



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, 11 February 2010

Time: 2.00 pm

Venue: The Guildhall, York

AGENDA

1. **Declarations of Interest**

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

2. **Minutes** (Pages 5 - 10)

To approve and sign the minutes of the meeting of the Sub-Committee held on 10 December 2009.

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 10th February at 5pm.**

4. **Plans List**

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

a) **Dormary Court, 445 Huntington Road, (Pages 11 - 30)
York, YO32 9PY. (09/02051/FUL)**

This is an application for the erection of 6 dwellings on the site of the former Dormary Court residential care home on Huntington Road, adjacent to its junction with the New Earswick Link Road. [Huntington & New Earswick Ward] **[Site Visit]**

b) **Suncliffe House, 157 New Lane, (Pages 31 - 39)
Huntington, York, YO32 9NQ.
(09/02186/FUL). - WITHDRAWN.**

This application has been withdrawn by the applicant.

5. **Urgent Business**

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

6.

Democracy Officer:

Name- Laura Bootland
Telephone – 01904 552062
E-mail- laura.bootland@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
- Any special arrangements
- Copies of reports

Contact details set out above.

**EAST AREA PLANNING
SUB-COMMITTEE****SITE VISITS****Wednesday 10 February 2010**

TIME	SITE	
10:05	Dormary Court	(4a)
10:30	Suncliffe House	(4b)

Could Members please contact the Democracy Officer by Thursday 4th Feb if they require transport to the Site Visits.

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- Review existing policies and assist in the development of new ones, as necessary; and
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City of York Council

Committee Minutes

MEETING	EAST AREA PLANNING SUB-COMMITTEE
DATE	10 DECEMBER 2009
PRESENT	COUNCILLORS HYMAN (CHAIR), CREGAN (VICE-CHAIR), FIRTH, KING, MOORE, ORRELL, TAYLOR, WISEMAN AND B WATSON (SUBSTITUTE)
APOLOGIES	COUNCILLORS DOUGLAS AND FUNNELL

36. INSPECTION OF SITES

Site	Attended by	Reason for Visit
Bonneycroft, Princess Road, Strensall.	Cllrs. Hyman, Moore and Orrell and Wiseman.	To familiarise Members with the site.
4 Stockton Lane	Cllrs. Hyman, Moore and Orrell and Wiseman	To familiarise Members with the site.

37. DECLARATIONS OF INTEREST

Members were invited to declare any personal or prejudicial interests they may have in the business on the agenda.

Councillor Taylor declared a personal and prejudicial interest in agenda item 4c as the applicant had dealt with his forced redundancy when he worked for the Council and he felt he could not consider the application in an unbiased manner.

Councillor Moore declared a personal non prejudicial interest in agenda item 4a as some of the objectors had telephoned him about the application, although he had not expressed an opinion to them.

Councillor Hyman declared a personal non prejudicial interest in agenda item 4a as some of the objectors had telephoned him about the application although he had not expressed an opinion to them. He also declared a personal non prejudicial interest in agenda item 4b as he worked with the applicant a number of years ago.

38. MINUTES

RESOLVED: That the minutes of the meeting held on 12 November 2009 be approved and signed as a correct record by the Chair.

39. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

Details of speakers registered to speak on the planning applications will be recorded under the relevant application.

40. PLANS LIST

40a Bonneycroft, 22 Princess Road, Strensall, York, YO32 5UD - 09/01176/OUT.

Members considered an application for outline consent for a nursing home. Whilst all matters are reserved, illustrative proposals have been submitted. The revised proposals show a 3 storey, pitched roofed building on the front of the site, stepping down to 2.5 stories in the central section and lowering to two stories at the rear, ace for emergency vehicles. The proposal is speculative. A dilapidated bungalow on the site would be demolished.

Officers updated with the following information:

- The report states that Councillor Kirk had called the application in, but it had previously been called in by Councillor Alexander who objects on the grounds of inadequate parking, the site being identified for housing and intrusiveness due to height.
- Paragraph 4.7 (b) on page 7 incorrectly refers to the height of the central section of building as 2.4m. The correct height is 11.8m.
- There are changes to proposed conditions 3,7,11,19 and 20.
- Officers had been waiting for information on surface water drainage. Details had now been submitted to show that adequate drainage works can be provided within the site (consisting of on-site storage and controlled discharge into the sewer) and without damage to protected trees. The drainage proposals were tabled for Members to consider.
- Since the officers report was circulated a further 16 objections had been received which reiterated concerns already raised.
- A petition of 525 signatures had been submitted. The petitioners object to a nursing home being developed on the site and support the site being used for housing as set out in the Strategic Land Availability Assessment dated February 2009. Officers advised Members that this assessment does not recommend that the site be used for housing, it identifies the site as being suitable for housing and therefore little weight should be given to this assessment.
- Members had received a selection of annotated photographs from residents at the site visit which highlighted the locally held concerns.

Following the update, Members had a detailed discussion with Officers regarding drainage for the site. Officers confirmed that details of drainage arrangements had been received and they were satisfied with them.

Representations in objection to the application were heard from a Local Resident, a representative for the Council for the Protection of Rural England, Strensall Parish Council, a Ward Councillor and the prospective Parliamentary candidates for York Outer. They raised the following concerns:

- The site is too constrained for a Nursing Home and close to the boundaries of nearby housing.
- There are no other buildings of this large size and scale in the area.
- The site would be better suited to housing.
- There could be a loss of amenity for local residents in a semi rural area.
- The building would be 30 metres away from a Conservation Area and therefore the site is an unsuitable location for a large building.
- A number of trees would be under threat.
- The existing drainage problems in the area would be exacerbated.
- Whether York currently requires another Nursing Home and whilst City of York Council are still in the process of establishing a new care policy. Therefore the consideration of the application should be deferred.

Representations in support of the application were received from the applicant who advised the Committee that in his opinion, the area was suitable for a Nursing Home and that drainage issues had been dealt with sufficiently and the loss of trees had been minimised.

Members felt that they could not support the application due to the size and scale of the proposed building. The close proximity of the site to residential properties would mean that the building would have a detrimental impact on the amenity and outlook of adjacent occupiers.

Councillor King supported the Officer recommendation and moved approval. This motion was lost when put to the vote. Councillor Moore moved refusal of the application which was seconded by Councillor Taylor. When put to the vote, the application was refused.

RESOLVED: That the application be refused.

REASON: It is considered that the proposal, by virtue of the size and extent of the building footprint and its excessive scale and massing, would adversely affect the amenity and outlook of the occupiers of adjacent residential properties and would be unduly harmful to the character and appearance of the area. Thus would conflict with Central Government advice on design contained within Planning Policy Statement 1 ("Delivering Sustainable Development") and policies

GP1, GP10 and C1 of the City of York Draft Local Plan.

40b 4 Stockton Lane, York, YO31 1BQ - 09/02022/FUL.

Members considered a revised retrospective application for a two storey side extension and single storey rear extension and a dormer to the rear of a semi-detached dwelling.

