also cited.

(i) Light - The main issue is the impact of the additional projection at the rear, as a result of its mass and height, on properties to either side of application site. A sunlight and daylight assessment has been submitted in support of the application and the resident at no.2 Derwent Road has submitted lengthy representation on this matter. It is likely that some additional casting of shadows would be inevitable given the difference in form between the existing dwelling and those proposed. The issue is whether the impact is within acceptable limits to prevent significant harm to the residential amenity that adjacent neighbours can reasonably expect to enjoy.

No.2 has a utility room adjacent to the boundary, with its nearest main habitable room windows being a distance of approx. 3.7m from the boundary and approx. 5m from the new building. The existing bungalow at the application site extends approx. 2.9m from the rear elevation of no.2 and the proposed building would extend approx. 5.5m, i.e. a further 2.6m, which would be 1 1/2 storey as opposed to single storey. The impact of this would be the potential for additional casting of shadows in the early morning (approx. 7:00-8:00) and an increased sense of enclosure. It is not considered, however, that the proposed development would affect the sunlight that this property currently enjoys for the majority of the daytime nor would the increased enclosure be unduly harmful given the set back of habitable room windows from the boundary and the size of the rear garden serving no.2.

The impact on no.6 relates to the afternoon/early evening, when shadows would potentially be cast over the conservatory that is adjacent to the boundary with the application site from early/mid afternoon. However, it is considered that the impact of the proposal would be unlikely to be significantly worse than the garage currently at the application site, which is adjacent to the boundary and extends approx. 1.5m further back into the site at only a slightly lower height than the proposed building,

(ii) Privacy - There is no issue about loss of privacy to neighbours either side, as the only first floor windows proposed in the side elevations that would face these bungalows would be a bathroom window facing no.2, which would be normally obscure glazed, and a small landing window facing no.6, which is back from the boundary by approx. 4m and would overlook the roof of the neighbouring bungalow. Ground floor windows face blank walls in the adjacent bungalows.

The ground floor windows of the front wall of the building would be less than a metre nearer to the property facing the site on the opposite of Derwent Road, 3 Derwent Road, which is at a distance of around 17-18m to its bay window. The front areas of the proposed dwellings would be kitchen/dining areas with the main habitable living rooms being situated to the rear of the dwellings overlooking the rear gardens. The development would introduce a new relationship of overlooking between the proposed dwellings and those opposite at first floor level, though the separation distance of 18m is considered to be sufficient to prevent any significant erosion of privacy in this suburban area.

(iii) Construction - the Environmental Protection Unit have requested that the hours of construction be restricted to normal daytime working hours to minimise disturbance to residents from general activity at the site. They have also confirmed the obligations on the developer with regard noise and air pollution as laid down in the Control of Pollution Act 1974.

4.7 FLOODING AND DRAINAGE

4.7.1 The site falls within Flood Zone 1 (low risk) and is therefore unlikely to be subject to river flooding. The Council's Drainage Engineer raises an objection to the application on the grounds of insufficient information with regards to the surface water system and proposed surface water disposal. This has been raised with the applicant who has requested that a condition be attached to any approval to address rainwater run-off and surface water discharge.

4.8 HIGHWAY SAFETY

4.8.1 The proposal includes the provision of one parking space per dwelling, to be provided within the space at the front of the properties. Whilst less than the current parking provision on site, this ratio complies with the maximum standards. In addition, the site is in easy access of public transport and cycle routes as well as local facilities. In light of the above, there is no objection from the Local Highway Authority on highway safety grounds. The relevant Officer has been made aware of concerns of residents about the width of Derwent Road and on-street vehicle parking.

4.9 LOCAL PROVISION

4.9.1 There is no requirement for a financial contribution towards education provision in the area, given the number of units proposed.

4.9.2 Policy L1c requires provision to be made for the open space needs of future occupiers of a development, and is supported by advice in PPS1. For sites of less than 10 dwellings, a commuted sum payment is required for off-site provision. This equates to a commuted sum payment of £2, 124 per dwelling. As the application proposes two dwellings on a site with currently one dwelling, it is reasonable to require a contribution on the basis of one additional unit.

5.0 CONCLUSION

5.1 The proposal represents efficient use of brownfield land in a sustainable location, with a development that would provide adequate parking provision and private amenity space. It is considered that it would be difficult to justify and sustain a refusal on the grounds of the impact of the proposal on the visual amenity of the street scene or the residential amenity of neighbouring occupants.

5.2 Conditions are required if approved to address materials, landscaping, sustainability, hours of construction, highway matters, surface water drainage and public open space provision. In addition, due to the relationship to neighbours, it is recommended that any approval is subject to permitted development rights for the dwellings being restricted.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approved

1 TIME2 Development start within three years

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

Drawing nos. 09/06/102, 103, 104 and 105 received on 16 June 2009

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

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

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

Reason: So as to achieve a visually cohesive appearance.

