



## Notice of a public meeting of

### Planning Committee

- To:** Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Richardson, Shepherd and Warters
- Date:** Thursday, 4 June 2015
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

### AGENDA

Would Members please note that the mini-bus for the Site Visits for this meeting will depart from Memorial Gardens at 10.00am on Tuesday 2<sup>nd</sup> June 2015.

#### 1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

## 2. **Minutes** (Pages 3 - 24)

To approve and sign the minutes of the meeting of the Planning Committee meetings held on 19<sup>th</sup> March and 27<sup>th</sup> March 2015.

## 3. **Public Participation**

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5pm on Wednesday 3<sup>rd</sup> June 2015**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

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

### **Filming or Recording Meetings**

“Please note this meeting will be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council’s protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at [http://www.york.gov.uk/downloads/download/3130/protocol\\_for\\_webcasting\\_film\\_and\\_recording\\_of\\_council\\_meetings](http://www.york.gov.uk/downloads/download/3130/protocol_for_webcasting_film_and_recording_of_council_meetings)

## 4. **Plans List**

This item invites Members to determine the following planning applications:

### a) **York Barbican, Paragon Street, York, YO10 4NT (13/02135/FULM)** (Pages 25 - 48)

A major full application for the erection of a 1 part 4/part 5 storey building comprising 175 apartments and 1 3 storey building comprising 12 apartments with associated access, parking and landscaping. [Fishergate Ward] *[Site Visit]*.

**b) East of Field Lane Roundabout and Kimberlow Lane, Heslington Campus, York (15/00049/FULM) (Pages 49 - 84)**

Erection of doctors surgery (use class D1) and shopping parade (use classes A1 (shops), A2 (office), A3 (restaurant/cafe), A5 (hot food takeaway) and D1 (dentist)) with associated access, car and cycle parking and earthworks [Fulford and Heslington Ward] [*Site Visit*].

**c) Land Adjacent to and to the Rear of Windy Ridge, Brecks Lane, Huntington, York (15/00473/FULM) (Pages 85 - 106)**

A major full application for a residential development of 87 dwellings with associated access and public open space (application to revise layout and vary house types previously approved by planning permission 12/02979/FULM dated 27.02.2013) [Huntington and New Earswick Ward]

**d) Former Terry's Factory, Bishopthorpe Road, York, YO23 1NA (15/00456/FULM) (Pages 107 - 124)**

A major full application for the conversion of a multi-storey factory to a maximum 173 residential apartments and ground floor retail unit; erection of additional roof storey and balconies to southern elevation; public open space and car parking [Micklegate Ward] [*Site Visit*].

**e) Former Terry's Factory, Bishopthorpe Road, York, YO23 1NA (15/00457/LBC) (Pages 125 - 136)**

A listed building consent application for internal and external alterations in connection with conversion of a multi-storey factory to residential apartments and the erection of an additional roof storey and balconies to the southern elevation. [Micklegate Ward] [*Site Visit*].

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

Democracy Officer:

Name: Laura Bootland

Contact Details:

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- E-mail – [laura.bootland@york.gov.uk](mailto:laura.bootland@york.gov.uk)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

**This information can be provided in your own language.**

**我們也用您們的語言提供這個信息 (Cantonese)**

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

**PLANNING COMMITTEE****SITE VISITS****Tuesday 2<sup>nd</sup> June 2015**

<b>TIME</b>	<b>SITE</b>	<b>ITEM</b>
<b>10:00</b>	<b>Coach leaves Memorial Gardens</b>	
<b>10:20</b>	<b>East of Field Lane Roundabout and Kimberlow Lane</b>	<b>4b</b>
<b>10.55</b>	<b>Barbican, Paragon Street</b>	<b>4a</b>
<b>11.25</b>	<b>Terry's Multi-Storey Factory (sturdy shoes and clothes for dusty environment recommended).</b>	<b>4d &amp; 4e</b>

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City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	19 March 2015
Present	Councillors Horton, Galvin (Vice-Chair), Ayre, Burton, D'Agorne, Doughty, Firth, King, McIlveen, Funnell, Reid (Chair), Richardson, Simpson-Laing and Warters
Apologies	Councillors Boyce, Crisp and Looker

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**54. Declarations of Interest**

At this point in the meeting, Members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda. None were declared.

**55. Minutes**

Resolved: That the minutes of the last meeting held on 19<sup>th</sup> February 2015 be approved and signed by the Chair as a correct record subject to the following amendment:

Councillor Merrett asked that minute item 51b be amended to reflect the fact that he joined the meeting at that point.

**56. Public Participation**

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

**57. Plans List**

Members then considered reports of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning applications, which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers

**57a 2-14 George Hudson Street, York , YO1 6LP  
(14/01383/FULM)**

Consideration was given to a major full application for the change of use from offices (use class B1) to student accommodation comprising of 58 self contained units with associated facilities including a shop, cycle store, managers office, communal lounge, gym and laundry. A new shop front is proposed to the entrance on the George Hudson Street elevation.

Officers circulated an update to the committee report, attached in full to the online agenda for this meeting. The main points were as follows:

- An error at paragraph 1.1 states 85 studio flats, should read 58.
- Further representations of support had been received.
- Additional noise information had been received from the applicant and as a result, the Council's Environmental Protection Unit had removed their objections to the scheme.
- The officer recommendation had now been revised following the additional noise information and in light of the Council's EPU now being satisfied. The recommendation was now as follows:
  - (i) Defer pending completion of a satisfactory Section 106 Agreement to secure the matters set out in paragraph 4.41 of the committee report
  - (ii) Grant delegated authority to Assistant Director (Development Services, Planning and Regeneration) to approve on completion of the Section 106 Agreement, and subject to conditions.

The Council's Environmental Protection Officer spoke to confirm that he was now satisfied with the scheme following additional information from the applicant on predicted maximum and low frequency noise levels in the proposed residential units, with mitigation measures in place.

The agent spoke in support of the scheme and advised that the office space in the building had been vacant for a number of years and offered larger than average units. 58 units would be created and if the site was occupied there would be economic



benefits to the city centre which was demonstrated by the letters of support for the scheme received from business owners.

A noise consultant spoke on behalf of the applicant. He advised that he had been invited to assess the scheme and had recommended glazing and insulation which would ensure residents would not be detrimentally affected by noise.

Members queried a number of points with the agent and officers in particular whether noise and pollution levels to the rear of the property were also acceptable. Officers confirmed levels were acceptable.

Members entered debate and made the following points:

- Some Members were pleased to see the recommendation had changed to approval as they considered the use to be an appropriate one which recognised that people do choose to live in the City Centre despite potential noise issues.
- Some Members raised concerns about the loss of business space in the City Centre.
- Members reiterated the importance of ensuring the level of sound mitigation is adequate .
- Some Members raised concerns about the units only being offered to students.

Resolved: (i) That the application be deferred pending completion of a satisfactory Section 106 Agreement to secure the matters set out in paragraph 4.41 of the committee report

(ii) Grant delegated authority to Assistant Director (Development Services, Planning and Regeneration) to approve on completion of the Section 106 Agreement, subject to conditions reported in the committee update.

Reason: The application was considered satisfactory with the appropriate noise insulation controls.

**57b 2-14 George Hudson Street, York, YO1 6LP (14/01384/LBC).**

Consideration was given to a listed building consent application for internal and external alterations in connection with change of use from offices to student accommodation.

This item was taken in conjunction with the previous agenda item for the same premises.

Resolved: That the application be approved subject to the conditions detailed in the committee report and the following amended condition 5 to reflect additional noise information and potential noise mitigation measures:

Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of such works and the works shall be carried out in accordance with the approved details.

(i) Indicative cross section through internal window reveal illustrating secondary glazing at 1:2

(ii) Vertical cross section through proposed front doors and glazed side lights at 1:5

(iii) Indicative cross section through raised floor and skirting at 1:2 (affects rooms to Tanner Row range only). New floors should scribe round, not cut through architraves, panelling, or other historic joinery (where present).

Reason: In the interests of the architectural and historic interest of the listed building.

Reason: The proposals are consistent with the National Planning Policy Framework advice as set out above. The development would not cause any harm.

**57c Del Monte Site, Skelton Park Trading Estate, Skelton, York (14/01478/OUTM)**

Consideration was given to a major outline application for a residential development for up to 60 dwellings.

The application was deferred from January's Planning Committee due to Members having concerns about the pedestrian crossing arrangements over the A19 and had been brought back to the committee following further work by the agent on the road layout.

Philip Butler spoke on behalf of Skelton Village Trust. He advised that the trust supported the scheme but advised that it is vital that residents are able to cross safely to access Skelton Village. Various agencies, including the Police had commented on the matter since the last meeting and it now appeared that an island 87m 11m wide island with narrow carriageways on either side was to be the preferred option. In his opinion a pedestrian crossing in conjunction with a speed limit reduction was the best option.

Sophie Taylor spoke as the agent on behalf of the applicant. She advised that the site had been vacant since 2012 and following no interest in the site for economic development, the application for residential use had been put forward to the Council. The site would contribute towards affordable housing targets. The application had been made in consultation with technical and legal experts.

Matthew Cleggett spoke on behalf of the applicant to advise that a technical note had been produced which advised on the suitability of various styles of crossings at the location. He advised that a signalised pedestrian crossing in this location would be dangerous.

Councillor Watt spoke on behalf of Skelton Parish Council. He advised that the Parish Council and residents support the development of the site but still have concerns regarding the A19 crossing. He referred to North Yorkshire Police's attendance at a recent Parish Council meeting at which they continued to express concerns about the lack of an appropriate crossing and asked that should the application be approved, the

crossing is looked at again before the reserved matters application comes forward.

Members queried the work undertaken since January's Planning Committee on the issue of the A19 crossing. Officers confirmed that further work had identified that the most suitable solution would be to alter the environment around the site access and Fairfield's Road junctions and enhance the existing uncontrolled pedestrian crossing facilities including:

- (a) Removal of the acceleration/deceleration lanes into Fairfield Drive which will enable the alignment of the A19 to be altered and carriageway width reduced to assist in lowering vehicle speeds. Physical measures such as these are more effective in restraining vehicle speeds than the use of/setting of unrealistic speed limits.
- (b) Narrowing of the carriageway, which reduces the crossing distance for pedestrians.
- (c) Provision of a sole crossing point, on the strongest desire line.
- (d) Providing a widened refuge island, which gives more space for pedestrians away from live traffic.

Members entered debate and made the following points:

- It was acknowledged that the housing development was welcomed by the local community and the advice of the highways officers and traffic consultant should be taken on board.
- It was unreasonable to expect the applicant to provide a bridge or underpass due to cost.
- Some Members still did not agree with the road crossing measures being proposed and considered the road to be too dangerous without a signalised crossing.
- Following discussion, members asked that Officers and the applicant look at planting that enables visibility, the width of the bus lay-by, a 40mph speed restriction, facilities for cyclists and a stage 1 audit.

Resolved: That the application be approved subject to the section 106 agreement.

Reason: The proposed A19 road layout complies with transport guidance and provides a significant change in street scene for both pedestrians and vehicles, providing a safer crossing

environment. This includes the reduction of the crossing width from 18.5m to two 3.2m crossing widths. That current guidance considers the installation of a signal controlled crossing on Shipton Road adjacent to the proposed development to be unsuitable.

The proposed development of the brownfield site for residential development is considered to be acceptable in principle. The submitted additional information is considered to demonstrate why a signalised pedestrian crossing for low level of pedestrian activity and irregular periods of use is not justified in this location, and confirms that the proposed highway network improvements are the most appropriate means of achieving a safer crossing environment . The proposal is considered acceptable subject to the completion and signing of a Section 106 agreement covering education contribution, open space, affordable housing, and highway works.

**57d Naburn Lock Caravan Park, Naburn, York (14/02806/FULM)**

Consideration was given to a major full application by Peter and Catherine Wilkinson for the change of use of land for touring caravans with associated amenity building, gas compound and bin store.

Officers provided an update to the committee report, full details of which are attached to the online agenda for this meeting, the main details were as follows:

- Since the Committee Report was prepared the applicant has submitted a detailed statement in respect of the Green Belt and setting of a Listed Building concerns.
- Very special circumstances were given by the applicant as being able to satisfy the presumption in favour of sustainable economic development contained within the National Planning Policy Framework.
- Further information regarding the impact of the proposed development upon the listed Naburn Banqueting House.

The building is specifically designed to be viewed from the river frontage.

- The issue of the impact of brightly coloured river boats passing the site was considered transitory and of minimal impact.
- Since the Committee Report was written 16 letters of support including one from the Commercial Manager of Visit York along with a 33 signature petition in support of the proposal had been submitted.

The applicant's agent, Thorfinn Caithness, spoke on behalf of the applicant. He advised that the application was being made to extend a well managed rural family business. The field in question was currently used for 28 calendar days for caravan rallies under permitted rights but permission was now being sought to house 20 formal touring caravan pitches on the site. Currently several rallies concentrated between April and September involving 50-60 caravans were being held so there were already caravans regularly using the field. The application presented the opportunity to secure economic gain within the Green Belt and reduce the number of caravans using the site with better controls. High quality landscaping would be used to minimise any impact on the surrounding area. In relation to Naburn Banqueting House, the priority was to secure a use for the house and the development of the caravan park would assist in securing its future by bringing business to the site. Additional planting would limit views and Visit York supported the application as there is a demand for touring caravan pitches within the York area.

Following a brief discussion, Members considered that very special circumstances for development within the Green Belt had not been demonstrated.

Resolved: That the application be refused.

Reason: The proposal lies within the general extent of the Green Belt as set out in the saved RSS policies YH9C and Y1C. The application has therefore been considered against the policies in the Framework at Section 9 relating to development in the Green Belt. The proposal constitutes inappropriate development within the Green Belt and is therefore by definition harmful to the openness of the Green Belt.

contrary to paragraphs 89 and 90 of the National Planning Policy Framework and Policy GB1 of the York Development Control Local Plan(4th Set Changes 2005). The other comprising viability of the existing caravan site enterprise and the presumption in favour of sustainable economic development outside of the Green Belt do not amount to very special circumstances that would clearly outweigh the harm and any other harm to the Green Belt

The proposal by virtue of its alien, engineered appearance and use of inappropriate landscaping would cause significant detrimental harm to the setting of Naburn Banqueting House, a Grade II Listed building contrary to Section 66 of the 1990 Planning (Listed Buildings and Conservation Areas) Act , paragraph 132 of the National Planning Policy Framework and Policy HE4 of the York Development Control Local Plan(2005 4th Set of Changes).

**57e Naburn Lock Caravan Park, Naburn, York (14/02807/FULM)**

Consideration was given to a major full application by Peter and Catherine Wilkinson for the variation of condition 6 of permitted applications 8/06/59P/PA and 8/06/59L/PA to allow all year round use of touring caravans and tents.

Officers provided a brief update to the committee report to advise that since the Committee Report was written, 16 letters of support including one from the Commercial Manager of Visit York and a 33 signature petition had been received drawing attention to the lack of touring caravan pitches available during the winter months in the area whilst events around Christmas are being held in York.

The applicant's agent, Thorfinn Caithness, spoke in support of the application. He advised that currently the park is closed for a number of months per year and the application was being made to bring the opening times in line with other nearby sites which are open year round. He referred to the good management of

the site and the many letters of support for year round opening which had been received since the application had been made.

Members queried a number of points as follows:

- Whether the applicant would be willing to look at evergreen planting to reduce the impact of the site on the surrounding area during the winter months. It was confirmed this could be done.
- Confirmation that there would be no static caravans. It was confirmed the site was only for use by touring caravans.

Members entered debate and considered that by extending the opening times, there would be no additional harm to the Green Belt.

Resolved: That the application be approved subject to the following conditions:

- (i) The number of caravans on the site shall not exceed 100 and none shall be static caravans.

Reason: In order to safeguard the open character of the Green Belt.

- (ii) Within 28 days of the date of this permission a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, shrubs and other planting shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall be implemented within the first planting season following the date of this permission. Any trees or plants which within a period of five years from the date of this permission 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 alternative are agreed in writing by the Local Planning Authority.



**57f Teaching Building, Spring Lane, Heslington, York  
(15/00040/FULM)**

Consideration was given to a major full application by the University of York for the construction of a three storey teaching building (use class D1) following the demolition of existing building.

Officers provided an update to advise that since the committee report was prepared, a response had been received from the Council's Environmental Protection Unit raising no objection to the proposal but recommending conditions relating to the construction period, full details are attached to the online agenda for this meeting.

Graham Holbeck spoke in support as the agent on behalf of the applicant. He advised that the existing building had previously been a staff housing block and as the site was a previously developed area, the application would not encroach on any open space. He stated that there is an urgent need for additional teaching space at the campus and during 2013/14 the University was operating at maximum capacity. It is intended that the building will be in place for the 2016/17 academic year. It was proposed that 13 trees would be removed to facilitate construction but replacement planting at a ratio of 3:1 would be undertaken. Cycle spaces would be provided at the main entrance.

Members queried a number of points as follows:

- A Member queried the scale of the proposed building and how the University is appearing to be moving away from its original character. The agent confirmed that many existing buildings are not in a good enough condition to renovate and while it is the intention to keep within the 20% original development footprint including car parks, there will be a need for some new buildings in order to meet current demands.
- The cycle parking provision. It was confirmed that the University would monitor the use of spaces and take action if it was considered more were required.

- In response to questions about the BREEAM rating, the agent confirmed the University always aims for a minimum of BREEAM very good.

Members entered debate and supported the application with the assurance that the landscaping would include larger species of trees

Resolved: That the application be approved subject to the conditions outlined in the committee report.

Reason: The proposed pattern of scale and massing would match that of the residential block to the south west and the chosen palette of materials would closely match that of the refurbished Chemistry Department to the east of University Road. The proposal includes a significant area of compensatory planting notably to the west to soften the boundary with Springs Wood and to the south east to replace the trees previously lost. The proposal as a whole is felt to be acceptable in sustainability and flood risk terms.

**57g York Grain Stores (15/00121/REMM)**

Consideration was given to a major reserved matters application by Redrow Homes (Yorkshire Ltd) and Water Lane Ltd for the approval of appearance landscaping, layout and scale for 215 dwellings following the grant of outline permission 11/00860/OUTM.

Officers provided a brief update to the committee report to advise that since the committee report was prepared Highway Network Management had submitted a consultation response to the proposal confirming that the amended highway layout is acceptable.

Hannah Andrew spoke as the agent in support of the application. She advised that the applicant had worked with the council to ensure the development meets a high standard. New

open space had been incorporated including investment in children's play equipment. Improvements had also been made to cycle paths, bus stops and highway layout.

Members asked a number of questions as follows:

- Sustainable design aspects. It was confirmed that the development would meet Code for Sustainable Homes Level 3 y although the Inspector's decision didn't require any measures in relation to the performance of the buildings. A number of measures are being put in place by the applicant to demonstrate a willingness to incorporate sustainability measures.
- Wildlife assessment and likely impact upon wildlife. The agent confirmed that an ecology assessment had been undertaken. Hedgerows would be retained as much as possible but as the site is largely brownfield any impact on wildlife would be minimal.

Members entered debate and some members raised concerns about the arrangements relating to site management and the proposed imposition of a service charge upon residents.

Resolved: That the application be approved subject to the Section 106 agreement.

Reason: The proposals are felt to be acceptable in terms of their relationship to the surrounding pattern of development and are consistent with emerging policy in respect of density and dwelling mix. The highway layout has been amended since submission to deal with concerns and the development is now felt to be acceptable, subject to satisfactory completion of a Section 106 Agreement to secure a commuted sum payment for off-site open space provision in lieu of the acknowledged shortfall in on-site open space provision.

Cllr Reid, Chair

[The meeting started at 4.30 pm and finished at 8.00 pm].

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Meeting	Planning Committee
Date	27 March 2015
Present	Councillors Reid (Chair), Galvin (Vice-Chair), Boyce, Burton, Cuthbertson (Substitute), D'Agorne, Firth, Funnell, Gunnell (Substitute), Healey (Substitute), Horton, King, Looker, McIlveen, Richardson, Simpson-Laing and Warters
Apologies	Councillors Ayre, Crisp and Doughty

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### 58. **Declarations of Interest**

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

Councillor Funnell declared a personal interest as she is the Council representative on a charity names Be Independent which may take space in the Hub.

During the course of the meeting the following declarations of interest were declared:

Councillor Simpson-Laing declared a personal interest as her daughter had previously been a member of York Athletics Club.

Councillor Cuthbertson declared a personal interest as his wife is a Ward Member for Huntington and New Earswick Ward.

### 59. **Public Participation**

It was reported that there had been no registrations to speak under the council's public participation scheme.

**60. Plans List**

Members then considered a report of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning application, which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

**60a Huntington Stadium, Jockey Lane, Huntington, York, YO32 9JS (14/02933/FULM)**

Consideration was given to a major full application by Wrenbridge Sport York Limited and GLL for the erection of an 8,000 seat Community Stadium, leisure centre, multi-screen cinema, retail units, outdoor football pitches, community facilities and other ancillary uses, together with associated vehicular access, car parking, public realm, and hard and soft landscaping following demolition of existing structures.

Officers gave an update to the committee report, the main points were as follows:

- The Highways Agency has formally lifted its temporary non-determination notice (TR110) preventing determination of the planning application. Lifting of the notice is subject to three planning conditions being attached to the planning permission (provision of shuttle buses, parking management plan and travel plan). The proposed conditions correspond with conditions already proposed by the council's Highways officers. The lifting of the Direction enables the officers' recommendation on page 1 of the report to be amended by the deletion of paragraph (iii).
- Since publication of the committee report, five further objections to the application had been received. One was from the owner of the York City Knights rugby club. It was reported that most issues had been covered in the report. Since the report was published there had been a total of 69 comments received bringing totals to 97 in support, 34 objections and 17 general representations.
- The Foss Internal Drainage Board (IDB) had not withdrawn their objection, which was based on drainage proposals as initially submitted. The objection related to

drainage capacity problems downstream of the site. The IDB argue that the details of the downstream drainage system, as-built, are not known and that the application should not be approved until further information is available. However, their officers had not yet examined the latest drainage proposals for the application, which showed that surface water run-off would be attenuated, within the application site, to 70% of existing. This attenuation would improve any pre-existing capacity constraints downstream. The proposed drainage arrangements for the application meet all drainage design methods and standards. The council's flood risk management officers are satisfied that, subject to their recommended conditions being attached to any approval, the development would have no detrimental flood risk or drainage impact on the downstream drainage system.

- Monks Cross Shopping Park would like to ensure that measures are put in place to deal with traffic and parking demands and requested that Monks Cross Shopping Park be included in the travel plan management group.
- The Council's Environmental Protection Unit is recommending that a condition be attached requiring provision of compensatory mitigation measures to offset emissions generated as a consequence of the development.
- An updated document detailing suggested conditions was also circulated and is attached to the online agenda for this meeting for information.

John Guilford had registered to speak in objection to the current application. He advised that he supported the principle of a community stadium but felt that the application before Members was not the same concept as originally agreed in 2012. He referred to the increase in the commercial aspect of the scheme and considered this a move away from the scheme being a community stadium. In relation to the York City Knights he felt that the rugby club would not have the same facilities as agreed to previously. He also felt that there would be parking problems at the site.

Jack Stearman had registered to speak on behalf of York City Knights he advised that he is employed by York City Knights and that he was in support of a community stadium which would enable the rugby club to continue its work with children. He

referred to the opportunities open to children of all ages to receive rugby coaching and how over 600 children in the area had benefitted from coaching in recent years. He advised he was in support of a community stadium which worked for both the rugby club and the football club.

Councillor Brian Watson had registered to speak with general comments. He raised some concerns about the impact of another cinema on city centre cinemas and also the impact of more out of town retail development on city centre shops. He questioned if the current scheme was still a community stadium for the rugby and football clubs when there is so much commercial interest in the scheme.