Officers advised Members that the application is retrospective as permission had been granted last year for a two storey side extension, a single storey rear extension and a rear dormer. The side extension and the rear dormer had not been constructed in accordance with the originally approved drawings. The differences are that the two storey side extension has been erected with a minimal set back from the front wall of the property and is not set down from the ridge and the dormer is clad in white uPVC rather than lead as originally approved. Officers advised that they had no objections to the new design of the side extension as it has not caused a terracing effect, but the dormer appears stark and incongruous and in Officers opinion should be re-clad either in lead as originally approved or in matching hanging tiles. The applicant has already agreed to do this and Officers understand work will be completed shortly and in light of this the recommendation is now that planning permission should be granted . Officers will monitor the situation to ensure the work is completed on the dormer.

Members expressed their disapproval of retrospective applications and queried why the applicant had deviated from the original plans. The applicant explained they had mis-interpreted new planning regulations in relation to what constituted permitted development. It was a genuine mistake and they had believed they were not doing anything wrong.

Overall Members could see no reason to refuse the amended plans,

RESOLVED: That the application be approved.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the Officers report, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the residential amenity of neighbours and the effect on the character and appearance of the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Local Plan Deposit Draft

40c 51 Walney Road, York, YO31 1AH - 09/02069/FUL.

Members considered an application for a two storey pitched roof side extension.

Councillor Taylor had declared a personal and prejudicial interest in this item. He left the room and took no part in the debate or vote.

The application had been brought to the Committee as both applicants are employed by City of York Council.

Members could see no problems with the application and supported the recommendation of approval.

RESOLVED: That the application be approved.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the Officer's report would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the residential amenity of neighbours and the effect on the character and appearance of the streetscene. As such the proposal complies with policies H7 and GP1 of the City of York Local Plan Deposit.

INFORMATIVE – The applicant is reminded that all parts of the extension including side gutters and foundations should be within the property boundary.

41. APPEALS PERFORMANCE AND DECISION SUMMARIES.

Members received a report which presented to them the Council's performance in relation to appeals determined by the Planning Inspectorate in the 3 month period up to 31st October 2009, and provides a summary of the salient points from appeals determined in that period.

Officers presented the report and advised that overall all of the planning teams are performing well at appeal.

Members queried how some of the individual cases were progressing and noted that the figures were an improvement on the previously reported 3 month period.

RESOLVED: That Members note the content of this report.

REASON: To keep them informed on appeals determined by the Planning Inspectorate.

K Hyman, Chair

[The meeting started at 2.00 pm and finished at 3.55 pm].

1.6 The application has been called in for a Committee decision by the local member, due to the level of public interest in the scheme and the potential traffic increase in an already busy area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

Floodland GMS Constraints: Flood Zone 2

Floodzone 2 GMS Constraints: Flood Zone 2 CONF

Floodzone 3 GMS Constraints: Flood Zone 3

2.2 Policies:

CYH4A
Housing Windfalls

CYH2A
Affordable Housing

CYGP7
Open Space

CYC1
Criteria for community facilities

CYGP15
Protection from flooding

CYGP4A
Sustainability

CYNE1
Trees, woodlands, hedgerows

CYNE2
Rivers and Stream Corridors, Ponds and Wetland Habitats

CYNE8
Green corridors

3.0 CONSULTATIONS

INTERNAL.

3.1 Highway Network Management.

Comments are awaited on the revised scheme for 6 dwellings. The following comments were received in connection with the initial proposal for 7 houses.

A proposed access is to be taken from a new junction onto Link Road. The access will be designed and constructed to an adoptable standard under Section 38 of the 1980 Highways Act. The initial 10m of the proposed access is of sufficient width to allow two-way traffic flow and sightlines in accordance with guidance are provided. Officers are satisfied with the location and design of the proposed access.

The level of traffic that is likely to be generated by the proposal is considered to be negligible and will not have a material impact on the adjacent highway network.

The site is considered to be in a sustainable location and is only a short distance from frequent public transport services. The accessibility of the site by non car modes will be further enhanced by the proposed improvement of the footway along the site frontages to 2m, which the applicants have agreed to provide.

Parking and turning within the site has been provided in accordance with the relevant standards together with appropriate cycle parking provision.

No highway objections are therefore raised.

3.3 Landscape Architect.

Note: The initial comments below are the comments of the Landscape Architect on the application as originally submitted for 7 houses.

Considered the importance of the existing adjacent field as an open space. Whilst it has no special horticultural or landscape features upon it, its openness is of huge significance. The site forms the southern end of a series of gardens and open spaces within a sylvan setting that constitutes a conscious and much-needed relief from the otherwise built up environs of Huntington Road and Huntington. Although the playing fields are not rural in appearance they do provide an openness that is coherent with the general looser grain between Huntington Road and the Foss.

The existing building at Dormary Court is set back from Huntington Road. It is a large property within relatively spacious grounds, bordered by mature trees that provide an attractive setting. The paved garden patio to the rear protrudes into the adjacent field, but is set back from the hedge and Link Road. The Link Road and the undeveloped land either side of it, especially that to the north, forms the separating element between New Earswick and Huntington, made all the more critical by its short length. This area of land is important in preventing coalescence between the two communities and protecting two different identities.

It is the openness of the field that is so important. Sadly it has been lost to the south of the Link Road where an industrial unit stands. The loss to the amenity is quite apparent. Besides the unattractive nature of this building, its existence greatly diminishes the visual presence of the wooded Foss corridor south of the Link Road because it blocks out the views, unlike the north side of the Link Road which benefits from the open aspect towards the wooded setting due to lack of development within the open field. Therefore the green openness of the field is important to the views/setting of the River Foss corridor and the public's enjoyment of it, and importantly to the approach and setting of New Earswick conservation area (the boundary of which runs along the river Foss to the Link Road).

Consider it may be possible to sacrifice some of this open space if the remaining land were put to a more defined outdoor amenity use that would be of benefit to the development and the public. Support the availability of this space as an additional informal play facility/kickabout area. Treatment of this remaining patch of field could improve the habitat value and amenity value of the Foss corridor, as assumed in the habitat survey; to compensate for the loss of open space posed by the development and to maintain the integrity of the green infrastructure. The 'Indicative Tree Planting' plan shows lot of the replacement tree planting within the field which would be beneficial to the views, amenity of the area, and setting of the development.

With regard to trees, also object to the close proximity of some of these to the development which would result in the removal of 11 trees (four high quality, four moderate quality, and three low quality) and a very real threat to six others. However they should have the space to achieve their full potential in the new scheme, something not achieved in this scheme. Garden space is also limited so the development should have more of a communal feel to it.

Also object to the western boundary treatment with the open space which is too stark. The site should have a much softer relationship with the adjacent remnant field, as opposed to the hard edge formed by a long 2.4m high fence proposed along the entire west and north boundary. Alternative approaches should be considered.

COMMENTS ON AMENDED PLANS.

The site boundary of the latest revision results in the same loss of existing open space than the first application proposal; therefore my previous comments with regard to loss of views and risk of coalescence are still valid (see above).

The squaring off of the site boundary in the north west corner has allowed the first bungalow to be set further back from the Link Road. The footprint has been reduced, as has the height (marginally). The backdrop of trees would be visible over the top of the bungalow. Thus the bungalow's presence is less obtrusive on the street, and the visual impact on the openness is slightly lessened, but to my mind not sufficiently to remove previous concerns, especially in light of the views across the open land from the east and the setting of the New Earswick conservation area. (for details, see above). The choice of material for the bungalow roof, e.g. a green roof or a timber roof would assist in reducing its visual impact further.