4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, D and E of Schedule 2 Part 1 of that Order shall not be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General

Permitted Development) Order 1995.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no door, windows or other openings additional to those shown on the approved plans shall at any time be inserted in the side or front elevations or any roof slope of the dwellings hereby approved.

Reason: In the interests of the amenity and privacy of occupants of adjacent residential properties.

6 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 in the garden areas of the two properties hereby approved. The scheme shall include the provision of soft landscaping or turf within the front garden area. 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 and in the interests of visual amenity of the area.

7 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

8 HWAY9 Vehicle areas surfaced

9 HWAY18 Cycle parking details to be agreed

10 HWAY19 Car and cycle parking laid out

11 No gate shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

12 Prior to the commencement of the development, the developer shall submit for the written approval of the Local Planning Authority an initial Code for Sustainable Homes (CSH) Design Stage assessment for the development. Unless otherwise agreed in writing with the Local Planning Authority, this shall indicate that at least the minimum code level 3*** rating will be achieved. This shall be followed by the submission of a CSH Post Construction Stage assessment, and a CSH Final Certificate (issued at post construction stage). These documents shall be submitted to the Local Planning Authority after completion and before first occupation of the

building. Both documents submitted shall confirm that the code rating agreed in the initial CSH Design Stage assessment has been achieved.

Reason: In the interests of sustainable development.

13 Unless otherwise agreed in writing by the Local Planning Authority, a minimum of 5% of the expected energy demand for the development hereby approved shall be provided through on site renewable generation for heat and/or electricity. Prior to the commencement of development a statement outlining how this is achieved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved statement unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is sustainable and accords with Policy GP4a of the Draft City of York Local Plan and the City of York Interim Planning Statement on Sustainable Design and Construction.

14 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the proper drainage of the site, and to comply with guidance contained within Planning Policy Statement 25 (Development and Flood Risk).

INFORMATIVE:

With respect to surface water drainage, the submitted details should incorporate the following:

Peak surface water run-off from the development shall be attenuated to 70% of the existing rate, in accordance with a scheme to reduce run off to be submitted to and agreed in writing by the Local Planning Authority (based on 140 l/s/ha of connected impermeable areas). The scheme submitted shall include storage volume calculations, using computer modelling, allowing for 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 shall also include an additional 20% allowance for climate change. The modelling shall use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. Details of run off rates including calculations of both the existing and proposed rates shall also be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

15 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 £2,124.

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.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to principle of redevelopment, design, density, sustainability, character and amenity, residential amenity, flood risk and drainage, highway safety and impact on local facilities. As such the proposal complies with national advice contained in Planning Policy Statement 1: Delivering Sustainable Development (PPS1), Planning Policy Statement 3: Housing (PPS3), Planning Policy Guidance Note 13: Transport (PPG13) and Planning Policy Statement 25: Development and Flood Risk (PPS25) and Policies SP6, H4A, H5A, GP1, GP4A, GP10, L1C and T4 of the City of York Development Control Local Plan (incorporating 4th set of changes, April 2005).

Contact details:

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4 Derwent Road

09/01202/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	06 October 2009
SLA Number	Not Set

1.5 At the request of Officers, a further supporting document has been submitted that seeks to address the requirements of Local Plan Policy E3b. This policy aims to protect and retain existing employment sites in their current use. The document includes qualitative and quantitative assessments of employment land supply in the City, following consultation with the Council's Economic Development Unit and york-england.com. It concludes that the site is no longer appropriate for employment uses in qualitative terms as it is outdated and not suitable for modern office requirements, and have provided quantitative information which demonstrates that there is not a need for employment units of this scale and type in the area and that others are available in the 'within ring road' area. It confirms that york-england.com have no objection to the application and that removing the property from the employment stock would not adversely affect availability for employment use.

1.6 HISTORY: Change of use to community day centre approved in 1975 and 1990. Approval of pre-fabricated cycle store in 2002.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Fulford Road 0039

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYGP1
Design

CYGP4A
Sustainability

CYGP3
Planning against crime

CYGP9
Landscaping

CYH3C
Mix of Dwellings on Housing Site

CYH4A
Housing Windfalls

CYH5A
Residential Density

CYHE2
Development in historic locations

CYHE3
Conservation Areas

CYHE11
Trees and landscape

CYE3B
Existing and Proposed Employment Sites

CYNE1
Trees, woodlands, hedgerows

CYL1C
Provision of New Open Space in Development

CYT4
Cycle parking standards

CYGP11
Accessibility

CYGP13
Planning Obligations

3.0 CONSULTATIONS

3.1 The application was advertised in the local paper and by the posting of a site notice. Letters were sent to the Fulford Planning Panel and neighbouring occupiers as well as to internal consultees. Consultation period expired 14.7.09.