Ian Yeowart spoke on behalf of York Motor Sports Village. He advised that he welcomed the stadium and that the current stadium is run down and in need of improvement. He considered that parking would be a problem wherever the stadium is located and that the number of spaces being provided is adequate.

Paula Stainton spoke on behalf of the York City Football Club foundation. She advised that since the club had been in league 2 and since the approval in 2012 for a community stadium, the club had expanded its programmes significantly. As well as sports the club offers a social inclusion programme and raises awareness and funds for local charities. A lot of activities take place away from Bootham Crescent due to a lack of facilities there and a new stadium would mean better opportunities. Without the foundation 1500 people per week would miss out and urged Members to approve the application.

Frank Ormston spoke on behalf of York Minstermen, a supporters club. He advised that the planning application is a turning point for both the rugby club and the football club and that both clubs had been on the edge of ruin but had survived due to the many supporters. He hoped the stadium would provide stable foundations for both clubs and thanked the Council for getting the stadium to this point. Supporters want to see both clubs continue to prosper and urged members to support the scheme.

Fiona Williams spoke on behalf of Explore Libraries. She advised that the proposed library located at the stadium would provide a traditional library space alongside a wide range of digital services for use by the local community. Joining the



stadium project would allow services to develop and benefit the local community.

Pat Crowley spoke on behalf of the York Teaching NHS Foundation Trust. He advised that the Trust would be involved as tenants at the Stadium and would utilise the space to deliver local and accessible services. The creation of a facility at the stadium site would relieve pressure on other NHS resources in the city.

Jason McGill, Chairman of York City Football Club spoke to advise that should the application not be approved then the club would have to close. He detailed the financial arrangements made in 2004 to buy Bootham Crescent back from the previous Directors which involved a £2m loan from the Football Stadium Improvement Fund (FSIF) which will need to be repaid by October 2015 should the new stadium not go ahead. The FSIF had indicated the £2m could become a grant if the Club secured new facilities. He referred to the poor conditions at Bootham Crescent and the level of work needed to bring it up to standard and the fact that the Club does not have the money to carry out the necessary works. The Community Stadium would ensure the club's survival as well as provide excellent opportunities for the local community.

Gary Hall spoke on behalf of York City Knights Independent Supporters' Society. He referred to the Knights' history and the fact that the stadium is vital to the development of the club going forward. Without the stadium amateur sport for future generations of the city would not be viable.

Chris Symons spoke on behalf of the applicant GLL. He advised that GLL was the largest sport and leisure charity in the UK and the scheme was a flagship nationally as the biggest of its kind. It was a long term vision of the Council to get new facilities for the site and GLL had worked hard to ensure it is deliverable. Some of the best architects in the country had worked on the design. The facilities being proposed do include the Rugby Club despite an agreement not being reached with them at present. He referred to the wider benefit for the community with new jobs being created and new facilities.

Daniel Brown spoke on behalf of Wrenbridge as the agent. He referred to the officers' favourable comments, and provided additional information on the sequential test process undertaken. In reference to other sites within the city he advised that

Hungate was not appropriate for a stadium due to the proximity to residential flats. In relation to the Castle Piccadilly and York Central sites, the timescales for those sites were not consistent with the need for the Stadium to be delivered within the next calendar year.

Tim Atkins the Council's Community Stadium Project Manager spoke to advise that York as a City can deliver on most things, but not currently on sport. The stadium would be a destination which would bring together sport, wellbeing and learning with a complimentary mix of commercial uses. The NHS involvement would provide physiotherapy facilities. The site would not just cater for the football and rugby clubs as a number of local organisations would also benefit from the new opportunities being created. He asked members to focus on the planning matters and not the financial aspects of the scheme and to approve the application.

Members asked a number of questions, in particular:

- The details included in the stadium travel plan and whether the control measures such as a shuttle bus from York Station and the amount of on-site car parking were enough in relation to the proposed 8,000 seat capacity. Officers confirmed that a detailed plan had been drawn up and that they were satisfied that the proposals were sufficient. Members asked that motorcycle parking be included at the site.
- Whether officers were satisfied that the sequential test had been properly applied. They confirmed they were satisfied.
- Whether hours of use for the stadium had been considered as a condition. Officers advised that they did not want to restrict the hours of operation in case of sporting events over-running.

Following further discussion, Members entered debate and made the following points:

- Some Members still had reservations about some aspects of the proposed travel plan but were happy that the conditions being proposed would mitigate against any problems as far as possible.
- Some Members had concerns regarding the financial aspects of the scheme but acknowledged that these

issues were not planning matters and therefore could not be considered.

- Members were pleased to see the health and wellbeing partners involved in the scheme and the benefits to the local community.
- Talks about a new stadium had been ongoing for a number of years and Members were pleased to see the application finally coming forward.
- Most Members supported the scheme and hoped that the issues between the two sports clubs would be resolved satisfactorily going forward.

Councillors Boyce, Burton, Funnell, Gunnell, Horton, McIlveen and Simpson Laing asked that their votes in support of the application be recorded in the minutes.

Councillor Warters asked that his abstention from the vote be recorded in the minutes.

Resolved: That Members agreed:

- (i) That delegated authority be given to the assistant director of Development Services, Planning and Regeneration following the expiry of the publicity period on the 31<sup>st</sup> March 2015 to:
- (ii) To consider any new material planning considerations received during the publicity period in consultation with the Chair and Vice Chair and if satisfied that these issues do not alter the recommendation of approval;
- (iii) To refer the application to the Secretary of State for Communities and Local Government under the requirements of Article 5 (1) of the Town and Country Planning (Consultation)(England) Direction 2009 and should the application not be called in by the Secretary of State then

- (iv) Approve the application subject to conditions listed in the report and the officer update.

Reason:

It is considered that the scheme would provide extensive and comprehensive sports, leisure and community facilities that would effectively replace and significantly enhance the provision of such facilities in the city. The scheme would also generate additional employment opportunities both during construction and on completion.

The principle of a new community stadium to be built at Monks Cross was established by the grant of outline planning permission for a 6,000-seat stadium.

The proposal is acceptable from a planning policy perspective. It is considered that the benefits of the scheme significantly outweigh the limited environmental, traffic generation and retail impacts, which are identified in this report and which in part can be mitigated through measures secured by planning conditions.

Cllr A Reid, Chair

[The meeting started at 10.00 am and finished at 1.25 pm].

**COMMITTEE REPORT**

**Date:** 4 June 2015                      **Ward:** Fishergate  
**Team:** Major and                      **Parish:** Fishergate Planning  
Commercial Team                      Panel

**Reference:** 13/02135/FULM  
**Application at:** York Barbican Paragon Street York YO10 4NT  
**For:** Erection of 1 part 4/part 5 storey building comprising 175 apartments and 1 3 storey building comprising 12 apartments with associated access, parking and landscaping  
**By:** Mr Robin McGinn Persimmon Homes (Yorkshire) Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 16 October 2013  
**Recommendation:** (i) Defer Pending Completion of a Section 106 Legal Agreement relating affordable housing provision.  
(ii) Delegate Authority to the Assistant Director (Development, Planning Regeneration) to approve on completion of the agreement, subject to conditions.

**1.0 PROPOSAL****APPLICATION SITES**

1.1 The application relates to two sites; the northern portion of the Barbican site (a) and a site (b) on the corner of Kent Street and Fawcett Street, which was used as a car park in the late C20. The latter is within the Central Historic Core Conservation Area.

1.2 The Barbican site (a) is bound by the inner ring road; Paragon Street, although it is setback behind a semi-mature bank of trees. To the east is Barbican Road, which is lined by a terrace of predominantly residential properties generally of light brick and two / three storeys high. To the south of the site on the opposite side of Kent Street is Q-Park and the recently built fire station. Between the application site and the Barbican Centre, construction is underway on a 5-storey hotel building.

1.3 Site b would be at the end of a group of buildings between Paragon Street and Kent Street; the Grade 2 Listed York City Arms Sports Club and Paragon House, a late C20 3-storey building.

**PROPOSALS**

1.4 The proposed housing block for the Barbican site maintains the layout previously approved in 2007. The building would have a varied roof height, being a mix of 4 and 5 storey high. The ridge height would be lower than the maximum height of the

neighbouring hotel. The elevations would be of brick (2 varieties) with a pitched roof. The scheme has a more residential appearance, rather than the commercial appearance approved in 2007. There would be car parking at ground floor level, and it is also proposed to lease car parking spaces from the Q-park opposite.

1.5 Site b would have 12 apartments. The building would be 3-storey and have a rear courtyard (with access from the pedestrian/cycle path at the south side of the Barbican).

1.6 The 2007 scheme had 240 units. In this scheme 187 dwelling are proposed –

57 x 1-bed,  
130 x 2-bed

1.7 The development has been assessed as to whether an Environmental Impact Assessment is required, in accordance with the Town and Country Planning (EIA) Regulations 2011. The screening process determined that an EIA is not required; considering the scale of the development, traffic, emissions, noise, contamination and the environmental sensitivity of the site.

## PUBLIC CONSULTATION

1.8 A public consultation event, to which local residents and councillors were invited, was held in January 2013. 34 attended and 5 of the attendees made comments.

Comments made were summarised as follows -

- Concern over scale of the building in relation to properties on Barbican Road.
- Parking is a problem in the area.
- The reduction in units and more 'residential' appearance to the building was preferred over the previous scheme.
- Welcome redevelopment of the site.
- Need to take secure by design into consideration, due to crime in the area.

## SITE HISTORY

1.9 Pertinent previous applications are as follows -

2003 - 03/04075/GRG4 (later replaced by application 05/00882/GRG4) –  
Re-development of Barbican site for 240 apartments and hotel with 120 rooms.

2012 - 11/02658/FULM – Amended scheme for hotel; 175-bedrooms 5-stoey (now under construction).

## 2.0 POLICY CONTEXT

2.1 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications.

2.2 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

2.3 Draft Development Plan 2005 Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

City Boundary GMS Constraints: York City Boundary 0001

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

Schools GMS Constraints: Fishergate Primary 0197

2.4 Relevant policies of the Draft Local Plan 2005:

CYGP1	Design
CYHE2	Development in historic locations
CYT4	Cycle parking standards
CYGP9	Landscaping
CYHE10	Archaeology
CYH2A	Affordable Housing
CYH4A	Housing Windfalls

### **3.0 CONSULTATIONS**

#### **AFFORDABLE HOUSING OFFICERS**

3.1 Officers support the scheme.

3.2 The application does not comply with the council's brownfield target of 20%. However, an independent viability assessment undertaken by the District Valuer found that 10% affordable housing would be viable.

3.3 The proposed affordable housing provides a total of 18 one and two bedroom apartments, which are in high demand in this location on the Council's HomeChoice allocations system. The mix is based on a 70:30 split between social rent and discount sale, and is detailed below:

	<b>Market Sale</b>	<b>Social Rent</b>	<b>Discount Sale</b>	<b>Total</b>
1 bed flat	49	6	2	57
2 bed flat	120	6	4	130
<b>Total</b>	169	12	6	187

## DESIGN AND CONSERVATION

3.4 Landscape officers have made comment with regards the species of tree planting within the scheme. The plans have been requested to be revised accordingly, with larger scale trees to be planted between the building and Barbican Road. Planning conditions have been recommended, to protect the existing trees along Paragon Street during construction, and to agree a detailed planting scheme.

## ENVIRONMENTAL HEALTH

3.5 Officers make the following comment –

### Noise

3.6 Due to the size of the development and likely disruption in the area during the demolition and construction phases, officers recommend the development be subject to a construction management plan and that times of works (which would be audible outside the site) are restricted.

3.7 No details have been submitted on any plant or equipment which will be provided as part of the development. Officers request the details of any equipment, which would be audible outside the site be submitted for agreement.

3.8 A condition is recommended so that internal noise levels, in living and bedrooms, do not exceed World Health Organisation recommendations.

### Lighting

3.9 No details have been provided on the likely levels of lighting to be provided on the development, and whether or not any flood lighting will be provided. Officers request that further information be provided or confirmation that any lighting provided on site will be compliant with the Institute of Light Professionals guidance note for the reduction of obtrusive light.

### Contaminated Land

3.10 The ground investigation (undertaken in 2007) found a significant depth of made ground across the site, but no elevated contaminant concentrations. However, soil samples were only taken from 11 locations, and none of these appear to have been taken from the proposed landscaped area along the eastern site boundary, or along the western boundary in the vicinity of the swimming pool. It would also appear that no samples were tested for polychlorinated biphenyls (which is a type of contamination



often associated with electricity substations) or ground gas (which is often associated with made ground). Further site investigation work is therefore required and officers recommend that a site investigation and any necessary remediation are required through a planning condition.

## **Air Quality**

### **Construction phases**

3.11 The emission of any airborne particulate matter would need to be controlled using on-site management practices. With adequate mitigation, the effect of fugitive emissions of particulate matter (dust and PM10) from the proposed works is considered not to be significant with respect to potential effects on health and amenity of nearby residents/properties. A planning condition requiring an approved construction management plan to be adhered to is requested in this respect.

### **Operational phase**

3.12 Whilst the development site is adjacent to City of York Council's Air Quality Management Area, the additional traffic generated by the development would not have a significant impact on local air quality, nor is it considered that residents of the new accommodation would be exposed to concentrations of nitrogen dioxide or particulate above health based objective levels.

3.13 Paragraph 35 of the NPPF states that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should, where practical, incorporate facilities for charging plug-in and other ultra-low emission vehicles. In line with the NPPF and City of York Council's adopted Low Emission Strategy, it is recommended that 6 electric vehicle recharging points are provided on the site.

## **HIGHWAY NETWORK MANAGEMENT**

3.14 No objection. Officers recommend conditions to deliver the cycle parking and layout of the proposed access/lay-by points and for measures to manage the highway network during construction.

3.15 Comments on the scheme are as follows -

- The ratio of car parking (155 spaces) to dwellings is the same as the previously approved scheme. 106 spaces are provided on site with remaining provided on an allocated basis within the adjacent Q Park car park on Kent Street.
- One cycle space per flat are being provided. Cycle spaces are proposed to be located within the building footprint, on each floor surrounding the main cores. This is considered to be a high quality, very secure prominent location which will assist in reducing levels of car ownership amongst residents.

- It is noted that contributions were made as part of the previous planning permission toward measures to promote sustainable travel and for replacement coach parking facilities.
- Servicing for refuse collection is to be via 2 new lay-bys, one on Kent Street and one on Barbican Road. It is likely that traffic regulation orders will be implemented to prevent indiscriminate parking occurring within these lay-bys.

#### FLOOD RISK MANAGEMENT TEAM

3.16 No objection. Ask for a planning condition to allow approval of the drainage strategy. As part of the strategy water run-off is to be restricted to 37.2 litres per second.

#### EXTERNAL

#### ENGLISH HERITAGE / HISTORIC ENGLAND

3.17 Note that this is revised scheme, of a lesser scale to that originally proposed and there would be no negative impact on the City Walls. Recommend officer's assess the proposal and its design against policies for the Central Historic Core Conservation Area and that an appropriate scheme for archaeological mitigation is undertaken.

#### POLICE ARCHITECTURAL LIAISON OFFICER

3.18 The development has a number of positive aspects; provides natural surveillance, access points are prominent, storage space is secure, private and public spaces are distinguished. Recommendations are as follows –

- Secure/controlled access to the all parts of the building
- Secure doors and windows, with opening restrictors fitted to ground floor windows
- Allocation of parking spaces, to avoid conflict
- Management strategy for communal areas

#### PLANNING PANEL

3.19 No response on original scheme. Response pending on revised scheme.

#### PUBLICITY

3.20 Three comments were received, one in objection and two in support of the scheme. Comments were as follows -

- Overlooking of 20 Barbican Road due to lack of separation and trees to screen the proposed building.

- Noise disturbance from waste collection, due to proximity of collection point to properties on Barbican Road.
- Welcome provision of much needed housing in the city
- Support for the architecture which would be sympathetic to the area.

## **4.0 APPRAISAL**

### **4.1 KEY ISSUES**

- Principle of the proposed use
- Impact on setting and heritage assets
- Residential amenity
- Highway network management
- Planning obligations
- Drainage
- Archaeology

### **PRINCIPLE OF THE PROPOSED USE**

4.2 The application relates to brownfield sites at the edge of the city centre. The location is sustainable and therefore, according to the National Planning Policy Framework, there should be a presumption in favour of the development. The sites have been identified as suitable for housing in the council's Strategic Housing Land Availability Assessment. There is not a current 5 year housing supply in the city, which is a national requirement within the National Planning Policy Framework. There are extant planning permissions in place for residential development on these sites. Development has commenced on the 2003 and 2005 schemes referred to in section 1.8; the residential element of those permissions could still be implemented.

4.3 Residential development of the site is consistent with national policy; to regenerate brownfield sites and significantly boost housing supply. The scheme is also in accordance with local housing policies, in particular the objectives within the housing chapter – to meet housing need, including an appropriate amount of affordable housing and to prioritise development of brownfield sites.

### **IMPACT ON SETTING AND HERITAGE ASSETS**

4.4 The National Planning Policy Guidance advises that in assessment of design, consideration, where appropriate should be given to layout, form, scale, detailing and materials. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty that requires the Local Planning Authority when considering whether to grant planning permission for development which affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses.

4.5 The City Walls opposite the site are Grade 1 listed and within the Central Historic Core Conservation Area. English Heritage has confirmed that the proposal does not have a negative impact on the City Walls and therefore, in their opinion, there is no harm to the setting of the listed walls.

4.6 The smaller site is within the Central Historic Core Conservation Area. The Council has a statutory duty (under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) to consider the desirability of preserving or enhancing the character and appearance of the conservation area. Local Plan policy HE2 states that within conservation areas, or locations which affect the setting of listed buildings development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regards to local scale, proportions, details and materials. Proposals will be required to maintain or enhance existing urban spaces, views, landmarks and other townscape elements, which contribute to the character or appearance of the area.

4.7 The management strategy within the Central Historic Core Conservation Area Appraisal advises that the design of new buildings should:

- Respect the characteristics which define York's distinctive urban form, as identified in the *Heritage Topic Paper*. For example: building lines, historic street patterns, building scale, plot and block dimensions
- Respect local building heights
- Place importance on the design of roofs and the roofscape
- Preserve existing views and look to create interesting new ones
- Seek to add to the variety and texture of the Conservation Area, which is one of its defining characteristics
- Use materials appropriate to the status and context of the building

4.8 The proposals have been developed within the parameters of the extant approval (03/04075/GRG4 / 05/00882/GRG4). The proposed buildings are of appropriate scale and design, and would maintain the setting of the grade 1 listed City Walls and the Central Historic Core Conservation Area -

Main block

- The scheme retains the originally approved building layout; it adheres to the approved masterplan for the Barbican site, and is surrounded by landscaping. Trees fronting Paragon Street would be retained and the setting of Barbican Road would be enhanced by greenery and new tree planting. The hotel proposed between the application site and the Barbican Centre is currently been built out, also in accordance with the approved masterplan.

- The building would vary in height, between 4 and 5 storey. It would be lower in height than the hotel currently under construction within the Barbican site and at a scale which Historic England has acknowledged as being acceptable for the site. The housing scheme with permission was approx 16m high with flat roof. This scheme has pitched roofs. The eaves level varies between 11m to 13m from ground; the ridge between 16m and 18m. In parts this scheme is taller overall, compared to the previous one, but the building would appear less dominant due to its roof form.
- The roof form would be a series of pitched roofs. The variation in ridge and eaves height, use of oriel windows and prominent entrances would add identity and interest to the overall development.
- The elevations would use two tones of brick, and the intent is that these reasonably match the red/orange brick, which is typical of streetscapes in the city. Overall the form and materials used would be traditional of the city, more harmonious and domestic than the original scheme. The scheme is compliant with the management strategy within the Central Historic Core Conservation Area Appraisal in this respect. Unlike the previous scheme, the building would not compete with, or mimic the City Walls (the previous scheme had turret features and used artstone).
- The on site parking would be at ground level within the building and screened from public views. An active frontage has been reasonably retained; achieved through the provision of duplex flats, with front doors onto the amenity space, and by providing outside amenity space above the car park at first floor level on the west side of the block.

#### Fawcett/Kent Street block

- The smaller block on the corner of Kent Street and Fawcett Street would develop an unkempt area of land where there was previously a car park.
- The building would be 3-storey, of appropriate scale in the street and comparable in height to its neighbour which is 3 storey and dates from the late C20.
- The building will respect the scale, materials, and proportions of others in the streetscape.

#### ARCHAEOLOGY

4.9 2005 Draft Local Plan policy HE10: Archaeology states that planning applications for development that involves disturbance of existing ground levels on sites within York City Centre Area of Archaeological Importance will be granted provided the extent and importance of any archaeological remains are evaluated and that the

applicant can demonstrate that less than 5% of any archaeological deposits will be disturbed or destroyed.

4.10 A watching brief on groundwork is required, as was required at the hotel site opposite. The site has been redeveloped in the C20 and comprehensive archaeological investigations have been carried out since the swimming baths were demolished.

## RESIDENTIAL AMENITY

4.11 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Draft Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

### Amenity of neighbours

4.12 The proposed developments would have no undue effect on residential amenity.

- The development generally retains the footprint and scale of the building already approved. The closest neighbour to the building is 20 Barbican Road. The buildings would be over 21m apart. The proposed building is positioned and orientated so no.20 generally would look beyond the proposed building. The proposed development has less mass at this end in this scheme. The previous approval has a circular corner feature here, which was 5-storey. In this scheme the feature is omitted and the development would step down to 4-storey. The developed now proposed would have less impact than the approved scheme. In other areas the building would be set further back from the street and behind landscaping.
- The smaller building would sit next to an apartment block which has a blank side elevation overlooking the application site. The building would not have a material impact on neighbour's amenity.

### Future occupants

4.13 Noise surveys undertaken found predominantly noise at the site is from traffic, including emergency vehicles. Glazing specifications have been recommended (table 5.1 of ENS Noise Impact Assessment), so that internal noise levels would comply with British Standards, to achieve 'good' living conditions. These shall be secured through a condition. Fawcett Street is within the air quality management area for the city. Given current levels of air quality, it will be a requirement that living rooms and bedrooms which overlook the road are installed with mechanical ventilation, to draw clean air into the dwellings.

4.14 Both sites would have a reasonable amount of outlook and outside amenity space. There is adequate space for bin storage. The main block would have 2 stores with laybys created so refuse and other vehicles could service the development without blocking the road.

## HIGHWAY NETWORK MANAGEMENT

4.15 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

4.16 187 apartments are proposed; parking provision is as follows -

- 155 car spaces – the ratio of car parking to dwellings is the same as the previously approved scheme. There would be 106 spaces on site with the remaining provided on an allocated basis within the adjacent Q Park car park on Kent Street.
- 1 cycle space per dwelling.

4.17 The site is in a sustainable location, within walking distance of the city centre. Cycle and car parking provision accords with the standards within the Local Plan. The cycle parking will be dispersed throughout the building, located by the lifts/staircases, within secure stores accommodating around 25 cycles. This is deemed to be good quality provision; safe, secure and convenient.

## PLANNING OBLIGATIONS

4.18 The requirement to provide on-site affordable housing on a scheme of this scale is policy compliant. The National Planning Policy Framework advises that where local councils have identified that affordable housing is needed, they should set policies for meeting this need on site. National guidance also advises that in determining the level of planning obligations, viability is a material consideration.

4.19 York's affordable housing requirement, based upon an assessment of need, is explained in the Affordable Housing Advice note 2013. The Council's current affordable housing targets for brownfield sites, where over 15 houses are proposed, is 20%. This scheme has been subject to independent assessment (district valuer) and 10% affordable housing found to be reasonable. 70% of the affordable units will be social rent, which reflects current need. Officers are content with the outcome of the independent assessment.