The reorientation means that there is potential for the bungalow to take advantage of an attractive outlook onto the remaining amenity space. Nonetheless the drawing still

annotates this western boundary as a solid 2.4m high timber fence, which is not acceptable.

This latest revision does improve the relationship with the neighbouring trees in the north east corner, by reducing the footprint of the second bungalow, and moving it further away from the trees, assisted by retaining the existing access of Huntington Road, such that this is now acceptable.

The removal of the on site play space has enabled the creation of longer, hence more useable gardens for the town houses.

The key landscape consideration therefore is whether the remaining 'amenity' area given over to the creation of a useable amenity space (with the potential for increased bio-diversity value), is of a sufficient size to compensate for the loss of (currently private) open space.

Should the decision be in favour of the proposed housing provision, treatment of the remaining amenity space must be secured under a Section 106 Agreement, in the interests of increasing bio-diversity along the river Foss corridor environs, and to secure a semi-public recreational use. Recommend securing the provision of an agreed management plan to land immediately to the west of the site within applicants ownership along the Foss, to include the creation of a wild flower grassland; a commitment to reduce Himalayan balsam and eradicate Japanese knotweed along the course of the river Foss under their ownership; and to add scrub planting on top of the bank (to ultimately replace the knotweed); and plant a new thorn hedge along the western boundary of the site. The hedge along the link road should be retained.

After some deliberation, consider it would be most suitable for the remaining amenity space to be free of any formal equipped play, but to be designed to encourage natural play, and to provide the potential for communal outdoor events. The details of this should be agreed with the tenants once the development is complete or earlier if the tenants are known, such that they have a sense of ownership of the space, which should ultimately be under the management of JRHT. The council should be part of this consultation process.

3.4 Urban Design Officer.

Objections to the originally submitted scheme for 7 houses as follows:

This is a 'gateway' site in that is part of the green break between New Earswick and Huntington. Concerned that the design does not reflect this and proposes a bulky single storey element with a very prominent roof finished which will be visually prominent as the main element visible over the retained boundary hedge.

The boundary treatments both to the site and within the site consist of long runs of timber fencing which would not create the quality of environment or the relationship with the surroundings that this site requires.

The choice of materials to clad the blocks is also a concern with timber cladding used as wall paper without reference to the architecture. If it is to be used it must better relate to the existing form.

Comments on the amended scheme.

Revisions more acceptable in design terms and certainly are an improvement. But still do not address the more fundamental concerns of loss of open space and coalescence.

3.5 Housing development manager.

CYC need to build 1,218 new affordable homes each year to meet the city's housing need. This figure is established through CLG's housing need model included in the 2007 Strategic Housing Market Assessment (SHMA). This has to be considered within the context of York's Regional Spatial Strategy figure of 850 homes pa across all tenures.

Within the SHMA the priority need for affordable housing is highlighted as family housing, specifically 2 and 3 bed houses. However, there is need across every house type. CYC have a limited amount of land within the Housing Revenue Account upon which we can build new affordable homes, and over the last 5 years 80% of all new affordable housing has been delivered through planning gain. In the current housing market conditions this avenue has massively reduced as private house building has stalled and consequently there is a need to pursue every opportunity to develop our own homes with public subsidy in the form of Social Housing Grant from the Homes and Communities Agency (HCA).

Dormary Court provides an opportunity to create a mixed development of new supported and general needs housing, both of which are corporate priorities for City of York Council.

3.6 Housing and Adult Services.

The development of the two supported living schemes are critical in enabling CYC HASS to deliver it's housing priorities for people with learning disabilities in the next three years. There are around 40 individuals whom have been identified as priority for various housing solutions during that period and this would deliver appropriate and independent accommodation. A priority is younger "transitions" customers and one of the properties would meet the needs of groups of younger customers whom will be looking for specialist accommodation and support in 2010/11. The development of the second bungalow would enable HASS to deliver one of its key priorities which is the re-commissioning of Joseph Rowntree Residential Care accommodation in line with the Valuing People Agenda for People with Learning Disabilities.

3.7 Environmental Protection Officer.

Object. Request that a noise assessment survey be carried out to address the points outlined below. Concerned about the impact the development will have on the amenity of future occupants of this site through noise.

Roads

Noise created from traffic using Huntington Road and the Link Road along two of the sites boundaries of the proposed development will impact on the amenity of future occupants.

Industry.

Concerned regarding the proximity of the industrial unit opposite the link road frontage (former Eborcraft site). It is currently vacant but could be occupied by industry with B2 permission.

The Flag and Whistle Public House.

Raise concerns over noise from the public house located directly opposite the Huntington Road facade. Noise from patrons leaving the public houses late at night, taxi's collecting patrons and use of the beer garden to the front which was purposely put there to reduce the impact of noise affecting existing residents to the rear. Use of the smoking area to the front of the public house and noise from the car park to the side/rear of the pub will further affect amenity, particularly during night time hours.

Negotiation between the applicant and the Environmental Protection Officers is on-going on the above points. Further updates on this will be provided at the Committee meeting. It is pointed out, however, that the proposed dwellings would replace the existing Dormary Court residential building, which could be brought back into use without the need for planning permission.

3.8 City Development.

The application site lies partly within an area designated in the City of York Local Plan (4th Set of Changes, April 2005) as open space, under policy GP7. Additionally, the Open Space, Sport and Recreation Study (December 2008), undertaken by consultants PMP recognises the land immediately west of the Dormary Court building as natural semi natural open space (but not the actual building itself). The area is also contained within a regionally significant green corridor, as outlined in the emerging evidence base. It is important that the integrity of the corridor is maintained.

Concern is raised about the loss of open space and the encroachment of the built form into the important gap between Huntington and New Earswick, which acts as an important gap between the two settlements.

However, if approved this proposed scheme will provide highly needed specialist accommodation for people with disabilities and affordable homes. An important factor to consider therefore is whether this provision outweighs the other material considerations outlined above.

3.9 York Consultancy. Council drainage engineers.

The main part of the development is in low risk Flood Zone 1 and should not suffer from river flooding with an area to the north falling within medium risk Flood Zone 2, therefore a Flood Risk Assessment should be submitted for approval to the EA. (officer note: all the site is now in flood zone 1, see para. 3.14 below for further information on this).

With regard to drainage, insufficient information has been provided by the Developer to determine the potential impact the proposals may have on the existing drainage systems. The applicant has indicated that the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment to prove that the ground has sufficient capacity to except surface water discharge, and to prevent flooding of the surrounding land and the site itself.

Negotiation between the applicant and Drainage officers is on-going on the above points. Further updates on this will be provided at the Committee meeting.

3.10 Countryside Officer.

The above site is situated within an area of high wildlife value, particularly with the River Foss corridor SINC site immediately adjacent to the west. This area is densely wooded providing important foraging, roosting and commuting opportunities for wildlife such as bats and birds, and also contributes to a regionally important green corridor as included in the York LDF.

With regard to bats, it is considered that the existing building has a low potential for supporting roosting bats and no further survey work is required. However, the surrounding area is of high value for foraging and roosting bats, so recommended that a mitigation plan is in place during demolition to take account of bats and to ensure that any potential impact is minimised.

Additionally, it is recommended that habitat features are incorporated into the proposed new dwellings to accommodate bats and to ensure that any opportunities potentially lost due to the demolition of Dormary Court are made available within the new buildings. Recommend a condition to deal with this.