INTERNAL

3.2 Highway Network Management: No objection in principle. Note that cycle store is not of sufficient size to accommodate 8 bicycles. Conditions HWAY18 (cycle parking details to be agreed) and HWAY19 (car and cycle parking laid out).

3.3 Lifelong Learning and Leisure: No on site open space, contribution to off site provision for amenity open space, play space and sports pitches.

3.4 Education: No education contribution required.

3.5 Environmental Protection Unit: No objection in principle. However, complaints have been received about noise from late night deliveries to Sainsbury's store on Fulford Road. Furthermore, due to proximity of Fulford Road, concerned about the potential loss of amenity due to traffic noise. Request conditions for noise impact assessment and for scheme of works to address identified noise.

3.6 Conservation: Conversion back to residential use is in principle acceptable, and should be achievable without detriment to positive contribution the building makes to character of conservation area. However, application is lacking in detail, especially of flues, fans and extractors. Siting of cycle store in front of the principal elevation would detract from its setting. Structure should be moved to a less intrusive position. Suggests conditions. Disappointing that an insensitive approach has been adopted with regard to more impressive rooms to the front of building.

3.7 City Strategy:

(i) Loss of employment: Application needs to satisfy City of York Local Plan Policy E3b. In order to do this, applicants need to provide robust evidence that the loss of the site would not compromise the employment supply in the city, both in terms of quantity and quality, and meet at least one other criterion of the policy. To evaluate need, evidence required either to show property marketed for 6 months or submission of other relevant and up to date evidence to robustly demonstrate that not required for employment purposes.

(ii) Principle of housing on the site: Proposal needs to comply with policies H4a and H3c of Local Plan. Additionally, outcomes of the Strategic Housing Market Assessment should be taken into account.

Conclusion: In order to evaluate demand, the applicant should provide evidence to show that the site is not needed for employment purposes in both quantitative and qualitative terms, or provide other robust and acceptable evidence that the loss of employment on the site would not compromise supply in the City. Without this evidence, the application cannot be supported in policy terms.

Conclusion: As long as the above criteria are met, there would be no policy objection.

EXTERNAL

3.8 No responses received to date.

4.0 APPRAISAL

4.1 Key issues:

- Loss of employment premises
- Principle of conversion
- Sustainability
- Type, tenure and density
- Affect on residential amenity
- Impact on Fulford Road Conservation Area
- Trees and landscaping
- Parking, access and highway safety
- Flood risk

- Affect on local facilities

4.2 POLICY CONTEXT

4.2.1 Central Government guidance is contained in Planning Policy Statement 1 (PPS1): Delivering Sustainable Development, Planning Policy Statement 3 (PPS3): Housing, Planning Policy Guidance Note 15 (PPG15): Planning and the Historic Environment and Planning Policy Statement 25 (PPS25): Development and Flood Risk. PPS1 encourages good design and sustainable development. PPS3 encourages the efficient use of land with densities of 30-50 dwellings per hectare and a mix of type and tenure of housing to facilitate social inclusion. PPG15 sets out the special duty of the Local Planning Authority to preserve or enhance the character and appearance of conservation areas. PPS25 outlines the approach to be taken in new developments to reduce flood risk.

4.2.2 The City of York Development Control Local Plan policies outlined in section 2.2 are material to the consideration of this application. In particular, policies E3b and H4a.

4.3 LOSS OF EMPLOYMENT PREMISES

4.3.1 Local Plan Policy E3b seeks to protect land currently in use for employment from other forms of development. The agent has confirmed that no marketing of the site for employment purposes has been carried out. This is as a result of information provided by the Council's City Development Team, referred to in the supporting statement for the application, which is taken from an unpublished planning statement for the site, dated September 2007. The statement outlines the Council's strategic review of its administrative accommodation and confirms that "in quantitative terms, the release of existing Council sites for other appropriate uses will not compromise the overall employment land supply", nor in qualitative terms, as the building fails to meet modern office and Disability Discrimination Act requirements. Conversion of this building, following disposal by CYC, is considered by the applicant to offer the opportunity for the Council to save on maintenance and general running costs as well as the expense of bringing to building up to standards in terms of energy efficiency and access, whilst preserving the future of a historic building. This would be beneficial to the City as a whole.

4.3.2 In the absence of the open marketing of the building and the time period that has passed since the unpublished planning statement was written, the applicant was asked to undertake a further assessment of the qualitative and quantitative supply of employment space in the City and consult with the Council's Economic Development Unit and york-england.com. A report was submitted in late September. It concludes that the site is no longer appropriate for employment use in qualitative terms as it is outdated and not suitable for modern office requirements and conversion would affect the historical character and integrity of the building. It includes information from york-england.com, that in qualitative terms, there is not a need for employment units of this scale and type in the area and that others are available in the 'within ring road' area. A letter is attached to the report from the chief executive of york-england.com confirming that the removal of this property from employment stock

would not adversely affect availability for employment use and as such the organisation has no objection to the application.