4.20 The original permission was to provide 25% affordable housing (60 units). There were also other planning contributions, which have already been made (when the Council sold the site). These included contributions towards –

- Replacement coach parking facilities
- Education
- Off site highway works
- Respark scheme for local residents
- Sports and play facilities
- Public transport measures

## DRAINAGE

4.21 The site is within flood zone 1 where flood risk is low and is suitable for residential development in this respect.

4.22 According to Local Plan policy GP15a: Development and Flood Risk, surface water run-off rates from sites should be lower than the pre-development rate. To reduce surface water run-off at the main site, a hydrobrake storage tank will be installed below ground (in the area of hard-standing between the proposed building and the neighbouring hotel). The smaller site was previously a car park, entirely covered in hard-standing. The amount of hard-standing will be reduced and thus also the surface water run-off.

## SUSTAINABLE DESIGN & CONSTRUCTION

4.23 Guidance within the National Planning Policy Guidance advises that building's sustainability should be consistent with nationally applied standards. An energy statement was provided in support of the application, which proposes an enhanced building fabric in order to reduce energy demand. The assessment advised that the buildings would have been able to achieve a code for sustainable homes rating of very good. Code for sustainable homes is being phased out by the Government and the national standards are now secured through building regulations. As such, a condition that would require a code for sustainable homes rating is not recommended.

## 5.0 CONCLUSION

5.1 There is an extant planning permission for residential development at this site. The scheme is of comparable layout and scale to the approved scheme; development would regenerate a prominent brownfield site and provide much needed housing in a sustainable location. There would not be harm to designated heritage assets. The scheme is policy compliant and has officer support.



5.2 Approval is recommended, subject to an S106 legal agreement to secure 10% affordable housing, and conditions, in particular in the interests of visual and residential amenity, drainage, and archaeology.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:**

(i) Defer Pending Completion of a Section 106 Legal Agreement relating affordable housing provision.

(ii) Delegate Authority to the Assistant Director (Development, Planning Regeneration) to approve on completion of the agreement, subject to planning conditions:-

1 TIME2 Development start within three years

2 PLANS1 Approved plans -

2012 57 27 Proposed layout

2012 57 21 Floor plans

2015 57 24 Proposed elevations revision J

2012 57 26 Plans for building 2

3 Construction Management

Prior to the commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of local residents

### **INFORMATIVE:**

For noise details on hours of deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

For dust details should be provided on measures the developer will use to minimise dust blow off from site, i.e. wheel washes, road sweepers, storage of materials and stock piles, used of barriers, use of water bowsers and spraying, location of stockpiles and position on site. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any).

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

Complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (ie investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved.

#### 4 Highway management during construction

Prior to the commencement of any works on the site, a method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. The statement shall also include;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

5 HWAY40 Dilapidation survey

6 Tree protection method statement

Before the commencement of development, including the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved statement.

This statement shall include details and locations of protective fencing and there shall be no work or operations carried out within tree protection areas. It shall also include construction details and existing and proposed levels, where a change in surface material is proposed within the canopy spread and likely rooting zone of a tree.

Reason: To protect existing trees which are considered to make a significant contribution to the amenity of this area and/or development.

7 Land contamination

Investigation of Land Contamination

Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

#### Submission of Remediation Scheme

Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Verification of Remedial Works

Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

#### Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, in accordance with section 11 of the NPPF.

## 8 Drainage

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. The development shall be carried out in accordance with the approved details.

Details to include:

- Peak surface water run-off from the proposed development must be restricted to a maximum 37.2 lit/sec.
- Site specific details of the flow control device manhole limiting the surface water to the 37.2 lit/sec.
- Storage volume calculations, using computer modelling which shall 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 shall 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.
- Site specific details of the storage facility to accommodate the 1:30 year storm and details of how and where the volume above the 1:30 year storm and up to the 1:100 year storm will be stored.
- Proposed ground and finished floor levels to Ordnance Datum shall be shown on plans. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Reason: In the interest of satisfactory and sustainable drainage.

9 ARCH1 Archaeological programme required

10 Materials

Samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of the new buildings. The development shall be carried out using the approved materials.

A sample panel of the brickwork to be used on the buildings shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of construction of the new buildings. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance, and in the interests of the setting of listed buildings and the character and appearance of the conservation area.

## 11 Large scale details

Large scale details, including notes on materials, of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to construction of the pertinent building and the works shall be carried out in accordance with the approved details.

### Main building

- Typical details for dormers, and windows (including their surrounds)
- Eaves
- Entrance areas

### Apartment block onto Fawcett Street

- Section at 1:20 to show typical details

### Sub-station

- Elevations and section at 1:50

Reason: In the interests of visual amenity and of design, in accordance with section 7 of the NPPF.

## 12 Landscaping

The landscaping scheme (hard and soft measures) shall be implemented in accordance with the approved site plan prior to first occupation.

Prior to occupation a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs to be planted shall be approved by the LPA. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site, and in the interests of design, in accordance with section 7 of the NPPF.

## 13 Cycle storage

Cycle storage, as shown on the approved floor plans shall be provided prior to first occupation of the building and retained for such use at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate space for, and to encourage cycle use in accordance with Local Plan policies GP1 and T4 and section 3 of the National Planning Policy Framework.

#### 14 Electric vehicle charging points

Before the occupation of the development at least 6 Electric Vehicle Recharging Points shall be provided on-site and maintained for the lifetime of the development, to the satisfaction of the Local Planning Authority.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy and the National Planning Policy Framework.

INFORMATIVE: Electric Vehicle Recharging Point means a unit capable of charging two electric vehicles simultaneously with the capacity to charge at both 3kw (13A) and 7kw (32A). For further information on how to comply with this condition please contact City of York Council's Low Emission Officer Derek McCreddie.

15 The buildings shall not be occupied until the areas shown on the approved plans for parking, servicing and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of design, in accordance with section 7 of the NPPF.

16 Unless otherwise agreed, prior to occupation, the dwellings hereby approved shall be constructed in accordance with the recommended glazing specification detailed in table 5.1 of the ANC Noise Impact Assessment dated 28.2.2013.

Reason: In the interests of residential amenity, in accordance with BS8233 and the World Health Organisation Guidelines on Community Noise, and section 11 of the NPPF.

#### 17 Times of construction

All demolition and construction works and ancillary operations which are audible beyond site boundary or at the nearest noise sensitive dwelling, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday	08:00 to 18:00
Saturday	09:00 to 13:00

Not at all on Sundays and Bank Holidays.

REASON: To protect the amenities of adjacent residents

## 18 Air Quality

Unless otherwise agreed, all windows to habitable rooms (living rooms/kitchens and bedrooms) on the elevation (of the smaller housing block, shown on drawing 2012 57 26) facing Fawcett Street shall be non-opening, with ventilation provided through continuous mechanical supply and extract (with heat recovery). Details of the mechanical ventilation scheme shall be approved by the Local Planning Authority prior to first occupation of the building and the scheme shall be carried out in accordance with the approved details.

The windows shall remain non-opening unless it is demonstrated, to the satisfaction of the Local Planning Authority, that air quality would be acceptable for residents.

Reason: To restrict the exposure of future occupants of the development to an unacceptable standard of air quality, and to ensure adequate levels of ventilation, given that air quality outside the site has in previous years failed to meet national standards.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. INFORMATIVE:

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

#### 2. Consent for highway works

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

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington  
(01904) 551361

#### 3. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: sought revised plans, negotiation on affordable housing and



through the use of planning conditions.

**Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323

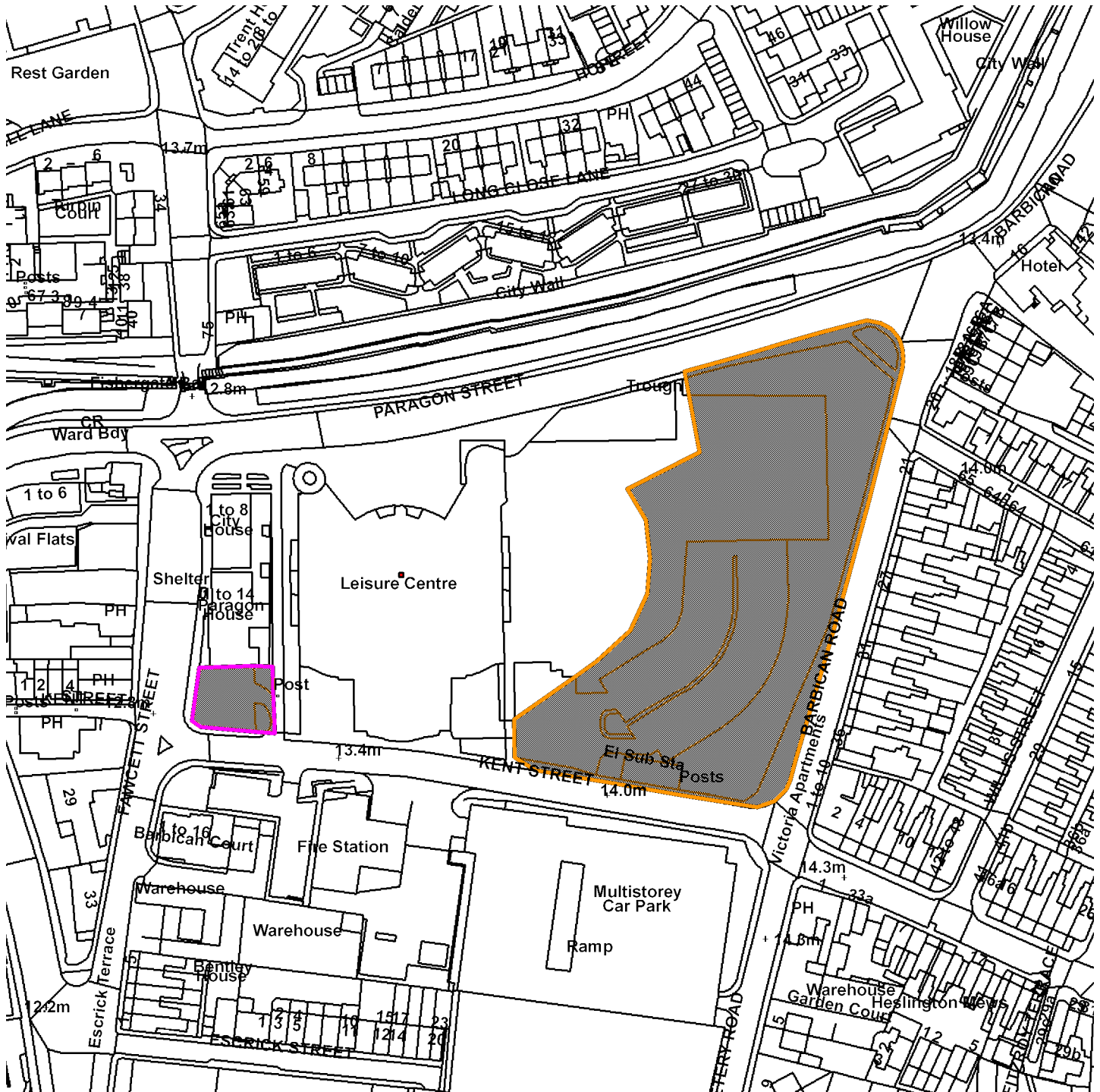
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# York Barbican Paragon Street

13/02135/FULM



GIS by ESRI (UK)



Scale : 1:1792

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	26 May 2015
<b>SLA Number</b>	Not Set

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## ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS 2011

1.4 The proposed development does not comprise 'Schedule 1' development where an Environmental Impact Assessment is always required. The proposed development is however of a type listed at 10 (b) in column 1 of Schedule 2 (Urban Development Projects) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. It is the view of Officers that the proposed site is not within or adjacent to an environmentally sensitive area (as specified in the regulations) and taking into account the characteristics of the proposed development, the location of the development, and characteristics of the potential impact and the proposed development would not result in significant environmental effects and therefore an Environmental Impact Assessment is not required.

## PRE-APPLICATION CONSULTATION

1.5 The agent has provided details of the community involvement and consultation that took place prior to the submission of the application. This included leaflets sent to 500 dwellings on Badger Hill together with posters in the University and distributed to local shops. Exhibitions were held on 3 September 2014 for the Heslington East Community Forum and 4 September 2014 for the public and the university community. A total of 95 people attended. The exhibition panels were emailed around the University population. Of the 83 responses received 63 were supportive. Some of those who objected to the proposed scheme agreed with the need, particularly for the health centre but disagreed with the proposed location, others were concerned regarding the impact to existing shops in Yarburgh Way. In addition 200 responses were received from the University community with the majority in favour.

**2.0 POLICY CONTEXT****2.1 Draft Development Control Local Plan 2005 Policies:**

CYGP1	Design
CYGP3	Planning against crime
CYGP4A	Sustainability
CYGP7	Open Space
CYGP9	Landscaping
CYGP11	Accessibility
CGP15A	Development and Flood Risk
CYHE16	Archaeology
CYNE1	Trees, woodlands, hedgerows
CYGB1	Development within the Green Belt
CYT7C	Access to Public Transport
CYT13A	Travel Plans and Contributions
CYS6	Control of food and drink (A3) uses
CYS10	New local and village shops

CYC1 Criteria for community facilities

## **2.3 City of York Local Plan – Publication Draft 2014**

R1 Retail Hierarchy and Sequential Approach

R4 Out of Centre Retailing

## **3.0 CONSULTATIONS**

### INTERNAL CONSULTATIONS

#### **Highway Network Management**

3.1 The roundabout was planned to accommodate a fourth arm and as such the design meets the necessary standards. Servicing traffic to the site will enter the rear service yard as a left turn in from Kimberlow Lane.

3.2 A Technical Note by highway consultants acting on behalf of the applicants has demonstrated through an agreed methodology that 75 car spaces would be an appropriate level of provision. 93 spaces are proposed. CYC maximum standards would permit a maximum of 100 spaces. Because of the profile of the users of the site, the sustainable location of the development, likelihood of linked trips and differing peak periods of demand for parking the level of parking proposed is excessive. However when assessing this position against national planning guidance it is not considered that a reason for refusal could be defended but is considered to represent poor practice and design.

3.3 Surrounding streets and the adjacent highway are protected by various waiting restrictions which will prevent indiscriminate parking. The use of the car park is under the control of the applicants and it would not be in their interests to allow the car park to be filled by commuter parking.

3.4 The site is located within a short walking distance of bus stops served by frequent services. There is an extensive network of pedestrian and cycle facilities which will serve the development. Access points into the development site have been designed in order to give pedestrian priority.

3.5 Cycle parking facilities have been provided around the site and are separated between covered/secure staff provision and visitor provision. Detailed design of the cycle parking will be covered by a suitably worded condition.

3.6 No Travel Plan has been submitted but the requirement for one can be covered through a suitably worded condition.

## Planning And Environmental Management

### Landscape Architect

3.7 The area makes a distinct contribution to the suitably generous landscape setting of the university campus, and acts as a gateway landscape feature at its entrance, and is an inviting, accessible open space. This exposed slope of Kimberlow hill in effect forms the start of the central vista and also forms continuity with the parkland landscape alongside Field Lane. The landscape around Field lane has been designed to complement this relationship.

3.8 The proposed arrangement of buildings would mean cutting into/removing, a considerable chunk of the end of Kimberlow Hill in order to create a level terrace, which at its eastern end would be quite sunken, thus further undermining the natural topography and visual appeal of this element of the landscape infrastructure. The positioning of the development in such a prominent location with such a detrimental impact on the landscape infrastructure of the campus, renders the development fundamentally flawed.

3.9 The development would also result in the removal of a significant area of young woodland. The woodland is not protected, but it is located on the area of landscape infrastructure that was required and approved for the wider campus development.

3.10 If the buildings were given green roofs, this would reduce the visual impact on views from above the site on Kimberlow Hill. If the parking could be reduced and placed to the rear, the buildings would have a more immediate relationship with the landscape. Nonetheless, despite all of the above potential options, even if they were feasible, it would not render the development acceptable in landscape terms.

### Forward Planning

3.11 The site falls within the general extent of the Green Belt in accordance with the saved policies of the RSS. It has been indicated in the emerging local plan that both university campuses should not be included in the Green Belt. The emerging local plan carries limited weight as a development plan as a whole at its present early stage in the statutory process.. As such it is necessary to treat the application site as if it were green belt and for the applicant to demonstrate very special circumstances to justify why the presumption against development should not apply.

3.12 The site is identified as amenity open space in the 2005 Draft Development Control Local Plan and the emerging local plan. The application site also falls within an area designated as a landscaped buffer zone under the Heslington East campus planning permission. The role of the landscape buffer zones is to protect the Heslington and Badger Hill local communities. It is noted that the City of York Council Local Plan Evidence Base: Open Space and Green Infrastructure (2014)



study identifies the application site as amenity open space for which there is a surplus of within this area.

3.13 The new neighbourhood parade will cater for the day to day needs of the immediate local population. Yarburgh Way, Badger Hill and Main Street, Heslington and provision at the University of York (Heslington West Campus) have been identified through subsequent work to the Retail Study Update as performing existing neighbourhood centre roles. The vitality and viability of the neighbourhood parades should be maintained and enhanced in order that their key role in catering for the needs of the local population continues in the future. The developed areas of the Heslington East Campus are not within a 10 minute walking catchment of the three nearest neighbourhood parades. This suggests that a site closer to the main developed area of the east campus may be preferable to address the gap in 10 minute walking time given that the application site is in close proximity to existing neighbourhood parades and is some distance from the main developed area of the campus.

#### City Archaeologist

3.14 This application lies within the area that was evaluated in advance of the outline planning application for Heslington East. The development proposal lies within Fields 5 and 5A which were evaluated in 2004/04. Archaeological features were recorded in trench 22 (Field 5A) and trench 25 (Field 5) which produced material of dating to the Iron Age and Anglian periods.

3.15 This application proposes a significant development for parts of former fields 5 and 5A. Whilst there has been some disturbance caused within the development area by construction and landscaping work, there are areas where archaeological features and deposits will survive. The development will therefore have an impact on archaeological features and deposits that lie on this site.

3.16 These deposits must be recorded prior to development taking place. This recording exercise will be most efficient realised by the controlled stripping of topsoil and such subsoil as is necessary to reveal archaeological features and deposits, and subsequent cleaning, mapping and excavating a sample of the features and deposits. Condition ARCH1 is required.

#### Flood Risk Management Team

3.17 No objections, request details of foul and surface water drainage via a condition

## **Environmental Protection Unit**

3.18 The location of the nearest properties not associated with the University is at least 150m away and EPU has no direct concerns about noise impact for the operation of the site but request a condition to control noise from any plant or machinery associated with the development and any of the uses permitted.

3.19 Suitable controls systems must be provided with any of the proposed A3 and A5 uses which are capable of adequately controlling both particulates such as smoke, grease and hydrocarbons, and gaseous emissions such as combusted gases and food flavourings. Request a condition for adequate facilities for extraction.

3.20 No past industrial uses or waste disposal activities have been identified on site or within the vicinity, so no significant ground or groundwater contamination is anticipated. However, made ground associated with the adjacent university development could be present in the southern and western part of the site, request a condition for any unexpected contamination which is encountered during the development.

3.21 The site is not within an existing area of air quality concern and is not expected to result in increased local exposure to air pollutants above the national air quality objectives. However, the development will still have an overall emission impact on the wider city which will contribute towards the cumulative impact of development on background air quality. In line with the NPPF and to be consistent with York's low emission approach to air quality action request free standing, outdoor recharging unit for vehicles via condition

## **EXTERNAL CONSULTATIONS/REPRESENTATIONS**

### **Environment Agency**

3.22 No objections

### **Ouse & Derwent Internal Drainage Board**

3.23 The surface water drainage for the area discharges to a number of Board maintained watercourses; these are already operating at capacity and as such would not be able to take on additional volumes without increasing the risk of localised flooding. .

3.24 The site is in an area where drainage problems exist and development should not be allowed until the Authority is satisfied that surface water drainage has been satisfactorily provided for.

3.25 The Board would have no objections to the principle of this proposed development however there is a need to add clarity to the overall surface water

drainage strategy. A condition is requested to secure additional drainage information

### **Yorkshire Water Services**

3.26 A water supply can be provided under the terms of the Water Industry Act, 1991.

3.27 The Flood Risk Assessment is not satisfactory. It states no percolations tests have been done, these tests must be carried out. The developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical, only upon receipt of satisfactory evidence may surface water discharge into the public surface water sewer.

3.28 Request following conditions: separate systems for foul and surface water, foul and surface water details to be submitted prior to development, no piped discharge of surface water, adequate facilities for disposal of waste materials

### **Police Designing Out Crime Officer**

3.29 A take-away will require a Licence under the Licensing Act 2003 if it opens after 23.00hrs. If not the planning permission would be the only opportunity for the Authority to place relevant conditions. Such premises should be required to provide a detailed management policy, which should include what crime prevention measures are to be incorporated and how litter is to be dealt with. If the Convenience Store sells alcohol it will require a Licence under the Licensing Act 2003. Any application for such will be looked at by the Police Licensing department and relevant conditions relating to the reduction of crime and disorder will be requested by them.

3.30 The parking at the rear of the units has no natural surveillance from within these units, leaving any vehicles parked there vulnerable to crime and users of the vehicles also vulnerable. This parking area should either be removed, windows fitted in the rear elevations of the units to provide natural surveillance or a CCTV system installed to cover the parking area. If the parking area is to remain, it should be illuminated with street lighting.

3.31 In relation to retail units and take-away, It is recommended that premises of this type have a CCTV system installed. This should cover both the inside and exterior of the premise, including the entrance/exit. The Surgery & Pharmacy should also have a comprehensive CCTV system.

3.32 Request condition for written details of how the issues raised in the Police Designing Out Crime Officers report dated 9 February 2015 are to be addressed.

## **Heslington Parish Council**

3.33 Consider that the development is contrary to the planning permission for the University in that it contravenes the Heslington East Campus - Master Plan and Strategic Design Brief April 2008 in the following ways:

- This proposal is clearly outside the approved building envelope.
- The development breaches the green buffer zone which protects the local communities of Badger Hill
- The area is also defined as green space

3.34 The Parish Council also objects on traffic grounds:

- The additional parking spaces will exceed the limits of the parking spaces set out in condition 9 of the planning permission.
- The planning process for the University sought to restrict traffic flows at key junctions. Provision of facilities at this site will increase traffic flows.

3.35 The Parish Council understands there is a need to make provision for the students on campus. It makes more sense to provide these facilities closer to the campus centre inside the building envelope already defined.

## **Publicity and Neighbour Notification**

### **Heslington Village Trust**

3.36 Object for the following reasons:

- Should adhere to the approved master plan which emerged from the public inquiry in order to protect the communities of Heslington and Badger Hill, should develop within the existing building envelope.
- Potential to set precedent.
- Additional parking would exceed the number of parking space allowed in Condition 9 of the outline planning permission.
- The outline planning permission sought to restrict traffic flows, the proposed development will result in an increase in traffic.

### **Badger Hill Residents Community Group**

3.37 Object for the following reasons:

- The proposed site of the development does not conform with the outline planning permission submitted by the University of York in 2004 examined at Public Inquiry in 2006 and recommend for approval, subject to conditions by the Secretary of State.