The field to the west is currently unused and approximately 50% will be lost to the development. Although this is not an issue from a nature conservation point of view as the grassland is species poor and has little interest, there are opportunities for habitat enhancement of the remaining grassland which will be retained as informal open space. Species could be taken from the nearby New Earswick meadow which is a designated SINC.

Unlikely that there will be any significant impacts on otters using the adjacent land. Similarly, it is unlikely that Water voles, which have also been recorded in this area, will be affected by the proposals.

Also of note within this area, is the presence of the regionally important wildlife corridor as mentioned earlier. The new dwellings will encroach slightly on this corridor. This therefore needs to be compensated for through habitat enhancement, and the proposed new planting aims to strengthen this corridor. Grassland enhancement

would further reinforce this. Recommend a suitable enhancement condition attached to any consent.

3.11 Education.

No contribution required as 4 relevant units (6 in total minus 2 assisted living) is below the threshold for secondary school contributions.

3.12 Sustainability officer.

As part of the Council's Interim Planning Statement on Sustainable Design and Construction (IPS) residential developments of 1 dwelling unit and above are required to achieve a Code for Sustainable Homes (CSH) Level 3 rating. The developer should be commended for exceeding this requirement by aiming for a Level 4 rating under the CSH. Recommend conditions to ensure that this is met and also to demonstrate how the development will provide 10% of its total predicted energy requirements from onsite renewable energy sources.

EXTERNAL.

3.13 Huntington Parish Council.

Committee supports the application.

3.14 Environment Agency.

No objections. The whole of the site is now within Flood zone 1 therefore no flood risk assessment is required. Recommend a condition pertaining to surface water discharge.

3.15 Foss Internal Drainage Board.

No objection in principle provided that the method of controlling surface water drainage from the site is in accordance with the details given in the submitted surface water drainage report.

3.16 Yorkshire Water.

Based on the information provided by the applicant, observations from Yorkshire Water are not required.

3.17 York Natural Environment Panel.

This is an over development of Greenfield land. Since the grounds of the existing property form much of the site, the extent of backland development is contrary to draft local plan policy GP10. In addition there is far too much erosion of existing open space. It also causes further encroachment into the environs of the Foss corridor. The proposed total building footprint is substantially greater than existing. Also concerned about the loss of trees.

3.18 Neighbours / Third parties.

Nearby houses were consulted by letter and a site notice was posted on a lamppost at the site. No objections received.

4.0 APPRAISAL

4.1 Key issues.

- Impact on the adjacent open space.
- Impact on trees and the Foss Wildlife corridor.
- Highway safety and neighbour amenity.
- Sustainability.

4.2 The main policies in the draft local plan against which this planning application has been considered are as follows:

Policy H4a - Housing Windfalls.

Proposals for residential development on land not already allocated for such development are acceptable where the site is within the urban area and is vacant, derelict or underused, has good accessibility to jobs, shops and services AND is of an appropriate scale and density to surrounding development and would not have a detrimental impact on existing landscape features.

Policy GP7 - Open Space.

The development of land designated as open space will only be permitted where there is no detrimental effect on local amenity or nature conservation and compensatory provision of an equivalent size and standard is provided by the applicant in the immediate vicinity of the proposed site.

Policy C1 - Community Facilities.

Applications for social / community facilities will be granted provided that the proposed development is of a scale and design appropriate to the character and appearance of the locality and would meet a recognised need.

Policy GP15 - Development and Flood risk.

Development will be expected to be located in areas at the least risk from river flooding. Drainage systems will also be expected to be designed to minimise the risk of flooding from this means.

Policy GP4a - Sustainability.

Proposals will be expected to provide details setting out the accessibility of the site, contribute towards meeting the social needs of communities, be of a high quality design, minimise the use of non-renewable resources, minimise pollution, conserve natural areas and landscape features and seek to make use of renewable energy sources. Further to this policy, the development would be expected to be in accordance with the Councils Interim Planning Statement on Sustainable Design and Construction.

Policy NE1 - Trees, Woodlands and hedgerows.

Developments must respect all such features which are of landscape, amenity, nature conservation or historical value.

Policy NE2 - River and stream corridors, Ponds and wetland habitats.

Development which is likely to have a detrimental impact on the natural features of river and stream corridors will not be permitted.

Policy NE8 - Green corridors.

Planning permission will not be granted for development which would destroy or impair the integrity of green corridors e.g. river corridors, pockets of open space etc.

- Impact on the adjacent open space.

4.2 This is the key issue for members to consider. The development does extend quite significantly into this designated open space and therefore Policy GP7 of the Draft Local Plan is directly relevant to this case. The key characteristic of this open space is its value as an important visual separation between Huntington and New Earswick thus preventing coalescence between the two settlements. It is not open for the public to use as an amenity space. Views across the site in a north westerly direction take in the full extent of the River Foss corridor at this point and also allow for glimpses through to houses in New Earswick. The detailed views of the Council's landscape architect on this issue are at para. 3.3 above and the objections to the proposal are acknowledged.

In addition, the area is also contained within a regionally significant green corridor, as outlined in the emerging evidence base in connection with the Local development Framework. It is important, therefore, that the integrity of this corridor is maintained.

4.3 So far as criterion a) of Policy GP7 is concerned, i.e. that planning permission will only be granted on such land where 'there will be no detrimental effect on local amenity or nature conservation', it is acknowledged that the proposal would result in some harm to the visual amenity of the site and consequently the local environment as over 50% of it would be occupied by the development. The key question therefore, is whether the extent of this harm is sufficient to outweigh the clear and identified need for these specialised residential units. Developments of this type, in particular those including an element of assisted living, are comparatively rare and there is an identified high need for such accommodation within York. The provision of affordable housing is a corporate priority and the need for such units is supported by the Strategic Housing Market Assessment (SHMA) 2007. The comments of the Council's Housing Development Manager and Housing and Adult Services are above at paragraphs 3.5 and 3.6 and these provide additional detailed background information on this need. This need is considered to be a material consideration in the assessment of this application.

4.4 The proposal originally related to the erection of 7 dwellings but amendments have been submitted reducing that number to 6 after concerns were raised in relation to the over-development of the site and the harm that it would cause to a significant number of trees around the application site. The westernmost bungalow has also been reduced both in height and footprint in an attempt to maximise the views across and

over the site to the trees and river corridor behind. It has also been set further back within the site.

4.5 It is considered that the crucial view in terms of visual harm is looking north / north west across the site towards New Earswick from the New Earswick Link Road and its junction with Huntington Road. From the other direction, driving eastwards towards Huntington along the Link Road, the existing Dormary Court building with pub behind and the derelict Eborcraft building on the other side of the road are visually quite dominant and this view is consequently read more as part of the wider urban area. It is considered, therefore, that the proposed scheme would not alter this perception to an unacceptable degree.