4.3.3 Taking the above into account, it is considered an appropriate assessment has been undertaken to address the requirements of Local Plan Policy E3b and that there is no objection to the loss of this office building and its reuse for another purpose.

4.4 PRINCIPLE OF CONVERSION

4.4.1 The site constitutes previously development land within the urban area in a sustainable location, with good accessibility to the City Centre, and in a predominantly residential area. The conversion of this office building to residential apartments would be an appropriate and compatible use, that would accord with Policy H4a.

4.5 SUSTAINABILITY

4.5.1 One of the main themes of Central Government planning policy relates to the need to deliver sustainable development, as set out in Planning Policy Statement 1. The proposal involves conversion of an existing building in a sustainable location, close to the City Centre, local facilities and services, bus routes and the City's cycle network. The supporting statement submitted with the planning application considers the proposal against the criteria listed in Local Plan Policy GP4a (Sustainability), confirming the sustainable location of the site. In addition, the Council's Interim Planning Statement on Sustainable Design and Construction (IPS) states that 'reuse of existing buildings can be the most sustainable development option' and that 'their reuse and renovation saves resources and carbon emissions'. For conversions to dwelling units of over 5 dwellings, the IPS requires a minimum Eco-homes standard of 'Very Good', with the assessment undertaken by a BREEAM assessor. If approved, a condition should be attached to any approval to require the conversion to meet this minimum standard or confirm why it cannot be met.

4.6 TYPE, SIZE, TENURE AND DENSITY

4.6.1 Policy H3c of the Draft Local Plan requires a mix of new house types, sizes and tenures on all new residential development sites where appropriate to the location and nature of development. The proposal would provide eight apartments, including four one bedroom and four two bedroom units of varying sizes and layouts. Four would be on the ground floor, three on the second floor with the upper level of one of the ground floor units also on this floor and one on the second floor.

4.6.2 As the proposal relates to the conversion of a large building in a built up area on the edge of the City Centre with limited external space, the conversion to apartments is considered to be appropriate and indeed the only solution available for residential re-use. Whilst the Council's 2007 Strategic Housing Market Assessment (SHMA) identified that two-thirds of the demand in the City was for houses, 36% of demand was for flats with 50% being for 1 and 2 bedroom units. Therefore, the proposal would fulfil a need for smaller accommodation units in the City. The SHMA found that the split in demand for 1 and 2 bedroom apartments was 21% and 29%

respectively and therefore the proposal would provide an appropriate mix of unit size. In addition, there are constraints to the layout of the units due to the size and layout of rooms in the existing building and position of openings and features such as windows and chimney breasts. All apartments would be for private sale, though as the scheme is for less than 15 dwellings, there is no requirement for affordable housing provision.

4.6.3 The number of units proposed would result in a density of 80 units per hectare, which exceeds the 40 dwellings per hectare for urban areas and indeed the 60 dwellings per hectare for city centre locations set out in Policy H5a. However, it represents an efficient use of previously developed land. As the proposal is for the conversion of an existing building rather than new building, the scale and design of the development would remain compatible with the character of the surrounding area. However, the number of units does put pressure on the provision of sufficient amenity space and parking/refuse collection within the limited external curtilage area.

4.7 RESIDENTIAL AMENITY

4.7.1 The residential use of the building would be compatible with the predominant land use in this urban area and there is unlikely to be any harm on the amenity that surrounding occupants could reasonably expect to enjoy.

4.7.2 The size and layout of the proposed apartments is restricted by the existing plan and physical features of this historic building, such as staircases, window openings and fireplaces/chimney breasts and the limited size of the site and location of the building within it. It results in some unusual arrangements of units - in particular, apartment 2, which is split over two floors and has one north facing window serving the living area. Also, apartment 4 has one of its bedroom windows next to the main entrance to the building, with the existing disabled ramp in front of the window and the pathway to the cycle store passes by the windows for its living area/kitchen. Whilst these situations are not ideal, it is not considered that the conversion would result in any sub-standard dwellings, in terms of space, outlook, light, ventilation and privacy and the only way to address the layout of units would be to reduce the number of apartments proposed.

4.7.3 The building has limited land around it, though the scheme proposes a front garden area for use as an outdoor amenity space by occupants of the apartments, albeit small. The relocation of the cycle store to the eastern side of the building would increase the size and improve the quality of this amenity area. The Environmental Protection Unit has highlighted potential noise issues for future occupants of the apartments from Sainsbury's on the corner of Fulford Road and Wenlock Terrace and from Fulford Road itself. A condition is requested to carry out a noise assessment and undertake any necessary mitigation measures.