- The outline planning permission is unambiguous regarding the area of the application site 65 development site within 116 hectares, the proposed site is outside the development site.
- The planning permission allocated 3600 sqm of the 65 hectares for catering/retail, therefore no justification for new application.
- The buffer area should remain intact as it provide context and containment of future development of the university.
- Harm caused by the development of the buffer zone.
- Not the most convenient position for the target customers, should be within the campus.
- Badger Hill has existing retail facilities, proposal would harm the viability of the existing shops and disadvantage residents of Badger Hill who do not have access to transport.
- Planning permission for supermarket nearby which may impact on the viability of the existing retail provision.
- The trading position of the Heslington West supermarket is not material to this application.
- Over exaggerates road safety concerns, if the surgery moves Osbaldwick residents will have to cross the same road to access.
- Improper to attach all the other aspects of the proposed development to the surgery in order to justify them, the retail and the surgery elements are separate issues and should be treated as such.
- The provision of parking spaces will be at odds with the Planning Inspector aim to reduce the use of private car in travelling to the university.
- Would result in increase in traffic and congestion.
- No special circumstances to justify the departure from the plans as set out in the outline planning permission.

### Third Party Representations

3.38 The publicity and neighbour notification process resulted in 220 responses. Of these 195 were in support, 22 were in objection and 3 provided general comments.

3.39 Grounds of objection:

- There is an existing pharmacy within 10 min walking distance
- There is an existing doctors surgery on the main campus
- A cheaper supermarket is proposed nearby as such there is not requirement of the retail facilities
- Not a demand for the facilities on the Heslington East campus
- Not part of the original plan for Heslington East, sited within green buffer zone
- Loss of landscaping and cutting into Kimberlow Hill
- Concerned that the proposed infrastructure will allow residential development of the neighbouring site

- The Inspectors report and the decision made by the Secretary of State set out the importance of the landscape buffer zones
- The additional parking exceeds the numbers of Condition 9 of the campus outline planning permission
- The outline application sought to restricted traffic flows at key junctions, would the proposed development exceed these restrictions?
- The facilities should be within the campus
- Would set principle of development of Kimberlow Hill and the landscaping buffer
- The proposed A5 units will create additional traffic, noise (from customers, deliveries etc) and odour issues, and the potential refuse problems
- Detrimental impact on the nearby retail units that will lead to job losses and empty units
- The late night opening and unattended car park will result in anti-social behaviour
- The doctors surgery will be isolated
- There are sufficient A5 units in the area to satisfy demand
- Any planning reasons based on 'increase in demand' are disingenuous, if there is a requirement for these facilities can be sited within the campus. If they are unable to gain enough revenue in this position the proposed development can not be sustainable
- The site is green belt
- Further encroachment of the university on Heslington village
- No justification for the proposals beyond the supposed inability of students to cross Hull Road safely
- Will result in families moving out of the area
- Trees will be removed
- The University should have two strategically located medical centres in each campus. They should be close to colleges, laboratories, etc. Had expected one to be built in Campus East in due course. However, a doctors surgery does not really meet the need and has different priorities from those of a campus medical centre
- The Heslington West surgery serves not only the students and staff in the old campus but also Heslington residents, many of them elderly. The loss of this surgery puts at risk students in the old campus and a surgery at the far end of Field Lane is definitely less accessible for Heslington residents. The argument that the Emergency Services could be relied upon suggests to that the University is putting commercial considerations above the interests and well being of its students and staff
- Urban sprawl
- Promotes unhealthy living and obesity
- Potential light pollution
- The site is only considered because of financial problems, is not enough money to building the surgery without closing 2 surgeries and from the

proposed retail units, the shops can not be successful on student custom alone, require non-student customers

- There is an existing shop on campus open 11 hours 7 days a week during term time
- Considerations should be given to the residents of the nearby communities
- Do not challenge the need for facilities, however, this is the wrong location - it should be within the original development envelope which is more than sufficient - or re-develop the existing site rather than close.
- Before Heslington East is even completed to suggest the current green wedge is eaten into to create a new destination is careless forward planning
- concerns that the parking as part of this application may be used by those visiting the University rather than the retail units, thereby undermining the Travel Plan and increasing University-related traffic, and certainly the proposed volume of parking seems disproportionately high
- consent should only be granted if conditions were applied that limited the parking to short-term use only, perhaps 90 minutes between 9am and 6pm or similar. This would ensure the parking is for its intended use only and would address concerns about University-related traffic.

### 3.40 Grounds of Support

- Heslington East campus suffers from a lack of retail facilities with a 15 min walk to closest shop.
- The current set-up makes returning to campus accommodation unappealing to second and third year students, which in turns puts pressure on family housing stock
- Require improved access to health services
- More sustainable for the local population to have the facilities close by
- Benefit local economy
- Students and staff are using the petrol station on Hull Road, the road crossing is considered dangerous, and the proposed supermarket will increase the numbers of students crossing this road
- Provide more trees than existing
- Cafe/restaurant will aid the interaction between the students and York residents
- A free car park will help those attending the university
- Demand for hot food take-away
- Students tend to shop online however require fresh essentials such as bread and fruit
- Would encourage more commercial development in the Badger Hill and Heslington areas
- Currently a 30 minute round trip to purchase daily essentials
- The needs of the students should be catered for

- The objections to the proposal are designed to keep the University community and local residents separate
- The objections show that there is a lack of appreciation of the difficulties faced by members of the University community to obtain basic amenities, such as grocery, and a health centre and pharmacy for times of illness. Simply stating that there are similar amenities no matter how far away should not be sufficient without giving an accurate and representative view of the number of students that use those facilities as well as their views on the time and difficulty needed to get there

Councillor Neil Barnes (Hull Road Ward)

3.41 There was a unanimous vote to oppose the planning application at the AGM of the Badger Hill Residents Community Group in February. This was on the grounds that the site is within a 'green zone' allocated in the original campus master plan, which was set for the purpose of providing a buffer between the Badger Hill estate and the built-up aspects of the new campus.

3.42 Individual representations have been made by residents in Badger Hill who also oppose the application on the above grounds and also that it contains proposed takeaway outlets. There were also arguments that local amenities are already sufficient for provision of retail and pharmacy needs.

3.43 Met with a delegation of students who described how the Heslington East campus requires better retail and health facilities for the benefit of those living on the campus and to make it an attractive prospect for returning students.

3.44 The Heslington East Campus needs to be an attractive prospect with adequate facilities. If students can be better enticed to live on campus, then the pressure on the local housing market will be less.

3.45 Amending aspects of a master plan that underwent intense scrutiny and a public enquiry would set an unwelcome precedent for the remainder of the development.

3.46 The rise of online ordering and the aggressive marketing of existing outlets does not appear to support the market need for a new takeaway. This is a particular bone of contention for local residents and I wonder if the University could demonstrate good faith by withdrawing an application for this particular use?



## 4.0 APPRAISAL

### RELEVANT SITE HISTORY

04/01700/OUT

Outline application for development of a university campus  
Approved by the Secretary of State - May 2007

08/02167/FULM

Realignment of arms of roundabout with associated pedestrian and cycle access and landscaping, following previous approval of outline application 04/01700/OUT.  
Approved - December 2008

08/02543/REMM

Construction of central lake and raising of Kimberlow Hill  
Approved - April 2010

09/01574/REMM

Landscaping to Kimberlow Hill, Central Lake and Eastern Mounding of Heslington East Campus  
Approved – October 2009

### KEY ISSUES

- The Planning Status of the Land
- Green Belt Policy including very special circumstances
- Harm to the openness of the Green Belt
- Design and Landscape Impact
- Loss of Open space
- Highways and Transport
- Residential amenity
- Archaeology
- Equalities Act 2010

### PLANNING POLICY

4.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

4.2 Whilst the Regional Strategy for Yorkshire and Humber (the RSS) has otherwise been revoked, its York Green Belt policies have been saved together with the key

diagram which illustrates those policies and the general extent of the Green Belt around York. These policies comprise the development plan for York.

4.3 The York Development Control Local Plan (DCLP) was approved for development control purposes in April 2005. Its policies are material considerations in the determination of planning applications although it is considered that their weight is limited except when they are in accordance with the NPPF.

4.4 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The NPPF is a material consideration in planning decisions.

4.5 The NPPF says that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. It also states that Local Planning Authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local Planning Authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraphs 186 and 187).

4.6 Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. The relevant NPPF core principles include: finding ways to enhance and improve the places in which people live their lives; proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs; always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; take account of the different roles and character of different areas; contribute to conserving and enhancing the natural environment and reducing pollution; promote mixed use developments; actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

## THE PLANNING STATUS OF THE LAND

4.7 The proposed development site is within the approved application site of the East campus but was shown as "Green Space including tree and woodland planting" in the application documents. This designation was carried through into subsequent Masterplan Documents approved by the Local Planning Authority and the landscape has been altered from its previous agricultural appearance to that of a parkland and it remains open and undeveloped.

4.8 The new East campus was given planning permission by the Secretary of State in May 2007 following a “call-in” public inquiry. The Secretary of State considered the land to be within the general extent of the Green Belt as set out in the North Yorkshire County Structure Plan and the draft Regional Spatial Strategy for Yorkshire and the Humber. She concluded that the new campus was inappropriate development in the Green Belt, but that there were very special circumstances to clearly outweigh the limited harm that would be caused to the purposes of the Green Belt.

4.9 Whilst the Regional Strategy for Yorkshire and Humber (the RSS) has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates those policies and the general extent of the Green Belt around York.

4.10 RSS Policy YH9C “Green Belts” states that the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. RSS Policy Y1 states that the City of York LDF, should define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York city centre and the inner boundary in line with policy YH9C.

4.11 The 2005 Development Control Local Plan (DCLP) shows the site to be within the Green Belt. The emerging Local Plan (2014) shows both the East campus and the Green Space to the north of the built development as outside of the Green Belt. However at this stage the emerging Local Plan is considered to carry very little weight in the decision making process. As such it is considered that the application site remains within the general extent of the Green Belt.

## GREEN BELT POLICY

4.12 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 80 sets out the five purposes of the Green Belt:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns 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.

4.13 Paragraph 89 states that a local planning authority should regard the construction of new buildings as inappropriate development in Green Belt. NPPF paragraph 87 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4.14 Paragraph 88 says when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

## VERY SPECIAL CIRCUMSTANCES

### The Applicant's Case

4.15 The applicant's agent considers that very special circumstances exist in this case to outweigh the harm to the Green Belt. In summary:

- The proposed development is required to meet an existing and growing need for health services and convenience shopping for University of York students and staff. Very few students have access to cars and many staff utilise non-car modes to arrive at work. The university community needs on-site facilities so that the campus is established as an appealing place to live, work or study.
- The University has an obligation under the section 106 agreement to make their student housing as attractive as possible in order to reduce the pressure on the city's housing stock. The lack of facilities for the student population has led to negative perceptions of living on this campus.
- It is essential that it is accessible to the local community due to the need to maintain viability during University vacations. Therefore the development is located outside of the barriered access roads and is thus outside of the allocated area designated for development in the approved masterplan.
- A sequential test has failed to identify an alternative an alternative location which could be conveniently located for the University community and still be viable and deliverable for the operators of the health an retail facilities.

### **The Demand For Improved Facilities**

4.16 There are currently 2000 students living on the East Campus. This is likely to rise to 3200 over the next 5 years. The daily university population working or studying at the campus is about 2000. Companies based at the campus employ around 150 staff and attract around 125-150 visitors a month. The Sports Village has a membership of 4500. The East Campus is around 50% completed. Further increases in knowledge based companies, academic and residential buildings will increase demand for more facilities. Recent permissions include the Piazza building a teaching and catering building for 500 undergraduate students, plus 500 foundation college students the construction start is imminent with completion due in 2017. Future plans include the Bio-vale research centre, a national science facility

for research in agriculture and green energy. Staff levels would be around 500, a planning application is due in 2015, with completion in completion 2017. Residential College 10 is under consideration for completion in 2018 and College 11 for completion in 2019. Theses colleges would accommodate 1300 students in total.

## **Health Services**

4.17 The medical practice who would run the proposed surgery currently have three other surgeries at the West Campus, on Hull Road, and at Wenlock Terrace. Their list size is in the region of 23000 patients, comprising 66% university students and 33% local patients. The patient list has seen an average 6% growth year on year since 2010, with the trend predicted to continue into 2016. The West Campus surgery is within the campus, it is not easily visible or accessible to the public and there are car access limitations for non-university users. The Hull Road surgery occupies a detached bungalow in a residential street with no on-site car parking and is not considered to be fit-for-purpose by the practice. The applicant states that neither surgery is of a sufficient size to serve the current and future patient list and that services are therefore constrained in scope and frequency. In addition there is no adjacent pharmacy.

## **Convenience Shopping**

4.18 All colleges on the East Campus are self-catered with limited storage space in the shared kitchens resulting in regular shopping trips being needed. Retail provision is limited to a small food selection in the Hub cafe. The current preferred source of food shopping for residents of the East Campus is the 24-hour convenience store at the Inner Space Station petrol Station on Hull Road. The applicant's state that as this is located over two carriageways of the A1079 this presents a significant safety risk particularly after dark. Other food shopping options are the West Campus supermarket which is 2km away and internet deliveries which carry a charge for small orders. Planning permission has recently been granted for the conversion of the B & Q store on Hull Road to a food store although it not known when this will be developed. The applicant's point out that the same safety concerns would arise with this store on the north side of Hull Road and suggest that added to the travel time, very large stores are time-consuming for students making frequent trips to purchase small quantities of goods.

## **Alternative sites**

4.19 The applicant states that the requirement for retail provision on the campus has been recognised from the outset of the development. However the challenge of attracting retailers onto the campus who could survive vastly reduced turnover during the vacations has not been resolved. The turnover at the West Campus supermarket typically falls from £85000 to £15000 per week during vacations. The applicant points out that this is with publicly accessible car parking which does not exist at the East Campus. As such they state that the health and shopping facilities

need to create footfall out of term time to achieve viability for the shops; create a revenue stream to cross-subsidise the Health Centre in the early years of its operation; facilitate combined trips for health and shopping units; attracting a range of retail uses will cut down on the need for further off-site trips for students.

4.20 Sites at the West Campus Surgery; the Draft Local Plan Housing site on Hull Road; within the East Campus and separate provision for the required elements were considered. All were discounted due to a combination of factors including convenience for those on cycle and foot including bus passengers, accessible by car for patients and staff and deliveries; proximity to the East Campus and local communities, commercial viability including during student vacations, deliverable (including land ownership issues), site area for buildings of around 0.5ha able to cope with future growth.

### **Assessment of the applicant's Very Special Circumstances**

4.21 Existing shopping and medical facilities currently exists at the neighbourhood parades at West Campus, Yarburgh Way and Heslington Main Street and on Hull Road. The West Campus facilities are 2km (1.2miles) from the centre of the East Campus (walking route) and provide a convenience store and other facilities primarily for the student population. Heslington Main Street is 1.5km away (0.9miles) and provides a pubs, banks and post office. Yarburgh Way is 0.8km (0.5miles) away provides a small convenience store, a baker, butcher, pharmacy, hairdressers/barbers and other non-convenience shops. A small convenience shop is located within the Inner Space Station petrol station on the north side of Hull Road is 0.7km away (0.43 miles). Planning permission has recently been granted for the conversion of the B & Q store to the north of Hull Road to a food superstore this would be 0.9km away (0.57miles). It is not known when this conversion will be implemented.

4.22 There is a significant existing student and working population at the East Campus which will increase in the future with the completion of the additional residential colleges, teaching and research facilities. On site facilities are limited to social and catering. Evidence from the student body demonstrates that resident students consider the facilities at the East Campus to be inadequate in terms of shopping facilities which the University consider could be damaging to the letting of existing residences and the development of additional residences. The provision of on site shopping facilities has been encouraged by the city council and the s106 agreement for the site requires the University to undertake to take steps to encourage the maximisation of demand for student housing on the East Campus.

4.23 In terms of current provision there is a reasonable spread of shopping facilities for day-to-day needs in the broad vicinity of the East Campus but that these facilities are spread out and do not provide for a single destination allowing for linked trips. Furthermore the Retail Study Update which is part of the evidence base for the 2014 Draft Local Plan shows that the developed areas of the East Campus are not within

a 10-minute of the three neighbourhood parades. It can be argued therefore that there is a need for additional shopping facilities within closer proximity of the East Campus.

4.24 It is reasonable for shopping and medical facilities to be provided on or adjacent to a campus with such a large resident and working population. The applicant submits that sites within the East Campus will not be developed for shopping facilities because they are considered to be unviable by developers who require footfall throughout the year and the visibility and access that a site within the Campus's vehicle barriers would not provide. Similarly the medical centre requires a certain level of patient and operational parking on site which would be similarly constrained by the barriered access to the campus. On that basis a development site on the edge of the East Campus would be required for the facilities to be brought forward.

4.25 In respect of the medical centre, the applicant submits that the development is necessary to rectify deficiencies in the Practice's existing facilities based on the size of their patient list and NHS standards. The relevant NHS standard is for the provision of 15 consultation rooms, 4 nurse treatment rooms and 2 HCA rooms. Currently the provision is 9 consultation rooms, 3 nurse treatment rooms and 0 health case assistant rooms. The medical practice states that these deficiencies can be met by moving the administration out of Wenlock Terrace to provide more clinical space and base it in the new health centre with the improved facilities it will have. Both Hull Road and Heslington West surgeries are too small and incapable of expansion to be brought up to standard. A small surgery catering for the additional demand from the East Campus alone could not overcome the deficiencies of all 3 surgeries and would not attract NHS funding.

4.26 The applicant states that the expanded medical facilities would not be viable without additional funds to cover an early years funding gap. Retailers require an element of trade from the wider community for them to remain commercially viable outside of term-time. Provision of the health and retail elements in the same development will create a critical mass for the scheme in attracting footfall and also the ability to cross-subsidise the health centre.

4.27 It is considered that no suitable alternative means of accommodating the proposed development on land that is not located within the Green Belt has been identified and that these other considerations are material in determining whether very special circumstances exist in this case. In accordance with paragraph 88 of the NPPF when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

HARM TO THE OPENNESS OF THE GREEN BELT

Application Reference Number: 15/00049/FULM

Item No: 4b

4.28 The application site forms part of the western slope of Kimberlow Hill. The development would involve cutting into and removing an area of the hill to create a level terrace. The land would then be re-contoured to provide a steep slope to the east and north east of the application site. The proposed buildings would be single storey in height with very shallow pitched roofs hidden on some elevations behind parapets.

4.29 The Green Belt in this location comprises a relatively narrow strip of land comprising of Kimberlow Hill, the open land between the northern edge of developed area of the East Campus east of Field Lane and south of Hull Road. The strip of Green Belt then narrows further to the west between the East Campus south of Field Lane. Kimberlow Hill has been landscaped as informal open space, part of its northern slope remains in agricultural use. This land is a proposed housing allocation in the 2014 emerging Draft Local Plan, however this designation is considered to carry very little weight in the decision making process. Two planning applications totalling 249 houses are currently under consideration (15/00166/FULM and 15/00167/FULM) on this land.

4.30 The fundamental purpose of Green Belt policy to preserve openness. The proposal would conflict with this purpose and with the purpose of safeguarding the countryside from encroachment. However whilst the development would eat into part of the area that was provided as a landscaped parkland around the East Campus it would be reasonably well related to the campus whilst retaining its own landscaped periphery. The proposal is a discrete development and is unlikely to set a precedent for other development within the Green Belt. It is not considered that development would conflict with the other Green Belt purposes set out in paragraph 4.12. The proposal gives rise to harm to the green belt by reason of inappropriateness and limited harm to openness and encroachment into the countryside. To amount to very special circumstances, the other considerations set out in 4.15 – 4.19 above, together with other considerations set out below need to clearly outweigh this identified harm to the green belt.

## DESIGN AND LANDSCAPE IMPACT

4.31 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Decisions should aim to ensure that developments: will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other



public space as part of developments) and support local facilities and transport networks;

- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping.

4.32 Para 61 of the NPPF states that visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

4.33 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.34 There are five elements that provide the landscape infrastructure and setting for the campus at Heslington East. These are: the parkland landscape alongside Field Lane, Kimberlow Hill (woodland and meadow), the green vistas, the lake, and the wooded mounding adjacent to the A64.

4.35 The proposed location for retail space and doctors surgery would be within an area designated as a landscape buffer in the approved masterplan. It would occupy roughly half of the buffer width which at this point is formed of Kimberlow Hill. In order to create a level terrace for the development an area at the end of Kimberlow Hill would be excavated. At its eastern end the development terrace would be sunken about 5m below the original topography of the hill. This would undermine the natural topography and visual appeal of this element of the landscape infrastructure.

4.36 The topography and landscaping means that the impact of the proposal is relatively localised to the immediate approaches to the roundabout, the houses to the west on Field Lane, the Field Lane parkland and in western views from the hill itself.

4.37 The area makes a distinct contribution to the generous landscape setting of the university campus, it acts as a gateway landscape feature at its entrance, and is an accessible open space.

4.38 The slope of Kimberlow hill forms the start of the central vista which leads down to the hub buildings and lake. The development has been kept close up to the existing campus and the northern service road whilst setting it back from Kimberlow

Lane to leave a green width relating to the central vista on the campus. The existing planting and former field boundary to the south of the site would be retained.

4.39 The style of the architecture keeps the buildings low and simple, with a limited but contrasting palette of materials, all of which lends itself to a wooded and a generous landscape setting. This concept would be compromised by car parking to the front, lighting and commercial signage. However, new tree planting and a hedgerow are proposed around the car parking area to the front of the buildings which, in time will mitigate to some degree the impact of the new built development on this landscaped setting.

4.40 Revised drawings have been received to show areas of sedum green roofs on the eastern roof slopes of the building which would be viewed from above the site on Kimberlow Hill. Larger areas of green roof were sought but were not forthcoming.

4.41 Mitigation measures will create an attractive landscaped setting for the development but this does not overcome the significant impact on the landscape infrastructure of this entrance to the East Campus and on local views of Kimberlow Hill and the issue of the principle of developing within the landscaped buffer. This planning harm has to be balanced against the applicant's demonstrated need for the proposed development. On balance it is considered that the provision of necessary retail and medical facilities outweighs the harm to a small area of a locally important landscape. It is considered that this will not set a precedent for development in the landscape buffer because of the special circumstances advanced by the applicant for this particular development.

4.42 Kimberlow Hill provides views towards The Minster and Heslington Church. The excavation of the hill to provide the development area will mean that the proposed buildings will not impinge directly of these views. The landscaping proposed around the edge of the excavation will soften of the presence of the development from viewpoints.

4.43 Planning conditions can secure appropriate tree protection measures and new landscaping. Lighting can also be conditioned and although guidance advises against planning conditions controlling advertisements beyond the scope of the Advertisement Regulations it is considered in this case that such a condition may be justified given the location of the development within the landscaped buffer.

#### LOSS OF OPEN SPACE

4.44 The proposal would result in the loss of amenity parkland open space that was developed as part of the East Campus development. The s106 legal agreement secures public access to the land.

4.45 The NPPF at paragraph 74 states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

DCLP policy G7 contains similar requirements and complies with the NPPF.

4.46 Whilst the land cannot be described as surplus to requirements as such, nor is replacement land being provided, its loss should be considered in the context of the significant amount of accessible open space land which has been provided as part of the East Campus development. The application proposes a loss of 1.5ha out of a total area of structural landscaping of 51ha (this does not include the areas within the 65ha allocated developable area which will remain undeveloped). This is not considered to be significant and will not unduly harm the additional opportunities for recreation that have resulted from the development of the East Campus.

#### RETAIL IMPACT

4.47 In accordance with the NPPF and as set out in the Retail Study Update (2014), it is important that the City of York has a hierarchy of centres that are able to adequately service the day to day retail and community needs of the local population in as close a proximity to their homes as possible. This will help to promote sustainable shopping patterns as people should not have to travel far to meet their day to day needs.

4.48 Paragraph 70 of the NPPF states that planning decisions should plan positively for the provision of local shops and other local services to enhance the sustainability of communities and residential environments. It also states that decisions should also guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet their day-to-day needs.

4.49 Policy S10 of the DCLP states that permission will be granted for the development of local shops provided that the development is within defined settlement limits, the shop is intended to serve a local need and the scale of the provision is appropriate to the locality and there is no adverse effect on the amenity of neighbouring property or the character of the area.