4.6 As well as reducing the number of units to 6, the amended scheme has reduced the size of the westernmost assisted living bungalow both in terms of footprint and height. It has also been turned 90 degrees so that it stands side on to the Link Road as opposed to being front on as before. This improves the extent of the views both beyond and above this unit towards the mature trees that run along the River Foss corridor. Its visual impact has, therefore, been reduced in comparison to the original submission. The hedgerow to the front of the site would be retained and some additional tree planting is now also shown along this frontage, further helping to soften this elevation. The boundary treatment along the western boundary of the site, adjacent to the remaining area of open space, would be 1.8m welded mesh Paladin fencing with planting/hedging (although this would still need to comply with Secured by Design principles). Subject to acceptable detailing, this would further help to soften the visual transition from the important open space to the urban form. The drop down in scale from the two storey town houses to the single storey bungalow further helps with this relationship with the open space and further helps to reduce the impact of the development on its immediate surroundings.

4.7 With regard to criterion b) of Policy GP7 that, in the event of the open space being lost, compensatory provision of an equivalent size and standard be provided by the applicant in the immediate vicinity of the proposed site, no such provision is being offered as part of the application. However, the space in question is currently private land which cannot be accessed or used by the public, its designation being more related to its visual benefits and preventing coalescence as opposed to its actual physical use as an open space. Given this, officers do not consider it would be feasible to provide this equivalent space as its importance is very site specific. The applicant is, however, offering the possibility of allowing the remaining land to be used as an informal space by residents of the proposed development, with the possibility of extending its use to the local population. Although this would not be a large area of land, it would offer an informal use which currently does not exist. This would at least offer some positive compensation for the partial loss of the site and in principal, officers have raised no objections to this arrangement. Improvements to the bio-diversity of the Foss corridor are also sought to offset this loss of space. However, discussions on this issue are ongoing.

4.8 In conclusion, officers conclude that there is clearly some impact on this open space and a significant proportion of it would be occupied by the development. However, given that this designation is more related to its visual importance and the prevention of coalescence, it is considered appropriate to consider the degree of

harm, particularly when balanced against the clear and identified need for these specialised residential units.

4.9 Whilst it is acknowledged that the existing views will be affected to some degree, (members are reminded that the Landscape Architect's objections to the proposal remain - para. 3.3), it is the case officer's opinion that enough of the open space will remain and the reduced height of the end unit will be such that views across to the trees and the river corridor will be sufficient to retain this sense of space and hence the importance and integrity of this river corridor. Furthermore, it is considered that sufficient space, and sense of openness, would remain between Huntington and New Earswick such that the two settlements would still be read as separate communities and the increased coalescence would not be to a degree that would be materially harmful in the long term. The type of units being proposed is a material factor in reaching this conclusion, as there is an identified need and benefit to the city of this type of development, in particular the assisted living units. Therefore, on balance, the case officer concludes that the integrity of the open space would be maintained to a degree which is acceptable and therefore given the benefits of the development in terms of affordable housing provision, in principle the proposal is considered to be acceptable. The use of the remaining open space, however, remains to be agreed in order to positively offset this loss and discussions are continuing with the applicant on this issue.

Impact on trees and the Foss Wildlife corridor.

4.10 The scheme has been amended to increase the distance between the new build and existing trees within and immediately adjacent to the application site following objections from the Council's Landscape Architect that the original scheme would have resulted in the loss / harm to a substantial number of trees. The amended scheme has reduced the development pressure on these trees and has now largely addressed this issue. None of the trees on the banks of the Foss and within the wildlife corridor are directly affected by the development. It is not considered that wildlife, protected or otherwise, will be unduly affected by the development and the integrity of this regionally significant green corridor will be maintained in terms of its wildlife value. Improvements to the biodiversity of this corridor remain under discussion with the applicant and could be subject to either a condition or a S106 agreement..

Highway safety and neighbour amenity.

4.11 The proposals show the formation of a new access into the site off the New Earswick Link Road and the continued use of the existing one off Huntington Road to serve the easternmost bungalow. No highway objections have been raised to this arrangement. With regard to neighbour amenity, the nearest houses are across Huntington Road to the south east. Within the context of their already urban setting, this development will have little impact and there are no loss of privacy issues. No objections have been raised by either the Parish Council or local residents.
Sustainability.

4.12 The applicant has committed to achieving Level 4 under the Code for Sustainable Homes rating. This exceeds the Council's requirement of Level 3 and this commitment is welcomed. A condition is recommended to ensure compliance with this. With regard

to renewable energy, the applicant through the Planning Supporting Statement (Design and Access Statement and Sustainability Statement) is also committing to providing 10% of the developments energy demand from renewable sources. A further condition is therefore also recommended to ensure compliance with this.

Outstanding issues.

4.13 There are a number of outstanding issues on which officers are in continued negotiation with the applicant. These include how the remaining open space to the west of the development will be used and in particular if / how this could be made available for public use. There is no on-site play space provision within the red line site area (this was deleted from the scheme after concerns at the general over-development of the site) so the outcome of these negotiations will also dictate the level of commuted sum payments that will be required with regard to open space. Possible improvements to the bio-diversity value of the Foss corridor are also being discussed to offset the impact from the partial loss of this open space.

4.14 Discussions are also on-going with the Environmental Protection Unit with regard to their objections over noise affecting the amenity of future occupiers from the road, the Flag and Whistle Public House and the derelict industrial site (Eborcraft) to the south of the application site. The objections of the Council's Drainage officer on the method of surface water drainage from the development also remain outstanding and further discussion is taking place between the two parties on this. Updates on these issues and how these affect the application will be provided at the committee meeting.

5.0 CONCLUSION

5.1 The main issue here is balancing the partial loss of the designated open space, with the clear and identified need for these specialised residential units. The objections of the Landscape Architect and Urban Design officers to this loss remain. On balance however, the case officer concludes that the impact has been reduced to an extent which still maintains the integrity of the space and River Foss corridor behind. It is considered that there would remain enough space and sense of openness between Huntington and New Earswick so that the two settlements would still be read as separate communities and the increased coalescence would not be to a degree that would be materially harmful in the long term. On balance therefore, it is concluded that the affordable housing provision outweighs any harm that would arise as a result of the incursion into this open space.

5.2 The application is therefore recommended for approval, subject to satisfactory resolution of the outstanding issues referred to in para. 4.12 and 4.13 of this report.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing no's:

- 07534/P02 Rev. E.
- 07534/P04 Rev. A
- 07534/P05 Rev. A
- 07534/P07 Rev.A
- 07534/P09 Rev. A
- 07534/P10

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 any construction work. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

4 Fully detailed drawing illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the start of construction work on site.

Reason: In the interests of highway safety.

5 No dwelling to which this planning permission relates shall be occupied unless or until the carriageway basecourse and kerb foundation to the new estate road and footpath to which it fronts, is adjacent to or gains access from, has been constructed. Road and footway wearing courses and any street lighting shall be provided within three months of the date of commencement on the construction of the penultimate dwelling of the development.

Reason: To ensure appropriate access and egress to the properties, in the interests of highway safety and the convenience of prospective residents.

6 Construction work shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

7 Prior to the commencement of construction work details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling 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.

8 No dwelling shall 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.

9 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works such as the widened footway along site frontages as indicatively shown on drawing no. 07534/P02 Rev. E) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users.

10 Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

Reason: In the interests of the safety and good management of the public highway.

11 Prior to the commencement of any construction works on the site, a detailed method of works statement identifying the programming and management of construction works shall be submitted to and approved in writing by the Local Planning Authority. All construction work and associated traffic management shall be carried out in accordance with the approved method of works statement.

Reason: In the interests of highway safety.