4.8 CONSERVATION AREA

4.8.1 The conversion of the building and the provision of an open grassed area at the front would preserve and potentially enhance the setting of this historic building and consequently the character and appearance of the conservation area. The cycle store has been relocated from the front of the building to its eastern side to address

the concerns of the Council's Conservation Officer about harm to the setting of this historic building and the conservation area.

4.9 TREES AND LANDSCAPING

4.9.1 There is a mature tree in the grounds, to the west of the entrance, which adds to the amenity of the conservation area. This is to be retained as the area around the tree is not proposed to be altered and should be protected by condition during conversion works on site.

4.9.2 A landscaping condition is recommended to ensure that the front private amenity space is made available to future residents prior to occupation and is of a suitable layout.

4.10 PARKING, ACCESS AND HIGHWAY SAFETY

4.10.1 The existing vehicular access to the site is to be retained. Visibility when entering and exiting is restricted by the high walls and on-street parking. However, potential traffic generation is unlikely to be greater than the current use of the building and the number of parking space available on site is being reduced. As such, Highway Network Management raises no objection on access grounds.

4.10.2 Parking provision is proposed for ten vehicles, which represents 1:1 provision with 2 visitor spaces. At least two of the spaces would be difficult to manoeuvre in and out of and may prove unusable. However, these are existing spaces. Furthermore, given the location of the site in close proximity to the city centre and local services and to public transport and cycle routes, a lower parking ratio would be acceptable, providing there are sufficient cycle parking facilities. As mentioned above in 4.8, the cycle store proposed is not shown in an appropriate location and is considered by Highway Network Management not to be of sufficient size. The agent has confirmed that a store could be provided at the side of the property, replacing an existing outbuilding that is proposed to be removed. As an alternative location could be provided, it is considered that this matter can be resolved by condition.

4.10.3 There is an existing access ramp at the main entrance door into the building, which is to be retained. This would allow access by disabled persons into apartments 3 and 4. There is level access into apartment 1, which has its own entrance door at the side of the building. However, due to the layout of the building and level changes within it, apartment 2 and those of the upper floors would not be accessible.

4.11 FLOOD RISK

4.11.1 The site lies in Flood Zone 1 (Low Probability of Flooding). There is no increase in the size of the building nor its surrounding hardstanding. Therefore, there is unlikely to be an increase in surface water run-off. Surface-water is proposed to be disposed of to the main sewer. However, efforts should be made to investigate alternative means of disposal in the interests of reducing flood risk in the City.

4.12 AFFECT ON LOCAL FACILITIES

4.12.1 The site is well served by local shops and is easily accessible to the City Centre. Education has confirmed that there is no requirement for a financial contribution towards the provision of additional education facilities in the area to cater for any potential child occupants. There is a requirement for a commuted sum payment of £6,408 towards off site provision in lieu of public open space being incorporated in the scheme (separate to the private amenity site). The agent has confirmed the applicants agreement to the imposition of a condition to require payment of this money.

5.0 CONCLUSION

5.1 The application relates to an existing historic building currently in use as offices by CYC. The proposal involves the conversion of this existing building in the main built-up area of the City for a use that would be compatible with surrounding uses and the location of the site in the Fulford Road Conservation Area. Sufficient information has been submitted to demonstrate that the loss of the building would not, in qualitative and quantitative terms, compromise the overall employment land supply in the City.

5.2 The scheme for eight units has been designed to take account of the physical constraints of the building. A lesser number of units would potentially allow a increased amount of amenity space to be provided on site as there would be a lower vehicle and cycle parking requirement, and could improve the arrangement and layout of apartments internally. However, the impact of this number of units would be unlikely to result in such harm to warrant a reason for refusal that could be sustained on appeal.

6.0 RECOMMENDATION: Approved

1 TIME2 Development start within three years

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

Drawing no. 201-001 revision A, 'Proposed Site Plan', dated 21 July 2009 and received 21 July 2009;

Drawing no. 201-002, 'Proposed Floor Plans', dated March 2009 and received 18 May 2009.

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

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

3 The apartments hereby approved shall not be occupied until the areas shown

on the approved plans for parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

4 Prior to the commencement of the conversion of the building to apartments hereby approved, details of the cycle parking storage area, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The apartments 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.

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

5 Notwithstanding the details shown on the approved plans, details of refuse and recycling storage areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the conversion of the building to apartments hereby approved. The apartments shall not be occupied until the refuse and recycling 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 storage of refuse and recycling containers.

Reason: To ensure adequate provision on site and in the interests of the visual amenity of the area and to preserve the character and appearance of the conservation area.