4.50 The application proposes a new neighbourhood parade which is likely to cater for the day to day needs of the immediate local population as well as the East

Campus. Yarburgh Way, Badger Hill and Main Street, Heslington which are in reasonably close proximity to the application site and provision at the West Campus have been identified through subsequent work to the Retail Study Update as performing existing neighbourhood centre roles. These neighbourhood parades are outside of a 10 minute walk of the main developed area of the East Campus.

4.51 Policy R1 of 2014 Publication Draft Local Plan seeks to safeguard the existing neighbourhood centres. It requires that any proposals for additional retail provision outside of these centres is subject to the requirements of policy R4. Policy R4 states that out of centre retailing will only be permitted where it cannot be accommodated in a sequentially preferable location and where it will not result in a significant adverse impact on a defined centre. In accordance with the NPPF only very limited weight can be attached to the policies in the emerging Local Plan as these have not been consulted upon (or have had limited consultation) or tested through examination. The definition of a centre in the NPPF excludes small parades of shops of purely neighbourhood significance.

4.52 Paragraph 26 of the NPPF does not require an applicant to provide a retail impact assessment if the development is under 2500sq.m. The proposed retail floorspace in the proposal is 791sq.m. The convenience store, pharmacy and the bakery at Yarburgh Way are likely to face some competition from the proposed retail units. The applicant states that the selection of retail occupants is to be focused on the needs of the university community. There is unlikely to be a butcher in the proposed shops however a sandwich shop and baker is likely to be represented. However in the absence of an adopted policy to protect the neighbourhood centres, competition from small scale developments cannot normally be taken into account when making a planning decision.

4.53 The applicant states that the scale of the retail provision is required to provide a viable level of footfall and also to support the medical facilities. The range of uses proposed and the level of provision appears to be reasonable in this location and would not conflict with the policies of the NPPF or DCLP policy S10 which carries limited weight in the decision making process.

4.54 It has been suggested that a site closer to the main developed area of the east campus may be preferable given that the application site is in close proximity to the Yarburgh Way neighbourhood parade. However the applicant has provided justification to support their choice of site outside of the East Campus's vehicle barriers on viability grounds.

## HIGHWAYS AND TRANSPORT CONSIDERATIONS

4.55 Access to the proposed development will be taken via a new length of access road served from a new arm being provided onto the existing Field Lane/Kimberlow Lane roundabout. The roundabout was planned to accommodate a fourth arm in the future and as such the design meets the necessary design standards.

4.56 The car parking proposed has been reduced from 101 to 93 spaces. The DCLP maximum standards would permit a maximum of 100 spaces for a development of the scale proposed. A Technical Note by highway consultants acting on behalf of the applicants has demonstrated through an agreed methodology that 75 car spaces would be an appropriate level of provision. Officers from Highway Network Management consider that the level of parking proposed is excessive and has not been substantiated. However whilst officers consider that a further reduction in car parking could be achieved, in assessing this position against the NPPF and given that it is below maximum standards the proposed parking level are on balance acceptable.

4.57 Surrounding streets and the adjacent highway are protected by various waiting restrictions which will prevent indiscriminate parking. Concerns have been raised that the car parking facilities within the site will be abused by commuters working at the university. The use of the car park is under the control of the applicants and it would not be in their interests to allow the car park to be filled with vehicles that do not belong to customers using the development.

4.58 The site is located within a short walking distance of bus stops served by frequent services which is in accordance with DCLP policy T7c (Access to Public Transport). In the locality there is an extensive network of pedestrian and cycle facilities which will serve the development. Access points into the development site have been designed in order to give pedestrian priority. Further detailed design is required but it is envisaged that such crossings will take the form of at grade crossings (the footway continues through at level). Cycle parking facilities have been provided around the site and are separated between covered/secure staff provision and visitor provision. Detailed design of the cycle parking can be covered by a suitably worded condition.

4.59 No Travel Plan has been submitted but the requirement for one can be covered through a suitably worded condition.

4.60 Condition 9 of the Secretary of State's approval for the East Campus allows for up to 1500 car parking spaces subject to a proviso that any spaces above 500 no. would not increase the traffic generated at 3 principal junctions above agreed levels (Grimston Bar/A64; Melrosegate/Hull Road and Fulford Road/Heslington Lane). Condition 7 requires mitigation measures if predicted traffic flows from each new reserved matters application within the campus breach the agreed limit. Condition 33 states that no more than 150 car parking spaces should be accessed from Field Lane. The current application is not bound directly by these conditions, however representations have been made that the spirit of these conditions should be applied to this development. The 150 space limit was imposed because the Inspector considered that a large 500 space central car park accessed from Field Lane (as proposed) would undermine the objectives of the University's Green travel Plan.

4.61 There are no technical or highway capacity reasons to restrict the size of the proposed car park beyond what is proposed by the developer. A Transport Assessment has been submitted which demonstrates that there would be no adverse impact on the operation of the Field Lane/Kimberlow Lane roundabout, or on the wider road network, as a result of the development. The reason for imposing condition 33 is not directly relevant to this proposal. Car parking has to be provided for the retail and medical facilities for them to be viable and for operational reasons.

### RESIDENTIAL AMENITY

4.62 The development would be around 140 metres from the nearest dwelling in Field Lane. The closest retail unit would be about 160 metres away from the nearest dwelling. As such there is unlikely to be any significant noise impacts from the operation of the development or from additional car movements. The proposed restaurant and takeaway uses both have the potential to cause loss of amenity due to odours associated with cooking of food if there is insufficient odour control.

4.63 It would be reasonable and necessary to impose planning conditions to require suitable kitchen extract and odour controls systems. Hours of operation can also be proposed through a planning condition if Members considered that this was necessary to protect residential amenity. No specific hours of use are proposed in the application form. The introduction of hot food takeaways, cafe/restaurants and potentially late opening retail premises could result in late night noise and disturbance which would be harmful to residential amenity.

4.64 There is potential for anti-social behaviour related to late night uses and the unauthorised use of the car park. The Police Designing Out Crime Officer has recommended conditions in respect of crime and design.

4.65 The design and appearance of the proposal would not be unduly harmful or overbearing in views from residential property.

4.66 Subject to appropriate conditions the proposals are considered to comply with policies S6, S10 and GP1 in respect of their aims of reducing the impact of development proposals on local residential amenity. These policies are considered to be in accordance with the NPPF in this respect.

### ARCHAEOLOGY

4.67 The development proposal lies within an area which was evaluated in 2004/05. Archaeological features were recorded in trenches which produced material of dating to the Iron Age and Anglian periods. The development will have an impact on archaeological features and deposits that lie on this site. These deposits must be recorded prior to development taking place. This recording exercise will be most efficient realised by the controlled stripping of topsoil and such subsoil as is necessary to reveal archaeological features and deposits, and subsequent cleaning,

mapping and excavating a sample of the features and deposits. A planning condition can secure this work.

## EQUALITIES ACT 2010

4.68 S.149 of the Equalities Act 2010 requires the local planning authority to exercise its functions having due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics included disability, sex, age and pregnancy and maternity. The proposed closure of the West Campus and Hull Road Surgeries potentially engages s.149 of the Act.

4.69 The Practice has undertaken a consultation exercise for all patients and on-going consultation continues with the practice's Patient Participation Group and Patient Working Party. Points raised by patients such as disabled access have been addressed by ensuring the new build is fully DDA compliant and the needs of the elderly with long term conditions have been highlighted with the focus on the community hub and dementia service.

4.70 The justification for the proposed relocation of the health services is to improve the service that the practice is able to provide for all patients, whichever group they are in, and in the process:-

- improve physical accessibility of the premises and services
- be in a more accessible location in terms of access by a range of travel modes
- improve availability of the services by increasing the capacity of the premises and hence the through-put of consultations and treatments.

4.71 In terms of the closure of two of the existing services they state that:

- The West Campus surgery is located within the campus and served by an oversubscribed University pay and display car park. It is not prominent for the general public, where aged and/or disabled, pregnant or patients with young children are more likely to be concentrated. The premises are too small to provide an adequate service to the size and variety of the patient list.
- Hull Road surgery is a converted detached bungalow with on street parking, as available. The premises are no longer suitable for a modern health service in terms of facilities.

4.72 The Practice consider that they have complied with the provisions of the Act. In making its decision the local planning authority has to have due regard to the aims of the Act. This is part of the planning balance and it is considered that the provision of new facilities when balanced against the loss of the existing facilities does not unduly impact on any persons with protected characteristics.

4.73 It is noted that the requirements of the Act will also be considered through the NHS approval process.

## 5.0 CONCLUSION

5.1 The application site is situated within the general extent of the Green Belt. Planning policy dictates that substantial weight should be given to any harm to the Green Belt and that inappropriate development should not be permitted unless very special circumstances exist. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5.2 The applicant has advanced the following other considerations, which they consider to amount to very special circumstances in respect of the proposal:

- The proposed development is required to meet an existing and growing need for health services and convenience shopping for University of York students and staff. Very few students have access to cars and many staff utilise non-car modes to arrive at work. The university community needs on-site facilities so that the campus is established as an appealing place to live, work or study.
- The University has an obligation under the section 106 agreement to make their student housing as attractive as possible in order to reduce the pressure on the city's housing stock. The lack of facilities for the student population has led to negative perceptions of living on this campus.
- It is essential that it is accessible to the local community due to the need to maintain viability during University vacations. Therefore the development is located outside of the barriered access roads and is thus outside of the allocated area designated for development in the approved masterplan.
- A sequential test has failed to identify an alternative an alternative location which could be conveniently located for the University community and still be viable and deliverable for the operators of the health and retail facilities.

5.3 The proposal constitutes inappropriate development for the purposes of para 88 of the NPPF, and by definition causes harm to the Green Belt. Because of its location the proposed development would result in some limited harm to the openness of the Green Belt and encroachment into the countryside, but is not considered to conflict with other green belt purposes set out at para 80 of the NPPF. More significant harm would be caused to the landscaped setting at the Field Lane entrance to the campus of the East Campus, however the layout, design and proposed landscaping will help to mitigate this harm to some degree.

5.4 It is considered that the other considerations put forward by the applicant outlined above, together with the mitigation of other harm through planning conditions clearly outweigh the potential harm to the Green Belt by reason of



inappropriateness and any other harm, and thereby amount to very special circumstances to allow the inappropriate development in the York Green Belt.

5.5 The other impacts of the development do not result in significant harm and can be mitigated through planning conditions.

5.6 The Town and Country Planning (Consultation) (England) Direction 2009 requires that proposals that constitute inappropriate development within the Green Belt are referred to the Secretary of State for consideration.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:**

Approve subject to the following conditions after referral to Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009:

- 1 TIME2 Development start within three years
- 2 PLANS1 Approved plans
- 3 VISQ8 Samples of exterior materials to be app
- 4 LAND1 New Landscape details
- 5 LAND3 Protection of existing planting
- 6 The development shall provide the following minimum or maximum level of floorspace and number of units unless otherwise approved in writing by the local planning authority following the prior submission of a planning application under section 73 of the Act (variation of condition)
  - i/ a doctor's surgery of no less than 836 square metres.
  - ii/ no less than 3 shop units (use class A1(including the pharmacy)) totalling not less than 650 square metres.
  - iii/ no more than 2 hot food take-aways (use class A5) totalling not more than 186 square metres.
  - iv/ no more than 2 cafe/restaurants (use class A3 where the primary use is for the sale of food and drink for consumption on the premises) totalling not more than 186 square metres.

Reason: In order to provide the broad range of services and facilities put forward by the applicant as very special circumstances outweighing the presumption against inappropriate development in the Green Belt; to avoid a concentration of uses which may have an adverse impact on the environmental qualities of the area through noise and late night traffic

generation; to avoid the amalgamation of units which may have an undue impact on shopping facilities in the wider area.

- 7 The shop, take-away and cafe/restaurant uses shall not be open to visiting members of the public outside of the following hours:

07.00 - 23.00 on any day.

Reason: In order to protect the living conditions of nearby residential properties from harmful late night noise and disturbance.

- 8 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval prior to its installation. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Reason: In the interests of the living and working conditions of nearby properties

Informative:

It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

- 9 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval prior to their installation. The details shall include maximum sound levels (L<sub>Amax</sub>(f)) and average sound levels (L<sub>Aeq</sub>), octave band noise levels and any proposed noise mitigation measures. 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 fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: In the interests of the living and working conditions of nearby properties

Informative: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

- 10 No part of the site shall be occupied until a Full Travel Plan has been submitted and approved in writing by the LPA. The Full Travel Plan should be developed and implemented in line with local and national guidelines. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Within 12 months of first occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with local and national highways and planning guidance, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

- 11 HWAY1 Details roads, footpaths, open spaces req.
- 12 HWAY14 Access to be approved, details reqd
- 13 HWAY18 Cycle parking details to be agreed
- 14 HWAY19 Car and cycle parking laid out
- 15 HWAY40 Dilapidation survey
- 16 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by

the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction by any ground works proposed.

17 LC4 Land contamination - unexpected contamination

18 Prior to the development being first brought into use a minimum of one free standing, weatherproof vehicle recharging unit shall be provided within the car parking area for use by staff and visitors to the development

Reason: In line with the NPPF and the council's adopted Low Emission Strategy any aspect of development that includes car parking should include facilities for the recharging of electric vehicles.

19 Prior to the development coming into use details of a scheme of external lighting shall be submitted to and approved by the local planning authority. The lighting scheme shall be implemented in accordance with the approved details prior to the first occupation of the development. Details shall include position and design of lighting columns and fittings, details of the spread of light including methods to mitigate its spread, hours of operation of the lights and any security lighting proposed.

Reason: In the interests of the visual amenity of the area and the living conditions of nearby residential property.

20 Notwithstanding the provisions of the Advertisement Regulations 2007 no illuminated advertisement shall be displayed within the development site without the details having been approved by the local planning authority through this condition. The advertisement shall thereafter be displayed in accordance with the approved details.

Reason: The development stands within an area of landscaping and open space surrounding the new University East Campus. It is considered that illuminated advertisements may harm the appearance of the wider area and as such their display should be controlled by the local planning authority.

21 Full details of enclosed areas for the storage of waste and re-cycling shall be submitted to and approved in writing by the local planning authority prior to the commencement of the construction of any building on the site. The approved storage areas shall thereafter be provided prior to the first occupation of any building and shall be retained thereafter.

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

- 22 No construction of the roads, car parks or buildings shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority.

The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site and so that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

#### INFORMATIVE

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuDs). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort, therefore sufficient evidence such as infiltration testing to BRE Digest 365 and witnessed by City of York Councils Flood Risk Management Team should be provided to discount the use of SuDs.

If SuDs methods can be proven to be unsuitable then in accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven 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. If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/hectare shall be used for the above.

- 23 The hours of construction (including excavation works), loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

- 24 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. Such a statement shall include at least the following information;

the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours  
where contractors will park  
where materials will be stored within the site  
measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of the amenity of local residents, the free flow of traffic or the safety of highway users. The method of works statement is required prior to the commencement of development because of the impacts of the development process which it is designed to manage.

- 25 VISQ4 - Boundary details to be supplied

## **7.0 INFORMATIVES:**

### **1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Undertook pre-application discussions  
Requested revised drawings  
Imposed reasonable planning conditions

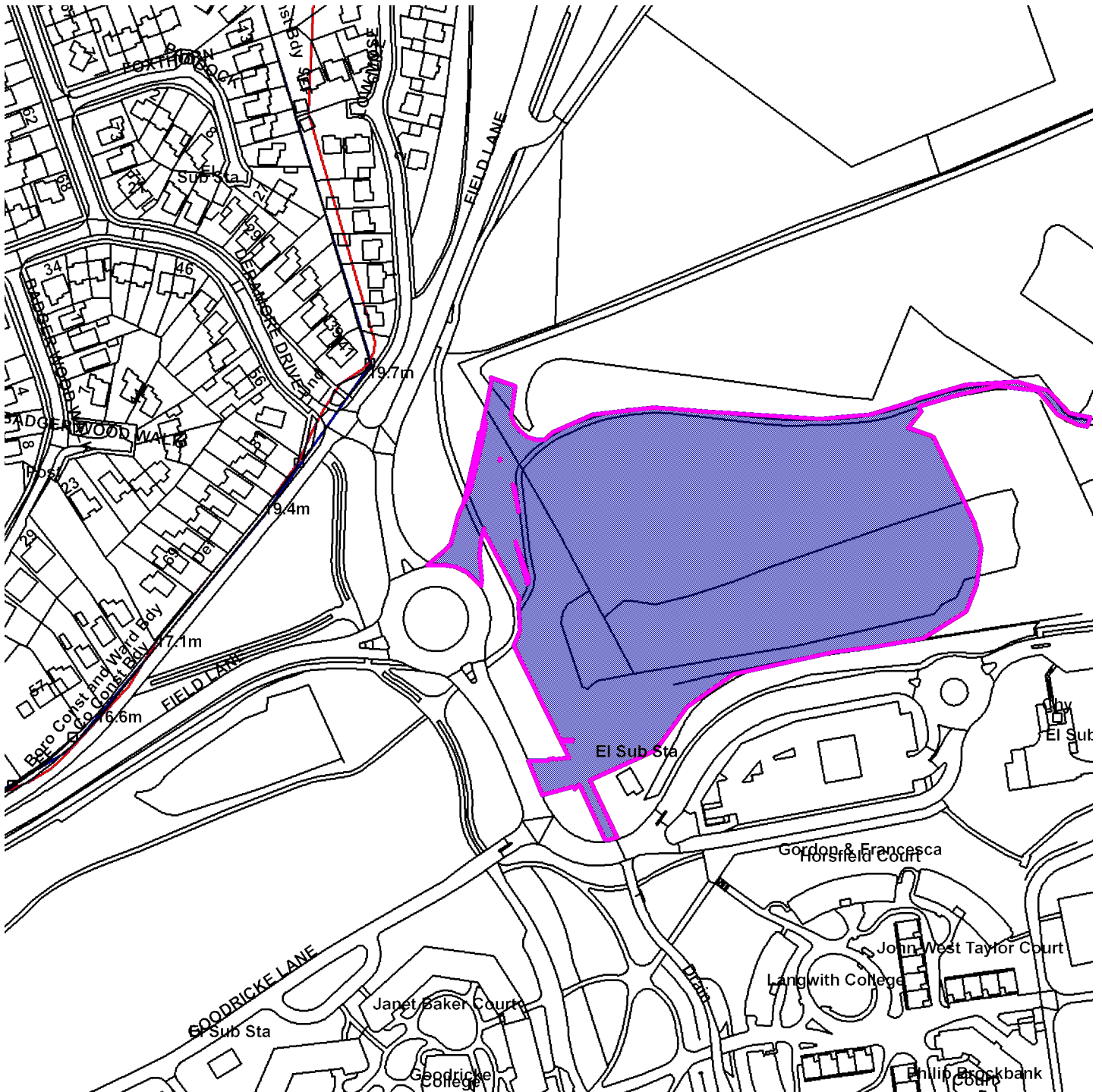
2. INF1 - Consent for highway works  
3. INF2 - Contact utilities

### **Contact details:**

**Author:** Gareth Arnold Development Manager  
**Tel No:** 01904 551320

15/00049/FULM

Heslington Campus E of Field Lane Rndbt & Kimberlow Lane



Scale : 1:2545

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	26 May 2015
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 4 June 2015                      **Ward:** Huntington/New Earswick  
**Team:** Major and Commercial Team                      **Parish:** Huntington Parish Council

**Reference:** 15/00473/FULM  
**Application at:** Land Adjacent To And To The Rear Of Windy Ridge And Brecks Lane Huntington York  
**For:** Residential development of 87 dwellings with associated access and public open space (application to revise layout and vary house types previously approved by planning permission 12/02979/FULM dated 27.02.2013)  
**By:** Barratt Development Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 2 July 2015  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 This application seeks planning permission for the erection of 87 new houses in Huntington. The application site is to the east of New Lane, bounded by Portakabin to the south and Brecks Lane to the north. To the east are fields followed by allocated employment land to the north of Monks Cross. A hedge which is maintained just above eye level runs the length of the site adjacent to New Lane. The site was proposed to be allocated as open space within the 2005 Draft Development Control Local Plan, however the site does not have public access. In the emerging local plan, part of the site is unallocated white land with the area shown on the proposed plans as open space shown as being land which is important for nature conservation.

1.2 Planning permission was given in 2013 for 87 houses on this site. Work has commenced on site. The 2013 planning permission is a material consideration, and already establishes the principle of development, in that it is extant. This application only marginally differs from the previous planning permission, it is within the same site and is also for 87 dwellings. The key changes are:

- A reduction in affordable homes from 30 to 26
- A change in some house types
- An increase in the number of four bedroom dwellings primarily replacing three bedroom houses
- Modest changes in the layout of the houses including some additional garages and alternative car parking arrangements

1.3 The proposed development consists of 13 two-bedroom houses, 29 three-bedroom houses, and 45 four-bedroom houses. This contains a mix of detached, semi-detached and short rows of terraced housing. The majority of houses are two-storey in height with four houses being two and a half storey with rooms in the roof space.

1.4 The application site measures approximately 5 ha in area. The proposed development contains two distinct elements. Housing which is predominantly located towards the northern half of the site with open space/nature conservation land to the south.

1.5 Of the 87 houses proposed the applicant is offering for 26 of these to be affordable. The tenure split is 18 for affordable rent and 8 for discount sale.

1.6 It is considered that an Environmental Impact Assessment is not required for this application.

## **2.0 POLICY CONTEXT**

2.1 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The sections in the NPPF most relevant to this proposal include:

Para 14 – sustainable development

Chapter 7 – Design

Chapter 4 – Sustainable Transport

Chapter 11 – Conserving and Enhancing the Natural Environment

2.2 The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed.

### 2.3 STATUS OF THE EMERGING YORK LOCAL PLAN PUBLICATION DRAFT (2014)

2.4 Publication Draft York Local Plan (2014); Following the motion agreed at Full Council in October 2014, the publication draft of the York Local Plan is currently not progressing through its statutory consultation; pending further consideration of the Council's housing requirements and how it should meet those requirements.

2.5 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

### STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN(2005 4th Set of Changes).

2.7 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

2005 Draft Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

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

2005 Draft Policies:

CYGP1- Design, CYGP7 - Open Space, CYGP9 – Landscaping,  
CYGP3 - Planning against crime, CYH4A - Housing Windfalls,  
CYH5 - Residential densities over 25 per ha, CYL1C - Provision of New  
Open Space in Development, CYNE1 - Trees, woodlands, hedgerows,

CYNE7 - Habitat protection and creation, CYNE6 - Species protected by law, CYSP8 - Reducing dependence on the car, CYT4 - Cycle parking standards, CYT7C - Access to Public Transport, CYED4 - Developer contributions towards Educational facilities.

### **3.0 CONSULTATIONS**

#### **INTERNAL**

3.1 Housing Development - Support the application. It complies with the council's interim affordable housing approach by providing 30% affordable housing on a greenfield site. The previous application for this scheme (reference 12/02979/FULM) was granted permission in accordance with the affordable housing policy target at the time, which was 35% provision. It is a matter of regret that the level of affordable housing in this application represents a reduction, however since it meets the present policy target it is not possible to object to the application on this basis.

3.2 The affordable housing will be provided based on a split of 70% social rent and 30% for discount sale. Should no buyer be found for the Discount Sale homes they will revert to an intermediate market rent until such time as an eligible buyer is available. The homes are pepper-potted throughout the site in runs of no more than two affordable homes.

3.3 Environmental Protection Unit - No objection to the revised layout and house types. A previously submitted noise assessment indicates that noise from the adjacent land uses and highway will not result in loss of amenity. In addition to this a 3m high acoustic barrier is to be provided between the site boundary and the Portakabin site in order to protect the industrial site from any future complaint. A Construction Environmental Management Plan should be a condition of approval.