12 No development shall take place until full details of a scheme to mitigate the impact of the development on bats has been submitted to and approved in writing by the Council .

The measures should include :

i. A plan of how demolition work is to be carried out to accommodate the

possibility of bats being present.

- ii. Details of what provision is to be made within the new buildings to replace the features lost through the demolition of the original structure. Features suitable for incorporation for bats include the use of special tiles, bricks, soffit boards, bat boxes and bat lofts and should at least replace or substitute for what is existing.
- iii. The timing of all operations

The works shall be implemented in accordance with the approved details and timing unless otherwise approved in writing by the Council.

Reason - To take account of and enhance habitat for a protected species.

INFORMATIVE: It should be noted that in accordance with national planning advice contained within Planning Policy Statement 9, the replacement/mitigation proposed should provide a nett gain in wildlife value.

INFORMATIVE: If bats are discovered during the course of the work, then work should cease and Natural England consulted before continuing.

13 No construction work shall take place until details have been submitted to and approved in writing by the Council of a scheme of habitat enhancement within the landscaping of the development to further increase the wildlife value of the area and to reinforce the green corridor. The work shall be completed in accordance with the approved details.

Reason: In order to enhance the habitat and biodiversity of the locality, and to compensate for the loss of green infrastructure.

14 No construction work shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

INFORMATIVE: As a consequence of climate change and recommendations in the Pitt Review, the Environment Agency would expect the scheme to achieve a minimum a 30% reduction in surface water discharge, for any new development, from the site. Consideration should be given to further regulating the discharge to the greenfield run-off from a 1 in 1 year storm (1.4l/s/ha) and sufficient storage at least to accommodate a 1 in 30 year storm. The design should also ensure that storm water resulting from a 1 in 100 year event and surcharging the drainage system can be stored on the site without risk to people or property and without overflowing into the watercourse.

15 Details of all means of enclosure to the site boundaries shall be submitted to

and approved in writing by the Local Planning Authority and shall be provided in accordance with these details before the development is first occupied.

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

16 The development hereby approved shall be constructed to at least Level 4*** of the Code for Sustainable Homes (CSH). A formal Post Construction stage assessment, by a licensed CSH assessor, shall be carried out and a formal Post Construction stage certificate shall be submitted to the Local Planning Authority prior to occupation of the building. Should the development fail to achieve level 4*** of the Code a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve level 3 of the code. 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 achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction'

17 No building work shall take place until details have been submitted and approved in writing by the Local Planning Authority, to demonstrate how the development will provide 10% of its total predicted energy requirements from onsite renewable energy sources. The development shall be carried out in accordance with the submitted details unless otherwise agreed in writing by the Local Planning Authority. The approved scheme shall be implemented before first occupation of the development. The site thereafter must be maintained to the required level of generation.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of Policy GP4a of the City of York Development Control Local Plan and the Interim Planning Statement "sustainable Design and 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 the impact on the existing area of open space, the maintenance of visual separation between Huntington and New Earswick, housing windfalls, affordable housing need, impact on the River Foss Green corridor, protected wildlife, trees within and adjacent to the site, local residential amenity, highway safety, flooding and sustainability. As such the proposal complies with Policies GP7, H4a, H2a,, C1, HE1, HE2, NE8, GP1, GP15 and GP4a of the City of York Development Control Local Plan.

2. There are records of otter breeding in the immediate area close to the proposed development. The development must not encroach on the river corridor and materials resulting from or used during the site clearance or construction must not be stored or

disposed of in the river corridor.

Design details should ensure that future residence are discouraged from using the river corridor for waste disposal (e.g. disposing of garden waste or other materials) and lighting should not illuminate the river corridor.

3. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

4. INFORMATIVE:

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

Works in the highway - Section 38/S278. Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

Contact details:

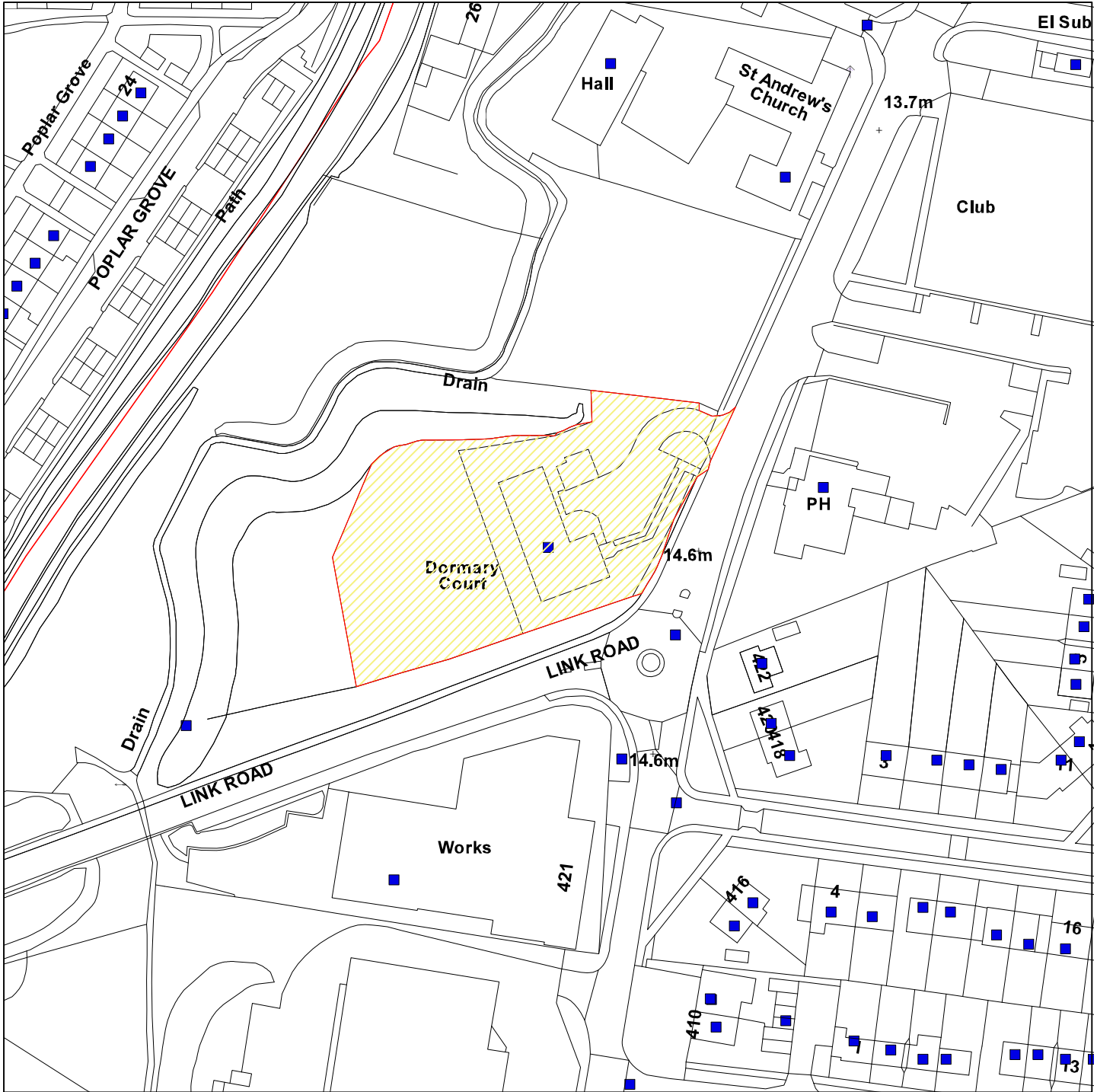
Author: Matthew Parkinson Assistant Team Leader (East Area)
Tel No: 01904 552405