6 Prior to the commencement of the conversion of the building, a noise impact assessment shall be undertaken to assess the impact of the traffic on Fulford Road and deliveries to the convenience store at 212-214 Fulford Road on the future occupiers of the proposed apartments. A scheme of works to address any issues identified as a result of the assessment shall be submitted to and agreed in writing by the Local Planning Authority and subsequently implemented before occupation of the apartments.

Reason: To protect the future occupants of the apartments from noise disturbance.

7 All works on site relating to the conversion of the building to apartments, including loading or unloading on the site, shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

8 Large scale details of the position and design of flues and vents shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the conversion and the works shall be carried out in accordance with the approved details. There shall be no roof vents and/or slate vents.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of preserving the character and appearance of the conservation area.

9 Prior to the commencement of conversion works, a detailed landscaping scheme for the private amenity area at the front of the site and any other areas of landscaping within the site as a whole shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall illustrate the number, species, height and position of trees and shrubs and all hard landscaping materials. 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 and in the interests of the residential amenity of future occupiers.

10 The development hereby approved shall achieve a BRE Eco-homes standard of "Very Good". A formal Post Construction assessment by a BRE licensed assessor shall be carried out and a copy of the final Post Construction Stage Certificate shall be submitted to the Local Planning Authority prior to occupation of the building. Should the development fail to achieve a "Very Good" Ecohomes rating, a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a "Very Good" rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

11 Development shall not begin until details of surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: To comply with guidance contained within Planning Policy Statement 25 (Development and Flood Risk).

INFORMATIVE:

The submitted details should comply with the following requirements:

Peak surface water run-off from the development shall be attenuated to 70% of the existing rate, in accordance with a scheme to reduce run-off to be submitted to and agreed in writing by the Local Planning Authority (based on 140 l/s/ha of connected impermeable areas). The scheme submitted shall include storage volume calculations, using computer modelling, allowing for 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 shall also include an

additional 20% allowance for climate change. The modelling shall use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. Details of run-off rates including calculations of both the existing and proposed rates shall also be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

12 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 £6,408.

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.

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to loss of employment premises, principle of conversion to residential use, type, tenure and density of residential units, residential amenity, character and appearance of Fulford Road Conservation Area, trees, highway safety, flood risk and provision of local facilities. As such the proposal complies with national planning advice contained within Planning Policy Statement 1 (PPS1): Delivering Sustainable Development, Planning Policy Statement 3 (PPS3): Housing, Planning Policy Guidance Note 15 (PPG15): Planning and the Historic Environment, Planning Policy Statement 25 (PPS25): Development and Flood Risk and Policies GP1, GP9, GP11, H3c, H4a, H5a, HE2, HE3, HE11, E3b, NE1, L1c and T4 of the City of York Development Control Local Plan (incorporating fourth set of changes) 2005.

2. INFORMATIVE:

Please note that there are no permitted development rights for flats. Planning permission would therefore be required for any change to windows and external doors and for the installation of solar panels or other attachments to the building that alter its material appearance.

3. INFORMATIVE:

Your attention is drawn to the following environmental health requirements during conversion works:

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 noted and acted upon. Failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