3.4 A site survey has shown that there are no elevated levels of contamination on site. A condition should be added to any approval requiring the developer to notify the Local Planning Authority if any contamination is found during development.

3.5 The previous planning permission on this site contained an informative suggesting the use of electric vehicle charging points on all properties. Since this date the Council have adopted a Low Emission Strategy to

transform York into a nationally acclaimed low emission city. The NPPF also states that plans should exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, it is recommended that a condition be added to any approval requiring the development to incorporate facilities for charging plug-in and other ultra low emission vehicles.

3.6 Education - A contribution of £47,937 is required towards providing four additional places at Huntington Primary School.

3.7 Flood Risk Management - No objections subject to conditions.

## EXTERNAL

3.8 Huntington Parish Council - No correspondence received.

3.9 Yorkshire Water - If planning permission is to be granted, conditions should be added to any approval requiring drainage details to be agreed, separate systems of foul and surface water drainage, and ensuring that there is no piped discharge from the site prior to the completion of the drainage works.

3.10 Local Residents and other third parties - No correspondence received.

## 4.0 APPRAISAL

4.1 The key issues are:

- Design and visual appearance
- Proposed open space - quality, quantity and use
- Residential amenity of occupants of the proposed houses
- Neighbouring residential amenity
- Highways impact
- Impact on local education provision

4.2 Whilst there is an extant planning permission in place, this is a stand alone application. The existing permission is a material consideration in the determination of this application.

## THE PRINCIPLE OF DEVELOPMENT

4.3 The National Planning Policy Framework has the presumption in favour of sustainable development as the golden thread running through the document. The application site is allocated as open space in the Development Control Local Plan. However, the site was unusual in that despite its allocation as open space, it did not provide any public access. The proposed development includes a significant amount of publicly accessible open space providing benefit to the local community. The principle of residential development on this site was considered acceptable within the previous application and there is no reason to conclude differently for this proposal as has been no material change in circumstances or policy since the previous approval.

## DESIGN AND VISUAL APPEARANCE

4.4 2005 Draft Development Control Local Plan Policy GP1 seeks to ensure that developments are designed to be an appropriate density, scale, layout, mass and design which is compatible with neighbouring buildings, spaces and the character of the area. This includes incorporating appropriate landscaping. This accords with the NPPF which states that good design is indivisible from good planning.

4.5 The proposed development includes eight houses fronting onto New Lane. These houses are set back from New Lane which is consistent with the majority of existing dwellings on New Lane. The proposed frontage houses are two storeys in height which would be similar to existing houses on New Lane. New Lane contains a mix of houses and bungalows, many of which are detached. The proposed houses fronting New Lane are primarily detached with one pair of semi's. The hedgerow along the boundary with New Lane is being retained with the exception of the three proposed access points. The hedge will be reduced to a suitable height, however it is considered that this will provide a green setting to the proposed development and help the proposed houses appear established in the setting. This approach to the frontage design is consistent with the previous planning permission.

4.6 The proposed development includes nine different house types to provide some variety and individuality to the houses. However, there is a consistency of detailing such as windows and doors which aims to give the

proposal a coherent identity. All houses have pitched roofs with traditional proportions.

4.7 The palette of materials selected is designed to complement the existing houses in the area whilst also creating a sense of identity within the development. The vast majority of houses would be constructed of red brick with terracotta coloured double pantiles. Two slightly contrasting red bricks are proposed to add a subtle element of contrast to areas of the development. The surrounding area contains a variety of finish with different brick colours and render being common as well as a mix of pantile and slate roof coverings. The proposed development includes the creation of feature/gateway houses of a contrasting external finish to the red brick with terracotta pantile. These feature houses are generally located at the visible end of the sections of internal spine road and either side of the main site entrance. These houses would be finished in light coloured render with a dark grey tile which would have a similar colour to surrounding slate covered roofs. The feature houses are proposed to add variety and appear as visual bookends to sections of the proposed development.

4.8 83 of the proposed houses would be two storeys in height. The house types have some small variety in height but are generally a little under 5m in height to the eaves and just over 8m in height to the ridge. This is a typical height for a two storey house. 4 of the houses would be two and a half storeys in height with rooms in the roof. These dwellings would be approximately 6m to the eaves and 10m in height to the ridge. These dwellings are located towards the east of the site within a small cluster. Whilst these dwellings would be taller than others in the area, given how far they are set within the site, it is not considered that they will have any adverse impact on the visual appearance or character of the area. The houses on the eastern edge are two storeys in height providing a level of transition between the open fields to the east and the taller houses set in from the eastern boundary. On the previous application these houses were taller being three storeys in height.

4.9 The proposed development includes significant open space and scope for landscaping. An evergreen buffer is proposed along the southern boundary with native planting in the open space green area as well as tree planting along the main entrance road. Suitable tree and shrub planting is proposed around the houses to help to provide a more pleasant living environment for future residents.

4.10 The proposed development follows the design principles set out in the previously approved application. The layout of the site reflects the previous site plan with small variations.

## PROPOSED OPEN SPACE

4.11 The development proposed includes on-site open space of approximately 2 hectares. This level of on-site provision is significantly in excess of amounts required under 2005 Draft Policy L1c 'Provision of New Open Space in Developments'. No commuted sum is sought for off-site provision, in recognition of the excess of open space, however it is considered that a commuted sum payment is required through the Section 106 agreement in connection with the on-going maintenance of the land. Such a requirement is considered to be necessary to make the development acceptable in planning terms and fairly and reasonably related in scale and kind to the development.

4.12 The open space would be managed as a Site of Importance for Nature Conservation (SINC) site. This would involve management through use of livestock or careful management through such things as cutting regimes. However, the site would also offer amenity value to future residents of the site as well as local residents. This land would offer opportunities for informal play as well as a green area for walking or relaxation. A pedestrian footpath is proposed to run through the site connecting up New Lane with various parts of the proposed housing development. The proposed footpath also allows for a future connection between New Lane and land to the north of Monks Cross if such an opportunity arises in the future. The open space area will be supplemented by tree and shrub planting along the southern boundary to provide a visual screen from the Portakabin site and giving a greener setting to this space. Ponds would be retained and added to for wildlife interest, including Great Crested Newts. The open space area proposed and its subsequent management as a nature conservation site is considered to be in accordance with the nature conservation objectives set out in Policies NE1 'Trees, Woodlands and Hedgerows', NE6 'Species Protected by Law', and NE7 'Habitat Protection and Creation'.



## RESIDENTIAL AMENITY OF THE OCCUPANTS OF THE PROPOSED HOUSES

4.13 The proposed housing layout is considered to be well designed in terms of creating a pleasant living environment for its occupants. Each dwelling has a private rear garden. Dwellings are sited and designed in such a way as to provide a reasonable level of amenity and natural light within the dwellings.

4.14 A 3m high acoustic barrier is proposed along the entire southern boundary of the site. This is in response to concerns raised by Portakabin regarding the previous planning application. Portakabin were keen to ensure that their operations do not lead to noise complaints from future residents. There is a desire to ensure that the business does not come under pressure to alter working practices or for the future development of the site being constrained. It is important that Portakabin can continue to operate their business in an effective and efficient way, including night work. The NPPF makes it clear that the operations of business uses needs to be considered so that they can continue to function as required. A noise survey was undertaken and submitted in support of the previous planning application. The noise survey was analysed by colleagues in the Environmental Protection unit and there were no concerns that Portakabin would cause any harm to the amenity of future residents of the site. The 3m high acoustic barrier, screened by evergreen landscaping acts as a sound buffer to provide a safeguard against any future changes in working practice at the Portakabin site. The green visual screen would take a period of time to become effective, but long term it is considered that this would provide a better setting to the residential development than a factory site. It also provides comfort that should there be any unexpected change in noise levels from the Portakabin site that future residents of the proposed development would not have their amenity significantly harmed through noise.

## NEIGHBOURING AMENITY

4.15 The application site has housing to both its north and west. To the west is New Lane. In line with the previous planning permission, the proposed development achieves front to front separation distances to houses on the opposite side of New Lane of between 26m and 33m. This is considered more than adequate to maintain privacy and outlook from

existing houses and bungalows. The proposed houses facing New Lane are two storeys in height only.

4.16 North of the application site are five dwellings accessed off Brecks Lane and a number of dwellings on the opposite side of Brecks Lane which are served from Woodland Way. Reasonable back to back separation distances have been created to ensure neighbouring amenity is retained. This includes a 23m minimum separation distance from the main rear elevation of bungalows on Woodland Way and a minimum 22m separation distance between the proposed houses and existing dwellings off Brecks Lane. There is no proposed access to the site from Brecks Lane with a hedge along the boundary retained and filled in where there are existing gaps. Overall it is considered that the proposed development has been designed in such a way so as to reasonably protect neighbouring amenity. The proposed alterations within this application have no significant impact on neighbouring residential amenity.

#### IMPACT ON HIGHWAY NETWORK

4.17 2005 Draft Policy SP8 seeks to reduce dependence on the private car within new developments through, amongst others, accessibility and linking the development with surrounding uses. 2005 Draft Policy T7c seeks to ensure all new developments are within 400m of a frequent bus service. 2005 Draft Policy T4 seeks to promote cycle parking to encourage sustainable transport choice.

4.18 The application site is within a sustainable location close to key services, facilities, shops, and a regular bus service. The development is well connected to existing cycle networks with each dwelling having access to a garage or rear garden area for the storage of bicycles without having to pass through the house. The applicants have offered to fund a free bus pass or cycle for the first occupants of the proposed houses to help encourage sustainable transport choice from the start. Residents of the proposed development would have the choice not to rely on the private car, therefore promoting sustainable transport choice.

4.19 The applicants have offered to provide a signalised pedestrian crossing facility on New Lane between its junctions with Hambleton Way and the proposed site access. This is shown on the proposed layout plan.

4.20 The internal layout of the development has been designed to 'Manual for Streets' specifications. This includes reducing the carriageway width, locating houses close to the carriageway, creating pinch points, and including bends within the road. It is considered that the proposed layout will generally ensure that vehicles travel at no more than 20mph which is considered most appropriate within a residential development.

4.21 The development is considered to be pedestrian friendly, with footpaths following desire lines either through the residential part of the development or through the open space. The footpath through the open space meets the eastern boundary of the open space. It is considered that this could form a key element of an off-road link from New Lane through to allocated employment land to the North of Monks Cross in the future.

## EDUCATION

4.22 2005 Draft Development Control Local Plan Policy ED4 states that the impact of new residential developments on local schools needs to be considered. Supplementary Planning Guidance to this policy sets out criteria for assessing the required financial contribution to be sought from residential developments. This contribution is based on need following an assessment of the existing capacity and number of pupils at local schools. Based on this guidance it is the conclusion of the Education Department that sums towards the provision of four primary school places at Huntington Primary are required. No sums are sought towards secondary education due to spare capacity in the local school. Therefore a sum of £47,937 is sought through a Section 106 agreement. The applicant has agreed to pay this sum. It is considered that this sum meets the statutory tests set out at Regulation 122 to the Community Infrastructure Levy Regulations being necessary to make the development acceptable.

## 5.0 CONCLUSION

5.1 Residential development has commenced on site in line with the previous planning permission. The revised plans allow for relatively modest changes to the previous planning permission. There are no significant changes in the overall layout of the proposal and house numbers are unchanged. The positive aspects achieved through the previous planning permission such as a layout which reduces vehicle speeds, pedestrian priority, substantial publicly accessible open space, a decent range of

house types with some key focal units to provide interest and legibility, and policy compliant affordable housing numbers are brought through to this new proposal.

5.2 For the reasons outlined in this report this application is recommended for approval subject to conditions and completion of a Section 106 agreement. The draft conditions set out below reflect those applied to the previous planning permission with the exception that renewable energy and Code for Sustainable Homes conditions have been removed as this is now consumed into Building Regulations and conditions regarding electric vehicle recharge points as referenced in paragraph 3.2 are included. A Section 106 agreement will be required to secure pedestrian crossing facilities, education contribution, affordable housing, open space nature conservation land delivery and maintenance, and sustainable transport initiatives.

## **6.0 RECOMMENDATION:**

(i) Defer Pending Completion of a Section 106 Legal Agreement to secure pedestrian crossing facilities, education contribution, affordable housing, open space nature conservation land delivery and maintenance, and sustainable transport initiatives.

(ii) Delegate Authority to the Assistant Director (Development, Planning Regeneration) to approve on completion of the agreement subject to the following conditions:

### Conditions

1 TIME2 Development start within three years -

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

- Planning Layout – 12.1087.01 Revision S
- Woodbridge house type – 6037/WOO/C/03, 04, 05, and 06
- Type 24 house type – 6037/H324/C/02, 03, and 04
- Tiverton house type – 6037/TIV/V/02, 03, and 04
- Thornbury house type – 6037/THO/C/03, 05, and 07
- Morpeth house type – 2010/MOR/C/02, 04, and 11
- Morpeth detached – 6037/MOR/02, 04, and 11

- Lincoln house type – 6037/LIN/C/02, 03, and 04
- Finchley house type – 6037/FIN/C/03, 04, 05, and 06
- Falmouth house type – 6037/FAL/C/03, 04, and 06
- Cambridge house type – 6037/CAM/C/02, 03 and 04
- Garage type G4F
- Single detached garage – H6037/G/400
- Twin detached garage – H6037/G/401
- 3000mm high acoustic fence – 27YE:AF:01
- Boundaries – timber gate 27.BT.027, entrance pillar 27.BT.018 and 12:1087:305, screen wall 12:1087:300, wall with timber fence 12:1087:301, close-boarded timber fence 12:1087:302 and 303, timber post and rail fence 12:1087:304 railing type b 12:1087:306 and 307.
- Landscape masterplan – R-1360-1E
- Public open space details R-1360-7B
- Public open space details R-1360-7B
- External Materials Plan - 12:6037:03 Rev C

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

3 Within 3 months of the date of this decision details of foul and surface water drainage works have been submitted to the Local Planning Authority for approval. No dwelling hereby approved shall be occupied until the drainage works have been carried out in accordance with the approved details. The site shall be developed with separate systems of drainage for foul and surface water. The development shall be carried out in complete 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.

4 Unless otherwise agreed in writing with the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no dwelling shall be occupied until the foul drainage works have been completed.

Reason: To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.

5 Surface water draining from areas of hardstanding shall be passed through a trapped gully or series of trapped gullies, prior to being discharged into any watercourse, soakaway or surface water sewer. The gully/gullies shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water shall not pass through the gully/gullies.

Reason: To reduce the risk of pollution to the water environment.

6 Within 3 months of the date of this decision a detailed landscaping scheme shall be submitted to the Local Planning Authority which shall illustrate the number, species, height and position of trees and shrubs to be planted. No dwelling hereby approved shall be occupied until the detailed landscaping scheme has been approved by the Local Planning Authority. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

7 Before and during building operations, adequate measures shall be taken to protect the existing planting on site which is shown as being retained on the approved plans and the area to be used as nature conservation open space. The means of protection shall be agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with these protection measures.

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

8 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used including bricks, render/painted bricks,

rooftiles, window sills and surrounds, windows and doors, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

9 A vertical cross section through a typical front elevation illustrating eaves detail, window profiles and set back in reveal, window sills, lintels, and feature window surrounds, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: In the interests of the visual amenity of the street scene.

10 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 9 metres (Plots 1-64 and 68-88) and 10.5 metres (Plots 64-67), as measured from existing ground level. A means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

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

11 A full lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall detail the locations, heights, design and lux of all external lighting. The development shall be carried out in accordance with the approved lighting scheme.

Reason: In the interests of the amenities of nearby occupants and visual amenity.

12 Within 3 months of the date of this decision a fully detailed drawings illustrating the design and materials of roads, footpaths and other open spaces shall be submitted to the Local Planning Authority. No dwelling

hereby approved shall be occupied until the details are approved. The development shall be carried out in complete accordance with the approved details.

Reason: In the interests of highway safety and visual amenity.

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

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

14 Details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be installed in complete accordance with the approved plans prior to the first occupation of each dwelling.

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

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

Reason: In the interests of highway safety.

16 A detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority. Such a statement shall include at least the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park



- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic, or safety of highway users.

17 A construction environmental management plan (CEMP) should be submitted and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration and dust resulting from the site preparation, demolition, groundwork and construction phases of the development. Once approved, the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To protect the amenity of neighbouring residents during the construction phase of this development.

18 Details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

19 Details of the security gate to be installed to restrict access to rear gardens areas , shall be submitted to and approved in writing by the Local Planning Authority. The security gate shall be installed in complete accordance with the approved plans prior to the first occupation of a house which it would serve.

Reason: In the interests of crime prevention.

20 All site preparation and construction works and ancillary operations which are audible at the site boundary, including deliveries to and dispatch from the site, shall be confined to the following hours:

Monday to Friday - 08:00 to 18:00

Saturday - 09:00 to 13:00

Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of local residents

21 Within 3 months of the date of this decision full details of the 3m high acoustic barrier along the south boundary of the site shall be submitted to the Local Planning Authority. Such details shall include its design, appearance, acoustic performance, construction methods, as well as a timescale for its construction. No dwelling hereby approved shall be occupied until the acoustic barrier has been installed in complete accordance with the approved details.

Reason: In the interests of the amenities of occupiers of the proposed houses and taking account of the needs of the adjacent business units in accordance with guidance contained within the National Planning Policy Framework.

22 Details of the communal bin and refuse collection areas, shown on the approved plans, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plans with the bin stores provided prior to the first occupation of a dwelling which the store would serve.

Reason: In the interests of the visual amenity of the area and highway safety.

23 Prior to the occupation of any dwelling with a garage a three pin 13 amp electrical socket shall have been installed and be fully operational in the garage in a suitable location to enable the charging of an electric vehicle using a 3m length cable. The socket provided shall comply with BS1363 or an equivalent standard, Building Regulations and be suitable for charging electric vehicles. Prior to the occupation of any dwellings with a driveway a three pin 13 amp external electrical socket which is suitable for outdoor use shall have been installed and fully operational. The socket provided shall be located in a suitable position to enable the charging of an electric vehicle on the driveway using a 3m length cable. Any socket provided must comply with BS1363, or an equivalent standard, Building

Regulations and be suitable for charging electric vehicles. It shall have a weatherproof cover and an internal switch to enable the socket to be turned off.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles

## **7.0 INFORMATIVES:**

### **Contact details:**

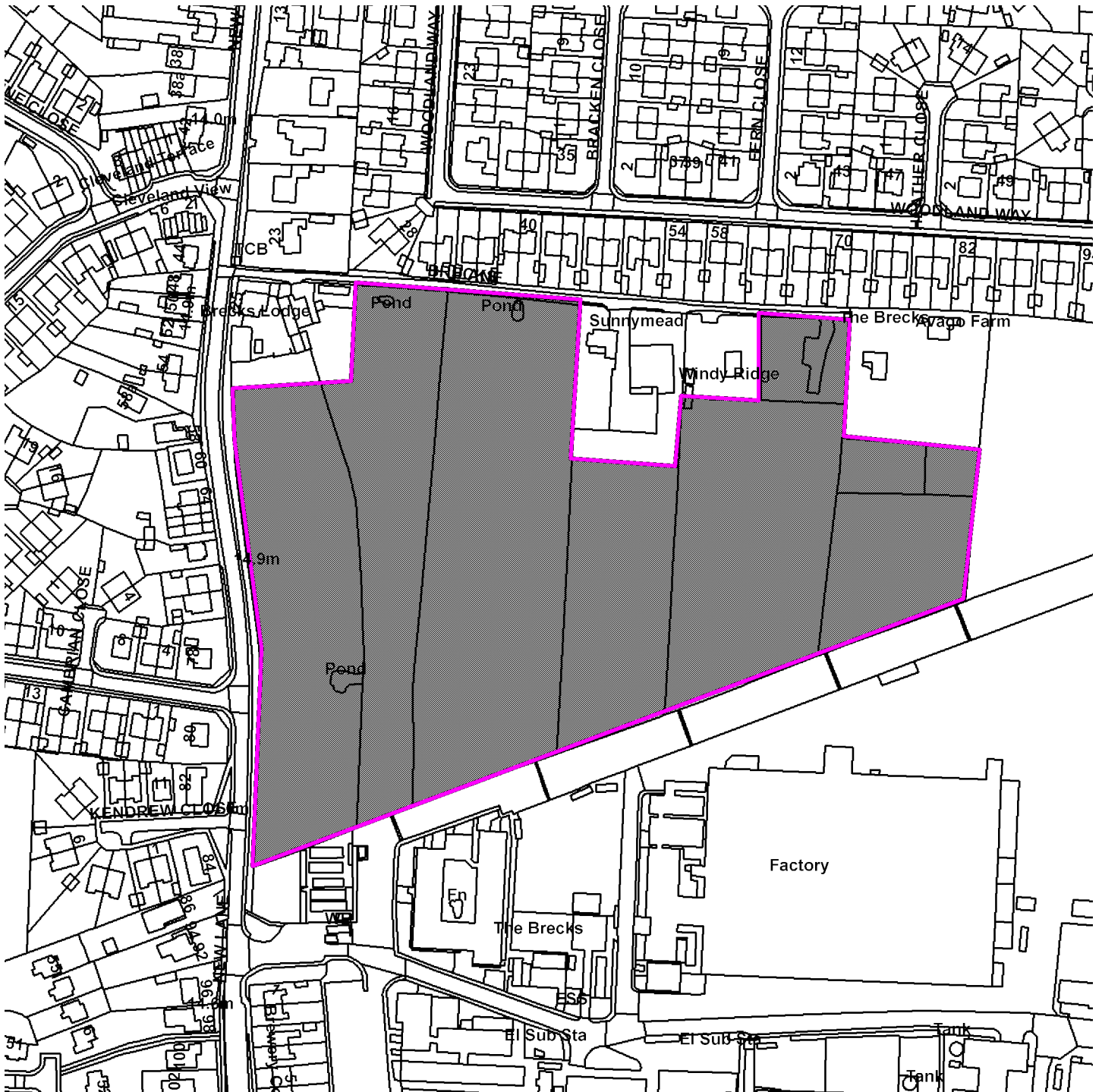
**Author:** Michael Jones Development Management Officer

**Tel No:** 01904 551339

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15/00473/FULM

Land Adj To And To Rear Of Windy Ridge & Brecks Lane Huntington



Scale : 1:2545

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	26 May 2015
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 4 June 2015  
**Team:** Major and Commercial Team  
**Ward:** Micklegate  
**Parish:** Micklegate Planning Panel

**Reference:** 15/00456/FULM  
**Application at:** Factory Bishopthorpe Road York YO23 1NA  
**For:** Conversion of multi-storey factory to a maximum 173no. residential apartments and ground floor retail unit; erection of additional roof storey and balconies to southern elevation; public open space and car parking  
**By:** PJ Livesey and Henry Boot Developments PLC  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 29 May 2015  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 The Terry's Multi-Storey Factory comprises a five storey brick built Grade II Listed purpose built chocolate factory dating to the early 1920s. It has been disused since the site was vacated by Terry's in 2006 and is now in some structural disrepair. Planning permission is now sought for the conversion of the building into a maximum of 173 apartments with a 2,500 sq ft retail unit on the ground floor and a single storey roof top extension. Permission is sought at the same time for works to the site access including the layout of a boulevard from the entrance to the site from Bishopthorpe Road, an access to enable development of land to the south west of the Factory building, an area of car parking directly to the south to serve the proposed development and works to the existing Peace Garden to facilitate its use as open space to serve the property and to provide a subterranean surface water attenuation system. The application is subject to a requirement for a Section 106 Agreement covering contributions towards educational provision, sustainable transport provision and provision of off -site formal open space totalling £500,000. A parallel Listed Building Consent application has been submitted ref:- 15/00457/LBC for internal works to facilitate the conversion. The site also lies within the Terry's/Racecourse Conservation Area.

1.2 A "hybrid" planning permission and Listed Building Consent refs:- 09/01606/OUTM and 09/01608/LBC allowing for usage of the building for a flexible range of uses has previously been given in respect of the site and constitutes a viable "fall back position" in respect of the current development.

## 2.0 POLICY CONTEXT

2.1 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The sections in the NPPF most relevant to this proposal include:

Chapter 12 – Preserving and Enhancing the Historic Environment specifically paragraph 131.

2.2 The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed.

### 2.3 STATUS OF THE EMERGING YORK LOCAL PLAN PUBLICATION DRAFT (2014)

2.4 Publication Draft York Local Plan (2014); Following the motion agreed at Full Council in October 2014, the publication draft of the York Local Plan is currently not progressing through its statutory consultation; pending further consideration of the Council's housing requirements and how it should meet those requirements.

2.5 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

2.6 Relevant emerging policies are as follows:  
D4(Conservation Areas) and D5(Listed Buildings).

### STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN(2005 4th Set of Changes).

2.7 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

2005 Draft Development Plan Allocation:

Conservation Area GMS Constraints: Racecourse CONF

Contaminated Land GMS Constraints:

Application Reference Number: 15/00456/FULM

Item No: 4d



Listed Buildings GMS Constraints: Grade 2; Terry's Of York Time Office Block  
Bishopthorpe Road

Listed Buildings GMS Constraints: Grade 2; Terry's Of York Head Offices  
Bishopthorpe Road

Listed Buildings GMS Constraints: Grade 2; Liquor Factory, Terry's Factory,  
Bishopthorpe Road

Listed Buildings GMS Constraints: Grade 2; Terry's Of York Factory Bishopthorpe  
Road York

Listed Buildings GMS Constraints: Grade 2; Terry's Of York Clock Tower  
Bishopthorpe Road

## 2.8 2005 Draft Policies:

CGP15A - Development and Flood Risk

CYGP1 - Design

CYED4 - Developer contributions towards Educational facilities

CYHE2 -Development in historic locations

CYHE3 - Conservation Areas

CYHE4 - Listed Buildings

CYL1C - Provision of New Open Space in Development

STATUTORY DUTY – PLANNING (LISTED BUILDINGS AND CONSERVATION  
AREAS) ACT 1990 (AS AMENDED)

2.9 Section 66 requires the Local Planning Authority when determining planning applications for development that affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

2.10 Case law has made clear that when deciding whether harm was outweighed by the advantages of a proposed development, the decision-maker must give particular weight to desirability of avoiding such harm. There is a “strong presumption” against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to the

desirability of preserving the building. (E.Northants DC v Secretary of State for Communities and Local Government [2014] EWCA Civ137).

2.11 This means that even where harm is less than substantial, such harm must still be afforded considerable importance and weight, i.e. the fact of harm to the listed building is still to be given more weight than if it were simply a factor to be taken account along with all other material considerations.

#### STATUTORY DUTY - PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (AS AMENDED)

2.12 Section 72 requires the Local Planning Authority when determining planning applications for development within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Case law has made clear that when deciding whether harm to a Conservation Area was outweighed by the advantages of a proposed development, the decision-maker must give particular weight to desirability of avoiding such harm. There is a “strong presumption” against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to maintaining the Conservation Area. (E.Northants DC v Secretary of State for Communities and Local Government [2014] EWCA Civ137).

2.13 This means that even where harm is less than substantial, such harm must still be afforded considerable importance and weight, i.e. the fact of harm to the Conservation Area is still to be given more weight than if it were simply a factor to be taken account along with all other material considerations.

### **3.0 CONSULTATIONS**

#### INTERNAL:-

3.1 Design, Conservation and Sustainable Development raise no objection in principle to the proposal but express concern in respect of the relationship of the roof top extension to the existing parapet and its impact upon wider views of the site. A detailed scheme of landscaping and protection for the existing trees within the site is also sought at the same time.

3.2 Environmental Protection Unit were consulted with regard to the proposal on 12th March 2015. No response has been forthcoming at the time of writing.

3.3 Strategic Flood Risk Management raise no objection in principle to the proposal but raise concerns with regard to the level of information in respect of surface water drainage submitted with the proposal.

3.4 Lifelong Learning and Leisure raise no objection in principle to the proposal subject to the payment of a commuted sum secured by Section 106 agreement in respect of the provision of off-site formal open space.

3.5 Education Services raise no objection to the proposal subject to the payment of a commuted sum in lieu of the provision of primary school places off site.

3.6 Highway Network Management raise no objection in principle to the proposal but express concern in relation to the level of parking provision suggested which is up to the maximum adopted standard. Commuted sum payments are also sought by Section 106 Agreement to cover sustainable transport and works within the highway directly adjacent to the site.

EXTERNAL:-

3.7 Micklegate Planning Panel raise no objection to the proposal but raise concerns in respect of the integration of the rear parking area into the surrounding landscape and the implication of the proposal for the availability of primary school places in the locality.

3.8 York Racecourse Ltd raise no objections to the proposal.

3.9 The Environment Agency raise no objection to the proposal.

3.10 English Heritage raise no objection to the proposal.

3.11 One letter of support has been received in respect of the proposal.

#### **4.0 APPRAISAL**

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the Listed Building;
- Impact upon the Character and Appearance of the Terry's/Racecourse Conservation Area;
- Car Parking within the Site and its Treatment;
- Treatment of the Peace Garden;
- The "Fallback Position";
- Section 106 Issues;
- Sustainability.

## IMPACT UPON THE LISTED BUILDING:-

4.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Council to " have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." As a statutory duty, any harm to the listed building or its setting must be afforded considerable weight and importance when considered in the planning balance and this is outlined below. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. The presumption in favour of sustainable development set out at para 14 of the NPPF does not apply in these circumstances.

4.3 Central Government Planning Policy as outlined in paragraph 131 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to ensuring the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and ensuring the desirability of new development making a positive contribution to local character and distinctiveness.

4.4 Policy D5 of the (Emerging) Publication Draft Local Plan supports proposals affecting Listed Buildings where accompanied by a clear evidence based justification and where the significance and heritage value of the building is maintained. Whilst very little weight can be afforded to the emerging policy at this early stage, it reinforces the need to have special regard to the desirability of preserving the listed building, in line with the statutory duty.

4.5 The Terry's Multi-Storey Factory is Listed as an early example of a purpose built chocolate factory in the form of a "mill" design. It incorporates the innovative use of concrete as a structural material together with a steel frame and includes a mix of Late Neo-Classical and Art Deco architectural detailing notably at the principal entrance facing north east and within the entrance foyer. More generally it forms a valuable group with the other early 20th Century Listed Industrial Buildings retained from the first phase of manufacture at the site including the Time Office, the Headquarters Building, the Clock Tower and the Liquor Store. It also has a definitional value in terms of the City skyline by virtue of its location and iconic design.

4.6 The building was used for the production of packaged chocolates up until production ceased at the site in 2006. Planning permission and Listed Building Consent were subsequently given for a range of flexible uses however, as a consequence of economic circumstances nothing has so far been implemented although works of demolition to remove roof top and other plant were undertaken at an early stage. This demolition work has seriously compromised the structural integrity of the building notably the roof and has led to serious water ingress into the internal fabric of the building with consequent harm. Since taking over the site in

2012 one of the joint developers Henry Boot has undertaken intensive marketing of the site for a range of uses without success with the only significant interest coming from residential developers which was one of the "flexible" uses for the site previously agreed.

4.7 The current proposal by a specialist developer of Listed Buildings particularly of industrial origin envisages the conversion of the building into a maximum of 173 apartments with a significant space reserved on the ground floor for provision of a retail unit to serve the wider area. The proposal also envisages the erection of a modest roof level extension set back from main parapet level, the principle of which was agreed in respect of the previous permission. A series of recessed balconies are also proposed on the southern elevation of the building which is less decorative in form and which was subject to a significant degree of alteration during its use as a chocolate manufactory. Openings would also be formed at ground level on the principal north eastern elevation to allow for the formation of external amenity space for the ground floor apartments. Concern has been raised in respect of the height of the roof top extension relative to the parapet which would impact upon longer distance views. The applicant has agreed to modify the design to lessen the scale, and amended plans will be required. The external proposed works are felt to be modest in extent, causing on balance, less than substantial harm, subject to the modifications to the roof top extension, and to be necessary to secure the future viable use of the building. This harm is given considerable importance and weight in the balancing exercise, when reaching the conclusion in this report.

4.8 Some substantial harm has been identified in respect of the internal works which are the subject of the parallel Listed Building Consent application and the impact of the internal works is considered in that Report elsewhere on the Agenda. The weight to be attached to this harm against the planning merits of the proposal is also considered later in this report.

#### IMPACT UPON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA:-

4.9 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on the Council "to have special regard to the desirability of preserving and enhancing the character and appearance of Conservation Areas. As a statutory duty any harm to the conservation area must be afforded considerable weight and importance when considering the planning balance and this is outlined below. Where any harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. The presumption in favour of sustainable development set out at para 14 of the NPPF does not apply in these circumstances.

4.10 Central Government Planning Policy as outlined in paragraph 131 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to the desirability of sustaining and enhancing the significance of heritage assets and putting them to uses consistent with their conservation.

4.11 Policy D4 of the (emerging) Publication Draft Local Plan supports proposals if designed to conserve and enhance the Conservation Area whilst leaving its essential qualities unchanged. Whilst very little weight can be afforded to the emerging policy, it reinforces the need to have special regard to the desirability of preserving and enhancing the conservation area, in line with the statutory duty.

4.12 The complex of preserved early 20th Century Industrial buildings together with the adjacent racecourse complex along with its landscape setting is designated as a Conservation Area in view of its significant contribution to the wider townscape and visual character of the City. The seriously deteriorating structural state of the various buildings particularly when seen against the context of the racecourse to the north west has seriously harmed the character of the Conservation Area. The proposal seeks to bring the principal building of the complex back into a beneficial use which would have the effect of arresting any further decline. A scheme to restore the Peace Garden to the south west of the factory is also envisaged to create an informal open space for the wider locality with the layout of a formal boulevard accessed from the existing site entrance on Bishopthorpe Road with a range of floorscaping materials sympathetic to the works being undertaken by the adjacent developer to the north. The proposed roof level extension as amended would also be visible to a modest extent within views of the wider Conservation Area. It is felt that the proposed works taken together do not cause any harm to the Conservation Area, and would secure its preservation and enhancement in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act.

#### CAR PARKING WITHIN THE SITE AND ITS TREATMENT:-

4.13 The proposal seeks permission for the layout of some 308 parking spaces adjacent to the boulevard and within a landscaped area to the south west of the building. This would be compliant with the Authority's maximum parking standards. Concern has been expressed in relation to the proposed numbers and layout however the design seeks to address the difficulties that have arisen with the level of parking provision laid out to serve the apartments constructed to serve the former York College site to the north west and the significant difficulties with "on street" parking that occur in the vicinity during race meetings and other events at the racecourse. The proposal is therefore felt on balance to be acceptable subject to the final detail of the landscaping of the parking area being reserved for further approval by planning condition.

#### THE TREATMENT OF THE PEACE GARDEN:-

4.14 The Peace Garden lies to the south east of the factory building and was originally laid out as an informal open space for the factory workforce in memory of those killed in World War 1. It has been neglected and become partially overgrown since factory operation ceased and the application seeks to secure its restoration incorporating a high quality children's play area constructed in timber with an informal sitting out area and network of walks. At the same time an attenuation tank to deal with surface water flows from the main development would be provided underneath. This is felt to be acceptable subject to any permission being conditioned to secure full details for further approval by planning condition.

#### THE "FALLBACK POSITION":-

4.15 Notwithstanding the current application the previous "hybrid" planning permission and associated Listed Building Consent remains valid and capable of implementation. This permits a flexible range of uses with control effectively limited in terms of planning permission to the design of the external balconies and without any meaningful control over the mix of uses including residential. At the same time the permission was made subject to a Section 106 Agreement which did not seek to mitigate any of the potential impacts arising from a residential conversion of the building which the permission allowed for over the majority of its floor space. This constitutes a viable "fallback" position, and is therefore a material consideration in the determination of this application.

#### SECTION 106 ISSUES:-

4.16 The applicant has agreed to meet the cost of mitigating the offsite impacts via Section 106 Agreement to a maximum of £500,000. This will deal with the principal impacts of the proposal in relation to highway works, sustainable transport, playing field and educational provision where substantial deficiencies in supply have been identified within the surrounding area. It is considered that the proposed obligations under S106 meet the statutory tests set out in the Community Infrastructure Levy Regulation 122, in that they are necessary to make the development acceptable in planning terms and fairly and reasonably related in scale and kind to the development. The proposed obligations can therefore be regarded as material considerations in the determination of this application.

#### SUSTAINABILITY:-

4.17 In terms of sustainability issues the proposed development has been designed on a "fabric first" basis in order to minimise use of embodied energy and keep energy and water usage by apartment owners to an absolute minimum. The property is in close proximity to the main cycleway network and also main public transport routes. More fundamentally it involves the re-use of an existing derelict site

of major townscape importance with minimal additional development to the exterior area. It is therefore felt to be acceptable in sustainability terms.

## **5.0 CONCLUSION**

5.1 The Terry's Multi-Storey Factory has lain vacant since operations at the site ceased in 2006. Following removal of the roof top plant the structural integrity of the building has become compromised and it is deteriorating rapidly. Planning permission has previously been given for a mix of flexible uses however planning permission is now sought for the conversion of the building into a maximum of 173 apartments with a retail unit on the ground floor. It is felt that the proposal would give rise to harm to the evidential value and significance of the building both in respect of the proposed roof top extension and in terms of the proposed internal works where the harm may be quantified as being substantial. However, balancing against this the applicant has undertaken to address in detail and amend each area of concern. Even when the harm is given considerable importance and weight, it is considered to be outweighed by the benefits of bringing such a substantially important Listed Building within the context of the York City sky line back into a beneficial use within an existing derelict site of major townscape importance with minimal additional development to the exterior area, in a sustainable location.

5.2 The impacts of the proposal in terms of the need for playing pitch provision, the provision of primary school places and sustainable transport and off-site highway works can be addressed through a legal agreement. Approval is therefore recommended for the scheme subject to a Section 106 Agreement to cover these issues.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:**

- (i) Defer Pending Completion of a Section 106 Legal Agreement to cover quantified needs in respect of off-site provision relating to sustainable transport and off site highway works, provision of off-site sports pitches and the provision of primary school places in the locality.
- (ii) Delegate Authority to the Assistant Director (Development, Planning Regeneration) to approve on completion of the agreement.

1      TIME2      Development start within three years -

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

Drawing Refs:- 087-00-0001; 087-00-0010; 087-00-11; 087-00-0310; 087-00-0410; 087-00-1000;087-00-1001; 087-00-1010; 087-00-1011; 087-00-1012;087-00-1310;

Application Reference Number: 15/00456/FULM      Item No: 4d



087-00-1410;087-00-1411; 087-01-2701;087-01-2702; 087-01-2703; 087-01-2704;  
087-01-2705;087-01-2706; 087-01-2707; 087-01-2708; 087-01-2709; 087-01-2710;  
087-01-2711; 087-01-2712; 087-01-2713; 087-01-2714; 087-01-2715; 087-01-2716;  
087-01-2717; 087-01-2718; 087-01-2719; 087-01-2720; 087-01-2721; 087-01-2722;  
087-01-2723; 087-01-2724; 087-01-2725; 087-01-2726; 087-01-2727;087-01-02728;  
087-01-02729; 087-01-2730; 087-01-2731; 087-01-2732; 7103(100) 500.

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

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

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

4 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of individual apartments and the works shall be carried out in accordance with the approved details.

Full external details of roof top extension (revised design)

Any additional guarding required to parapet

Balcony details and finishes (most details already submitted)

Details of main entrance screens, solid and transparent

Details of windows (shown in context); samples to be provided (with steel for comparison purposes); distribution of opening lights and specification of finished colour to be provided, also window details showing incorporation of vents

New external doors

Details of external works, including guarding and finishes adjacent to the building at lower ground level. Maintaining a co-ordinated boundary treatment around the factory should be made subject to legal agreement.

Details of any alterations to the entrance gates, including any proposed attachments

External lighting and signage proposals should also be submitted

Landscape proposals should also include a co-ordinated set of street furniture.  
Details should be submitted

Reason: So that the Local Planning Authority may be satisfied with these details.

5 Prior to the commencement of works on each individual apartment a detailed repair schedule should be provided and this should include proposals for any external cleaning or removal of uncharacteristic finishes. The type and level of cleaning should be subject to agreement of trial areas. The development shall thenceforth be undertaken in strict accordance with the approved application details.

Reason:- To safeguard the character of the Listed Building and to secure compliance with paragraph 131 of the National Planning Policy Framework.

6 Before the commencement of development, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle access to the site. It shall include details of measures to be employed to prevent the egress of mud, water and other detritus onto the public highway. It shall include for the provision of a dilapidation survey of the highways adjoining the site. Once approved, the Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

REASON: To safeguard the amenity of residential occupants on the site and in the surrounding area and in the interests of highway safety.

7 HWAY1 Details roads, footpaths, open spaces req. -

8 HWAY7 Const of Roads & Footways prior to occup -

9 HWAY18 Cycle parking details to be agreed -

10 HWAY19 Car and cycle parking laid out -

11 HWAY40 Dilapidation survey -

12 Before the commencement of development, including building operations, or the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing, phasing of works, site access during demolition/construction, type of construction machinery/vehicles to be used, (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles and storage of materials, location of marketing cabin. It shall also include construction details and existing and proposed levels, where a change in surface material and/or levels are proposed within the canopy spread and likely rooting zone of a tree. The protective fencing line shall be adhered to at all times during development operations to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, mechanical cultivation, parking or manoeuvring of vehicles. Within the exclusion zone there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new trenches or services or drains. The fencing shall remain secured in position throughout the development process including the implementation of landscaping works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development.

13. No development shall take place until there has been submitted and approved in writing by the Local Planning Authority details of tree planting and tree support systems.

Reason: To ensure the proposed trees will survive and thrive since they are integral to the amenity of the development.

14 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscape scheme which shall include the species, density (spacing), stock size, and position of trees, shrubs and other plants; and seeding mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the substantial completion of the planting and 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 the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme. Any works to existing trees that are protected by a tree preservation order (TPO) or are in a conservation area are subject to local

authority approval and notification respectively within and beyond this five year period.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site, since the landscape scheme is integral to the amenity of the development.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Details of the proposed pattern of fenestration and the design of the proposed roof top extension.

#### **2. CONTROL OF POLLUTION ACT 1974:-**

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

(a) All demolition and construction works and ancillary operations, including deliveries to and 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.

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

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

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

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

(f) There shall be no bonfires on the site

**Contact details:**

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

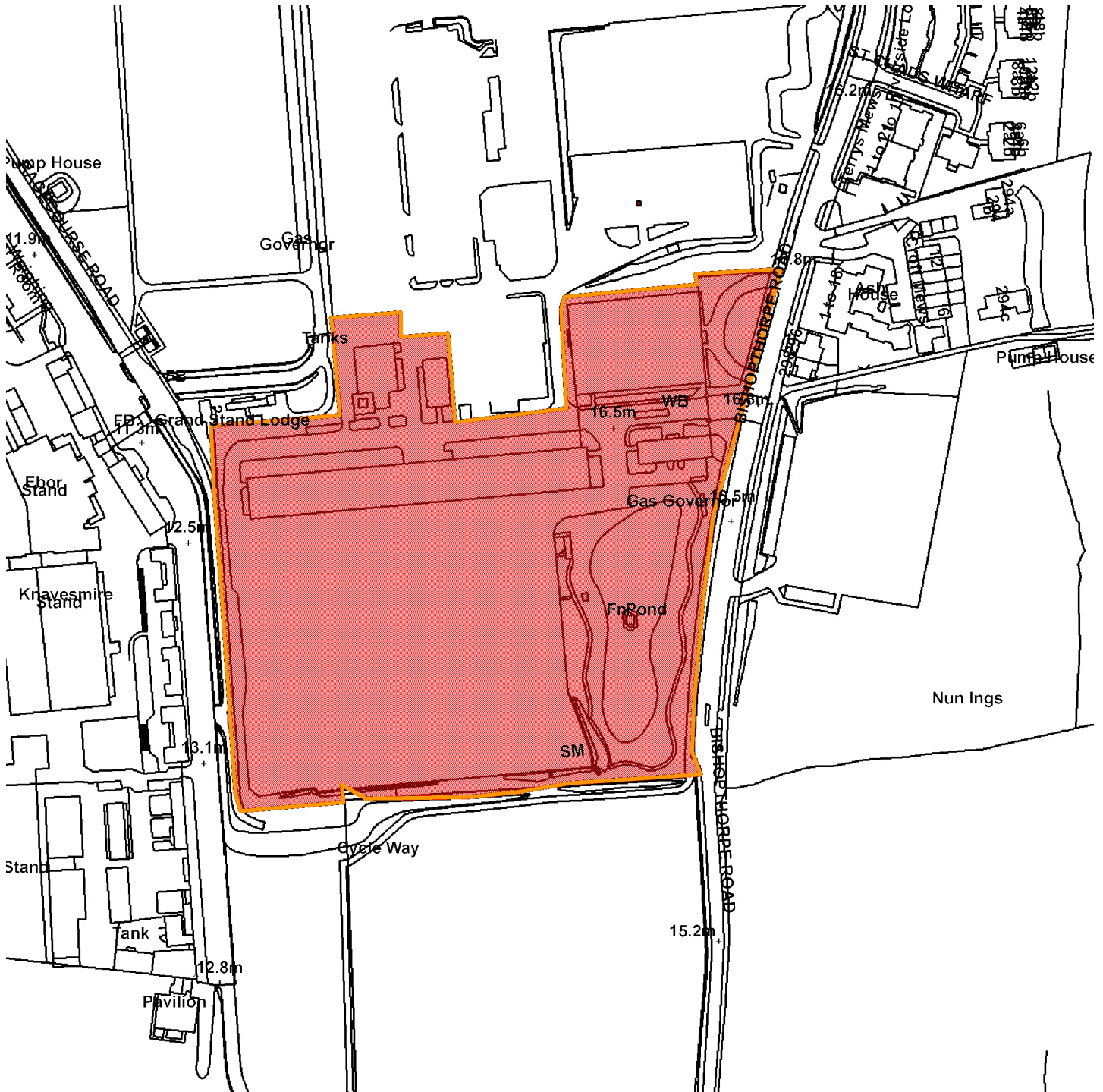
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# 15/00456/FULM

## Factory Bishopthorpe Road



GIS by ESRI (UK)



Scale : 1:2615

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	26 May 2015
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 4 June 2015  
**Team:** Major and Commercial Team  
**Ward:** Micklegate  
**Parish:** Micklegate Planning Panel

**Reference:** 15/00457/LBC  
**Application at:** Factory Bishopthorpe Road York YO23 1NA  
**For:** Internal and external alterations in connection with conversion of multi-storey factory to residential apartments and erection of additional roof storey and balconies to southern elevation  
**By:** PJ Livesey and Henry Boot PLC  
**Application Type:** Listed Building Consent  
**Target Date:** 30 April 2015  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The Terry's Multi-Storey Factory comprises a five storey brick built Grade II Listed purpose built chocolate factory dating to the early 1920s. It has been disused since the site was vacated by Terry's in 2006 and is now in some structural disrepair. Listed Building Consent is now sought for works to facilitate the conversion of the building into a maximum of 173 apartments with a 2,500 sq ft retail unit on the ground floor and a roof top extension. A parallel planning application has been submitted ref:- 15/00457/FULM for works to facilitate the conversion. The site also lies within the Terry's/Racecourse Conservation Area.

1.2 A "hybrid" planning permission and Listed Building Consent refs:- 09/01606/OUTM and 09/01608/LBC allowing for usage of the building for a flexible range of uses has previously been given in respect of the site and constitutes a viable "fall back position" in respect of the current development.

**2.0 POLICY CONTEXT**

2.1 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The sections in the NPPF most relevant to this proposal include:

Chapter 12 – Preserving and Enhancing the Historic Environment notably paragraph 131.

2.2 The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed.

### 2.3 STATUS OF THE EMERGING YORK LOCAL PLAN PUBLICATION DRAFT (2014)

2.4 Publication Draft York Local Plan (2014); Following the motion agreed at Full Council in October 2014, the publication draft of the York Local Plan is currently not progressing through its statutory consultation; pending further consideration of the Council's housing requirements and how it should meet those requirements.

2.5 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

2.6 Relevant emerging policies are as follows:  
D5 (Listed Buildings).

### STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (2005 4th Set of Changes).

2.7 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

2.8 2005 Draft Development Plan Allocation:

Conservation Area GMS Constraints: Racecourse CONF

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

Listed Buildings GMS Constraints: Grade 2; Terry's Of York Time Office Block  
Bishopthorpe Road

Listed Buildings GMS Constraints: Grade 2; Terry's Of York Head Offices  
Bishopthorpe Road

Listed Buildings GMS Constraints: Grade 2; Liquor Factory, Terry's Factory, Bishopthorpe Road

Listed Buildings GMS Constraints: Grade 2; Terry's Of York Factory Bishopthorpe Road York

Listed Buildings GMS Constraints: Grade 2; Terry's Of York Clock Tower Bishopthorpe Road

2.9 2005 Draft Policies:

CYHE4

Listed Buildings

STATUTORY DUTY – SECTION 16 PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990

2.10 Section 16 of the 1990 Act requires the Local Planning Authority when determining applications for listed building consent to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Case law has made clear that when deciding whether harm was outweighed by the advantages of a proposed development, the decision-maker must give particular weight to desirability of avoiding such harm. There is a “strong presumption” against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to the desirability of preserving the building. (E.Northants DC v Secretary of State for Communities and Local Government [2014] EWCA Civ137).

2.11 This means that even where harm is less than substantial, such harm must still be afforded considerable importance and weight, i.e. the fact of harm to the listed building is still to be given more weight than if it were simply a factor to be taken account along with all other material considerations.

### **3.0 CONSULTATIONS**

INTERNAL:-

3.1 Design, Conservation and Sustainable Development raise no objection in principle to the proposal but express concern in relation to the design of the proposed roof top extension, the design of the proposed inward balconies and the layout of the building entrance.

EXTERNAL:-

3.2 Micklegate Planning Panel raise no objection to the proposal.

3.3 English Heritage raise no objection to the proposal but wish to see the existing features of the entrance hall to the factory retained.

3.4 One letter of support has been received in respect of the proposed works.

#### 4.0 APPRAISAL

KEY CONSIDERATIONS:-

- Impact upon the historic character and integrity of the Listed Building.

#### 4.1 IMPACT UPON THE HISTORIC CHARACTER AND INTEGRITY OF THE LISTED BUILDING:-

4.2 Section 16(2) of the 1990 Planning(Listed Buildings and Conservation Areas) Act creates a statutory presumption for the Local Planning Authority to have special regard to the desirability of preserving the Listed Building or its setting and any special historic or architectural features it possesses. As a statutory duty, any harm to the listed building or its setting must be afforded considerable weight and importance when considered in the planning balance and this is outlined below. Where harm is identified to a Heritage Asset there will be a strong presumption against the grant of permission. The presumption in favour of sustainable development set out at para 14 of the NPPF does not apply in these circumstances.

4.3 Central Government Planning Policy as outlined in paragraph 131 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to ensuring the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and ensuring the desirability of new development making a positive contribution to local character and distinctiveness.

4.4 Policy D5 of the (Emerging) Publication Draft Local Plan supports proposals affecting Listed Buildings where accompanied by a clear evidence based justification and where the significance and heritage value of the building is maintained. Whilst very little weight can be afforded to the emerging policy at this stage, it reinforces the need to have special regard to the desirability of preserving the listed building, in line with the statutory duty.

4.5 Building Significance:- The Terry's "multi-storey factory" (MSF) is one of a group of five architecturally co-ordinated purpose-built factory buildings constructed between 1924 &1930 to the designs of architects J G Davies and L E Wade. The

MSF was also the last building to be added to the new factory complex. The buildings were listed individually at Grade II following closure of the complex in 2006. The architecture of the MSF is of an early C20th classical revival style with art deco influence, using red brick with Empire stone dressings and sandstone at the main entrance. The distinctive multi-pane steel casements windows have been set in art-stone surrounds on three elevations. The factory building typology represents new ideas of production and worker comfort becoming prevalent at the time. It is therefore of evidential significance in its stacked vertical form, simple open interior with hygienic tiled finishes, and shared comfort facilities in the centre. The building envelope has been designed to respond to different environmental conditions on each side of the building and the large open-able windows would have achieved the improved working conditions (in terms of light and ventilation) as intended by the pioneering Quaker employers.

4.6 The Proposal:-It is proposed to convert the building for residential use (173 units of 1-3 bed size) with a component of retail of approx 205 sq m on the ground floor NE side. The units would be set out in accordance with the bay spacing of the structure and take access from a spine corridor leading from the central entrance hall. The entrance hall would be glazed behind the columns. Service facilities such as waste/bikes/plant would be located at each end of the building and the central corridor would also be used to distribute services. Floor levels would be manipulated in several structural bays to achieve a broader range of apartment sizes within the volume of the building, and there would be a rooftop extension along the building, set back from the front and back parapet edges. Balconies would be added to the south side (previously back) of the building to improve residential amenity. The multi-storey factory has been empty for about 10 years and it has suffered progressive damage through water ingress exacerbated by the condition of the steel frame and by pre-mature removal of roof-top housings (allowed subject to conditions under previous permission). There is also evidence of vandalism.

4.7 Assessment Of Impact:-The building's proposed conversion to residential use would sustain the historic, aesthetic and communal significance of the building. The evidential significance illustrated by the openness of the interior, its environment and finishes, would be lost in all areas except for the central hall, end staircases and to some extent in the retained area for retail.

4.8 Several detailed design concerns remain which the applicant has agreed to address. These include the relationship between the proposed internal mezzanine floors and the window openings. This has now been addressed to ensure that floor levels will not bisect window openings in any part of the structure. In terms of the manner in which the floor alterations would take place the applicant has agreed to the submission of a revised method statement to provide re-assurance that no harm would result to the external structure during the internal construction and assembly works. Concern has also been expressed in relation to the height of the proposed external roof level extension which the applicant has agreed to reduce, in order to

establish a more appropriate relationship with the parapet structure and safeguard wider views into the site from the locality.

4.9 The internal treatment of the entrance to the building has been specifically highlighted by consultees as an area of interest and the applicant has agreed to refurbish and reinstate its Art Deco character. Concern has been raised about the number and stacking of recessed balconies on the north elevation of the building which would harm its visual flow when viewed from the north and east. The applicant has agreed to address this and significantly reduce the number of balconies intended.

4.10 The Factory incorporates early cast iron Crittall windows some of which are in significant disrepair and do not conform to Modern residential standards. Concern is expressed at the proposal to replace rather than to refurbish the pattern of fenestration. However strict Building Regulation requirements in terms of what is suitable for residential accommodation would render the level of work for effective refurbishment prohibitively costly. In order to address this concern the applicant has agreed to the usage of a window form lighter in section and more visually akin to the earlier Crittall product. At the same time the applicant has agreed to a more industrial utilitarian design in respect of the proposed internal doors.

4.11 Full details have now been submitted as to how the ground floor units may be fitted in with out harm to amenity in view of the fact that a number would be north facing whilst maintaining the significance of the building. The external treatment of the area at ground floor level can be controlled by condition.

4.12 Alterations to the character of a listed building require justification. In this instance justification for the extent of alterations required for residential use has been provided by the outcome of the marketing exercise which has concluded that there is no current developer interest in converting the building to other uses potentially less damaging to the interior (such as office use). The extra-ordinary size of the factory building (5 floors and 150m in length) and its current condition have also been seen as significant negative factors in attracting development at this time. Provided that amended plans are submitted to deal with the unacceptable detailed design concerns outlined above at paras 4.5 to 4.7 above the alterations to the interior would still be regarded as causing substantial harm but they do not lead to unacceptable loss of significance overall. When taken as a whole the proposals constitute less than substantial harm to the listed building. Considerable importance and weight has been given to this harm in the planning balance exercise as set out in the conclusion to this report.

## 5.0 CONCLUSION

5.1 The Multi-Storey Factory building, the subject of this application, has been vacant for 10 years and its condition has deteriorated substantially giving rise to serious concern. In this context it is important to secure the optimum viable use compatible with the building's conservation to ensure its survival for future generations. The proposed conversion for residential use would sustain the historic, aesthetic and communal significance of the building. The evidential significance illustrated by the openness of the interior, its environment and finishes, would to an extent be lost (except for a small area) and this can clearly be assessed as giving rise to substantial harm to the listed building. Although the internal alterations proposed would be regarded as substantially harmful they do not lead to unacceptable loss of significance of the building overall.

5.2 Providing the remaining issues of detail are addressed as indicated by the applicant, even when affording considerable importance and weight in the planning balance to this harm, it is considered that the public benefit of having the heritage asset in active use as residential accommodation outweighs the identified harm. The current proposals are therefore welcomed to sustain the long term future of such a significant building and its relationship with the wider community, and approval is therefore recommended

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

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

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

Drawing Refs:- Drawing Refs:- 087-00-0001; 087-00-0010; 087-00-11; 087-00-0310; 087-00-0410; 087-00-1000; 087-00-1001; 087-00-1010; 087-00-1011; 087-00-1012; 087-00-1310; 087-00-1410; 087-00-1411; 087-01-2701; 087-01-2702; 087-01-2703; 087-01-2704; 087-01-2705; 087-01-2706; 087-01-2707; 087-01-2708; 087-01-2709; 087-01-2710; 087-01-2711; 087-01-2712; 087-01-2713; 087-01-2714; 087-01-2715; 087-01-2716; 087-01-2717; 087-01-2718; 087-01-2719; 087-01-2720; 087-01-2721; 087-01-2722; 087-01-2723; 087-01-2724; 087-01-2725; 087-01-2726; 087-01-2727; 087-01-02728; 087-01-02729; 087-01-2730; 087-01-2731; 087-01-2732; 7103(100) 500.

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

3 Prior to commencement of constructional work on the individual apartments a detailed method statement demonstrating how

The structural floors will be altered to minimise harm to the underlying steel frame, its fabric and finishes shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason:- To safeguard the historic character and integrity of the Listed Building.

4 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of the individual apartments and the works shall be carried out in accordance with the approved details.

Full external details of roof top extension (revised design)

Any additional guarding required to parapet

Balcony details and finishes (most details already submitted)

Details of main entrance screens, solid and transparent

Full details of entrance area including fixtures and finishes (inside and outside)

Details of windows (shown in context); samples to be provided (with steel for comparison purposes); distribution of opening lights and specification of finished colour to be provided, also window details showing incorporation of vents

New external doors and internal doors in common areas

Details of external works, including guarding and finishes adjacent to the building at lower ground level

Reason: So that the Local Planning Authority may be satisfied with these details.

5 No alteration shall be undertaken to the external boundary treatment to the ground floor of the building except with the prior written approval of the Local Planning Authority.

Reason:- To safeguard the historic character and integrity of the Listed Building

6 Prior to the commencement of works on each individual apartment a detailed repair schedule should be provided and this should include proposals for any external cleaning or removal of uncharacteristic finishes. The type and level of



cleaning should be subject to agreement of trial areas. The development shall thenceforth be undertaken in strict accordance with the approved application details.

Reason:- To safeguard the character of the Listed Building and to secure compliance with paragraph 131 of the National Planning Policy Framework.

7 Prior to the commencement of construction of the individual apartments full details of all externally mounted lighting and signage including sizes, design, location and mode of fixing shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason:- To safeguard the historic character and integrity of the Listed Building.

## **7.0 INFORMATIVES:**

### **Contact details:**

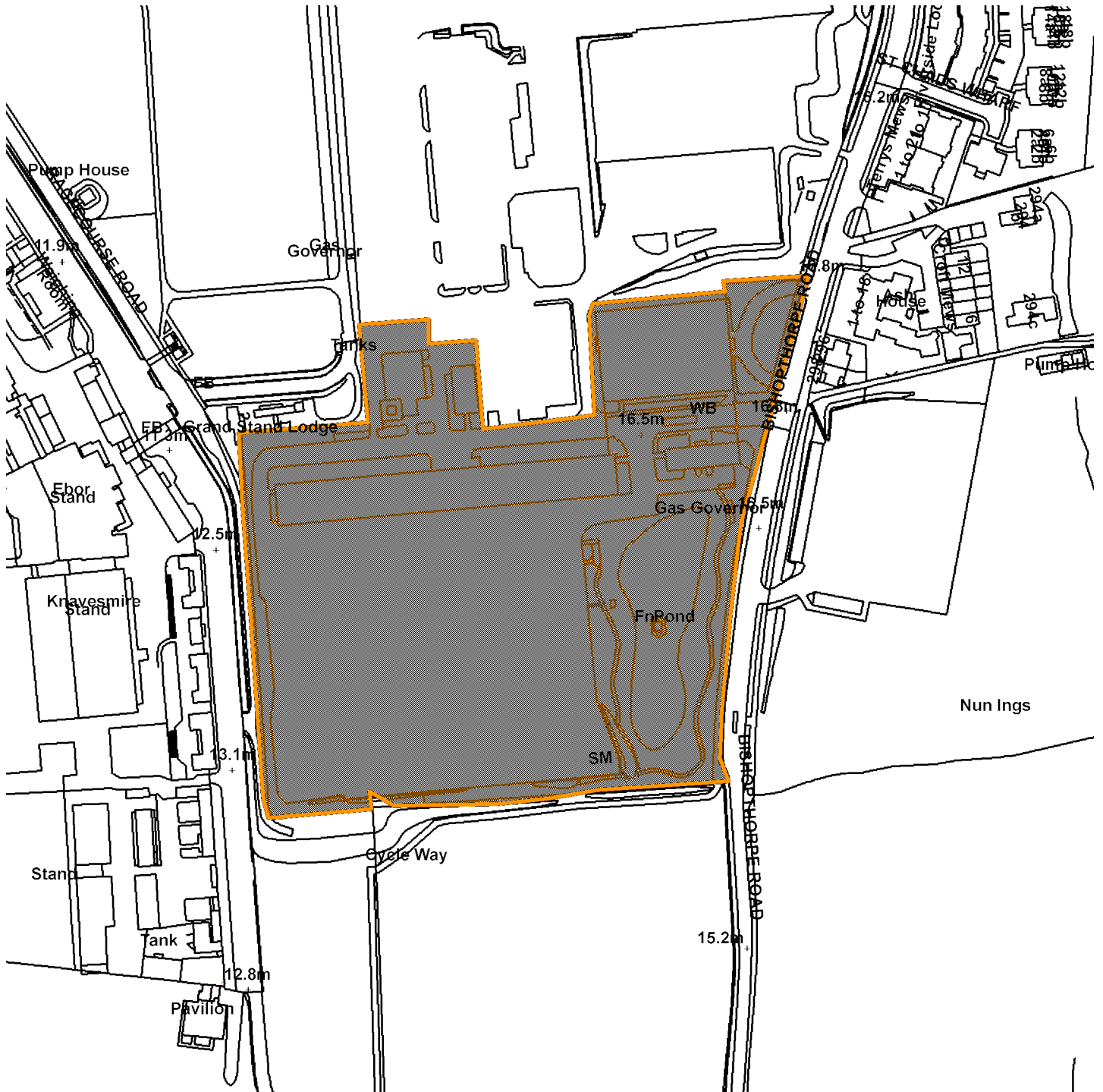
**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

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15/00457/LBC

Factory Bishopthorpe Road



Scale : 1:2615

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	26 May 2015
<b>SLA Number</b>	Not Set

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**UPDATE TO THE PLANNING COMMITTEE AGENDA****4 JUNE 2015****ITEM 4B****PROPOSED HEALTH AND RETAIL FACILITIES HESLINGTON CAMPUS EAST OF FIELD LANE ROUNDABOUT – 15/00049/FULM**

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**CORRECTION:**

Page 1: The site is now within the **Hull Road Ward**.

**ADDITIONAL CONSULTATION RESPONSE:****Police Designing Out Crime Officer**

The Officer is satisfied that the issues raised in his consultation response have been addressed by the applicant in their crime prevention statement 10.03.2015 which includes details of CCTV, external lighting, secure cycle parking, window locks and natural surveillance.

**RECOMMENDED ADDITIONAL CONDITION:**

26 The development shall be carried out in accordance with the submitted Crime Prevention Statement dated 10 March 2015. All measures within the statement shall be implemented prior to the occupation of any unit within the development.

Reason: In the interests of creating a safe environment where crime and disorder and the fear of crime do not undermine quality of life in accordance with paragraph 58 of the NPPF.

**RECOMMENDED AMENDED CONDITIONS:**

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

Note: White is not considered to be an appropriate colour for the proposed render in this location.

4. The construction of the proposed buildings shall not commence until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, hedgerows and shrubs generally in accordance with the details contained within TGP document 'Landscape Design and Mitigation Measures' reference D107/V3/CD and shown on drawing nos. 1858 - 201 - A and D107.L .004 A. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the

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

5 Before the commencement of development, including installation of utilities, building operations, the importing of materials and any excavations, a method statement regarding protection measures for the existing trees and planting on and adjacent to the site shown to be retained on the approved drawing 1858 - 201 - A shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include the specification and locations of protective fencing. It shall also include a methodology for excavation and construction works within close proximity to retained trees and planting and construction details and methodology where a change in surface material is proposed within the canopy spread and likely rooting zone of a tree.

Reason: To protect existing trees and planting which are considered to make a significant contribution to the amenity of the area this element should be addressed before development commences.

6. Notwithstanding the provisions of The Town and Country Planning (Use Classes) Order 1987 as amended and The Town and Country Planning (General Permitted Development) (England) Order 2015:

i/ There shall be no amalgamation of the units as constructed shown on the approved drawing no. 1858 – 202

ii/ The unit shown as being a Doctor's Surgery of 836 sq.m on approved drawing No.1858-202 shall only be used as a Doctor's Surgery/Medical Practice and for no other purpose

iii/ No more than no. 2 units totalling not more than 186 square metres shall be occupied as a hot food take-away within use class A5

iv/ No more than no. 2 units totalling not more than 186 square metres shall be occupied as a cafe/restaurant within use class A3 where the primary use is for the sale of food and drink for consumption on the premises

v/ No more than no. 2 units totalling not more than 186 square metres shall be occupied as a financial/professional services office within use class A2,

unless otherwise approved in writing by the local planning authority following the prior submission of a planning application under section 73 of the Act (variation of condition).

**15/00456/FULM and 15/00457/LBC Conversion of the Multi-Storey Factory Bishopthorpe Road into Maximum of 173 Residential Units with a Ground Floor Retail Unit and Ancillary Works. Committee Update:-**

To clarify the reference in the report to the need for Section 106 commuted sum contributions towards sustainable transport measures includes the level of contribution towards the City Car Club Car Sharing Scheme ordinarily associated with this type of development.

The submitted application drawings have been amended in accordance with the negotiations undertaken by officers and felt to be acceptable. Condition 2 of both the planning application and Listed Building Consent reports will therefore need to be amended to include the following plan references:-

**087-00-1000-C-Location Plan.pdf**

**087-00-1001-C-Block Plan.pdf**

**087-00-1010-C-MSF Plans Sht1.pdf**

**087-00-1011-B-MSF Plans Sht2.pdf**

**087-00-1012-C-MSF Proposed Roof Plan.pdf**

**087-00-1310-D-Proposed Elevations.pdf**

**087-00-1410-C-MSF Proposed Sections Sht1.pdf**

**087-00-1411-B-MSF Proposed Sections Sht2.pdf**

**087-01-2723-A-Glazed Entrance Detail.pdf**

**087-01-2725-A-Small Balcony Construction Detail.pdf**

**087-01-2726-A-Large Balcony Construction Detail.pdf**

**087-01-2727-A-Large Balcony Balustrade Detail.pdf**

**087-01-2728-A-Pop Up Section 1to50.pdf**

**087-01-2729-A-Pop Up Floor Junction Details.pdf**

**087-00-2750-Detached Bin Store.pdf**

Since the Committee Report was prepared a detailed consultation response has been submitted by the Environmental Protection Unit, this indicates that no objection is offered to the proposals providing the following conditions are appended to any planning permission:

- The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels of 30 dB LAeq (8 hour) and 45dB LAm<sub>ax</sub> inside bedrooms at night (23:00 - 07:00 hrs ) and 35 dB LAeq (16hour) in all other habitable rooms during the day (07:00 - 23:00 hrs). These noise levels shall be observed with all windows shut in the particular and other means of acoustic ventilation provided. The detailed scheme shall be approved in writing by the Local Planning Authority and fully implemented before the use approved in each respective phase is occupied. Thereafter no alterations to the external walls, facades, windows, doors, roof or any openings in the building(s) shall be undertaken (including the closing up or removal of openings) without the prior written approval of the Local Planning Authority.

**Reason: To protect the amenity of residents and business activities at the racecourse**

- All demolition and construction works and ancillary operations which are audible beyond site boundary or at the nearest noise sensitive dwelling, 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 secure the residential amenity of nearby properties.



- Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted shall be submitted to the local planning authority for approval. These details shall include maximum sound levels ( $L_{Amax}(f)$ ) and average sound levels ( $L_{Aeq}$ ), octave band noise levels and any proposed noise mitigation measures. 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 fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 5dB below the background noise level at 1 meter from the nearest noise sensitive façade when assessed in accordance with BS4142: 1997 (or exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014) inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

**Reason: To protect the amenity of future residents.**

- Upon completion of the development, delivery vehicles to the retails aspect of the development shall be confined to the following hours:

Monday to Saturday 08:00 to 18:00

Sundays and Bank Holidays 09:00 to 16:00

**Reason: To protect the amenity of future residents**

- All piling operations shall be carried out using the method likely to produce the least vibration and disturbance and in accordance with submitted document PGI-PMS 1304. Full details of the dates, times and duration of operations shall be submitted to and approved in writing by the Local Planning Authority before any piling operations are begun and piling operations shall take place in accordance with the approved details.

REASON: To protect the amenities of adjacent residents

Prior to first occupation or use, a verification report that demonstrates the effectiveness of the remedial works carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.*

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

- Six electric recharge bays shall be provided with the site boundary at a location to be agreed with the Local Planning Authority. Bays should be clearly marked for 'electric vehicle charging only' and use a back office system which provides public access by swipe card or mobile app. Such bays should be served by free-standing, weatherproof, outdoor electric vehicle recharging units (either 3 x

dual headed outlets or 6 x single outlets) and provide 32A type 2 sockets. A service and maintenance schedule should be provided for the points and usage should be reviewed on an annual basis.

Reason:- To secure compliance with the principles of sustainable development in accordance with paragraph 17 of the National Planning Policy Framework.

In the interests of clarity it is recommended to merge draft conditions 13 and 14 to the planning permission to read:-

No detailed external layout works shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscape scheme which shall include the species, density (spacing), stock size, and position of trees, shrubs and other plants; and seeding mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the substantial completion of the planting and 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 the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme. Any works to existing trees that are protected by a tree preservation order (TPO) or are in a conservation area are subject to local authority approval and notification respectively within and beyond this five year period.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site, since the landscape scheme is integral to the amenity of the development.

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