Dormary Court, 445 Huntington Road

09/02051/FUL



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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	01 February 2010
SLA Number	Not Set

1.5 The application has been called-in for a Committee decision at the request of Councillor Orrell if it is recommended for approval on the grounds that there is considerable local interest in and opposition to the application. However, following discussion with Councillor Orrell, whilst the application is recommended for refusal on highway safety grounds, it is considered that the application still be referred to Committee to allow a full debate about the issue of residential amenity, which is raised as a matter of concern by the parish council and local residents.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYGP3

Planning against crime

CYS6

Control of food and drink (A3) uses

CYS9

No loss of local or village shops

3.0 CONSULTATIONS

3.1 PUBLICITY: The application was advertised by way of a notice posted at the site and letters to immediate neighbours and Huntington Parish Council as well as relevant internal consultees.

3.2 INTERNAL RESPONSES

(i) Environmental Protection Unit - No objections in principle.

This is mainly because the applicants have only applied to open until 22.30. In addition, the proposed kitchen extract system is to be sited towards the back of the property in a position such that noise nuisance is unlikely to affect nearby residents.

There would be concerns if the business were to be open later at night as is the usual practice with takeaways due to likely loss of amenity as a result of noise disturbance from customers, vehicle engines, car doors slamming, car radios, people talking and shouting loudly, plus noise from delivery vehicles used by the business.

In order to address possible loss of amenity due to noise and odour nuisance as a result of the activities of the restaurant/takeaway, request conditions regarding kitchen

extraction equipment, details of all machinery, plant and equipment and restriction of opening times and delivery times. Noise sources could include the kitchen extract system, any refrigeration or freezer equipment, music sound system etc. In addition it is possible that vehicle noise from both customers and delivery vehicles could disturb local residents late at night.

(ii) Highway Network Management - recommend refusal on highway safety grounds.

The proposed change of use complies with recommended parking standards and therefore a refusal on highway grounds would not normally be substantiated. However the parking facilities of up to seven places are not for the exclusive use of this proposed development. The parking areas also serve an electrical retailer and repair workshop and a separate office at first floor level.

It is claimed that there will not be a conflict of interests as the existing users operate at different times of the day. However, unless this can be controlled then there is no guarantee that a conflict cannot be avoided. This is particularly relevant as the restaurant seeks to open at 5pm, when it is not unreasonable for either the retail or office use to be still operating. In the absence of a practicable and enforceable arrangement or agreement whereby the various site occupiers would operate at separate times, the site as a whole and overall parking arrangements are considered as being inadequate.

Under such circumstances, it is recommended that the application be refused for the following reason: The Local Planning Authority considers that in the absence of adequate parking space the proposed development would be likely to result in vehicle parking outside the site on the Public Highway to the detriment of the free flow of traffic and road safety.

3.3 EXTERNAL

(i) North Yorkshire Police (Traffic) - Objects on the following road safety grounds:

- The application states that there are seven (7) car parking spaces. Intimating that these are available for the use of customers. Examination of the plan clearly indicates that this is not the case. At the most five vehicles could be accommodated for customer use, as the two most easterly would be blocked-in by other customers vehicles. I suggest that that this is a woefully low number to service a site which has a planned restaurant seating 20 guests and a take-away with home delivery service.
- would suggest that at least one motor car would be used for the Home delivery service, thus reducing parking available to visitors still further to possibly four (4).
- The lack of parking space both for restaurant clients and persons wishing to visit the takeaway side of the business, the restricted nature of the site, would inevitably lead to vehicles parking in the surrounding roads and on the grass verges/footpaths.
- Willow Glade is almost directly opposite Number 157 and would be an obvious venue to park. This could cause safety issues for persons wishing to enter or leave Willow Glade by vehicle into New Lane.
- The parking of vehicles in this vicinity could also make crossing of the minor road of Willow Glade junction with New Lane, difficult for pedestrians.

- Motor vehicle traffic would be increased along Firwood Whin, Priory Wood Way and Willow Glade, as this is an obvious 'loop'.

(ii) North Yorkshire Police (Architectural Liaison Officer) - Makes following comments:

Planning Context - Designing out Crime - Planning Policy Statement 1 (PPS1) makes clear that a key objective for new developments should be that they create safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion.

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

It is recognised that increased numbers of customers around A5 (hot food takeaway) uses, particularly in the late evenings when trading activity tends to reach its peak, can lead to problems of disturbance, increased noise and anti-social behaviour.

From reading the comments received from local residents, it is clear that there is concern about the loss of amenity and that parking and anti-social behaviour are particular issues.

Michael Frith, Safer York Partnership Crime Analyst, has carried out an analysis of police-recorded incidents within 50m of the application site covering a period from 1.12.08 to 30.11.09. During this period there were no crimes recorded, however, there were two anti-social behaviour incidents relating to vehicle nuisance from the car parking area outside the proposed premises. From the analysis, it can be seen that we do not suffer from any significant crime problems at this location. However, this could change if the hot food takeaway went ahead.

For information, there are three hot food takeaway premises already located nearby at Monks Cross Shopping Park e.g. McDonald's, Starbucks and Pizza Hut. There is also a fish and chip shop situated in Huntington Village.

Has responded recently to a planning application for a further two takeaways at Monks Cross. Did not raise any objection to these as their introduction would have had no impact in respect of loss of amenity of residents and they would both be covered by shopping park security, e.g. 24hr security patrols/guards and CCTV.

Have liaised with our Police Licensing Department and unless there is an application for a Premises Licence to operate after 1am at night, they have no comment to make. If the developer applies for such a licence, then our Licensing Department would be asking for conditions to apply e.g. CCTV coverage of the premises and all areas to which the public have access including entrance area, and the carrying out of a litter pick after closing.

Based on planning policy guidance, there could be crime and disorder implications associated with this change of use. However, based on recent planning appeal decisions, not sure that 'perceived risk' would be sufficient grounds for objecting to the proposal.

(iii) Huntington Parish Council - Strongly object to this application:

- Such a change of use would result in a loss of amenity to local residents due to the extension of business hours. The present use means hours of business are 6 days per week during the hours of 8:00 and 17:00. The hours of business for the proposed change of use are 7 days per week from 17:00 until 22:30;
- The increase in traffic that the proposed change of use would attract on a stretch of busy road, already identified as a speeding hot spot;
- Lack of adequate off street parking to accommodate such an additional facility at the site would result in congestion as customers' park on New Lane and adjacent residential areas.

(iv) 27 letters/emails from local residents objecting on following grounds:

- Highway safety from increased traffic and limited parking, exacerbating existing parking problems;
- Increased disturbance to residential amenity from noise, smells, litter and traffic;
- Fear of crime and anti-social behaviour;
- Issues with frequent drainage problem in the immediate area;
- Existing facilities/lack of local need - NB Not material to the consideration of this application;
- Appropriateness of extension to accommodate electrical retail/repair business - NB Separate matter;
- Concerns that claims made about need for extension to property not true intention - NB Not material to consideration of this application;
- Devaluation of property - NB Not material planning consideration.

(v) One submission from local resident - supports a good quality Indian or Chinese takeaway/restaurant, which is not available in Huntington.

4.0 APPRAISAL

4.1 KEY ISSUES:

- loss of shop;
- residential amenity;
- parking provision and highway safety;
- fear of crime.

4.2 POLICY CONTEXT: Planning Policy Statement 1 (Delivering Sustainable Development) makes clear that a key objective for new development should be that they create safe and accessible environments where crime and disorder or the fear of crime does not undermine quality of life or community cohesion. Further good practice advice is contained in Safer Places - the Planning System and Crime Prevention.

The City of York Draft Development Control Local Plan policies contained in section 2.2 are material to the consideration of this application. The three relevant policies are GP3 (Planning Against Crime), S6 (Control of Food and Drink A3 Uses) and S9 (Loss of Local or Village Shops).

Policy S6 states that planning permission for the development of food and drink uses (after the change to the Use Classes Order in 2005 covers A3, A4 and A5 uses) will be allowed provided there are no adverse impacts on the amenities of surrounding occupiers, there is adequate car and cycle parking and external flues and means of extraction are acceptable.

Policy S9 only grants permission for a change of use that would result in the loss of a local shop where it is demonstrated that either a local need for the shopping facility no longer exists or appropriate alternative facilities exist within the local area. The supporting text to the policy makes references to the important service to residents that local shops offer through the provision of a range of convenient goods and associated services.

4.3 LOSS OF SHOP: The applicant's case states that the existing use is not an essential local facility, but is a specialist use which attracts customers from the City rather than from the local area. It also points out that the area is close to Monks Cross and there is a range of local shops in Brockfield Park Drive to the west (these are within walking distance). Furthermore, marketing of the premises has been undertaken since June 2009, with limited interest other than A3/A5 users (the pre-application enquiries received by the Council would confirm this statement). The above comments are accepted and, in addition, the intention to retain the existing retail and repair business at the site albeit with reduced floorspace. As a result, it is considered that there are no grounds for refusal on the basis of the loss of a local shop.

4.4 RESIDENTIAL AMENITY: Concerns have been expressed by the parish council and local residents about the impact on the amenity of surrounding residential occupiers from the proposed use, primarily through the extension of business hours and increase in noise disturbance created by the nature of the use. Whilst the site is adjacent to the large Portakabin manufacturing site and has traffic passing along New Lane visiting Monks Cross and the city centre, local residents confirm that it is largely residential in character and relatively quiet after the early evening. The activity associated with Portakabin is largely contained within its large site and no other uses have been identified along this stretch of New Lane that open later into the evening. There are residential properties to the north and opposite the property.

The proposal would introduce a level of activity later into the evening, particularly from the likely frequent comings and goings associated with the takeaway and delivery element of the use, that does not occur at present in the immediate area. This has the potential to cause a significant increase in noise and disturbance, which would be likely to adversely affect the amenity that local residents presently enjoy. However, the Council's Environmental Protection Unit (EPU) has been consulted and raises no objection on the basis that the use would only open until 22:30 with kitchen extraction equipment being sited towards the back of the property. The response from EPU does state that there would be concern about loss of amenity if the business were to open

later at night. It is assumed that the business is considered by the applicant to be viable with a closing time of 22:30.

4.5 HIGHWAY SAFETY: There is an existing car parking area at the front of the site providing seven (7 no.) spaces that could be utilised by staff and customers. Two of these spaces are at the side of the building and have limited access that could only be practically used for staff parking. This would leave five (5 no.) spaces available in the front car parking area, which would be sufficient to meet the Council's maximum requirements for the proposed uses, based on the internal floor area of this element of the use. Whilst the Local Plan standards specifically refer to A3 uses rather than A5, the document has not been revised to take account of the revision to the Use Classes Order and separation of the various food and drinks uses that originally fell within the A3 Use Class.

However, given that the proposal includes a restaurant, takeaway and delivery service, there is the potential for vehicles parking on New Lane on busy nights when the restaurant is full and customers are visiting the takeaway facility. Furthermore, one of the parking spaces in the front area of the car park would also have to be used by the delivery service vehicle, to ensure it could enter and leave independently of customers vehicles in order to make deliveries. It is also noted that the space in front of the proposed new entrance to the relocated electrical retail and repair business, which would make it difficult to access.

The Council's Highway Engineer has been consulted and highlights the fact that whilst there is sufficient space to meet Council's standards, the parking facilities are not for the exclusive use of this proposed development and are shared with the other users of the building. The case put forward by the applicant is that the proposed use would operate outside normal daytime business hours and therefore would not conflict with the other users. However, the hours of opening sought are from 1700, when it would not be unreasonable for either the retail/repair business or office use to still be operating. Indeed, third party correspondence states that there is 'constant vehicular movements from 0730 to 1800'. This would potentially reduce the number of spaces available for the new uses resulting in the parking of vehicles on the highway at a particularly busy time of day. As a result, the Highway Engineer recommends refusal of the application. This would exacerbate an existing problem with parking at the site, identified by the Police Traffic Management Officer and local residents.

Consideration has been given to a method of ensuring the arrangement proposed by the applicant, but it not considered that this would meet the tests of Circular 11/95 in terms of being enforceable and reasonable. A later opening time for the proposed use may help, but this is considered to be unreasonable as it would potentially render the business unviable when coupled with a restriction on the closing time, and would prevent the use from catering for early evening (i.e. tea time) trade.

4.6 CRIME AND ANTI-SOCIAL BEHAVIOUR: Whilst the Police Architectural Liaison Officer notes that there can be problems of disturbance, increased noise and anti-social behaviour from hot food takeaway uses, and that there could be crime and disorder implications associated with this change of use, the 'perceived risk' is

considered not to be sufficient grounds for objecting to the proposal. It is noted that such a reason for refusal relating to the proposed uses has rarely been upheld at appeal. The potential for increased litter in the area, raised by local residents, is normally addressed through the provision of bins outside the premises.

5.0 CONCLUSION

5.1 The proposal involves the conversion of part of the ground floor of this two storey commercial building into a restaurant and takeaway with delivery service. The opening hours applied for are 1700 to 2230 Monday to Sunday.

5.2 Objections have been raised by the local parish council and residents surrounding the site as well as by North Yorkshire Police and the Council's Highway Network Management section on highway safety grounds. The potential for conflict by the various users of the building during the early evening (1700-1800 hours) and the subsequent impact on highway safety on the surrounding network, is considered to be significant to warrant refusal of the application. Whilst the potential for noise and disturbance to local residents from the introduction of an evening use of the building and the associated external activity is clearly an issue, it is noted that the Council's Environmental Protection Unit does not object due to the proposed 2230 closing time.

5.3 In light of the above, the proposal is recommended for refusal on highway safety grounds.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The proposal would introduce additional uses into this commercial building with a time of opening that could conflict with the closing times of the existing businesses. This is likely to result in competition for the limited number of staff and customer spaces within the shared car parking area, leading to vehicles parking on the public highway at a particularly busy time of the day, to the detriment of the free flow of traffic and road safety. The proposal would, therefore, conflict with Policy S6 of the City of York Council Draft Development Control Local Plan (incorporating 4th set of changes, April 2005).

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