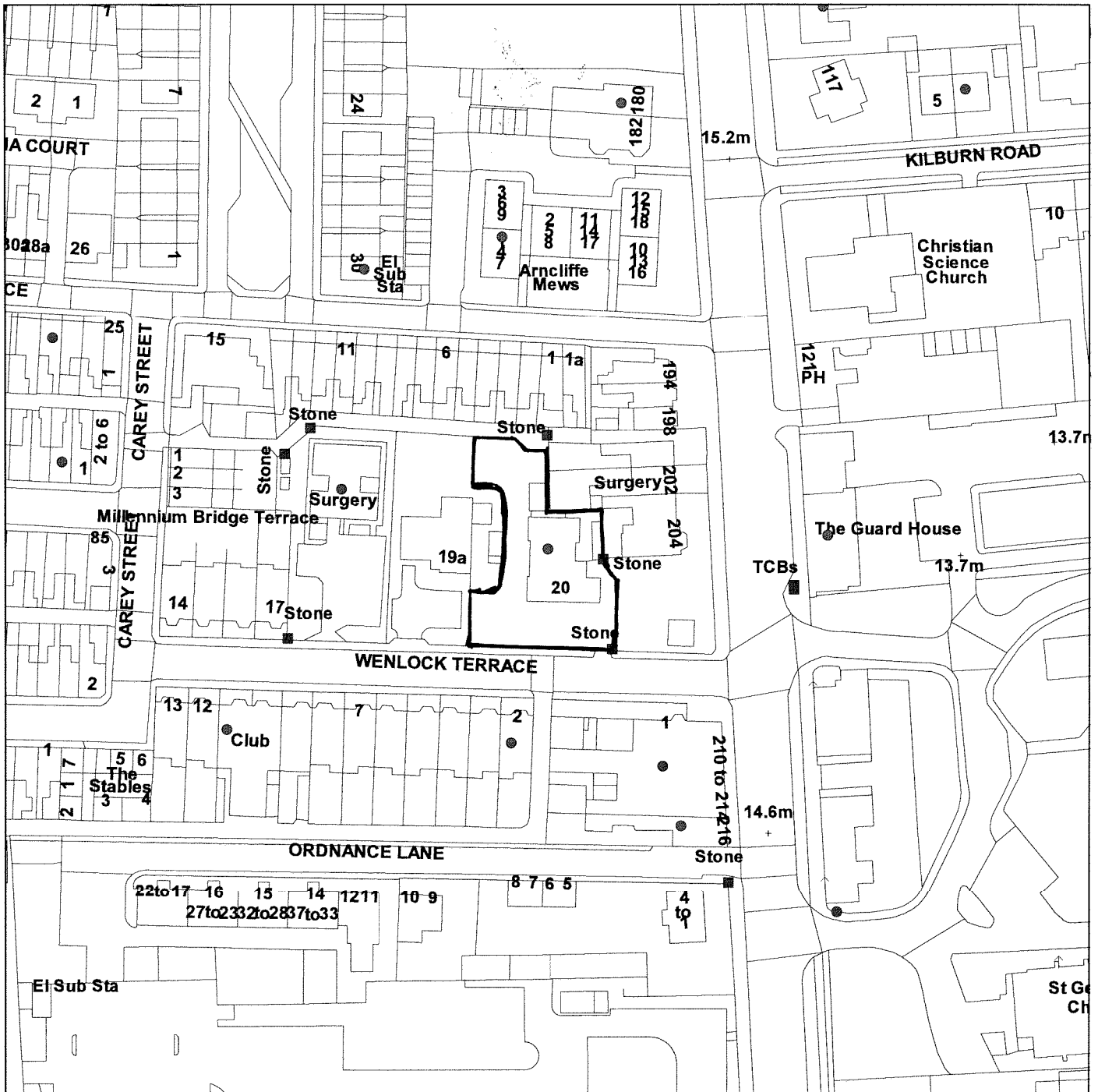
The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration". 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. 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. 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. There shall be no bonfires on the site

Contact details:

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09/00966/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	06 October 2009
SLA Number	Not Set

CYH7

Residential extensions

3.0 CONSULTATIONS

3.1 Internal:

None

3.2 External:

Heworth Planning Panel - No objections

Neighbour Response - Public consultation expired 03.09.09 - No comments received

4.0 APPRAISAL

4.1 Key issue(s): Effect upon the existing dwelling, neighbouring property and the street scene

4.2 Draft Local Plan Policy CYGP1 states that development proposals will be expected to (i) respect or enhance the local environment; (ii) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials;

4.3 Draft Local Plan Policy CYH7 states that planning permission will be granted for residential extensions where: (a) the design and materials are sympathetic to the main dwelling and the locality of the development; and (b) the design and scale are appropriate in relation to the main building; (d) there is no adverse effect on the amenity which neighbouring residents could reasonably expect to enjoy; and (e) proposals respect the spaces between dwellings; and (g) the proposed extension does not result in an unacceptable reduction in private amenity space within the curtilage of the dwelling.

4.4 Supplementary Planning Guidance 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001

4.5 Assessment .

The dwelling incorporates a hipped roof measuring approx 2.9 metres in height between the eaves and the ridge, and is therefore capable of accommodating dormer windows and alterations of the roof structure to obtain additional rooms within the roof space. In terms of design the proposed dormer window would extend from the ridge of the existing dwelling but would terminate approximately 300mm above the eaves, enabling the existing eaves detailing and an element of existing tiling to be retained. A half hip roof would be incorporated, to reflect the hipped design of the existing roof. The proposal is considered acceptable in terms of size and scale and would not detract from the appearance of the existing dwelling to an unacceptable degree.

4.6 The impact on the immediate neighbour on the shared boundary has been assessed during the site visit. The side wall of the adjacent dwelling facing the application site contains only a single obscure glazed first floor landing window, and thus there would be no loss of privacy in this respect. However, due to the angled nature of the property in relation to its neighbour, some overlooking of the rear garden of no. 18 Hyrst Grove would be likely to occur. For this reason, a condition requiring the window to be obscure glazed is considered to be both necessary and reasonable. The method of opening could also be made the subject of a condition, in order to protect the privacy of the adjacent occupiers. For members` information, if the window was fitted with obscure glazing and fixed shut then the entire dormer could be erected under "permitted development" and thus would fall outside planning control.

4.7 Effect upon the Street Scene.

In terms of visual appearance the pitched roof rear dormer projects from the ridge with no additional set down, however it would be positioned above the eaves by approx 300mm. In addition the proposed dormer would be constructed with lead cheeks and matching tiles and thus would be in keeping with the original appearance of the dwelling.

