



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

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

Date: Thursday, 11 November 2010

Time: 2.00 pm

Venue: The Guildhall, York

AGENDA

Members are advised to note that if they are planning to make their own way to the Site Visits to let Judith Cumming know by **5 pm** on **Tuesday 9 November** on **(01904) 551078**.

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 4 - 18)

To approve and sign the minutes of the last meeting of the East Area Planning Sub-Committee held on 14 October 2010.

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 10 November** at **5.00 pm**.

4. Plans List

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

- a) **Minster Alarms, Suncliffe House, 157 New Lane, Huntington, York. (10/00342/FUL)** (Pages 19 - 29)

This application is for to the conversion of the southern part of the ground floor of Suncliffe House for the sale of hot food providing a delivery service only. [Huntington/New Earswick] **[Site Visit]**

- b) **2 Heathfield Road York YO10 3AE** (Pages 30 - 36) **(10/02057/FUL)**

This is a revised application for the erection of a pitched roof single storey extension to the side and rear. This application was originally refused by the Committee at their meeting on 9 September 2010. It has been referred to Committee due to the level of local interest. [Hull Road]

- c) **Derwent House Residential Home, Hull Road, Kexby, York. YO41 5LD** (Pages 37 - 54) **(10/01818/FULM)**

This is a full planning application for the erection of a two storey extension to the side of an existing residential nursing home (formerly the Kexby Bridge Hotel). The building is to provide high dependency care and rehabilitation for people with brain injuries at ground floor and care for dementia patients at first floor. [Derwent] **[Site Visit]**

- d) **The Fossway, 187 - 189 Huntington Road, York, YO31 9BP. (10/01435/FUL)** (Pages 55 - 67)

This application has been made by the Living Word Church for the change of use of the Fossway Public House to a mixed use including a youth club (basement), day nursery (ground floor), a place of worship (ground floor) with associated office space (ground and first floor), 1 flat on the first floor and 1 flat on the second floor.

This application has been brought before the Committee by Councillor Funnell on the grounds that the benefit to the community of developing the building in the way proposed outweighs the concerns raised by the Highways Network Management. [Heworth] **[Site Visit]**

**e) 62 Brockfield Park Drive, Huntington, York. (Pages 68 - 75)
YO31 9ER (10/01871/FUL)**

This application seeks planning permission for a change of use from a shop (Class A1) to a hot food takeaway (Class A5).

This application has been referred to the East Area Planning Sub Committee due to the high level of local interest in the proposal. [Huntington/New Earswick] **[Site Visit]**

**f) Store to the rear of 69 Fourth Avenue, York. (Pages 76 - 87)
YO31 0UA (10/02061/FUL)**

This is a revised planning application, following a previous refusal in March 2010. The application is to convert an existing outbuilding to one self-contained residential unit. It also involves the erection of a single storey extension and the demolition of the existing flat roof garage to create an enclosed patio area. [Heworth]

5. Urgent Business

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

6.

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
- Any special arrangements
- Copies of reports

Contact details set out above.

EAST AREA PLANNING SUB COMMITTEE**SITE VISITS****Wednesday 10 November 2010****Members of the sub-committee to meet at Union Terrace Car Park
at 10.00**

TIME (Approx)	SITE	ITEM
10:10	The Fossway, Huntington	4d
10:40	62 Brockfield Park Drive, Huntington	4e
11:10	Minster Alarms, Suncliffe House	4a
12:00	Derwent House, Kexby	4c

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If you would, you will need to:

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

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Further information about what's being discussed at this meeting

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

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Every effort will also be made to make information available in another language, either by providing translated information or an interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

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Holding the Executive to Account

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

Scrutiny Committees

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

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

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MEETING	EAST AREA PLANNING SUB-COMMITTEE
DATE	14 OCTOBER 2010
PRESENT	COUNCILLORS HYMAN (CHAIR), DOUGLAS, FIRTH, B WATSON, MOORE, TAYLOR, WISEMAN, WAUDBY (SUBSTITUTE FOR COUNCILLOR ORRELL) AND KING (SUBSTITUTE FOR COUNCILLOR FUNNELL)
APOLOGIES	COUNCILLORS CREGAN, FUNNELL AND ORRELL
IN ATTENDANCE	COUNCILLORS MORLEY(FOR AGENDA ITEM 5A) AND ASPDEN (FOR AGENDA ITEM 5G)

INSPECTION OF SITES

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
Land adjacent to 74-84 Lilbourne Drive, York.	Cllrs Hyman, B Watson, Wiseman, Firth and Moore	To familiarise Members with the site.
The Homestead, Murton Lane, Murton, York.	Cllrs Hyman, B Watson, Wiseman, Firth and Moore.	To familiarise Members with the site.
The Glen Nursery, Ousecliffe Gardens, York.	Cllrs Hyman, B Watson, Wiseman, Firth and King.	To familiarise Members with the site.
York Designer Outlet, St Nicholas Avenue, York.	Cllrs Hyman, B Watson, Wiseman, Firth and Moore.	To familiarise Members with the site.

22. DECLARATIONS OF INTEREST

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

Councillor Firth declared a personal non prejudicial interest in Agenda Item 5f, Land to the rear of 5 & 6 Northfields as one of the objectors was known to him.

Councillor Hyman declared a personal non prejudicial interest in Agenda Item 5g, Harlington House, as one of the objectors was known to him.

Councillor King declared a personal and prejudicial interest in Agenda Item 5a, Land adjacent to 74-84 Lilbourne Drive as he had given his support for

the project to the developer. He withdrew from the meeting during the consideration of this item.

Councillor Moore declared a personal and non prejudicial interest in Agenda Item 5a, as the Chair of the Clifton Backies Board.

Councillor Moore also declared a personal and prejudicial interest in Agenda Item 5c, The Glen Nursery, as one of the objectors was his wife's employer. He withdrew from the meeting during the consideration of this item.

Councillor Wiseman declared a personal and non prejudicial interest in Agenda Item 5c, The Glen nursery, as the Council's representative for the Glen Family Resource Centre.

No other interests were declared.

23. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That Members of the Press and Public be excluded from the meeting during consideration of Annex A to agenda item 6 (Enforcement Cases Update) (Minute 27 refers) on the grounds that it contains information that if disclosed to the public, would reveal that the Authority proposes to give, under any enactment or notice by virtue of which requirements are imposed on a person or that the Authority proposes to make an order or directive under any enactment. This information is classed as exempt under Paragraphs 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.

24. MINUTES

RESOLVED: That the minutes of the East Area Planning Sub-Committee held on 12 August and 9 September 2010 be signed and approved by the Chair as a correct record.

25. PUBLIC PARTICIPATION

It was noted that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

26. PLANS LIST

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

26a Land adjacent to 74-84 Lilbourne Drive, York. (10/01538/FULM)

Members considered a major full application (13 weeks) from Mr Andy Kerr for the erection of 12 three-bed dwellings and 9 two-bed dwellings with associated parking, access and a single storey detached boiler house.

Officers provided an update to Members, relating to conditions that they recommended should be added to the application, if it was approved. This was circulated to Members and attached to the agenda following the meeting. The agenda was then republished to include the update.

The conditions proposed related to a suitable drainage system being installed, the upgrading of the proposed Public Right of Way (PROW), the control of emissions from the biomass plant to ensure there is no detrimental impact on air quality and achievement of Code for Sustainable Homes Level 5.

In response to Members' questions regarding the Public Right of Way, Officers indicated that the applicant proposed to create a new footpath and that the condition relating to the PROW would be altered to reflect this should the application be approved.

Representations were heard from a contractor working for the applicant.

Members asked the contractor about the proposed diversion of the footpath, the site access and the viability of the use of weatherboarding on the site. He indicated that the new line of the footpath would be upgraded to whatever standards were required by the Highway Authority, including lighting if required. Regarding the weatherboarding, he indicated that this would be manufactured from a robust material and had been used on other developments and had a significant lifespan.

Some Members indicated that they had reservations regarding the development of the site as the land was originally intended to be kept as open space for use by the community. However, they accepted that there was a need to provide affordable homes.

RESOLVED: That the application be approved subject to the conditions listed in the report and amended conditions to read;

- (i) Prior to the commencement of development details of foul and surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority, the development shall be carried out in complete in accordance with the approved details.

Details to be submitted for approval include;

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

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

Existing and proposed surfacing should be specified.

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

Yorkshire Water shall be consulted with regards to the diversion of their existing sewer and easement requirements. Diversion route should be in land within the applicant's control/ownership.

In accordance with PPS25 and in agreement with the Environment Agency / IDB / City of York Council, peak run-off from developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable areas). Storage volume calculations, using computer modeling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modeling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha shall be used.

Details shall be provided of the future management / maintenance of the proposed drainage scheme.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site to comply with guidance contained within Planning Policy Statement 25 (Development and Flood Risk) and that provision has been made to maintain the proposed drainage system.

- (ii) Within three months of the successful diversion of the Public Right of Way crossing the application site, details of a full package of improvement works to the footpath to the north of Bur Dike (identified as 'Proposed Relocated Public Right of Way

on the approved plans) shall be submitted to and approved in writing by the Local Planning Authority. The improvement works shall be carried out in complete accordance with the approved details prior to the first occupation of any dwelling on the site.

Reason: In the interests of the amenity of users of the Public Right of Way and to promote sustainable travel in accordance with local and national transportation policy.

- (iii) Emission rates from the biomass plant shall not exceed 24.2 g/h NOx and 3.0 g/h PM10 at any time.

Reason: To ensure there is no detrimental impact on air quality.

- (iv) The top of the stack exhaust shall sit 5m above ground level unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure adequate dispersion of boiler emissions to protect air quality.

- (v) Within six months of the completion of the development a Code Post Construction Assessment and Certificate shall be submitted showing that the development achieved Code for Sustainable Homes Level 5 rating.

Reason: To promote sustainable development.

REASON: The proposal, subject to the conditions listed in the report and the amended conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to: the principle of development; impact on neighbouring amenity; impact on the character and appearance of the area; traffic and car and cycle parking; drainage and flooding; landscaping and natural habitat; sustainability; and open space. As such the proposal complies with Policies GP1, GP3, GP4a, GP15a, H3c, H4a, H5a, and L1c of the City of York Development Control Local Plan.

26b The Homestead, Murton Lane, Murton, York. (10/01827/FUL)

Members considered a full application by Mr Peter James for the variation of condition 4 of planning approval 09/01125/FUL to allow for a replacement static caravan (resubmission).

Officers advised that condition 4 of the recommendation (at page 46 on the printed agenda) should read; "The development hereby permitted shall be carried out in accordance with the plans submitted with the application as varied by the 1:200 site plan amended on the 6 October 2010." Members were also informed that if they were minded to approve the

application, a Section 106 agreement could be drafted to secure additional landscaping on land adjacent to the site.

Representations were heard from the Chair of Murton Parish Council, objecting to the proposal on the grounds that the replacement caravan was much higher and larger than the original one and that trees on the site had been cut down, which accentuated the impact on the landscape and was harmful to the Green Belt.

Councillor Morley, as Ward Member, informed the Committee of the developments on the site that had occurred since the Committee had considered the previous application in June, including the removal of tree cover and the fact that the caravan was larger than the hardstanding shown on the plan. In his view, the development would be detrimental to the Green Belt.

Members acknowledged that the trees that had been cut down on the site were not protected by a tree preservation order. They also recognised the personal circumstances of the applicant to provide better and more spacious living accommodation for his growing family. In approving the application it should be a requirement that additional/replacement planting is carried out in order to screen the caravan.

RESOLVED: That the application be approved subject to a Section 106 Agreement to secure additional/replacement landscaping.

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to: impact on the openness and visual amenity of the Green Belt; landscaping; neighbour amenity; and access and highway safety. It is considered that the needs of the family in this case amount to very special circumstances that justify the granting of planning permission. As such the proposal complies with national planning advice set out within Planning policy Guidance Note 2 "Green Belts", and Policies GB1 and H16 of the City of York Draft Local Plan.

26c The Glen Nursery, Ousecliffe Gardens, York. (10/01628/GRG3)

Members considered a General Regulations (Reg3) application from the City of York Council's Adults, Children and Education Directorate for a single storey rear extension, two additional car parking spaces and a replacement cycle shelter and storage units at the care home.

Officers informed Members of additional representations received from a local resident expressing concern at the size and weight of the construction equipment that would be used, and the potential for damage to the road surface.

Representations were heard from an adjacent neighbour to the property, objecting to the application on the grounds that the removal of trees would make the building more visible and that the scale and massing of the building were not in keeping with the area. The proximity of the building to the boundary would result in an increase in noise. The design and positioning of the windows would result in a loss of privacy and nuisance from light pollution.

Further representations were heard from another local resident in respect of traffic concerns, stating that the access to the site was not capable of accommodating further traffic, in particular heavy construction vehicles.

During their discussion Members commented on the loss of protected trees. They also added that they felt that the materials to be used for the construction of the extension would appear incongruous alongside the neighbouring buildings. They were also unhappy with the arrangement of windows in the extension.

RESOLVED: That the application be refused.

REASON: (i) The proposal would, by virtue of its design, arrangement of windows and choice of materials, result in an incongruous form of development that would be out of keeping with the character and appearance of the area, contrary to national planning guidance at paragraph 34 of Planning Policy Statement 1 (Delivering Sustainable Development) and Policy GP1 (Design) of the City of York Draft Local Plan.

(ii) It is considered that the proximity of the proposed extension to the north west boundary of the site is likely to result in protected trees which make a significant contribution to the character, appearance and amenity of the area (with particular reference to trees T4, T5 and T6 shown on drawing number 2213/2 submitted with the application) being irreversibly damaged, contrary to policy NE1 (Trees, Woodland and Hedgerows) of the City of York Local Plan Deposit Draft.

26d York Designer Outlet, St Nicholas Avenue, York. (10/01868/FUL)

Members considered a full application by Mrs Maria Farrugia for the temporary siting of a public ice rink (November to January) on the coach park.

Officers circulated a printed update to Members, which has since been published on-line with the agenda for the meeting. It stated that additional conditions should be imposed as recommended by the Council's Environmental Protection Unit. In addition, a letter from Fulford Parish

Council had been received, objecting to the application on the grounds of a potential increase in light pollution, parking and highway issues. Officers indicated that any noise issues could be controlled by additional conditions.

Representations were heard from a member of Fulford Parish Council, reiterating the concerns expressed in the letter and highlighting the proximity of the site to the villages of Fulford and Naburn and the potential consequences of allowing the sale of alcohol and of an increase in the volume of traffic. It was also pointed out that the site is within the Green Belt.

Representations were received from the applicant in support of the application.

Some Members questioned whether the site was currently viewed as a major development site within the Green Belt and queried whether a sustainability study had been carried out in relation to the use of transport.

Members expressed the view that the temporary location of the ice rink at the Designer Outlet was acceptable, because there would be a higher tendency for usage due to the easier transport access links from the bypass and the proximity of the retail park. It was also considered that there was a need to find a new site for the facility following the loss of the existing site within the city centre.

RESOLVED: That the application be approved subject to the conditions listed in the report and the following additional conditions;

- (i) Prior to the commencement of the use hereby approved full details of the acoustic enclosure around the plant and equipment to be located in the service yard shall be submitted to and approved in writing by the Local Planning Authority. The acoustic enclosure shall be installed in complete accordance with the approved details and shall be in place for the entire operation of the use hereby approved.

For the avoidance of doubt, the acoustic enclosure shall at least 2.5 m in height and imperforate in construction with no air gaps to allow the passage of noise, such as a close boarded fence.

Reason: To safeguard the amenity of local residents.

- (ii) Only one portable electric generator shall be in operation at any time, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents.

- (iii) The two outdoor heating units serving the development shall only be operated during the hours of 09:00-21:30, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents.

- (iv) Prior to the commencement of the hereby approved full details of the location of the acoustic enclosure around the outdoor heating units shall be submitted to and approved in writing by the Local Planning Authority. The acoustic enclosure shall be installed in complete accordance with the approved details and shall be in place for the entire operation of the use hereby approved.

For the avoidance of doubt, the acoustic enclosure shall be at least 2.0 m in height and imperforate in construction with no air gaps to allow the passage of noise, such as a close boarded fence.

Reason: To safeguard the amenity of local residents.

- (v) The ice resurfer shall only be operated during the hours of 08:30- 21:30, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents.

- (vi) Prior to the first use of the ice rink, details shall be submitted to and approved in writing by the Local Planning Authority as to how sustainable transport choices will be promoted. This shall include promotion of bus services and safe illuminated pedestrian and cycle routes. The development shall be carried out in accordance with the approved details.

Reason: For the reasons of sustainability and traffic management.

REASON:

The proposal, subject to the conditions listed in the report and above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the amenities of local residents, the impact on the Green Belt, and impact on the local highway network and car parking. As such the proposal complies with Policies GB1, GP1 and GP23 of the City of York Development Control Local

Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

26e 79 The Village, Haxby, York (TPO CYC 279 Birch)

Members considered an application for a Tree Preservation Order(TPO) which concerned a mature Birch tree, which was situated on the rear garden boundary that separated 79 and 81 The Village Haxby.

Members were recommended to delegate the consideration of this application to Officers, because it was not within the remit of the Committee to confirm TPOs.

RESOLVED: That the matter of confirming the Tree Preservation Order be delegated to Officers.

26f Land to the rear of 5 and 6 Northfields, Strensall, York. YO32 5XN (10/01784/FUL)

Members considered a full application by Moorside Developments Ltd for the erection of three dwellinghouses to the rear of 5 and 6 Northfields (resubmission). This application was refused by the Committee in March 2010, and although the subsequent appeal was dismissed, this was only on a technical matter relating to the method of payment of the financial contribution towards public open space provision. The principle planning reason for the refusal was not accepted by the Inspector, hence the application had been re-submitted for consideration.

Representations were heard from a local resident, opposing the application on the grounds that it had not changed from the one considered by the Committee in March 2010.

Representations in support of the application were heard from the architect of the proposed scheme of houses. He stated that he had nothing further to add to the Committee.

A representative from Strensall and Towthorpe Parish Council spoke in objection to the application and circulated a letter that had been sent from Yorkshire Water containing comments regarding drainage issues, which has since been published online with the agenda for the meeting. He added that in the light of changes to Planning Policy Statement 3(PPS3) in relation to the definition of previously developed land, planning permission should still be refused.

The applicants agent spoke briefly in support of the proposal.

In response to Members' questions relating to drainage issues on the site, Officers stated that the application made adequate provision for the storage and controlled discharge of surface water from the site. A condition had been recommended to secure the submission of further drainage details. It was also pointed out that planning permission would be required

for any hardstanding in excess of five square metres not constructed of porous material.

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

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to: the principle of residential development; design and Landscaping; highways, access and parking; impact on surrounding properties; sustainability; open space and drainage. As such the proposal complies with national planning advice contained within Planning Policy Statement 1 ("Delivering Sustainable Development"), Planning policy Statement 3 ("Housing"), and Policies SP6, H4a, GP1 GP4a, GP9, GP10, and L1c of the City of York Development Control Local Plan.

26g Townends Accountants, Harlington House, 3 Main Street, Fulford, York. (10/01659/FUL)

Members considered a full application by Milewood Healthcare Ltd for the erection of a one and a half storey pitched roof ancillary building for use as a residential care home (revised application).

This application had been previously refused by the Committee in March 2010.

Officers circulated an update to Members regarding an alteration to a condition and responses received from the Police Architectural Liaison Officer and the Council's Drainage Engineer. This update was attached to the agenda after the meeting, which was then republished online.

Representations were heard from a local resident, objecting to the application on the grounds of a loss of daylight to neighbouring properties.

Further representations in objection were heard from another local resident, who was concerned that the proposed use may pose a threat to the safety and security of her family.

A representative of Fulford Parish Council spoke in objection to the applications on the grounds that the footprint of the proposed building had not significantly changed since the previous submission, and constituted overdevelopment.

The applicant spoke in support of the application, noting that the revised application showed a decrease in the size of the building and an increase in garden areas, and that York was in need of the type of facility that was being proposed.

Councillor Aspden spoke as the Ward Member. He said that he felt that the application was unsuitable because of;

- The lack of amenity space
- Overdevelopment in a conservation area
- The lack of a suitable distance between the boundary wall and adjacent neighbours
- Issues of road safety due to the shared drive between the property and adjacent neighbours
- The feeling of a lack of adequate consultation between the applicants and local residents.

In response to a question, officers confirmed that in their view the application site was not “greenfield” land and still fell within the definition of previously developed land by virtue of its previous use.

Some Members asked for clarification on the shared access to the property and the garden at the front being used as an amenity space for residents.

Members were informed that the driveway to the property was on private land, but that the occupants of the property to the east also had uninterrupted rights of access. In response to a question from Members, the applicant confirmed that hedges and flowerbeds were currently being planted in the front garden of the property so that it could be used as an amenity space for residents.

Some Members considered that although the access issues had not been resolved in the resubmission of the application, there had been similar issues in the past when the site was used as offices and as a shirt factory. Other Members acknowledged that the building had been reduced in size, and therefore felt that it would not be overdominant.

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

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to: loss of employment premises; affect on residential amenity; impact on visual amenity; affect on heritage assets; nature conservation; access, parking and highway safety; drainage issues; and flood risk. As such the proposal complies with Central Government Guidance contained in Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 3: Housing, Planning Policy Statement 5: Planning for the Historic Environment, Planning Policy Statement 9: Biodiversity and Planning Policy Statement 25: Development and Flood Risk and Policies SP6, GP1, GP4A, GP9, GP15A, HE2, HE10, NE1, NE6, NE7, H17 and E3B of the City of York Development Control Local Plan.

26h 57 York Road, Haxby, York. YO32 3EE (10/01397/FUL)

Members considered a full application from Mr and Mrs Jeremy Hansbro for the erection of one four-bedroom detached house to rear of 57 York Road (resubmission).

The application had been previously refused by the Committee in October 2009. A subsequent appeal was dismissed, but not for the reasons that had been advanced by the Council. The Inspectors main concern was the inadequate size of the rear garden for the proposed dwelling, and the revised application sought to address this matter.

Representations in objection to the application were heard from a local resident. He felt that the construction of the property would not address concerns in relation to loss of privacy, and that the development would not be in keeping with the character of the area.

The applicant's agent spoke in support of the application. He said that the reason for the appeal being dismissed, which related to the proposed size of the rear garden, had now been addressed by re-siting the dwelling further forward.

Further representations were heard from a representative of Haxby Town Council. He referred to the loss of privacy that would result for the occupiers of adjacent properties. He considered that the character of the area would be adversely affected because the surrounding properties had larger gardens.

Officers were questioned by Members in relation to the removal of residential gardens from the definition of previously developed land and whether this change had been taken into consideration. Officers responded that the Local Planning Authority was still required to make more efficient use of land in sustainable urban locations such as this.

Some Members spoke about how they felt that the application should be refused because of a number of issues including;

- drainage problems
- the impact of the development on the character of the area and the adverse effect on neighbouring properties.

Other Members felt that the proposed building would not have a detrimental impact on the area and cautioned that although there had been recent changes in planning guidance, this did not mean that residential gardens could not be developed.

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

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to: the principle of the development; visual appearance;

impact on the character and appearance of the area; the amenity of adjacent occupiers; highway safety; sustainability; and drainage. As such the proposal complies with national planning advice contained within Planning Policy Statements 1 ("Delivering Sustainable Development") and 3 ("Housing"), and policies GP1, GP4a, GP10, GP15a, H4a, L1c and T4 of the City of York Council Draft Local Plan.

26i Flat 1, 4 Wenlock Terrace, York YO10 4DU (10/01558/FUL)

Members considered a full application by Mr and Mrs J Barry for the conversion from one flat and eight bedsits to four flats (retrospective) and the merging of existing ground floor bedsits to form one flat.

Members were informed by Officers that the application was recommended for approval due to the fact that the conversion of bed sits into fewer flats constituted a de-intensification of development.

Officers were informed by Members, that a reference to the Fishergate Planning Panel in their report was had been made in error.

Representations were received from the applicant's agent in support of the application. He questioned the need for a condition in relation to cycle storage, as this was already provided for in a large shed in the rear garden. Officers explained that there were doubts as to whether the shed was of sufficient size to accommodate the number of cycle parking spaces required.

Members resolved that issue of cycle storage provision be delegated to Officers.

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

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the character and appearance of the conservation area, the impact upon the amenity of future occupants and neighbouring properties, and the sustainability of the scheme. As such the proposal complies with Policies HE3, H8 and GP4a) of the City of York Development Control Local Plan.

27. ENFORCEMENT CASES UPDATE

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

RESOLVED: That the reports be noted.

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

Cllr K Hyman, Chair

[The meeting started at 2.05 pm and finished at 5.55 pm].

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Huntington/New Earswick
Team: Major and Commercial **Parish:** Huntington Parish Council
Team

Reference: 10/00342/FUL
Application at: Minster Alarms Suncliffe House 157 New Lane Huntington York
For: Change of use of part ground floor from retail (use class A1) to sale of hot food (use class A5) providing delivery service only
By: Mr Hazan Hazar
Application Type: Full Application
Target Date: 22 April 2010
Recommendation: Approve

1.0 PROPOSAL**1.1 SITE**

The application relates to part of the ground floor of a two storey detached building on east side of New Lane. The ground floor is currently in use as an electrical sales and repair shop with the first floor in use as offices by a burglar alarm supplier and installer. There is a hard surfaced car parking area at the front and side of the building for 7 cars (though two are not independent spaces). To the north and west of the site are residential properties. To the south is an electrical sub-station. To the east is the Portakabin manufacturing site.

1.2 PROPOSAL

The proposal relates to the conversion of the southern part of the ground floor for the sale of hot food providing a delivery service only. Access would remain via the existing shop entrance. The remainder of the ground floor, with access via new double doors in place of roller shutter doors, would remain as an electrical sales and repair business. The upper floor is unchanged. The proposed use would operate between the hours of 1700-2230 Monday to Sunday including Bank Holidays. Deliveries would be by private car by one of the two full time members of staff. It is intended that the existing car parking area would be used. No other physical external alterations are proposed.

1.3 APPLICANT'S CASE

A statement has been submitted confirming the site characteristics and layout of the ground floor. It states that the proposed use will commence at the end of the working day when the existing businesses are finishing/closed. In conclusion, it refers to the lack of interest in the unit following a marketing exercise, the retention of a facility that will serve the local community, the protection of residential amenity through the installation of fume extraction equipment along with restriction to delivery only, a reasonably early closing time and the provision of on-site parking arrangements.

The applicant has submitted correspondence in response to queries and objections raised, including:

1. Letter from applicant explaining that the application proposes 'shop-to-home' delivery service with no customers allowed indoors; that there is sufficient space for 2 vehicles; and that the proposed use would not devalue other properties.
2. Letter from the agent on behalf of the applicant providing some approximate costings relating to the 'delivery only' service to support the applicant's claim that a delivery only service would be a sustainable business and confirming that he has not come across the situation of customers ordering food for delivery to a vehicle outside the shop in his past 8 years of trading.

1.4 HISTORY

The relevant planning history for the site is as follows:

- 1986 - change of use of former brewery offices into private school;
- 1993 - change of use to television and electrical shop (A1), association workshop (B1) on ground floor and offices (B1) on first floor;
- 1994 - single storey rear extension;
- 2005 - two storey rear and side extension;

An application was submitted in 2009 (09/2186/FUL) for the change of use of the same ground floor area from retail to a restaurant and hot food takeaway with delivery (use classes A3 and A5). The application was withdrawn prior to its determination, after the applicant was informed of the officers' intention to recommend refusal on highway safety grounds. The Highway Authority had objected to the proposal due to the lack of sufficient off-street parking to serve the proposed use at a time when the other two existing users would still potentially be operating at the site. The application had been called-in for a Committee decision at the request of Councillor Orrell, due to the considerable local interest in and opposition to the application. As a result of this history, this application was flagged as an application requiring a committee decision.

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 or open subsequently as a traditional takeaway or restaurant. If that were the case, there would be more concerns 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.

The Unit does not see how a takeaway business relying on a delivery service only can be viable with only 1 or 2 delivery vehicles and as such remains concerned that additional delivery vehicles will be used and vehicle noise could then affect the amenity of local residents, particularly later in the evenings. It is also likely that customers will arrive at the premises thinking they can buy a takeaway and will add to the overall noise in that specific area of New Lane as vehicles stopping and starting, car doors being opened and closed and reversing of vehicles, creates more noise than vehicles simply driving along New Lane. They note that considerably more of the ground floor is now denoted as kitchen and questions why there is now a need to enlarge the kitchen unless the intention is to serve substantial numbers of customers from over a wider area of the City, requiring a fleet of delivering vehicles.

In order to address the possible loss of amenity due to noise and odour nuisance as a result of the activities of the takeaway, the Unit requests that conditions regarding kitchen extraction equipment, details of all machinery, plant and equipment and restriction of opening times and delivery times.

(ii) Highway Network Management - Should the planning officer consider that to restrict the use to deliveries only would be enforceable and reasonable then there are no highway objections to this proposed development.

These proposals would greatly reduce the potential for traffic movements into/from the site as theoretically the only vehicles that would be associated with the

development would be the owners' and the delivery vehicle. This would greatly reduce the possibility of conflicts with other site users as there would be no customers' vehicles. It is probable however that the number of delivery vehicle movements would potentially be greater than those associated with the original proposals but it is not thought that the overall effect on New Lane would be significant. No highway objections providing the use can be restricted to deliveries only.

3.3 EXTERNAL

(ii) North Yorkshire Police (Architectural Liaison Officer) - No comments to make in relation to 'designing out crime'.

(iii) Huntington Parish Council - Objects to this application:

- Impact on traffic as potential customers fail to realise it is delivery only;
- Lack of adequate off street parking to accommodate an additional facility resulting in congestion as staff and delivery drivers are forced to park on New Lane and adjacent residential areas;
- 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 'additional amenity' is provided by 'existing delivery service provision in the vicinity';
- Additional burden on local drainage structure.

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

- Highway safety due to increased traffic and limited parking, exacerbating existing parking problems;
- Increased disturbance to residential amenity from noise, smells, litter and traffic;
- Negative impact on 'tone' of residential area;
- Fear of crime and anti-social behaviour, especially for elderly and disabled people in area;
- Would impact on frequent drainage problem in the immediate area;
- Questions about viability of delivery only business in shop premises with kitchen larger than that for previous restaurant proposal and how prevent it from becoming hot food take away;
- 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

4.0 APPRAISAL

4.1 KEY ISSUES:

- loss of shop;
- residential amenity;
- parking provision and highway safety;
- fear of crime and anti-social behaviour;
- ability to restrict use.

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.

Planning Policy Statement 4 (Planning for Sustainable Economic Growth) seeks to protect the viability of town centres, whilst allowing appropriate local shopping provision in service centres and rural areas. Policy EC13 discourages planning applications which fail to protect existing facilities that meet day-to-day shopping needs and encourage those that improve their viability.

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). In particular:

- 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

National and local planning policy encourages the protection of existing local shopping facilities that serve a day-to-day need. 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, it is noted that the

intention is to retain the existing retail and repair business at the site albeit with a 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 regarding the impact on the amenity of surrounding residential occupiers from the proposed use, primarily through the extension of business hours into the evening resulting in increased noise disturbance. Whilst the site is adjacent to the large Portakabin manufacturing site and New Lane is a main thoroughfare for drivers visiting Monks Cross and the city centre, local residents confirm that it is largely residential in character and relatively quiet after the early part of the evening. The activity associated with Portakabin is largely contained within its extensive site perimeter 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. There is a distance of over 30m between the front elevations of those opposite and that of the application property. The house to the north, no.155, extends up to the northern boundary of the site with its garage - the distance between the house itself and the entrance into the application building (and beyond this the cooking area and counter) is approximately 20m. The majority of the proposed use would be confined to within the premises, with activity outside being from the delivery vehicles.

The proposal would introduce a level of activity at the premises into the evening that does not occur at present in the immediate area, mainly from the comings and goings associated with delivery vehicles. The applicant claims that the other two uses in the building have ceased by 17:00 when the proposed use is intended to commence, though it is noted that local residents experience activity after 17:00. Regardless, the later operating hours of the proposed use has the potential to cause increased noise levels and disturbance, which would impact on 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 operate 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, particularly if there were more than two delivery vehicles and from potential customers trying to buy food to takeaway. It is assumed that the business is considered by the applicant to be viable with a closing time of 22:30 as this forms part of the application. EPU have requested various conditions regarding restriction of operating hours and extraction equipment.

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 delivery vehicles - two of these spaces are at the side of the building with limited access making them only practical for staff parking. This would leave five (5 no.) spaces available in the front car parking area, which would be sufficient to serve the proposed use, even at the potential cross over

time of the existing and proposed businesses. The Council's Highway Engineer raises no objection in light of the above, subject to the imposition of a condition restricting the use to delivery only.

4.6 CRIME AND ANTI-SOCIAL BEHAVIOUR

Local residents are concerned that the use would potentially result in anti-social behaviour. The Police Architectural Liaison Officer has been consulted and does not wish to make comment with regards this revised application. As the proposal, by definition, would not involve sale of hot food to customers visiting the premises, there should be no congregation of people outside the building, dropping of litter nor the amount of comings and goings associated with a takeaway.

4.7 RESTRICTION OF USE TO DELIVERY ONLY

The operation is proposed in a retail unit with a large display window and it has been indicated that signage may be applied for separately. Given the location and characteristics of the premises, the business has the potential to attract passing trade resulting in additional vehicles parking on the front communal parking area. The impact on highway safety from vehicle parking was an issue with the previous application for a restaurant and takeaway with delivery, as the Highway Officer raised objections due to the potential conflict and subsequent highway safety hazard from an excess of vehicles relating to three different businesses using the one car parking area. The revision of the operation to delivery only, even with an overlap of operating hours with the existing two businesses, has addressed the objection of the Highway Officer.

However, concern has been raised by local residents, as well as by officers, about the ability to restrict the use of the operation proposed to 'delivery only' and the financial viability of a business with what seems to be excessive floor space for its needs - it is noted that a restaurant, hot food takeaway and delivery service were previously proposed in the same space. This has led to concerns about the future intentions of the applicant, though the application before the Council needs to be determined on the merits of the proposal.

Officers had reservations about the ability to restrict the use by condition to 'delivery only' and whether such a condition would meet the tests of Circular 11/95 ("The Use of Conditions in Planning Permissions"), in terms of being 'enforceable' and 'reasonable'. With regards the latter, the applicant has applied for delivery only and has confirmed that such a restriction would still allow a viable business to operate from the premises, taking into account all expenses. Therefore, to address highway safety concerns and as the business is considered to be viable by the applicant, a condition restricting the use would meet the test of reasonableness. It is also considered that such a condition would be enforceable as it could be monitored by the Council's Enforcement Team if it was alleged that the applicant was selling hot food to individuals visiting the premises. A condition should also be attached requiring details of an appropriate notice to discourage members of the public from trying to enter the building.

5.0 CONCLUSION

5.1 The application represents a reduction in the scale of the operation proposed at the site and as such overcomes some of the objections previously raised to the use as a restaurant, takeaway with delivery. The applicant has applied for a delivery service only with specified operating hours and claims that this is a viable business proposition. As a result, it is considered that a condition restricting the use to that applied for would meet the tests of Circular 11/95, in terms of being reasonable and enforceable. Whilst the concerns of local residents about future applications to expand the use to takeaway or restaurant are noted, this would require a specific application that would need to be duly considered and determined.

5.2 Officers have some reservations about the impact of the use in terms of noise disturbance related to the operation on the amenity of local residents into the evening when other activity in the area has ceased or reduced. However, no objections are raised by the Council's Environmental Protection Unit to support this concern. The presence of large employment premises immediately next to the site, the location of this site on a thoroughfare into and out of the City and Monks Cross and the separation distances to surrounding houses from the proposed use itself are noted.

5.3 Therefore, on balance, the proposal is recommended for approval, subject to conditions restricting the use to delivery only, hours of operation and control of equipment.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Unnumbered Location Plan dated February 2010 and received 24 Feb 2010;
Drawing no. SNL/1/03 'Proposed Floor Plan' dated February 2010 and received 24 Feb 2010;
Drawing no. SNL/1/04 'Proposed Floor Plan' dated February 2010 and received 24 Feb 2010;
Drawing no. SNL/1/05 'Proposed Elevations' dated February 2010 and received 24 Feb 2010;
Drawing no. SNL/1/06 'Proposed Site Plan' dated February 2010 and received 24 Feb 2010;

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 use hereby approved shall be for the sale of hot food for consumption off

the premises by delivery only and there shall be no direct counter service or collection of orders by members of the public at any time. A notice shall be posted at the premises to inform members of the public that the facility is delivery only, with no access for members of the public and no takeaway by them from the premises. Details of this shall be submitted to and approved in writing by the Local Planning Authority prior to being displayed.

Reason: The use of these premises for the sale of hot food for consumption off the premises taken away from the premises by the purchaser is likely to be detrimental to the amenities of nearby residents and/or detrimental to highway safety.

4 The premises shall be used for the sale of hot food for consumption off the premises by delivery only and for no other purpose, including any other purpose in Class A2 or A3 in the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: So that the Local Planning Authority may re-assess alternative uses which, without this condition, may have been carried on without planning permission by virtue of Article 3 of the Town and Country Planning (Use Classes) Order 1987.

5 Any kitchen extraction system proposed by the applicant must be adequate for the treatment and extraction of fumes so that there is no adverse impact on the amenity of occupiers of this or nearby premises by reason of fumes, odour or noise. Full details of the extraction plant or machinery and any filtration system required shall be submitted to the Local Planning Authority for approval. Once approved, it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of nearby occupiers of premises.

6 Details of all machinery, plant and equipment to be installed in the proposed premises, which is audible outside the site boundary, and the proposed noise mitigation measures, shall be submitted to the Local Planning Authority. These details shall include maximum ($L_{Amax}(f)$) and average (L_{Aeq}) sound levels (A weighted), and octave band noise levels they produce. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the Local Planning Authority. The machinery, plant or equipment and any approved noise mitigation measures shall be appropriately maintained thereafter.

Reason: To protect the amenity of occupiers of nearby buildings.

7 The use hereby permitted involving the delivery of hot food for consumption off the premises, shall be confined to the hours of 17:00 to 22:30 Monday to Sunday.

All deliveries of raw ingredients and supplies to the site shall be confined to the hours of 10:00 to 22:30 Monday to Sunday.

Reason: To protect the amenity of local residents.

**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 local shopping facilities, impact on residential amenity, highway safety and fear of crime/anti-social behaviour. As such, the proposal complies with the general aims of Planning Policy Statement 1 (Delivering Sustainable Development), Policy EC13 of Planning Policy Statement 4 (Planning for Sustainable Economic Growth) and Policies GP3, S6 and S9 of the City of York Development Control Local Plan.

Contact details:

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157 New Lane, Huntington

10/00342/FUL



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Organisation	City of York Council
Department	Planning & Sustainable Development
Comments	Application site
Date	29 October 2010
SLA Number	Not set

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Hull Road
Team: Householder and Small Scale Team **Parish:** Hull Road Planning Panel

Reference: 10/02057/FUL
Application at: 2 Heathfield Road York YO10 3AE
For: Single storey side and rear extension (revised scheme)
By: Mr Mark Hutchinson
Application Type: Full Application
Target Date: 23 November 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 The application property is a semi-detached house located in a cul-de-sac off Millfield Lane. Members may recall that at the East Area Sub-Committee on 9 September 2010 planning permission was refused to erect a single storey rear extension and a two-storey side extension at the property. The planning application was refused for the following reason:

"The proposed one and two-storey side extensions would be located in close proximity to much of the rear garden of 1 Heathfield Road. It is considered that if approved the proposal would result in the small space being unduly enclosed by an overdominant and overbearing form of development which would also result in excessive overshadowing. As such the proposal conflicts with policy GP1 (criterion I) and H7 (criterion d) of the City of York Draft Local Plan (fourth set of changes) approved April 2005 and advice contained within paragraph 1.33 of the City of York Council's Guide to extensions and alterations to private dwellings March 2001."

1.2 The revised application now submitted is for the erection of a pitched roof single storey extension to the side and rear. The width of the extension is slightly narrower than the previous scheme with the accommodation proposed to the side of the house reduced from 4.1metres to 3.6 metres. The accommodation proposed to the rear of the property has also been reduced in width to leave a gap of 0.9m to the boundary fence.

1.3 The eaves height of the extension is approximately 2.5 metres. At its highest point the ridge height of the single storey side extension is 4.7 metres (revised plans were received on 18 October 2010 that reduced the ridge height from 4.9 metres).

1.4 The application has been referred to Committee because of the level of local interest in the application and to ensure consistency given that the previous application was also determined at Committee. A site visit took place on 8 September 2010 in connection with the previous application.

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:

CYH7

Residential extensions

CYGP1

Design

3.0 CONSULTATIONS

3.1 Internal

Environmental Protection - No objections to the planning application. Do not consider that a condition seeking sound proofing along the boundary with number 3 Heathfield Road can be justified on planning grounds.

3.2 External

Hull Road Planning Panel - No objections

Neighbours

Letters of objections have been received from the occupants of 4 properties in Heathfield Road. The concerns raised are:

The single storey extension is very high and will enclose 1 Heathfield Road and lead to the unacceptable loss of light. The new 2m boundary fence already reduces sunlight.

Concerns about drainage and sewerage due to the increase in the number of bathrooms.

There will be more people occupying the property. The narrow cul-de-sac is unsuitable as the increased traffic will be a danger to pedestrians (including children playing) and damage footpaths.

This is a family street and the likely increase in the number of students in the house is not compatible with this and will lead families to sell their homes.

The Hull Road area has enough students already.

The 900mm gap to the side of the extension is inadequate for cycles and wheelie bins.

The scheme overdevelops the rear garden.

The work on the house will be undertaken by an absentee landlord and would not therefore benefit local trades people.

4.0 APPRAISAL

4.1 Key Issues:-

- Impact on streetscene
- Impact on neighbours
- Car parking
- Impact of occupation by students

4.2 Development Control Local Plan Policy GP1 'Design' 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, spaces and vegetation. 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.

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

4.4 Policy H8 relates to the conversion of dwellings to houses in multiple occupation. The relevance of this policy to the proposal is considered below.

IMPACT ON THE STREETSCENE

4.5 The design of the extension reflects the appearance of the original house to an acceptable degree. The window position and materials relate well to the main house. The rear roof slope of the side extension has a gable roof, this differs from the roof form of the main house, however, this part of the extension is located in a position that would not be prominent from the street and when viewed from the rear is partly screened by the rear elevation.

IMPACT ON NEIGHBOURS

4.6 There is adequate separation to the front and rear. The attached property (number 3) has a conservatory to the rear. It is not considered that the 3 metre deep single storey rear extension (which could be erected was permitted development without the need for planning permission) would have an unreasonable impact in respect to light or outlook.

4.7 The main neighbour affected is number 1. This property was visited. The home has kitchen and living room windows on the rear of the ground floor and bathroom and bedroom windows on the first floor. The previous scheme was refused because it was felt that the home's small rear garden would be harmed by the one and two-storey development through it causing overshadowing and being overbearing.

4.8 It is considered that the amended scheme would not cause such harm to living conditions as to merit refusal. The single storey side extension would largely be viewed against the existing house and would cut out little additional sunlight. The rear element of the extension is a relatively low structure and has been moved slightly further off the side garden boundary.

4.9 Although the development will alter the character of the neighbour's rear garden area, it is considered that overall, the changes from the previous refused scheme, including the increased separation from the boundary and the lowered eaves and ridge height are such that the physical impact of the development is no longer considered unreasonable. Because of the relatively high ridge height of the proposed side extension and the proximity to the neighbour's garden a condition has been included removing permitted development rights to alter the size or shape of the roof of the extension.

CAR PARKING

4.10 The property has a wide front garden. There is space for off-street car parking for at least two vehicles and also the potential to increase the car parking area further. It is considered that this is sufficient to meet the needs of the extended property. There is a 900mm access to the rear for refuse bins and cycle parking.

IMPACT OF OCCUPATION BY STUDENTS

4.11 From information contained in letters from neighbours it would appear that the property has been occupied by 3 or 4 students for several years. In April 2010 Central Government planning legislation came into place that required planning permission to be sought were it was proposed to change the use of a dwelling house (typically a family home) to a house in multiple occupation. This change in legislation had no impact on 2 Heathfield Road as it was already a House in Multiple Occupation and as such could be occupied by up to 6 unrelated people without planning permission being required.

4.12 The previous planning application was refused on 9 September 2010. On 1 October 2010 Central Government planning legislation was amended so that permission would no longer be required to make a change of use from Class C3 (dwelling house) to Class C4 (houses in multiple occupation). This has no impact on the application property.

4.13 Neighbours concerns in respect to the application property being used as a 'student house' are noted. However, this is not considered material to the determination of an application for a single storey extension to the property. At the

present time it is the case that any house owner could typically seek to extend their property and then choose to rent it to up to 6 unrelated people without requiring planning permission for the change in occupation. Although there is sympathy for any neighbours who may suffer from 'noisy neighbours', in planning terms this is not considered grounds to refuse the application or to insist on additional measures such as sound proofing of party walls. Complaints relating to 'noisy neighbours' could be considered under separate legislation by the Council's Environmental Protection Unit.

5.0 CONCLUSION

5.1 The previous application included a two-storey side extension. It was considered that the proposal would have an unacceptable impact on the small rear garden of 1 Heathfield Road. The current application is for a single storey extension to the side and rear. It is considered that when viewed from the adjacent garden the extension will largely be seen against the existing house and will cut out little direct sunlight. The reduction in scale and the slight narrowing of the proposed extension is also considered to be sufficient to avoid it being overbearing.

5.2 It is recommended that the application be approved.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 VISQ1 Matching materials

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

Revised plan MH 2 A received by the Local Planning Authority on 18 October 2010.

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

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 B and C (enlargement or alteration to the roof) of Schedule 2 Part 1 of that Order shall not be carried out to the approved side extension 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 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.

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 amenity and living conditions of adjacent occupiers and the impact on the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan and the 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance.

Contact details:

Author: Neil Massey Development Management Officer (Wed/Thurs/Fri)

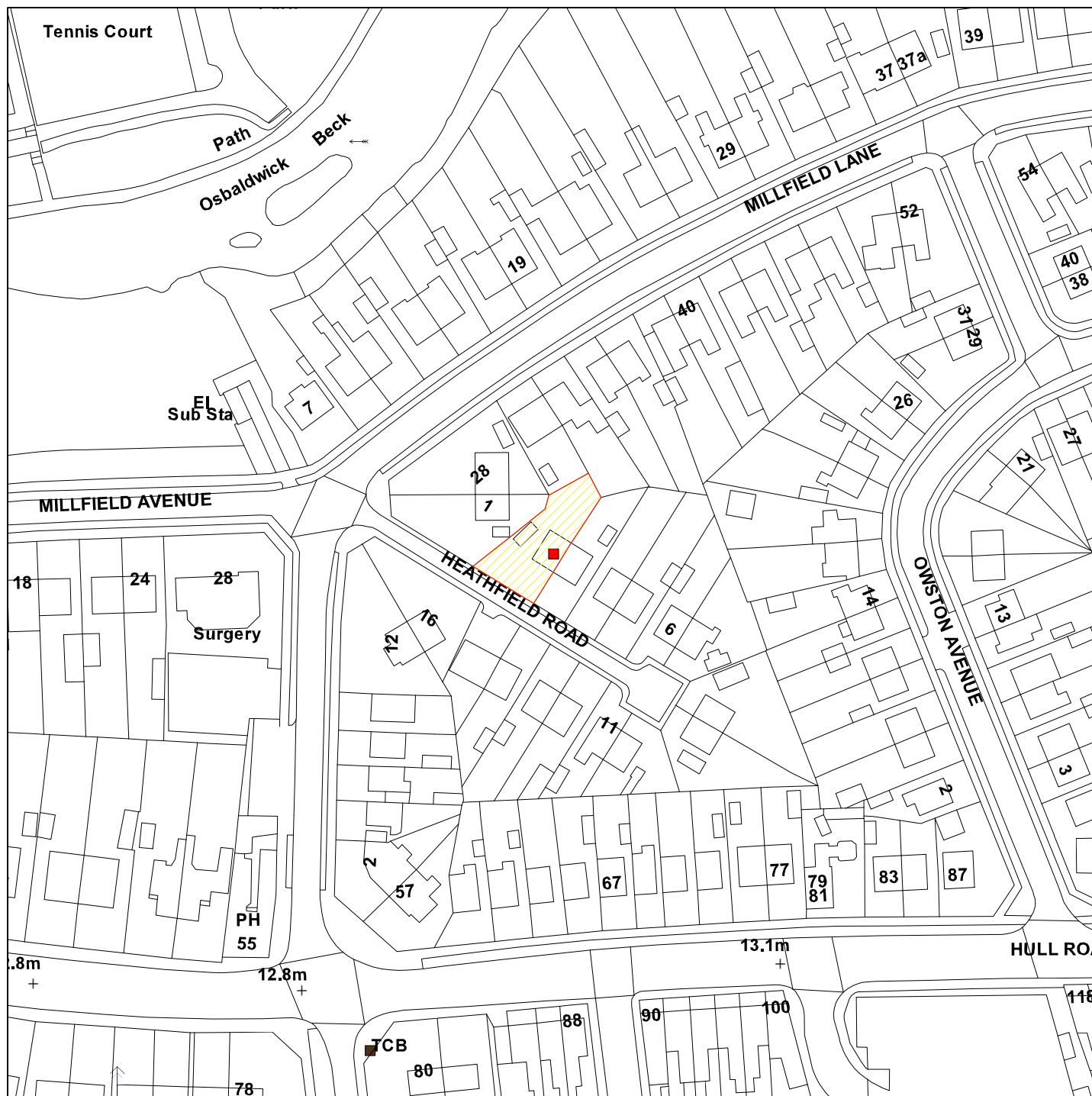
Tel No: 01904 551352

2 Heathfield Road, YO10 3AE

10/02057/FUL



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	City of York Council
Department	Planning & Sustainable Development
Comments	Application site
Date	29 October 2010
SLA Number	Not set

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Derwent
Team: Major and Commercial **Parish:** Kexby Parish Council
Team

Reference: 10/01818/FULM
Application at: Derwent House Residential Home Hull Road Kexby York YO41 5LD
For: Erection of 26 high dependency units with associated facilities (extension to care home) (resubmission) (please note amended number of units, in previously submitted building footprint)
By: Mr Martin Taylor
Application Type: Major Full Application (13 weeks)
Target Date: 16 November 2010
Recommendation: Approve after referral to Sec. of State

1.0 PROPOSAL

1.1 This is a full planning application for the erection of a two storey extension to the side of an existing residential nursing home (formerly the Kexby Bridge Hotel). The building is to provide high dependency care and rehabilitation for people with brain injuries at ground floor and care for dementia patients at first floor.

1.2 The site is located on the north side of the A1079 York to Hull road at Kexby, to the west of Kexby Bridge and the River Derwent. The River Derwent marks the boundary between the City of York Council administrative area and the East Riding of Yorkshire. Kexby Bridge is a grade II listed building and the River Derwent is part of a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). The site has a frontage to Hull Road of approximately 150 metres and a maximum depth of 228 metres. The 3.2 ha plot comprises the former hotel building, consisting of a two storey structure built in red brick with a pitched, tiled mostly hipped roof. Associated parking is located to the front of the building. The land to the rear of the building is predominantly in the form of a parkland-type landscape, with two ponds within the site boundary. The building is now in use as a 32 bedroom care home.

1.3 The proposal, the internal layout of which has been amended since first submission to reduce the number of beds from 30 to 26, consists of the following:-

- a two-storey extension to the east side of the existing building. The building will project 24.5 metres out from the side of the building and will form the main elevation on to Hull Road. The depth of the structure will be 27 metres. The height of the extension to eaves will be approximately 5.5 metres and to ridge 8 metres. The extension is designed with a hipped roof to reflect the roof detail of the existing building. The proposed accommodation is to be provided over two floors with 11 care units on the ground floor and 15 care units on the first floor. There are communal living and ancillary rooms on each floor.

- the provision of 7 car parking spaces accessed via the existing access road from the A1079.

- details of landscaping which incorporates the retention and enhancement of existing landscape features.

1.4 The application is supported by a design and access statement, flood risk assessment, biodiversity assessment, greater crested newts survey, archaeological scheme of investigation, a pre-construction energy report and an outline transport assessment.

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.

- An application for a similar proposal to that now submitted was withdrawn in October 2009 to address policy concerns about the development.

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:

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. The change in number of units from the original proposal either require an additional 2 car parking spaces or confirmation that shift patterns will be staggered. Conditions are requested to ensure that the development is carried out in accordance with the submitted scheme.

Countryside Officer - accepts 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 others 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.

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.

Environmental Protection - No objections however an informative is suggested in relation to working practices during construction.

City Strategy - Green belt policy is relevant. Understand that the approved hotel extension remains valid in relation to the proposed new use as a care facility. Additional visual impact would be negligible. In general terms are aware that there is a growing number of people with complex needs. Widening access to a greater range of housing options for people with specialist care needs is one of the council's emerging housing strategy priorities. The site is accessible by public transport. Facilities for residents will be a licensing requirement. No objections.

Strategic Services, Adults, children and Education - no objections or concerns. Agree that there is a local need for new dementia care within the city and understand that there may be a need for the small specialist unit for acquired brain injury within the wider local region.

Landscape Architect - no objection in principle although there are some discrepancies between the submitted landscape plans that need to be addressed

Sustainability Officer - The information submitted does not provide sufficient information to show compliance with the interim planning statement on sustainable development. Further information needs to be sought and /or conditioned.

EXTERNAL

Kexby Parish Council - No comments received.

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.

Environment Agency - no objections to the development as submitted. Request informative 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 be stored well away from the river bank and if needed 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. The Environment Agency point out that the Environmental protection regulations regarding the discharge of domestic sewage effluent from septic tanks and sewage treatment plants has changed from April 2010. The applicant will need to apply for a new Environmental permit.

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

- The proposal will double the size of the building and will house more population than the population currently living in the village
- The site is very unsustainable, next to a very busy road and a river both of which are dangerous
- There are already a lot of these kinds of units within the area is there justification for another
- Parking facilities are not adequate
- Bus service is not adequate for staff to use this will put pressure on parking places
- Concerned about the added pressure caused by the development on existing utility services which are very poor. In particular the drainage which is to a septic tank also the water pressure is very low and with the increased laundry etc. facilities, there will be a greater impact on water supply. The nursing home comes before the houses for both water and electricity supply
- The application should be conditioned that the home should have its own supply for all utilities therefore not burdening adjoining properties
- At the time of the application for the change of use from the hotel to a nursing home the Parish Council were assured that there would be escalation of the operation into C2. Now we have an application for a mini hospital with associated facilities.
- The kind of care proposed would be much more labour intensive than a normal residential care home
- Applicant says that the work has not started but footings have been put in
- The entrance to the site is difficult.
- Permission should not be given in green belt if it will be detrimental to other properties
- Concerned that it is unclear what will be happening in the building, a C2 use could accommodate asylum seekers, a borstal or young offenders institution, why the secrecy
- There must be much better sites for this use that do not intrude into the green belt

Any additional comments as a result of the amendments to the internal layout of the building will be reported direct to Planning Committee.

PUBLICITY

The application has been advertised by means of a site notice, notification in The Press and neighbourhood notification letters. Neighbours have been reconsulted on the changes to the internal layout.

4.0 APPRAISAL

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 (converted from a hotel) to provide specialist care to people with brain injuries on the ground floor and care for dementia patients to the first floor. The site is within an area of Green Belt. The recent revocation of the Regional Spatial Strategy does not affect the status of the Green Belt. The Green Belt has been tested and established through previous appeal decisions and debated throughout the RSS examination. The Green Belt will remain in draft until the boundaries are agreed through the Local Development Framework, once adopted.

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 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 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 approved 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 there is 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 257 square metres over the original approval. In terms of the development of outside space the original consent provided an 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 or a dementia 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 It is considered 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 26 bedrooms and is to provide high dependency care for acquired brain injury victims and care for dementia patients.

4.13 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. Since the last application on this site was withdrawn the applicant has discussed the need for the facility with the Councils Adults, Children and Education Services. Adults, Children and Education agree that there is a need for dementia care and understand that there may be need for the small specialist unit for acquired brain injury within the wider local region. Based on this advice it is considered that the requirements of C1 in terms of need are satisfied.

PROXIMITY TO LOCAL FACILITIES

4.14 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 (Care Quality Commission) 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 to be assessed 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 58 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 58 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. Shifts have been staggered between administration and maintenance staff. The care workers work in two shifts 8am to 8pm and 8pm to 8am.

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, however they required that shift patterns be staggered or two additional car parking spaces be provided. The scheme has been amended since the submission of the Highway comments to reduce the number of bedrooms by 4 and to stagger some of the shifts. The further comments of Highways Network Management will be reported direct to committee on whether the reduced numbers and changed shift patterns negates the need to provide additional parking.

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 have 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 have objected to the application because it is not supported by a full drainage strategy for the disposal of surface water. In particular Structures and Drainage are seeking assurances 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 Sustainability Officer acknowledges that from the information submitted with the application there is a commitment to achieve the required BREEAM rating. However the pre-construction assessment does not contain information on the likely score the development will achieve. A post-construction assessment would also be needed. Given the commitment to achieve a BREEAM 'very good' the application will be conditioned to require the pre and post construction assessments.

4.26 The applicant has submitted a report indicating how it is proposed to achieve 10% renewables on site. The Sustainability Officers comments that the calculations submitted are not based on the total energy demand for the building in accordance with the requirements of the Interim Planning Statement on Sustainable development. It is proposed to condition the permission to ensure that 10% renewables are achieved based on the energy demands of the building.

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 11/95. 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.

4.29 Members should also note that secure residential institutions such as young offenders institutions come within class C2A. Planning permission would therefore be required were such a use proposed at this site.

OTHER MATTERS

4.30 The objectors have 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 changes 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 Policy C1 of the CYDLP says that community facilities should meet a recognised need. Since the last application on this site was withdrawn the applicant has discussed the need for the facility with the Councils Adults, Children and Education services. Adults, Children and Education agree that there is a need for dementia care and understand that there may be need for the small specialist unit for acquired brain injury within the wider local region. Based on this advice it is considered that the requirements of C1 in terms of need are satisfied.

5.3 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. The additional comments of Highways network management are awaited on the reduction in numbers of bed spaces by 4, comments received will be reported direct to committee.

5.4 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 achievement of sustainability objectives are proposed to be conditioned.

5.5 By virtue of the Town and Country Planning (consultation) (England) direction 2009 green belt development over 1000 square metres needs to be referred to Government Office. If committee members are minded to approve the application the application will need to be referred given the floor area of the scheme.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve after referral to Sec. of State

1 TIME2 Development start within three years

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

AL (9)903 rev B

AL (9)901 rev D

AL (0)001 rev D
AL(0)41 rev A
AL(0)002 Rev C
AL(0)40 rev A

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

- 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 Prior to the start of development, the developer shall submit in writing and be approved by the local planning authority a appropriate preliminary BREEAM Design

and Procurement stage assessment of the development. It shall be followed by a BREEAM Post Construction Review and the BREEAM Certificate for this review is to be submitted to the local planning authority after construction and before occupancy of the building. Both assessments shall confirm the minimum 'Very Good' rating anticipated in the preliminary BREEAM Design and Procurement stage assessment submitted with the application. 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 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'

11 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, from on-site renewable energy, 10 per cent of the developments predicted energy demand. 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 shall be maintained to at least the required level of generation.'

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'

12 ARCH2 Watching brief required

13 VISQ8 Samples of exterior materials to be app

14 The landscaping scheme shown on Drawing no. AL(9)901 rev D 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.

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 development 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 prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity

16 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Development Order 1995), (or any Order revoking or re-enacting that Order), no fences, gates, walls or other means of enclosure shall be erected other than shown on the approved plans without the prior written approval of the Local Planning Authority through the submission of a formal planning application.

Reason: In the interests of visual amenity on this green belt location which is sensitive because of its proximity to a SSSI and a SAC and because the site is an open 'parkland' setting.

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:

- 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

As such the proposal complies with Policies GB1, H17,C1, 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. Thus it is considered that the proposal does not conflict with national planning advice contained within Planning Policy Guidance Note 2 "Green Belts".

Contact details:

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

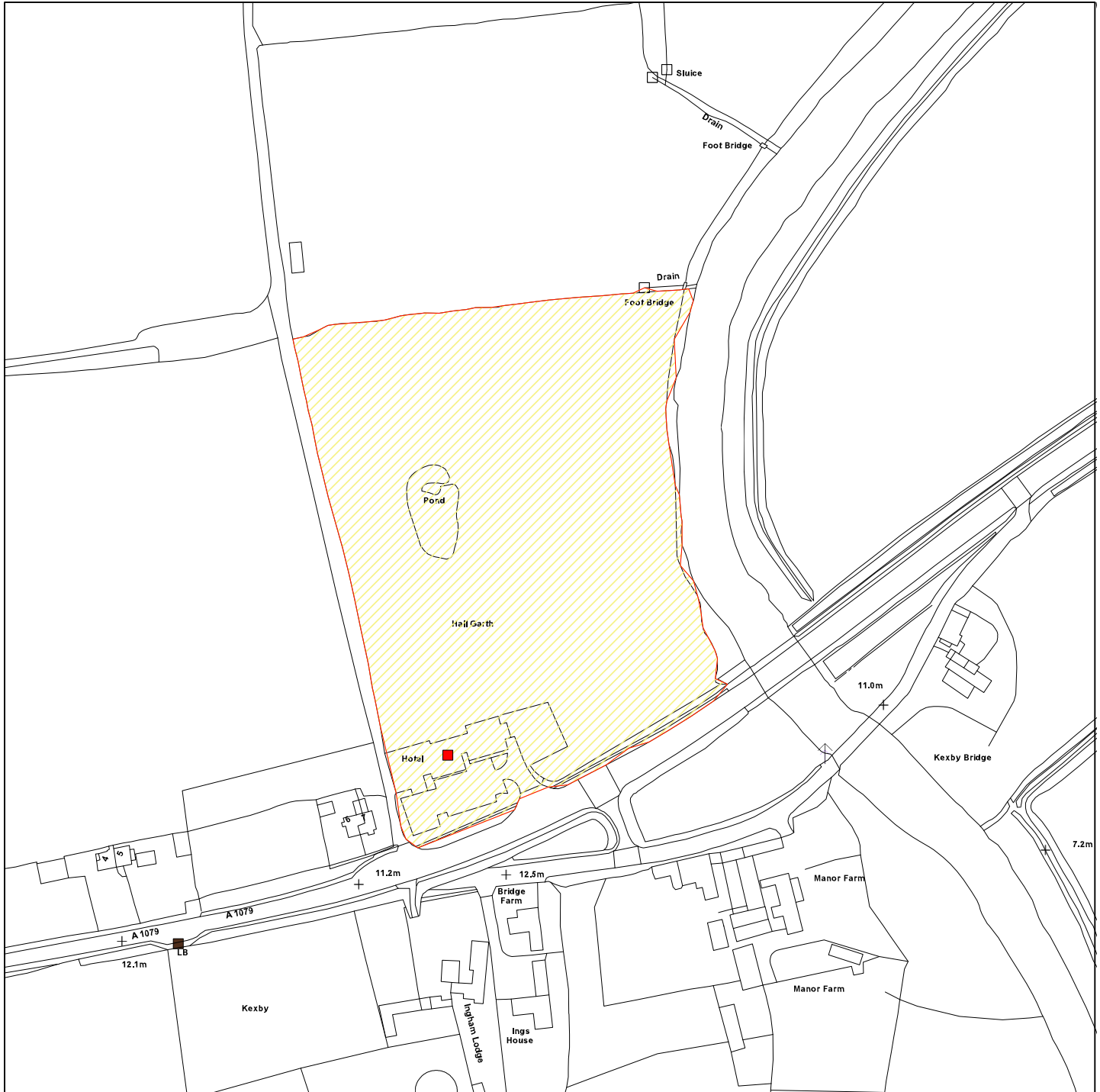
Tel No: 01904 551351

Derwent House Residential Home, Kexby

10/01818/FULM



GIS by ESRI (UK)



Scale : 1:2500

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Organisation	City of York Council
Department	Planning & Sustainable Development
Comments	Application site
Date	29 October 2010
SLA Number	Not set

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Heworth
Team: Major and Commercial **Parish:** Heworth Planning Panel
Team

Reference: 10/01435/FUL
Application at: The Fossway 187 - 189 Huntington Road York YO31 9BP
For: Change of use from public house (use Class A4) to youth club, day nursery and place of worship (use Class D1) with 2no. self-contained flats. New rooflights and entrance door.
By: Mr David Lavery
Application Type: Full Application
Target Date: 28 September 2010
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application has been made by the Living Word Church for the change of use of the Fossway Public House to a mixed use including a youth club (basement), day nursery (ground floor), a place of worship (ground floor) with associated office space (ground and first floor), 1 flat on the first floor and 1 flat on the second floor. The external alterations to the building include two rooflights to both the front/east elevation and the north/side elevation and all the windows will be replaced on a like for like basis. The car park has been re-configured to accommodate 10 parking spaces and 12 cycle parking spaces. The supporting information states that there will be 1.2 metre high fences along the front boundary incorporating two vehicle gates although no details of the appearance were submitted on the plans or elevations. There are a large number of internal alterations, mainly the removal and re-positioning of internal walls and a staircase.

1.2 The detached red brick building is set back from Huntington Road. The last use of the building was as a public house, which closed some time ago, and the building has been boarded up. The street is a main road into York and is predominately residential in character. There is a mixture of building styles in the immediate surrounding area ranging from large semi-detached Victorian villas to modest terraced dwellings built in the early and mid 20th century. Further along Huntington Road there have been recent flat developments. The site is adjacent to a convenience store. The site gained planning permission on 30 June 2009 for the erection of 1no. two storey building comprising 4no. flats after partial demolition of existing structure, and change of use from public house (A4) to 5no. self contained flats, with car parking and alterations to existing access (09/00525/FUL).

1.3 The proposed day nursery is intended to provide childcare facilities for children aged 0 - 5 years, and would create 9 full time jobs. It is intended that the nursery would be privately run and not within the control of the Living Word Church. The agent has verbally confirmed no nursery business has agreed to use this building yet. There would be a separate entrance to the nursery and the meeting hall. The

rear garden area would be for the use of the nursery as an outdoor play area. The income gained from leasing this part of the building would be used for the general upkeep of the building.

1.4 The Living Word Church currently consists of 40 members (12 families). The main hall would be used for worship and prayer meetings on Sundays. On weekdays it is intended that the hall could be used as a meeting room/conference facilities for up to 40 people and on an evening it would be available for use by local clubs and community groups. No details have been given of how often it is expected that these facilities would be used for this purpose.

1.5 The offices associated with the church use would be used for the management of church activities but also provide counselling services such as marriage guidance and debt counselling. This is intended to create 2 full time jobs.

1.6 The second floor flat would be used by the building caretaker, and the first floor two bedroomed flat would be used by students within the church attending local higher education institutions, and the cost would be subsidised.

1.7 The basement is intended to be developed as a Youth Club and will be used by the Church and the local community. The supporting information sets out that the Church Youth Workers would provide a range of activities from this facility and would actively encourage the participation of young people from the area.

1.8 The application comes before committee at the request of Cllr Funnell on the grounds that the benefit to the community of developing the building in the way proposed outweighs the concerns raised by the Highways Network Management. As there have been objections to the application a site visit is also merited.

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

Floodzone 2 GMS Constraints: Flood zone 2

Floodzone 3 GMS Constraints: Flood zone 3

2.2 Policies:

CYGP1
Design

CYGP4A
Sustainability

CYGP15

Protection from flooding

CYNE7

Habitat protection and creation

CYE3B

Existing and Proposed Employment Sites

CYE4

Employment devt on unallocated land

CYL1B

Loss of local leisure facilities

CYC1

Criteria for community facilities

CYC7

Criteria for children's nurseries

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT - Object - recommend refusal

3.1 - Insufficient level of car parking proposed for the development and the associated impact that this will have on the adjacent highway.

3.2 - The issues seem to be caused due to the overdevelopment in terms of the mix and type of uses proposed (The cumulative impact of the uses on the site are too intense).

3.3 - The site is located on Huntington Road, which is a C classified highway. Huntington Road is a main arterial route into the city centre and is served by a number of frequent bus services with bus stops located in close proximity to the site.

3.4 - Access to remain as existing.

3.5 - Using CYC Annex E parking standards the uses lead to a cumulative total requirement at these peak periods of use of the site of 23 car spaces in accordance with the aforementioned standards.

3.6 - Furthermore there are concerns over whether the level of parking stated and proposed on the enclosed plans is viable/achievable. The car spaces scale at 2.2/2.3m wide, which is below the minimum requirement standard of 2.4m. The distance from the rear of spaces 8-10 is 5.5m, which is below the minimum requirement of 6m. In reality this means that the car spaces will be very difficult to manoeuvre into/out of due to their substandard width and manoeuvring area. The

reduced size of the spaces will also not be compatible with the end user (parents lifting children out of vehicles will find the bay sizes very difficult to use).

3.7 - Car spaces 1-5 are in line with no provision for on site turning. Drivers will therefore be forced to reverse significant distances out into Huntington Road, at a point where there is high pedestrian activity and visibility is obscured by cars parked in the adjacent lay-by. Vehicles reversing this distance within the site will also be in conflict with pedestrians/cyclists accessing the site (particularly parents with young children attending the nursery).

3.8 - Vehicles waiting, parking and manoeuvring on Huntington Road due to the inadequate parking arrangements will interrupt the free flow of traffic particularly public transport and cause a safety hazard for highway users particularly vulnerable highway users such as pedestrians and cyclists.

3.9 - The safety implications from displaced car parking will be more acute as the area adjacent to the site is very busy with multiple private residential vehicle access points and the SPAR shop next door to the application site.

3.10 - The applicants have stated that the existing use of the site as a public house would have had the potential to also generate levels of on-street parking. Public houses in locations such as the site in question are generally a local facility and will not attract significant levels of custom by car.

COUNTRYSIDE OFFICER - No objection

3.11- A bat and otter survey was carried out on the site in May 2009 as part of the previous application. There was no evidence of bat roosts or otters.

3.12 - Would like a condition placed on a planning permission for biodiversity enhancement.

ENVIRONMENTAL PROTECTION UNIT - Have concerns

3.13 - Potential for noise nuisance from the operation of the children's day nursery and thus a loss of amenity to neighbouring residents. Those responsible for the regulation of day nurseries are strongly supportive of the principle that day nurseries should have access to external play space for "fresh air and energetic physical play". There is no statement within the application as to how much time will be spent outside by children as this is likely to be the most disturbing noisy activity. The type of noise produced by children during energetic play can be of a high pitch and more annoying than many other types of noise especially if it carries on for a large part of the day. It is recommended that a Noise Management Scheme should be required by condition to prevent noise from the operation of the children's day nursery and the youth club affecting the amenity of neighbouring residents.

LIFELONG LEARNING AND LEISURE - No objection

3.14 As there is no on site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used to improve a local site

such as River Foss banks (b) play space - which would be used to improve a local site such as Aran Place (if more than 1 bed) (c) sports pitches - would be used to improve a facility within the North Zone of the Sport and Active Leisure Strategy.

CITY DEVELOPMENT - No objections

3.15 - Policy L1b - The principle of the loss of the leisure facility was established in a previous planning permission in - 09/00525/FUL, there is an alternative public house (Yearsley Grove) nearby.

3.16 - Policy H9 (Loss of Dwellings or Housing Land) is intended to protect existing dwellings, residential allocations or land with residential planning permission. However, given that the previous permission was only for 9 dwellings (without an affordable element) and the general need for community facilities, on balance, an objection would not be raised in this particular instance.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

HEWORTH PLANNING PANEL - Support the application

2 LETTERS OF OBJECTION

3.17 - Concerned regarding the generation of additional road traffic and more specifically the issue of parking.

3.18 - Provide 9 full time jobs with nursery for 20 children plus 2 flats. IN addition the services would be for 40 members. 10 parking spaces is inadequate and lead to the parking in the surrounding area.

3.19 - The Green Travel Plan advocates the use of alternatives to the car, however it is likely that a significant percentage of he site users would use their own motor vehicles.

3.20 - There are significant parking issues in the area existing causing obstruction to lines of sight from driveways and the pedestrian crossing.

3.21 - Inevitable abuse of the footpath for vehicle parking impact on safety.

3.22 - The Spar shop, with extended opening hours, already generates additional traffic, which requires parking space. The area has also seen recent development such as Birch Park, Mallard Landings, Waterside Gardens and the ambulance service station all of which have increased vehicle numbers along Huntington Road. This has been detrimental to the quality of life of local residents.

3.23 - Object to the use of the building for worship

1 LETTER OF COMMENTS

3.24 - Support in principle this or any other proposal, which will improve this currently dilapidated site.

3.25 - However the concerns expressed in the Highways consultation, as well as the Environmental Protection Unit's recommendation of a noise management scheme, are noted.

3.26 - With regard to the issue raised by the Environmental Protection Unit concerning potential noise from youth club activities, it is also important to give consideration to whether there could be any possibility of associated nuisance resulting from young people who are not directly involved in the proposed club's activities being attracted to the exterior of the site and neighbouring areas, even though they may not be under the jurisdiction of the club's organisers and staff.

3.27 Agent submitted a petition with 13 names in support of the application

1 LETTER OF SUPPORT FROM PUNCH TAVERNS

3.28 - The pub saw a significant downturn in trade from September 2005, run at a loss by a succession of short term tenants. The pub had a limited patron base and was not a family orientated nor family friendly pub. It had a very poor reputation in the wider area and over the previous 3 years there was a series of drug, violence (inside and outside the pub) and Licensing issues which became so apparent in mid 2008 that the police closed the pub for a short period and threatened removal of the licence.

3.29 - The property is poorly located and has limited scope for change to adapt to more contemporary drinking and entertainment aspirations of the wider clientele needed to survive as a viable public house operation.

3.30 - As a result of the above, poor trading conditions, local demographics and a shift in the pub market The Fossway closed on 4th January 2009 and Punch has no plans for its reopening. Since then it has been boarded up and made secure.

POLICE ARCHITECTURAL LIAISON OFFICER - No objections

ENVIRONMENT AGENCY - No objections

3.31 - Development s acceptable if in accordance with submitted FRA

4.0 APPRAISAL

RELEVANT SITE HISTORY

09/00525/FUL - Erection of 1no two storey building comprising 4no. flats after partial demolition of existing structure, and change of use from public house (A4) to 5no. self contained flats, with car parking and alterations to existing access - Approved

KEY ISSUES

1. Principle of the development and use
2. Impact on highway safety
3. Residential amenity

ASSESSMENT

PLANNING POLICY

3.1 Policy GP1 'Design' of the City of York Council Development Control Local Plan (2005) 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.

3.2 Policy GP4a 'Sustainability' states that proposals for all development should have regard to the principles of sustainable development.

3.3 Policy E4 'Employment development on Unallocated Land' states that within defined settlement limits, planning permission will be granted for employment use of a scale and design appropriate to the locality where: the site is vacant, derelict or underused or it involves infilling, extension, redevelopment or conversion of existing buildings.

3.4 Policy L1b 'Loss of Leisure Facilities' states that planning permission will only be granted for a change of use that would result in the loss of a leisure facility where it can be demonstrated that: a need for the leisure facility no longer exists; or appropriate alternative facilities exist within the catchment area.

3.5 Policy C1 'Community Facilities' states that a planning application for social, health, community and religious facilities will be granted permission providing 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.

3.6 Policy C7 'Children's Nurseries' states that permission will be granted for the development of, or the change of use to, a children's nursery providing: adequate internal and external play area is provided; and where development will not adversely affect the amenity of neighbouring properties or residential character of the area; and the proposed development is well served by footpaths, cycleways and public transport routes.

3.7 National advice contained within Planning Policy Guidance Note 13 (PPG13) states that sustainable means of travel should be encouraged. When thinking about new development, and in adapting existing development, the needs and safety of all in the community should be considered from the outset. Mixed-use developments can provide very significant benefits, in terms of promoting vitality and diversity and in promoting walking as a primary mode of travel. However, it should not be assumed that the juxtaposition of different uses would automatically lead to less car dependency.

3.8 The availability of car parking has a major influence on the means of transport people choose for their journeys. PPG13 suggests that levels of parking can be more significant than levels of public transport provision in determining means of travel even for locations very well served by public transport. The LPA should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances, which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls.

PRINCIPLE OF THE DEVELOPMENT

3.9 The principle of the redevelopment of the site has previously been accepted in application 09/00525/FUL. There are alternative facilities in the area, for example Yearsley Grove, and as such complies with policy L1b of the City of York Development Control Local Plan.

3.10 It is considered that the agent has demonstrated a need for the place of worship; at present the applicant is in rented accommodation and would like a permanent base, and 40 families regularly attend worship. However the agent has not submitted any information in relation to demonstrating that there is a recognised need for the other social and community aspects of the proposal and as such does not comply with Policy C1. However it is considered that the uses proposed would be a positive addition to the local community and as such it is considered unreasonable to recommend refusal on these grounds.

3.11 The proposal is considered to comply with Policy C7 as the proposed nursery is considered to provide adequate internal and external play areas, and the site is well served is well served by footpaths, cycleways and public transport routes. The Environmental Protection Unit have concerns regarding the noise disturbance to the occupants of the neighbouring dwelling from the nursery especially the outside play area. The outside play area would be to the rear of the building, the neighbouring properties are set further forward in the street than the Fossway and as such it is considered that the noise could be heard in the rear gardens of these properties. As the noise levels would be during the day it is not considered that the levels would cause undue disturbance. The proposed evening use and any subsequent noise disruption is not considered to cause further disruption than the previous use. The increase in the parking issues on the street and the subsequent impact on the character and appearance of the street will be discussed further on in the report.

3.12 The external alterations are very minor and are not considered to unduly impact on the residential amenity of the surrounding properties. There are proposed rooflights but these are not considered to cause overlooking by virtue of the distance to the neighbouring properties.

3.13 A letter of objection was received that raised concerns regarding the potential increase in anti-social behaviour the proposed development may bring, particularly the youth club use. The objector was concern that the present anti-social behaviour in this particular area may be exacerbated. From the supporting information it is stated that the Youth Club would be managed by Youth Workers and as such would

have responsibility for the management of issues caused by attendees of the Youth Club. The intention is that the youth club would be on a Wednesday and Friday from 19.00 hours to 21.30 hours. Two of the flats on the site would be occupied and as such would have surveillance of the area to the front. The closing of the gate at a certain time could be conditioned if it was thought prudent. It is not considered that the uses of the site would add further to the anti-social behaviour issues in the area. The Police Architectural Liaison Officer did not raise any objections to the proposed scheme. The overall hours of use (except the flats) can be conditioned to prevent late night noise disturbance etc. It is not considered that the conditioning of the hours of each individual use would be possible/reasonable, although the hours for the building as a whole could be conditioned, and therefore prevent potential unreasonable disturbance to the occupants of the neighbouring dwellings.

IMPACT ON HIGHWAY SAFETY

3.14 The proposed uses include two flats, a nursery (for approx 20 children), the main hall (for church use, conference/meeting use, and use by community groups on an evening) approx 40 people, offices for ancillary church use and counselling use, and a youth club.

3.15 The site by virtue of the number of proposed uses would be more intensely used than the previous use. The use of the site for these uses is considered to be acceptable, however the number and scale of the uses causes some concern and the subsequent impact this may have.

3.16 During the day there would be 4 uses on the site: a children's nursery (20 place approx), 2 flats, community hall to be rented out to local groups/businesses as a conference facility (40 people approx), small office use providing marital/financial support and advice. Other uses taking place on the site would occur at weekends or evenings (church and youth club etc) when many other uses of the building would not be occurring. Highways Network Management using CYC Annex E parking standards state that the proposed uses lead to a cumulative total requirement (at these peak periods of use of the site) of 23 off-street car spaces. The application proposed 10 parking space and 12 cycle parking spaces.

3.17 The site is in a sustainable location: it is on a regular bus route into the city centre, and is well served by pedestrian routes and cycleways. The site is within a large residential housing estate. However the nature of nurseries is such that most children are taken by car, and as such are a high traffic generator particularly at peak times in the morning and the evening and the nature of the use is such that people will often drop off and pick up at the approximately the same times of day. In addition, whilst it can be expected that delegates attending the conference facilities would travel to the site by public transport, it is anticipated that a number would travel by private car. The agent was unable to supply further information regarding the conference facilities e.g. how often they would be used etc.

3.18 Whilst it is accepted that the CYC Annex E standards are represented as a maximum provision, in line with local and national transportation and planning policies, it is considered that the shortfall in the level of provided car parking and that

likely to be generated by the development will lead to a detrimental impact on the adjacent highway.

3.19 Furthermore there are concerns over whether the level of parking stated and proposed on the enclosed plans is viable/achievable. The car spaces scale at 2.2/2.3m wide, (despite the agent's statement that they are larger) which is below the minimum requirement standard of 2.4m. The distance from the rear of spaces 8-10 is 5.5m, which is below the minimum requirement of 6m. In reality this means that the car spaces will be very difficult to manoeuvre into/out of due to their substandard width and manoeuvring area. The reduced size of the spaces will also not be compatible with the end user (parents lifting children out of vehicles will find the small bay sizes difficult to use). The reduced size of the spaces will result in the parking area not being used efficiently as vehicles are more likely to overhang adjacent bays which will reduce the number of vehicles parked in them and hence the level of parking available on site.

3.20 Car spaces 1-5 are in a line, with no provision for on site turning. Drivers will therefore be forced to reverse significant distances out into Huntington Road, at a point where there is high pedestrian activity, and cars parked in the adjacent lay-by obscure visibility. Vehicles reversing this distance within the site will also be in conflict with pedestrians/cyclists accessing the site (particularly parents with young children attending the nursery). The design and layout of the site is also therefore detrimental to the safety of highway users.

3.21 It may well be that the site does not offer the number of on-site parking spaces shown. In addition to the potential users of the site the proposed uses would provide 12 full time jobs: during the day/peak period (9 places in the nursery, 2 places in regards of the counselling, and presumably 1 for the pastor/vicar), this does not take into the account any part time employees or the people living in the flats. Although some may use the cycle parking spaces, parking spaces may be occupied by staff, further limiting the number of parking spaces. The supporting information states that each of the 12 families that attend the church would travel by car; on this basis there would not be sufficient parking spaces and the membership of the church may increase over time.

3.22 There is an under supply of cycle parking: 12 are shown on the plans and Highways Network Management considered there should be at least 15. It is, however, considered that the additional cycle parking spaces could be provided by condition.

3.23 Highways (Network Management) do not consider that the issue can be overcome by the introduction of a traffic order prohibiting parking on the highway. The traffic order cannot be authorised by the planning process; such orders are subject to separate legislation, as such they may not be confirmed, in this particular situation the current level of highway parking is considered to be at a tolerable level, and does not give rise to undue concerns of safety/amenity. Enforcement of TRO's would be very difficult to achieve; limited waiting restrictions such as double yellow lines may only be enforced when no activity has been observed at a vehicle for 10 minutes therefore abuse of restrictions may not be able to be managed effectively, particularly for drop offs/pick ups, making them of limited worth.

3.24 Vehicles waiting, parking and manoeuvring on Huntington Road due to the inadequate parking arrangements will interrupt the free flow of traffic particularly public transport and cause a safety hazard for highway users particularly vulnerable highway users such as pedestrians and cyclists. The safety implications from displaced car parking will be more acute as the area adjacent to the site is very busy with multiple private residential vehicle access points, and the Spar shop next door to the application site. A lay-by serves parking for the Spar unit immediately adjacent to the application sites entrance. The lay-by is frequently full from customers using the shop and the facilities it offers including ATM/post office and post box. Displaced car parking associated with the development site will therefore increase the total demand for parking in the area and if approved, utilising the lay-by for extended periods of time (e.g. hall use) would lead to a spreading of Spar/ATM/Post Box parking further along the adjacent highway and potentially adjacent to the zebra crossing serving the Spar.

3.25 The agent submitted further information stating that there is sufficient on-street parking available on Huntington Road and surrounding streets. The street does not appear to have any widespread parking restrictions. Given the uses of the proposed building especially the nursery it is likely that users of the site will park as near to the site as possible. The applicants have stated that the existing use of the site as a public house would have had the potential to also generate levels of on-street parking. Public houses in locations such as the site in question are generally a local facility and do not attract significant levels of custom by car. Whilst it is accepted that functions such as wedding receptions can take place these are generally very infrequent and occur on weekends or periods when traffic on the adjacent highway network is lighter. The impact of on-street parking resulting from these functions would therefore not be as problematical.

3.26 The proposed uses of the site would intensify the use of the site and have a significantly greater impact than the previous use. There would be large number of people using the site during the day and evening. Some of the proposed uses will be of benefit and would be positive additions to the local community and it is considered that some of these uses are acceptable on the site. However the scale and number of uses at any one time would lead to the traffic and parking issues and as such it is considered to outweigh the community benefits of the proposal and as such would be contrary to Policy E4, GP1, and advice contained within PPG13. A reduction in the number of proposed uses on the site may result in the proposals being acceptable

5.0 CONCLUSION

5.1 The proposal would intensify the use of the site and have a significantly greater impact than the previous use. There would be large number of people using the site during the day and evening. Some of the proposed uses will be of benefit and would be positive additions to the local community and it is considered that some of these uses are acceptable on the site.

5.2 However the scale and number of uses at any one time would lead to an additional demand for parking that can not be accommodated within the off street

parking area or within the public highway, without unacceptable compromises being made both in terms of road safety and traffic congestion. As such refusal is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The Local Planning Authority considers that the proposed number and intensity of uses on the site would result in an increased demand for on-street parking. The present demand for the available on street parking in the vicinity of the site is high. It is not considered that the additional demand for parking that would be likely to be generated by the proposal can be satisfactorily accommodated within the public highway, without unacceptable compromises being made both in terms of highway safety and traffic congestion.

7.0 INFORMATIVES:

Contact details:

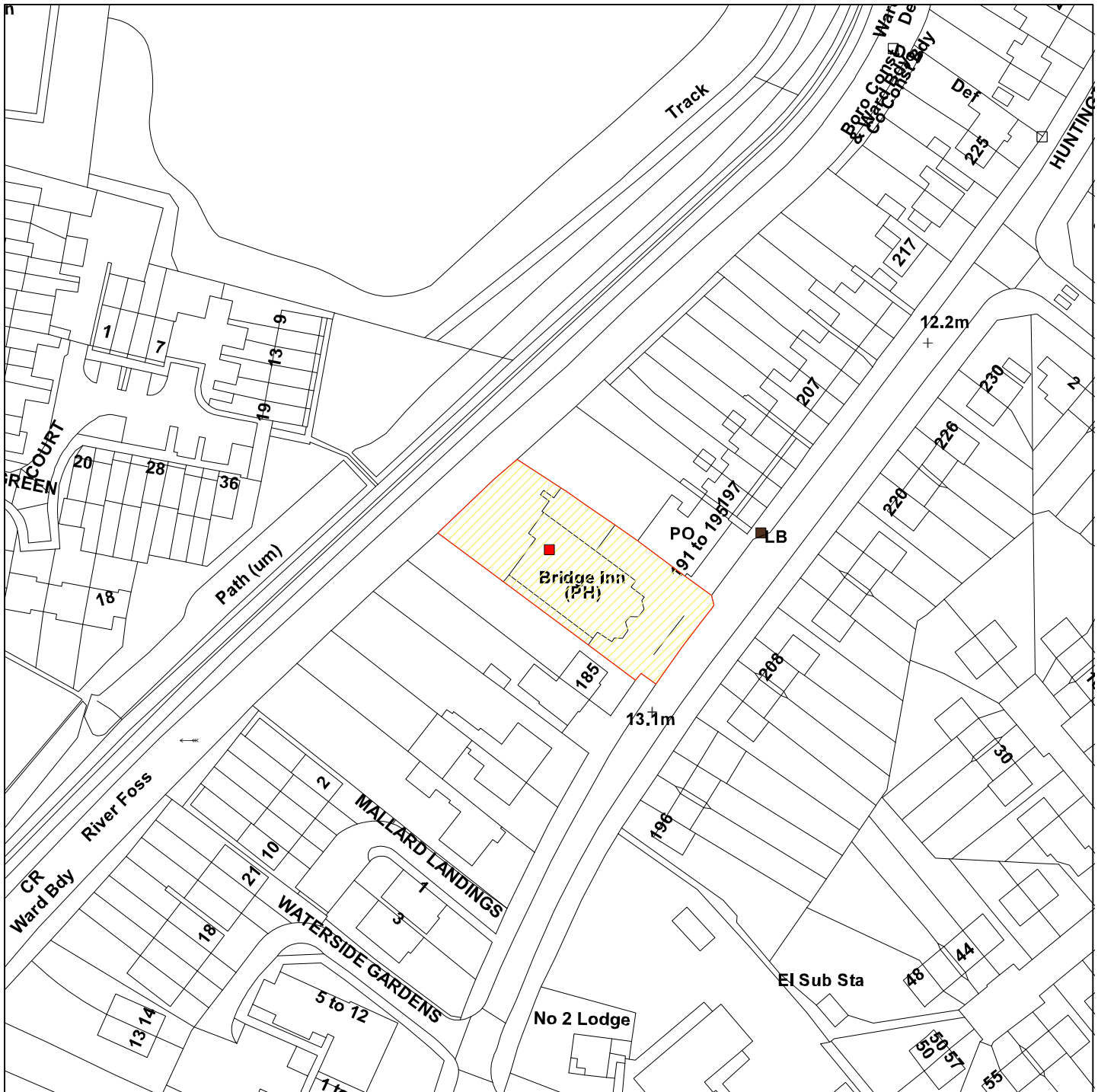
Author: Victoria Bell Development Management Officer
Tel No: 01904 551347

The Fossway, 187-189 Huntington Road

10/01435/FUL



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	City of York Council
Department	Planning & Sustainable Development
Comments	Application site
Date	29 October 2010
SLA Number	Not set

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 10/01871/FUL
Application at: 62 Brockfield Park Drive Huntington York YO31 9ER
For: Change of use from retail (use class A1) to hot food takeaway (use class A5) and provision of external extract flue
By: Mr Imam Harman
Application Type: Full Application
Target Date: 1 November 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks planning permission for a change of use from a shop (Class A1) to a hot food takeaway (Class A5). The application site is 62 Brockfield Park Drive, which is a single storey retail unit set within a small parade of shops in Huntington.

1.2 The shop is currently vacant. The site has been subject to a number of change of use applications in the past, the two most relevant to this application are:

- change of use from retail to hot food takeaway (97/01122/FUL) – refused as the proposal was considered to potentially result in a loss of residential amenity due to the smell, litter, noise and traffic activity.
- change of use from retail to hot food takeaway (3/66/1048/FA) – refused due to impact on neighbouring amenity.

1.3 This application has been referred to the East Area Planning Sub Committee due to the high level of local interest in the proposal. A site visit is recommended in order that Members can fully understand the context of the site and the concerns of local residents.

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

2.2 Policies:

CYS6
Control of food and drink (A3) uses

3.0 CONSULTATIONS

INTERNAL

3.1 Highway Network Management - No objections.

3.2 Environmental Protection Unit - Assessing new information at the time of writing the report, an update is to be given at committee.

EXTERNAL

3.3 Huntington Parish Council - No objection.

3.4 North Yorkshire Police - Crime and anti-social behaviour incidents in the surrounding area are low. Hot food takeaways can attract gatherings of people particularly at night, therefore it is important that such uses are controlled to protect neighbouring amenity. Previous objections to hot food takeaways on crime and disorder grounds, both locally and nationally, have generally been overruled by the Planning Inspectorate. There is difficulty in providing hard and fast evidence that would withstand scrutiny at a planning enquiry. Taking the analysis of the area into account, there is no evidence to justify an objection to this planning application on crime and disorder grounds.

3.5 Local Residents - A petition signed by 94 local residents who object to the proposal was submitted. In addition 29 letters of objection were received, the following points were raised:

- there is already enough traffic in the area, the proposal would bring more;
- there is already a litter problem in the area, the proposal would increase this;
- there is already a late night shopping facility in the area which is used as a gathering place which gives concern to local residents;
- the hot food takeaway would produce smells which would be harmful to neighbouring amenity;
- there are already similar premises in the area, this one should be rejected;
- local youths already gather in the area which can be intimidating;
- staff would not leave the premises at 10pm which would lead to noise in the area;
- the hot food takeaway would lower the value of houses in the area;
- there has already been two applications refused at this site for hot food takeaways;
- no other shop in this area has illuminated signage and the applicants want a backlit sign, this is out of keeping with the area and would be an eyesore;
- the applicants claim that most food will be delivered, if that is the case why is there a need for illuminated signage to attract people to the shop;
- the Spar shop closes at 10pm and all activity then stops, this would not be the case with a hot food takeaway;
- any breeze would blow odours from the premises into neighbouring properties;
- people visiting the premises are likely to be youths in cars with loud exhausts and music which would be harmful to neighbouring living conditions;
- there has already been a problem in the area with the sewer becoming blocked with fat and creating bad smells, the proposal would only increase this problem;
- there is already crime and anti-social behaviour around the shops, a hot food takeaway will bring more to the area;

- parking in front of the shops is inadequate;
 - discarded food would attract vermin;
 - the opening hours seven days a week are excessive;
 - the proposal is contrary to local plan policy S6 as it would increase litter, noise, and food odours;
 - the level of public consultation was not extensive enough;
 - the proposal, if approved, may set a precedent for other similar developments in the other shops on this parade.
- to

4.0 APPRAISAL

4.1 KEY ISSUES:

- impact on the amenities of local residents;
- traffic and car parking; and
- crime and anti-social behaviour.

4.2 The most relevant Development Control Local Plan Policy is S6 which controls food and drink uses. The five criteria which should be used to assess a hot food takeaway application based on this policy are:

- impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter; and
- the opening hours are to be restricted where this is necessary to protect the amenity of surrounding occupiers; and
- car and cycle parking meets local standards; and
- acceptable external flues and means of extraction have been proposed; and
- security where the consumption of alcohol is involved have been addressed.

IMPACT ON THE AMENITIES OF LOCAL RESIDENTS

4.3 Noise - The application site is located at one end of a parade of shops which consist of a Spar retail unit, a butchers, and a hairdressers. The shop unit is vacant at the present time. Hot food takeaways have the potential to impact on neighbouring amenity, particularly if they remain open late into the evening. There are a variety of opening hours within the existing retail units along this parade, the longest hours being Spar which is understood to be open from 0630 - 2200 hours Mondays to Saturdays, and 0700 - 2200 hours on Sundays. It is proposed that the hot food takeaway would be open from 1200 midday - 2200 hours, therefore there would be no increase in opening hours within this parade of shops.

4.4 There are concerns from local residents about potential noise and disturbance from a hot food takeaway in this location. Whilst having an additional evening use in the area would increase activity at this time, it is not considered that this would necessarily be unduly harmful to neighbouring amenity. The hot food takeaway would not operate later than the Spar shop, and a condition could be included on any approval to ensure that the proposed hours of operation are adhered to and that the takeaway is closed during times, which are most noise sensitive i.e. when people are generally asleep. National planning advice contained within Planning Policy Guidance Note 24 "Planning and Noise" seeks to protect residential amenity by

controlling noise sensitive activities. Paragraph 12 of PPG24 defines the particularly sensitive parts of the day as between 2300 and 0700 hours. No activity is proposed to take place at this site during those hours and an additional condition to control deliveries outside the proposed opening hours could be included if planning permission is granted.

4.5 The applicant has employed a consultant who specialises in extraction systems. The report concluded that it was technically feasible for an extraction system to be installed, which would not harm neighbouring amenity through noise. A condition is recommended to ensure that a suitable extraction system is approved and installed prior to the first operation of the hot food takeaway. Unlike a number of hot food takeaways in the city, there are no residential units above or adjoining the premise. The nearest residential unit is approximately 9 metres from the proposed hot food takeaway, with an access drive and a garage located between the house and the proposed hot food takeaway. This dwelling would be classified as the most sensitive residential unit when assessing the proposed extraction system and it would have to be demonstrated that the proposed extraction system would protect the amenities of occupiers of this property before the condition could be discharged.

4.6 Odour - A number of letters of objection were concerned with odours and smells emanating from a hot food takeaway in the area. The consultant's report referred to above stated that whilst there are some difficulties in adequately dispersing smells because the premise is single storey only, that there are systems, which could be installed which would protect neighbouring properties from odours.

4.7 Litter - One of the reasons for refusing a previous application(ref: 99/01122/FUL) was the potential for litter generation. It is considered, however, that the majority of customers are likely to take food home or have food delivered. There is no sitting area provided within or outside the proposed hot food takeaway and therefore there is no incentive to consume the food within the area immediately surrounding the unit. However, a litter bin is provided outside the parade of shops should a customer wish to consume food in the area.

TRAFFIC AND CAR PARKING

4.8 The parade of shops along Brockfield Park Drive benefit from a number of echelon car parking spaces to the front. Visitors to any of the retail premises can use these spaces. It is estimated that around ten cars could park in this area at any time. Hot food takeaways tend to be busiest in the evening when the other retail units, other than Spar, will have closed. It is considered that there are adequate car parking spaces for visitors and delivery vehicles.

4.9 Brockfield Park Drive is a busy road for traffic as it provides access to a large number of residential units as well as being used as an access road to the surrounding area. It is not considered that the proposed hot food takeaway would have a significant impact on the level of traffic in the area or its free flow. Highways (Network Management) raise no objections to the application.

CRIME AND ANTI-SOCIAL BEHAVIOUR

4.10 An additional evening use within the parade of shops has the potential to increase the number of people visiting the area. However, this does not necessarily mean that there will be an increase in crime and anti-social behaviour. The Police Architectural Liaison Officer has concluded that there is no evidence to justify an objection to this planning application on crime and disorder grounds. A number of appeal decisions for similar proposals have been allowed as it is rarely possible to demonstrate that a hot food takeaway would bring more crime and anti-social behaviour to an area. Alcohol is not to be sold or consumed on the premise. Opening hours would be no later than an existing retail unit in the area, which already attracts people into the area in the evening. The proposal would be the only hot food takeaway within the immediate area and therefore the proposal would not result in an over-concentration of such uses.

4.11 Local residents have raised a number of concerns to the proposed hot food takeaway. The area is residential in character and does not suffer from high levels of crime or anti-social behaviour or high levels of evening activity. However it is considered that the concerns can be addressed through appropriate conditions, which will ensure that the amenity that local residents could reasonably expect to enjoy is adequately protected. Concerns regarding the devaluation of property are either not material planning considerations or are not relevant to the determination of this application.

5.0 CONCLUSION

5.1 Subject to conditions, it is considered that the impact of the proposal on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter would be acceptable, and as such the proposal complies with Draft Local Plan Policy S6. Hours of operation can be controlled by condition and would not exceed those of the adjacent Spar convenience store. Sufficient car parking is available to meet the operational needs of the proposed use and it is feasible to install an extraction system, which would satisfactorily remove odours without harming neighbouring amenity through noise.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

To be inserted

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 use hereby permitted shall only operate between the hours of 1600 hours

and 2300 hours on any day. All plant and machinery shall have been switched off and all customers shall have vacated the premises by this time.

Reason: To protect the amenity of local residents.

4 The development shall not be brought into use until a scheme detailing the facilities for the treatment and extraction of fumes have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the external appearance and specification of the extraction plant or machinery or any filtration system required. The approved scheme shall be implemented before the development is brought into use and shall be retained and maintained as such thereafter.

Reason: To protect the amenity of local residents.

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 amenities of local residents as a result of traffic, noise, smell or litter,
- traffic generation and car parking, and
- crime and anti-social behaviour.

As such the proposal complies with Policy S6 of the City of York Development Control Local Plan.

Contact details:

Author: Michael Jones Development Management Officer
Tel No: 01904 551339

Amended Conditions from Report

1 TIME2 Development start within three years

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

Proposed elevations 1873/PO2 and Proposed Block Plan 1873/PS01 received by The CoYC on 31/08/10

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 use hereby permitted shall only operate between 1200 hours and 2200 hours on any day. All plant and machinery shall have been switched off and all customers shall have vacated the premises by this time.

Reason: To protect the amenity of local residents from noise and disturbance.

4 The development shall not be brought into use until a scheme detailing the facilities for the treatment and extraction of fumes shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the extraction plant or machinery or any filtration system required. The approved scheme shall be implemented before the development is brought into use and shall be retained and maintained as such thereafter.

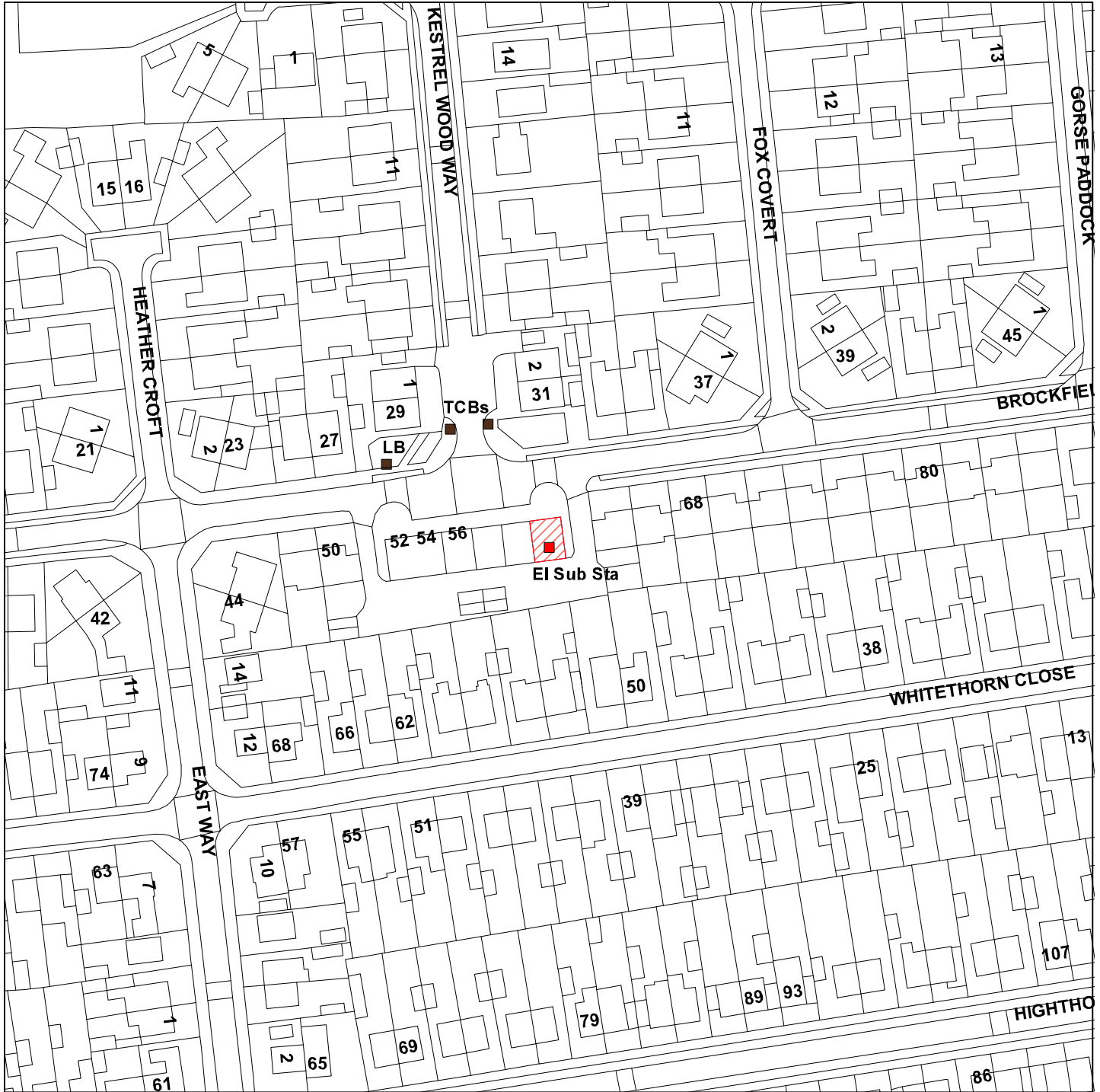
Reason: To protect the amenity of local residents from noise and odour

62 Brockfield Park Drive, Huntington

10/01871/FUL



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	City of York Council
Department	Planning & Sustainable Development
Comments	Application site
Date	29 October 2010
SLA Number	Not set

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Heworth
Team: Major and Commercial **Parish:** Heworth Planning Panel
Team

Reference: 10/02061/FUL
Application at: Store Rear Of 69 Fourth Avenue York YO31 0UA
For: Change of use of garage conversion and part store demolition to create self-contained living accommodation with single storey extension.
By: Mr Gordon Harrison
Application Type: Full Application
Target Date: 19 November 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 Following the refusal of the previous planning application to erect 2 dwellings in March 2010 (planning ref. no.: 10/00006/FUL) this is a revised planning application to convert an existing outbuilding to one self-contained residential unit. The proposals would also involve the erection of a single storey extension and the demolition of the existing flat roof garage to create an enclosed patio area.

1.2 The existing building, which is in a poor state of repair, is now disused but has previously been used for storage with a first floor office. The building consists of a single storey flat roofed garage linked to a two-storey store with a pitched slate roof and brick and render walls. The site is accessed via an alleyway, which also serves the other shop units along the Fourth Avenue frontage and the rear of properties on Fourth and Ninth Avenue and Melrosegate.

1.3 69/71/ 73 Fourth Avenue are shops at ground floor level. The upper floors of the buildings have been extended and converted into 15 flats, which the current owner of the site lets out.

RELEVANT PLANNING HISTORY

1.4 The following applications are considered to be relevant to the current proposals:

-
- 06/00637/FUL: Planning permission was refused in May 2006 for the erection of 2 one bedroomed semi-detached dwellings. The reasons for refusal related to the proximity of the proposed dwellings to 65,67,69,71, and 73 Fourth Avenue and the location of the development within a back alley, close to the rear of 69 Fourth Avenue and without any external amenity space being detrimental to the living conditions of future occupiers of the site.
- 09/01791/FUL: A similar proposal was submitted in October 2009 and was subsequently withdrawn.

-10/0006/FUL: Another similar proposal was submitted. Members refused it in March 2010 on the grounds that it would result in unacceptable loss of daylight and dominance to the detriment of the occupiers of the existing dwelling units by virtue of its massing, siting and proximity to these units. It was also considered that the proposal would have a detrimental effect on the living conditions of future occupiers of the site due to the comings and goings within the service yard area and the location of the site on the front of the service road, which also serves the rear of shops and properties within the area.

- In addition there have been a number of applications related to the alteration and extension of the flats within 69 Fourth Avenue.

1.5 The application has been called in for a Committee decision by Cllr Potter to consider the impact of the development on future residents, neighbouring properties and the access arrangements.

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

Schools GMS Constraints: Tang Hall Primary 0232

2.2 Policies:

CYH4A
Housing Windfalls

CYGP1
Design

CYGP3
Planning against crime

CYGP4A
Sustainability

CYGP9
Landscaping

CYGP10
Subdivision of gardens and infill devt

CYL1C
Provision of New Open Space in Development

CYNE1

Trees, woodlands, hedgerows

3.0 CONSULTATIONS

INTERNAL

3.1 Highways Network Management – response received on 14 October 2010: No objections.

3.2 Environmental Protection Unit – Response received on 27 October 2010:

- a contamination assessment should be submitted with the planning application if the proposed development includes a vulnerable end use (e.g. residential development).

- this is required under Annex 2 of Planning Policy Statement 23 (PPS23), which states that “sufficient information should be required to determine the existence or otherwise of contamination, its nature and the risks it may pose and whether these can be satisfactorily reduced to an acceptable level”.

Other environmental concerns including noise, smell, litters and other statutory nuisances have been considered. These are not considered by the Environmental Protection team to be concerns, which warrant an objection.

3.3 Lifelong Learning and Culture – Response received on 14 October 2010:

- as there is no on site open space commuted sums should be paid to the Council for amenity space, play space and sport pitches.

3.4 Drainage Consultancy - Response received on 29 October 2010:

- the team objects as insufficient information has been provided by the developer to determine the potential impact the proposals may have on the existing drainage system.

EXTERNAL

3.4 Heworth Planning Panel – No response received to date.

3.5 Neighbours notified and site notice posted. 1 letter of objection received expressing the following concerns:

- the site plan is not to scale and incorrect;
- there is no garage at 39 Seventh Avenue;
- the proposal would result in the loss of amenity to 63 and 65 Fourth Avenue and 39 Seventh Avenue as those properties would be overlooked;
- the service yard is insufficiently wide to allow safe turning for the proposed garage;
- there is no pavement on either side of the service yard. Thus the proposal would pose a safety hazard for pedestrians.

4.0 APPRAISAL

4.1 The main issues are whether the revised scheme proposed would have a detrimental effect upon the visual amenity of the locality, in particular whether it would compromise the amenity of the nearby residents and the living conditions of the future occupants. Whether it would create conditions prejudicial to highway safety would also be considered.

POLICY BACKGROUND

National Planning Policy Statements:

4.2 This is a revised planning application to convert an existing outbuilding to one 1-bedroomed dwelling, whereas the previous application was for the erection of two 1-bedroomed dwellings.

4.3 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.

4.4 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.

Local Planning Policies:

4.5 Policy SP6 of the Draft Local Plan, 'locational strategy', requires development to be concentrated on brownfield land within the built up urban area of the city and urban extensions

4.6 Policy H4a of the Draft Local Plan 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. The policy 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 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 H5a requires the scale and design of proposed residential developments to be compatible with the surrounding area and not to harm local amenity.

4.7 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 GP3 'Planning Against Crime' requires new development where deemed appropriate to incorporate crime prevention measures
- 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.
- 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.

PRINCIPLE OF RESIDENTIAL DEVELOPMENT ON THE SITE

4.8 The principle of residential development in this location has been established following the determination of the previous application. Whilst the residential scheme would be fronting a service road with a service yard adjacent it was considered by officers that “the principle of new residential development on the site conforms with

local and national policies". The previous residential scheme was refused, but on grounds not relating to the principle of residential development on this site.

4.9 Since the previous decision (in March 2010) a number of changes had been introduced by the new Coalition Government, one of which was the power for local planning authorities to control development within private residential gardens by amending Planning Policy Statement 3 (PPS3): "Housing". These changes include:

i. the exclusion of private residential gardens from the definition of previously developed land; and

ii. deleting paragraph 47, which set out the national indicative minimum density of 30 dwellings per hectare from PPS3 (see CLG letter to Chief Planning Officers in England dated 15 June 2010).

4.10 The proposed development relates to an area of land currently occupied by a derelict outbuilding as opposed to a private residential garden/amenity area. Thus whilst the latest changes introduced by the Coalition Government have been taken into consideration it is not considered that these amendments would materially affect the outcome of this planning application.

LOSS OF DAYLIGHT AND DOMINANCE:

4.11 Concerns have previously been expressed regarding the massing, siting and proximity of the two residential dwellings proposed at that time in relation to the nearby properties, in particular the existing flats within 69/71/73 Fourth Avenue.

4.12 To overcome this concern the current submission proposed to utilise the existing structure so that the overall scale, massing and distances from the neighbouring properties would remain virtually unchanged compared to the current arrangements. As the result its level of impact would not be materially greater than the impact already experienced by the nearby residents insofar as dominance and loss of daylight are concerned. For this reason it is considered that the overall scale, massing and relationship with the nearby residential properties is acceptable.

LIVING CONDITIONS OF FUTURE OCCUPIERS:

4.13 Currently there are in total 15 flats on the upper floors of 69, 71 & 73 Fourth Avenue, all of which are owned by the applicant (with shops at ground floor level). Notwithstanding the intensive nature of this development, it is considered that the 1-bed unit proposed would have sufficient living space, entirely enclosed by elevations and boundary walls, and would have adequate amenity space for a 1 bed unit. There would also be satisfactory provision for cycle and bin storage. Unlike the previous refused scheme this would be achieved without compromising the area of amenity and service spaces available for the existing 15 flats facing Fourth Avenue. Given the above it is considered that this latest submission has addressed the concerns previously raised regarding the "comings and goings (of existing residents) within the service yard" and how that would adversely affect the living conditions of future occupiers.

4.14 Concern was also expressed previously that the comings and goings within the service yard area combined with the location of the site adjacent to the service road, which also serves the rear of shops and other properties within the area, would be detrimental to the living conditions of future occupiers. However, the revised scheme has been designed to be predominantly inward facing towards an enclosed patio, away from the service road. Thus there would be no principal windows facing onto the service road, and only a single, secondary living room window facing the adjacent yard area. Given the nature of the accommodation proposed, it is considered that the standard of amenity and living conditions for future occupiers.

4.15 The enclosed nature of the scheme has meant that future occupants would not be affected by overlooking from the parade of shops facing Fourth Avenue.

LOSS OF PRIVACY

4.17 The first floor window opening in the north elevation would be blocked as part of the scheme to convert the outbuilding. Whilst the first floor window in the west elevation of the outbuilding would remain it would not be directly facing the habitable windows in the rear elevations of 63, 65 and 67 Fourth Avenue and 39 Seventh Avenue. The existing flats within 69, 71 and 73 Fourth Avenue would not be overlooked by the proposals.

HIGHWAY CONSIDERATIONS:

4.18 No objections have been raised by Highway Network Management team. Issues concerning the width of the service road have been considered. Nevertheless it is noted that the service road is an adopted public highway with a minimum width of approximately 4.2m. This width is considered by Highway Network Management team to be adequate for any standard vehicle to pass a pedestrian/disabled person. Whilst there is no pavement on the either side of the service road it is not considered, having taken into account the low vehicle speeds and volume of traffic likely to be generated by the proposals that the lack of pavement would be prejudicial to the safety of pedestrians.

DESIGN, LAYOUT AND APPEARANCE

4.19 Due to the nature of the proposal (to convert the existing outbuilding) the visual impact the scheme would have on the immediate surroundings is unlikely to be materially different from that of the existing. The proposed single storey addition facing the service road is minor in nature and is acceptable in design terms. The proposed demolition of existing garage to create a patio area within the site's confinement is also considered to be acceptable.

4.20 Whilst concerns regarding overdevelopment of the site have been noted, the scheme concerned is essentially a conversion of an existing building. Thus the proposal would not materially alter the existing situation.

OTHER MATERIAL CONSIDERATIONS

4.21 OPEN SPACE CONTRIBUTION: No objections have been raised by Lifelong Learning and Culture. Nevertheless in accordance with policy L1c of the City of York Draft Local Plan and paragraphs 18 and 33 of PPG 17 "Planning for Open Space, Sport and Recreation" a financial contribution towards the provision of public open space is required.

4.22 ENVIRONMENTAL PROTECTION: Information required by Environmental Protection in respect of contamination has been requested. This will be updated at the planning committee. Other environmental concerns including noise, smell, litters and other statutory nuisances have been considered. Nevertheless these are not considered by the Environmental Protection team to be concerns, which warrant an objection.

4.23 SUSTAINABILITY: In accordance with GP4a and the standards set out in the City of York Interim Planning Statement on Sustainable Design and Construction applications for the reuse of existing buildings must demonstrate that at least 5% of the expected energy demand for the development will be provided for through on site renewable generation for heat and/or electricity. A condition requiring the above standards to be achieved has been recommended.

4.24 DRAINAGE: The development is in low risk flood zone 1 and should not suffer river flooding. Whilst no drainage details have been submitted in support of the application it is considered that a suitable drainage scheme could be achieved for the site and appropriate conditions could secure the information required.

5.0 CONCLUSION

By virtue of the above it is considered that the latest submission would, unlike the previously refused proposals have little detrimental effect upon the amenity of the nearby residents and the living conditions of the future occupants. It should be noted that the proposal relates to the conversion of the existing buildings to form a single residential unit, compared to the previous application for the erection of two dwellings. Due to an element of demolition, the actual footprint of buildings on the site would be reduced. It is also considered that this latest submission would not compromise the visual amenity of the locality and would not create conditions prejudicial to highway safety. It accords with the Government's advice set out in National Planning Policy Statements and Guidance and the policies set out in the City of York Draft Local Plan. As such, and having taken into account all other material considerations this application is recommended for approval.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

GH/FA/2 and GH/FA/1 received on 23 September 2010

Reason: For the avoidance of doubt and to ensure that the development is carried

out only as approved by the Local Planning Authority.

3 Notwithstanding the 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, C, D and E of Schedule 2 Part 1 of that Order shall not be erected or constructed.

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.

4 Prior to the development commencing details of the bin storage area serving the residential and commercial properties at 69, 71 and 73 Fourth Avenue, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be occupied until the bin storage 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 waste and recycling bins.

Reason: To protect the living conditions of future occupants.

5 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 for the proper drainage of the site.

INFORMATIVE:

To satisfy the above condition the following details are expected to be submitted to and approved in writing by the Local Planning Authority:

i. details to include calculations and invert levels of the existing surface water system together with details to include calculations and invert levels of the proposals for the new development;

ii. a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties;

iii. existing and proposed surfacing; and

iv. additional surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available. In accordance with PPS25 and in agreement with the Environment Agency / IDB / City of York Council, peak run-off from developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable areas). Storage volume calculations, using

computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

6 HWAY19 Car and cycle parking laid out

7 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 that 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 £360.

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.

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

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

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

9 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied. Thereafter the approved means of enclosure shall not be lowered or breached without the prior written consent from the Local Planning Authority.

Reason: In the interests of the residential amenity and visual appearance and amenities of the area.

10 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.

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 residential and visual amenity, impact on the living conditions of future occupants and highway safety. As such the proposal complies with national planning advice contained within Planning Policy Statements 1 (Delivering Sustainable Development") and 3 ("Housing"), and Policies H4A, GP1, GP3, GP4A, GP9, GP10, L1C and NE1 of the City of York Development Control Local Plan.

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Organisation	City of York Council
Department	Planning & Sustainable Development
Comments	Application site
Date	29 October 2010
SLA Number	Not set