4.8 It was noted during the recent site visit that there are no other side dormer windows within the vicinity of the application site. However this situation is not considered to be a reason to refuse the proposed dormer window and the application should be considered on its own individual merits.

4.9 Effect Upon Neighbouring Property.

Notwithstanding the separation distances between the shared boundary with the dwelling at No. 21 Hyrst Grove there would be approx 10.0 metres distance from the adjacent hipped roofs when measured on the location plan scale 1:1250. Therefore by virtue of the proposed window being conditioned with obscure glazing, it is not considered the proposal would result in a loss of privacy or over looking on to the shared boundary.

5.0 CONCLUSION

5.1 The development on the side elevation will be visually prominent from the street scene, however with the design and materials used will be acceptable to the existing dwelling and it is not considered the scale will impact on the amenities of the neighbours on the shared boundary.

6.0 RECOMMENDATION: Approved

- | | | |
|---|-------|--------------------------------------|
| 1 | TIME2 | Development start within three years |
| 2 | VISQ1 | Matching materials |

3 PLANS1 Approved plans - Approved Plans Dated 10.08.09

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), the window in the proposed dormer shall be obscure glazed to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard), and shall be thus maintained, and the method of opening of the window shall be approved in writing with the Local Planning Authority and shall be implemented and maintained in accordance with the approved details.

Reason: In the interests of the amenity and privacy of the occupiers of the adjacent dwelling.

**7.0 INFORMATIVES:
Notes to Applicant**

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on the street scene and the impact on the amenity and living conditions of adjacent residents. As such the proposal complies with Policies H7 and GP1 of the City of York Deposit Draft Local Plan and the Council's 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance.

Contact details:

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19 HYRST GROVE

09/01494/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	06 October 2009
SLA Number	Not Set



East Area Planning Sub-Committee

15 October 2009

Report of the Director of City Strategy

Enforcement Cases - Update

Summary

1. The purpose of this report is to provide Members with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by this Sub-Committee.

Background

2. Members have received reports on the number of outstanding enforcement cases within the Sub-Committee area, on a quarterly basis, since July 1998, this report continues this process.
3. Some of these cases have been brought forward as the result of information supplied by residents and local organisations, and therefore “The annexes to this report are marked as exempt under Paragraph 6 of Part 1 of Schedule 12A of the Local Government Act 1972, as this information, if disclosed to the public would reveal that the Authority proposes to give, under any enactment a notice under or by virtue of which requirements are imposed on a person, or that the Authority proposes to make an order or direction under any enactment”.
4. In order to give Members an up to date report, the schedules attached have been prepared on the very latest day that they could be to be included in this report on this agenda.
5. Section 106 Agreements are monitored by the Enforcement team. A system has been set up to enable Officers to monitor payments required under the Agreement.

Current Position

6. Members should note that 58 new cases were received for this area within the last quarter. 51 cases were closed and 290 remain outstanding. There are 72 Section 106 Agreement cases outstanding for this area after the

closure of 7 for this quarter. No formal Notices have been served during the last quarter.

Consultation

7. This is an information report for Members and therefore no consultation has taken place regarding the contents of the report.

Options

8. This is an information report for Members and therefore no specific options are provided to Members regarding the content of the report.

Corporate Priorities

9. Improve the actual and perceived condition and appearance of city's streets, housing estates and publicly accessible spaces.

10. Implications

- **Financial** - *None*
- **Human Resources (HR)** - *None*
- **Equalities** - *None*
- **Legal** - *None*
- **Crime and Disorder** - *None*
- **Information Technology (IT)** - *None*
- **Property** - *None*
- **Other** - *None*

Risk Management

11. There are no known risks.

Recommendations

12. That Members contact the relevant Enforcement Officer to discuss any particular case detailed in the attached ongoing annex and also note the cases closed annex.

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

Contact Details

Author:

Author's name

Mandy Swithenbank/
Alan Kendall
Planning Enforcement Officer

Chief Officer Responsible for the report:

Chief Officer's name

Michael Slater
Assistant Director (Planning and Sustainable
Development)

Dept Name City Strategy
Tel No. 551376/551324

Report Approved

Date 5/10/2009

Chief Officer's name
Title

Report Approved

Date 5/10/2009

Specialist Implications Officer(s) *List information for all*

Implication ie Financial

Name

Title

Tel No.

Implication ie Legal

Name

Title

Tel No.

Wards Affected: *All Wards*

All

For further information please contact the author of the report

Background Papers:

Environment and Development Services Business Plan (2000/2001).

Report to Area Sub-Committee in July 2009 – Enforcement Cases Update.

Annexes

Annex A - Enforcement Cases – Update (Confidential)

By virtue of paragraph(s) 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted