



## Notice of a public meeting of

### Planning Committee

- To:** Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, S Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Richardson, Shepherd and Warters
- Date:** Thursday, 19 November 2015
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

### AGENDA

Would Members please note that there will be no Site Visit for this meeting – the Site was visited prior to October's Planning Committee.

#### 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 1 - 10)

To approve and sign the minutes of the meeting of the Planning Committee held on 22<sup>nd</sup> October 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 18<sup>th</sup> November 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.

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### **4. Plans List**

This item invites Members to determine the following planning applications:

**a) Plot 7, Great North Way, Nether Poppleton, York (15/01307/FULM)**  
(Pages 11 - 30)

A major full application for the erection of a motor vehicle dealership, sales and servicing buildings with outside vehicle parking areas. [Rural West York Ward]

### **5. Appeals Performance and Decision Summaries (Pages 31 - 44)**

This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council’s performance in relation to appeals determined by the Planning Inspectorate between 1 July and 30 September 2015, and provides a summary of the salient points from

appeals determined in that period. A list of outstanding appeals to date of writing is also included.

**6. Planning Enforcement Cases - Update (Pages 45 - 48)**

The purpose of this report is to provide Members with a continuing quarterly update on planning enforcement cases.

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

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – [laura.bootland@york.gov.uk](mailto:laura.bootland@york.gov.uk)

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

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**

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City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	22 October 2015
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, S Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Looker (Substitute), Funnell, Richardson and Warters
Apologies	Councillors Shepherd

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**35. Site Visits**

Site	Reason	In Attendance
Land to the North of Avon Drive,	To enable members to familiarise themselves with the site.	Councillors Galvin, Reid & Dew
'Grantchester', Stripe Lane, Skelton, York	To enable members to familiarise themselves with the site.	Councillors Galvin, Reid, Cullwick & Dew
Plot 7, Great North Lane, Nether Poppleton	To enable members to familiarise themselves with the site.	Councillors Galvin, Reid, Cullwick & Dew
Terry's Former Offices, Bishopthorpe Road, York	To enable members to familiarise themselves with the site.	Councillors Galvin, Reid, Cullwick & Dew

**36. 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 Cullwick declared a prejudicial interest in agenda item 4e, Land to the North of Avon Drive, as he had lived in the locality, including previously on the corner of Avon Drive and had made his views clear prior to becoming elected and during

the campaign to be elected. He advised he would speak as Ward Member then leave the room for the debate.

Councillor D'Agorne declared a personal interest in respect of Agenda item 4b, Former Terry's Offices, as he used the road daily and was aware of the need for a crossing at the site and would raise this matter during the meeting.

**37. Minutes**

Resolved: That the minutes of the last meeting held on 17<sup>th</sup> September be approved and signed by the Chair as a correct record.

**38. Public Participation**

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

**39. Plans List**

Members then considered the following 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.

**39a Plot 7, Great North Way, Nether Poppleton, York (15/01307/FULM)**

It was reported that in order for the required works to mitigate for the loss of the Site of Interest for Nature Conservation (SINC), partially covering the site, to be established and programmed, the applicant had requested that the proposal be deferred from the current agenda to be considered at a future Committee. The recommendation was therefore amended to read defer to allow further work to be undertaken.

Resolved: That Members agreed to defer the application at the request of the applicant.

Reason: To enable further work to be undertaken in respect of the loss of the SINC

**39b Former Terry's Offices, Bishopthorpe Road, York, YO23 1DE (15/01623/FULM)**

Consideration was given to a major full application by Springfield Healthcare Group and Henry Boot Developments Ltd for the conversion of a former headquarters building to a care home with 82 care bedrooms and 8 care apartments with rooftop extension and car parking.

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

- Additional conditions to ensure the premises would be used only as a care home, further details on landscaping and full details of replacement windows.
- The additional condition for the windows would also apply to the related listed building consent application.
- Condition 2 be amended to reflect that drawings had been amended.
- A further consultation response had been received from the Council's Highway Network Management to confirm that they considered the provision of a pedestrian crossing was necessary and feasible.
- In relation to the crossing, Planning Officers considered that paragraph 32 of the National Planning Policy Framework sets a test of severe impact for any refusal of planning permission on transport grounds. Having considered the issue in detail it was the Planning Officers' view that each of the required tests would not be capable of being satisfied in respect of the requested crossing.
- A detailed drainage response had been received from the Strategic Flood Risk Management which raised no objections to the proposal subject to the imposition of conditions.

Graham Lee had registered to speak as the applicant. He advised that the building had been vacant for a number of years with no other viable uses or suitable applications coming forward. He explained that the centre of the site would be a shared area with the intention of bringing the outside in to the

residents and that the cafe facilities within that space would be open to the public. He explained in some detail the concept of the care home and referred to a Springfield Healthcare site in Leeds as an example.

In response to questions from Members' the applicant confirmed the following:

- The facilities at the site would be advertised to community groups and the cafe would also be publicly advertised.
- The care home would cater for a variety of needs from residential care through to nursing care.
- The building would be restored to the highest quality and there would be a display area depicting its past use as an office.
- The applicant agreed he was happy to further discuss the issue of a pedestrian refuge on Bishopthorpe Road with Officers.

Members entered debate and agreed that the site had been empty too long and was beginning to show signs of deterioration. It was doubtful that it would be used as an office again due to the complicated nature of the site and its listed building status. Members considered that it was a great opportunity to bring the building into use and a good opportunity for York as well as providing much needed care facilities.

Resolved: That the application be approved, subject to the conditions outlined in the officers report and update.

Reason: It is felt that whilst the proposal would give rise to less than substantial harm to the special character of the Listed Building that such harm is more than outweighed by the clear public benefit of arresting the building's physical decline whilst ensuring its future in a long term viable use, even when considerable weight and importance is attached to that harm. It has been clearly demonstrated that a long term office use is unlikely and that adequate amenity space can be provided within or adjacent to the site to serve the needs of residents and visitors.



**39c Former Terry's Offices, Bishopthorpe Road, York,  
(15/01624/LBC)**

Consideration was given to a listed building consent application for internal and external alterations in connection with conversion of former headquarters building to a care home with rooftop extension.

Discussion on this item took place under the previous related item and following a separate vote it was:

**Resolved:** That the application be approved subject to the conditions outlined in the committee report and officer's update.

**Reason:** The Headquarters Building the subject of this application has been partially vacant for 10 years and vacant in its entirety since 2011 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 care home use would sustain the historic, aesthetic and communal significance of the building.

The evidential significance illustrated by the design and layout of the principal offices and boardrooms, its environment and finishes, would to an extent be lost and this could be regarded as less than substantial harm within the terms of paragraph 134 of the National Planning Policy Framework. Although the internal alterations proposed would be regarded as giving rise to less than substantial harm they do not lead to unacceptable loss of significance of the building overall. Providing the remaining issues of detail are addressed as indicated by the applicant the formation of the proposed care home would out-weigh the identified less than substantial harm, even when attaching considerable importance and weight to that harm.

**40. Grantchester, Stripe Lane, Skelton, York, YO30 1YJ  
(15/01659/FUL)**

Consideration was given to a full application for the use of land for a 20 pitch touring caravan and camping site.

Officers provided an update to the committee report, full details of which are attached to the online agenda for this meeting, and advised that a further letter had been received raising concerns about the suitability of the road leading up to the site and the increase in the number of caravans.

Derek Jackson had registered to speak on behalf of the Skelton Village Trust. He advised that the Trust objected to the application due to its location within the green belt and the impact on the openness of the green belt. The Skelton Village Trust also disagreed with the very special circumstances given to justify the grant of planning permission.

Gary Crosby had registered to speak as the applicant. He advised that since opening, the site had become popular and was regularly at capacity and business was being turned away. He had made the application to allow for more flexibility and the extra space would not necessarily be for caravans as tents could also use the space. In relation to comments made about the access road and any increase in the amount of traffic, he advised that 80% of customers use bicycles to access the City Centre. He accepted he would need to improve the road surface at the entrance to the site.

Some members queried the need for a cycle store at the site given the fact that caravans usually have cycle storage facilities. The applicant confirmed he was happy for the condition to remain.

Following further discussion, Members considered that the site was well screened from view and the very special circumstances put forward clearly outweighed the harm to the green belt and any other harm identified in the officers report.

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

Reason: The proposed intensification of the use would result in some limited harm to the openness of the Green Belt but the use is not considered to conflict with the purposes of Green Belt set out at paragraph 80 to the NPPF.

**40a Land to the North of Avon Drive, Huntington, York (15/00798/OUTM)**

Consideration was given to major outline application for the erection of 109 dwellings.

Roy Brown had registered to speak on behalf of a number of local residents and Huntington Parish Council. He advised that the land in question was considered to be Green Belt and also raised concerns about the arrangements for sewerage. He stated there are no available places at local schools and doctors surgeries in the area are at capacity and 109 extra houses would exacerbate these problems. He also referred to an increase in traffic in the area following the opening of the Vanguard shopping centre and the impact an extra housing development would have on traffic.

Felicity Paterson spoke as a local resident in objection to the application. She advised that residents are already experiencing traffic problems in the area and additional housing would further impact on the mobility of local people. The land at the site should be saved for any future improvements to the ring road.

David Trayhorn spoke as a local resident in objection to the application. He advised that he had been a resident of Avon Drive for 32 years and the issue of the Green Belt had been ongoing for at least 20 years. Residents had been led to believe that the site would be treated as Green Belt in order to clearly separate Huntington and New Earswick.

Robert Pilcher spoke as the applicant in support of the application. He advised that should the application be approved, much needed housing could be built on the site in as little as 8 months time with 30% of the housing being affordable. £200k would be made towards education provision. He referred to the Section 106 agreement and confirmed that landscaping would be included.

Councillor Cullwick withdrew from the Planning Committee for this item and spoke as Ward Member. He advised that the site had been rejected as suitable for housing on a number of occasions and there are other more suitable sites in York. He stated that the site does provide a Green Belt purpose. He felt that the potential traffic problems had been understated in the committee report by the Council's highway team and traffic problems were a concern to residents in the area.

Members' queried a number of points, in particular the existence of the water main at the site and the impact this may have on any future dualling of the A1237 and upon any landscaping at the site. Officers confirmed that the applicant would need to fully investigate the issue.

Members then entered debate and made the following points:

- Some members considered that the application should be approved due to the need for more housing in York.
- In reference to the issue of the site being in the Green Belt, some Members' referred to paragraph 3.2 of the Officer's report, which clearly stated that the site served the purpose of the Green Belt and was required to remain as such.
- The site had been rejected a number of times as suitable for housing and the Officer recommendation was correct.
- Some Members' were concerned that due to the existence of the water main and the proximity to the ring road, the site would not work as a housing development.

Following further discussion, it was:

Resolved: That the application be refused.

Reason: Policy YH9 and Y1 of the Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. The application site is located in the Green Belt as identified in the 2005 City of York Draft Local Plan. It is considered that the proposed development of up to 109 houses and associated infrastructure constitutes inappropriate development in the Green Belt as set out in

section 9 of the National Planning Policy Framework. Inappropriate development is by definition harmful to the Green Belt. No 'very special circumstances' have been put forward by the applicant that would outweigh harm by reason of inappropriateness and any other harm, including the impact on the openness of the Green Belt and conflict with the purposes of including land within Green Belt. The proposal is therefore considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt Land' and policy GB1 'Development in the Green Belt' of the 2005 City of York Draft Local Plan.

The proposed development is likely to have a direct impact upon unknown buried archaeological features (undesigned heritage assets) within the site. No geophysical survey nor intrusive archaeological evaluation has been carried out to demonstrate that undesigned archaeological assets present on the site would be properly protected. The application is therefore considered contrary to advice within the National Planning Policy Framework, in particular section 12 'Conserving and Enhancing the Historic Environment' and policy HE10 'Archaeology' of the 2005 City of York Draft Local Plan.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 6.45 pm].

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**COMMITTEE REPORT**

**Date:** 19<sup>th</sup> November 2015    **Ward:** Rural West York  
**Team:** Major and Commercial Team    **Parish:** Nether Poppleton Parish Council

**Reference:** 15/01307/FULM  
**Application at:** Plot 7 Great North Way Nether Poppleton York  
**For:** Erection of motor vehicle dealership sales and servicing buildings with outside vehicle parking areas  
**By:** Arnold Clark Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 30 November 2015  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site is a 3.2 hectare plot within the York Business Park. The site is bounded to the east by the East Coast rail line, to the south by industrial units, to the north by White Rose Way and the recent office development of Tudor Court and the office/workshop units of Opus Avenue. To the west is the Great North Way, further to the west and south is a large residential area. The site is designated as employment land in the Local Plan and the emerging (publication draft) Local Plan. Planning permission ref: - 11/03253/FULM has previously been given for development of a garden centre at the site.

1.2 Planning permission is currently sought for the construction of a car dealership with associated facilities including car servicing, valeting and used car sales within a 3014 sq metre building employing 45 full time staff. The site has been notified as a SINC or Site of Interest for Nature Conservation on the basis of its calcareous vegetation and a colony of Great Crested Newts which have subsequently been trans-located. The application details have been amended subsequent to submission to amend the layout to increase the level of landscaping within the site.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

York North West Boundary GMS Constraints: York North West Boundary CONF

2.2 Policies (2005) Draft Local Plan:

CGP15A Drainage

CYE3B Employment Sites

CYGP1Amenity

CYNE5A Local Nature Conservation Sites

CYNE5B Mitigation of Harm to Designated Nature Conservation Sites

CYNE6 Species Protected by Law

2.3 City of York Local Plan – Publication Draft 2014 Relevant Policies include:

EC3 Loss of Employment Land

ENV2 Managing Environmental Quality

G12 Biodiversity and Access to Nature

### 3.0 CONSULTATIONS

#### INTERNAL:-

3.1 Environmental Protection Unit raise no objection in principle to the proposal but express concern in respect of the potential impact of site lighting upon the amenity of nearby residential property, notably the care home directly to the west on Great North Way.

3.2 Strategic Flood Risk Management raise no objection to the proposal subject to any permission being conditioned to require the submission and prior approval of a detailed surface water drainage scheme.

3.3 Highway Network Management initially raised concerns in respect of the lack of a submitted Travel Plan or Travel Statement, potential impact from parking on the adopted highway verge, lack of clarity in terms of the area of staff parking and lack of clarity in terms of access to the site for service vehicles. The various highway concerns have subsequently been addressed in detail and appropriate conditions are recommended.

3.4 Design, Conservation and Sustainable Development raise no objection in principle to the proposal but expressed concern in respect of the level and variety of landscaping provided within the site and the lack of detail of mitigation for loss of the



notified SINC. These issues have now been satisfactorily resolved and are dealt with through recommended condition 18.

**EXTERNAL:-**

3.5 Nether Poppleton Parish Council raise no objection in principle to the proposal subject to adequate parking being provided within the site, adequate mitigation being provided for loss of the SINC and on site lighting being designed so as not to harm the amenities of residents of the care home directly to the west.

3.6 The Yorkshire Wildlife Trust raise no objection in principle to the proposal but express some concern with regard to the lack of submitted detail in respect of the mitigation for the loss of the SINC.

3.7 Yorkshire Water Services raise no objection to the proposal.

3.8 The Environment Agency raise no objection to the proposal subject to any permission being conditioned to require the submission and prior approval of a detailed surface water drainage scheme.

**4.0 APPRAISAL**

**KEY CONSIDERATIONS:-**

**4.1 KEY CONSIDERATIONS INCLUDE:-**

- \* Impact upon the residential amenity of neighbouring properties;
- \* Impact upon safety and convenience of highway users;
- \* Loss of habitat of Biodiversity Importance;
- \* Economic Development Issues.

**STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (2005 4th SET OF CHANGES)**

4.2 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.

**PLANNING POLICY FRAMEWORK:-**

4.3 **EMPLOYMENT LAND:-**Central Government Planning Policy as outlined in paragraphs 21 and 22 of the National Planning Policy Framework are of particular importance in consideration of the proposal. Paragraph 21 indicates that Local Planning Authorities should give particular weight to the support of existing business sectors taking account of whether they are expanding or contracting. Paragraph 22 indicates that where there is no reasonable prospect of a site being used for an

allocated employment use then each application should be treated on its merits. Policy EC3 of the (Emerging) Publication Draft Local Plan is also of particular relevance in this context indicating that planning permission will only be forthcoming in respect of sites that are not required for a deliverable employment use during the plan period.

4.4 AMENITY:- Central Government Planning Policy as outlined in paragraph 17 of the National Planning Policy Framework "Core Planning Principles" indicates that Local Planning Authorities should give particular weight to securing a good standard of amenity for all new and existing occupants of land and buildings. Policy ENV2 of the (Emerging) Publication Draft Local Plan is also of particular relevance in this context indicating that planning permission will be forthcoming where it can be demonstrated that residential amenity will be safeguarded.

4.5 BIODIVERSITY:- Central Government Planning Policy as outlined in paragraph 118 of the National Planning Policy Framework indicates that Local Planning Authorities should seek to safeguard local biodiversity by ensuring that where significant harm arising from a development can not be avoided that it is adequately mitigated and that if that is not possible that planning permission should be refused. Policy G12 of the (Emerging) Publication Draft Local Plan is also of particular relevance in this context in that it seeks to ensure the retention and enhancement of sites of local biodiversity interest within new development proposals.

#### IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

4.6 The application site comprises a large previously undeveloped site previously placed within a large area of employment land which has been in the process of development since the late 1990s. The majority of surrounding uses are also employment related with a predominance of B1 activity with a long standing concentration of car dealerships around the entrance to the York Business Park. Such activities would not generally be harmed in amenity terms from the activities of the proposal. However, directly to the west lies a substantial three storey elderly care home recently opened to full capacity. A further residential development dating from the 1990s lies a further 30 metres to the rear at a slightly raised level. The application details have been amended since submission to enhance the level of on-site landscaping to improve the amenity of local residents. Concern still however remains in respect of lighting levels and proximity to the care home and also the issue of deliveries of vehicles to the site. Subject to delivery times being strictly conditioned as part of any permission then that issue can be satisfactorily resolved. Discussions are on-going in respect of lighting and will be reported to the meeting. With agreement being reached then details of the lighting can be satisfactorily conditioned and the amenity of nearby residents can be satisfactorily safeguarded in accordance with the requirements of paragraph 17 of the NPPF.

#### IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.7 The application site is centrally located within a substantial area of employment land in the process of development adjacent to the principal access route between its northern and southern sections. Whilst the surrounding road network does not operate at capacity there are significant problems of on-street parking arising from the activities of nearby predominantly office developments. The submitted application details do indicate a significant degree of on-site parking and the plans have been amended to clearly identify the area to be used by staff. At the same time servicing has been indicated via the rear access road and a draft Travel Plan has been submitted to deal with earlier concerns. The Highway impact of the development is now felt to be acceptable and may be conditioned as part of any permission.

#### LOSS OF HABITAT OF BIODIVERSITY SIGNIFICANCE:-

4.8 The application site has been notified as a SINIC on the basis of being a particularly good example of a calcareous grassland habitat. It has previously supported a medium scale population of Great Crested Newts. Those were however trans-located to a site to the east of the adjacent East Coast Railway Line as part of the previous abortive proposal to construct a garden centre on the site. A mitigation strategy to compensate for the loss of the calcareous grassland habitat together with measures within the site to prevent re-colonisation of the site by Great Crested Newts were previously agreed with the prospective Garden Centre developer. The current developer has now committed to keep the mitigation measures on site, in place as required by paragraph 118 of the National Planning Policy Framework . Any permission can be conditioned to require compliance with such a mitigation strategy.

#### ECONOMIC DEVELOPMENT ISSUES:-

4.9 The application site forms a large undeveloped section of the York Business Park which was given planning permission in the late 1990s for a mix of B1 (business) and B8 (storage and distribution) uses. The proposed dealership whilst including elements of employment use including servicing and repair of cars and commercial vehicles and storage of vehicles for sale and awaiting repair would represent a change of use outside these use classes to a sui generis use and a loss of land for employment development. However, Officers consider that there are material considerations which justify the proposed dealership. The northern section of the Park has a concentration of car dealerships of some historical standing and the application site itself has a recently expired planning permission for a large scale partially open air retail use with general functional similarities to what is proposed. The site directly to the west on Great North Way has also been recently re-developed to provide a care home for the elderly. Notwithstanding the policy presumption within the 2005 draft York Local Plan (which is being carried forward to the emerging Local Plan) against loss of such a large employment site it can clearly

be seen that its retention in a B1/B8 use would not be sustainable in view of the extant permission for retail use which constitutes a viable “fallback position” in the event of the current proposal not being implemented. It has furthermore been confirmed by the applicant that the proposal would create a significant quantity of new employment with 45 new full time jobs created with support for others supplying the dealership in the wider vicinity. The full time job creation figure would be greater than or at least comparable with what could be achieved with the site through a conventional B1/B8 use as previously approved. It would also be significantly in excess of that previously the proposed garden centre use. It is therefore considered that the proposed development would be justified by significant benefits related to employment and economic development.

## **5.0 CONCLUSION**

5.1 The application site consists of a large vacant plot within the York Business Park with a recently developed care home to the west, the East Coast Main Line to the east and a concentration of car dealerships to the north. It furthermore has a previously extant planning permission for extensive retail use in the form of a garden centre. Planning permission is sought for erection of a two storey car dealership with associated facilities including car valeting, servicing and used car sales. Concern has been expressed in terms of the impact of site lighting on the amenity of residents of the adjacent care home; the level of staff parking and servicing arrangements within the site and the mitigation for the loss of the notified SINC. These issues have subsequently been resolved, the development is felt to be acceptable and approval is recommended.

## **6.0 RECOMMENDATION: Approve**

1 TIME2 Development start within three years

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

Drawing Refs:- 2737/20/B; 2737/21/; 2737/22/; 2737/23/; 2737/24/; 2737/25/.D/01, LS01, 2737/20/C, 2737/25/A, 109240/1010B, 109240/1011A.

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

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

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

4 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development above foundation level. 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.

5 No development shall take place above foundation level 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, shrubs and hard landscaping. 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.

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

Monday to Friday                      08.00 to 18.00

Saturday                                  09.00 to 13.00

Not at all on Sundays and Bank Holidays.

Reason. To protect the amenity of local residents

7 Prior to commencement of the development, an 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.

NOTE: For noise details on hours of construction, deliveries, types of machinery to  
Application Reference Number: 15/01307/FULM                      Item No: 4a

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.

In addition to the above I would also expect the CEMP to provide a 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 (i.e. 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.

Reason. To protect the amenity of local residents

8 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. These details shall include maximum sound levels ( $L_{Amax}(f)$ ) and

average sound levels (LAeq), 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 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 local residents

9 LC4 Land contamination - unexpected contam

10 The hours of operation of this approved use shall be confined to:

Mondays to Fridays 08.00 hours to 20.00 hours

Saturdays 09.00 hours to 18.00 hours

Sundays and Bank Holidays 10.00 hours to 18.00 hours

Reason: To safeguard the amenities of occupants of the nearby dwellings and buildings.

11 Notwithstanding the submitted plans and prior to the commencement of the development above foundation level full details of the method and design (including illumination levels) and siting of any external illumination shall be submitted to and approved in writing by the Local Planning Authority and shall be completed in accordance with the approved details. Any subsequent new or replacement illumination shall also be agreed in writing by the Local Planning Authority prior to its provision.

Reason: In order to protect the character and appearance of the area from excessive illumination. In the interests of the visual amenity of the greenbelt and the rural location and to protect the character of the area.

12 Prior to first occupation, a Full Travel Plan should be submitted to and approved in writing by the LPA. The 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 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 advice contained in local and national planning and transportation policy, 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.

13 HWAY9 Vehicle areas surfaced

14 HWAY19 Car and cycle parking laid out

15 HWAY21 Internal turning areas to be provided

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

a) Measures to prevent the egress of mud and other detritus onto the adjacent public highway

b) A dilapidation survey jointly undertaken with the local highway authority

c) The routing for construction traffic that will be promoted including a scheme for signing the promoted construction traffic routing.

d) Where contractors will park

e) How large vehicles will enter/exit site

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 The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'.

A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority prior to occupation of the building. Should the development fail to achieve a BREEAM standard of 'very good' a report shall be submitted for the written approval of the



Local Planning Authority demonstrating what remedial measures should be undertaken to achieve a standard of 'very good'. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local Plan and the CYC Interim Planning Statement 'Sustainable Design and Construction' .

18 No development shall take place (including any ground works and site clearance) until a method statement for the retention and creation of semi-natural habitats, as outlined on the Landscape Plan by Westwood Landscape (Drawing No. L5/01, dated 05/10/15), has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used, protection of existing habitat during construction);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance;
- g) disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details in the first planting season after the approval of the method statement and shall be retained in that manner thereafter.

Reason: To ensure the appropriate compensatory measures for the loss of the SINC site are created and to comply with Policy NE5b. To ensure there is no harm to a species protected by law and to comply with Policy NE6 and paragraph 118 of the NPPF.

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

Reason: In the interest of satisfactory and sustainable drainage.

20 No development 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.

#### Design considerations

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 (SuD's). Consideration should be given to discharge to soak away, 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 should be provided to discount the use of SuD's.

If SuD's 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 surface water run-off from Greenfield developments must be attenuated to that of the existing rate (based on a Greenfield run off rate of 1.40 l/sec/ha).

Please note that the proposed surface water discharge rate quoted within the submitted details of 80 l/sec is NOT agreed.

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.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

21 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 that no foul and surface water discharges take place until proper provision has been made for their disposal.

22 HWAY14 Access to be approved, details reqd

23 HWAY18 Cycle parking details to be agreed

24 HWAY37 Control of glare etc from lighting

25 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans ref:- 109240/01010B and 109240/1011B. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

26 No barrier or gate to any vehicular access shall be erected within 15 metres of the rear of the footway abutting the site, without the prior written approval of the Local Planning Authority, and shall at no time open towards the public highway.

Reason: To prevent obstruction to other highway users.

## **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:

- i) Details of proposed site lighting
- ii) Details of staff parking and servicing arrangements
- iii) Details of Mitigation for the Loss of a SINC.

#### **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

### 3. NETWORK RAIL INFORMATIVE

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

#### Drainage

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soak aways must be located so as to discharge away from the railway infrastructure.

#### Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

## Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

## Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Engineer.

## Armco Safety Barriers

An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway.

## Fencing

Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

## Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Engineer at the below address for approval prior to works commencing on site. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a

method statement should be submitted for NR approval.

### Two Metre Boundary

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus avoiding provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

### Trees/Shrubs/Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

#### Acceptable:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees - Pines (*Pinus*), Hawthorne (*Cretaeagus*), Mountain Ash - Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (*Shrubby Salix*), Thuja Plicatata "Zebrina"

#### Not Acceptable:

Alder (*Alnus Glutinosa*), Aspen - Poplar (*Populus*), Beech (*Fagus Sylvatica*), Wild Cherry (*Prunus Avium*), Hornbeam (*Carpinus Betulus*), Small-leaved Lime (*Tilia Cordata*), Oak (*Quercus*), Willows (*Salix Willow*), Sycamore - Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), London Plane (*Platanus Hispanica*).

A comprehensive list of permitted tree species is available upon request.

## Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

## Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

## Children's Play Areas/Open Spaces/Amenities

Children's play areas, open spaces and amenity areas must be protected by a secure fence along the boundary of one of the following kinds, concrete post and panel, iron railings, steel palisade or such other fence approved by the Local Planning Authority acting in consultation with the railway undertaker to a minimum height of 2 metres and the fence should not be able to be climbed.

## 4. 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.

### **Contact details:**

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

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# 15/01307/FULM

Plot 7 Great North Way Nether Poppleton



Scale : 1:2119

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	10 November 2015
<b>SLA Number</b>	Not Set

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## Planning Committee

19 November 2015

### Appeals Performance and Decision Summaries

#### Summary

- 1 This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 July and 30 September 2015, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

#### Background

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, the Government will use appeals performance in identifying poor performing planning authorities, with a view to the introduction of special measures and direct intervention in planning matters within the worst performing authorities. This is now in place for Planning Authorities where more than 60% of appeals against refusal of permission for major applications are allowed.
- 3 The table below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Figure 1 shows performance on appeals decided by the Inspectorate, for the last quarter 1 July to 30 September 2015, and for the 12 months 1 October 2014 to 30 September 2015.

**Fig 1: CYC Planning Appeals Performance**

	<b>01/07/15 to 30/09/15 (Last Quarter)</b>	<b>01/10/14 to 30/09/15 ( Last 12 months)</b>
Allowed	3	14
Part Allowed	-	2
Dismissed	8	28
Total Decided	11	44
<b>% Allowed</b>	<b>27%</b>	<b>32%</b>
% Part Allowed	-	5%

**Analysis**

- 5 The table shows that between 1 July and 30 September 2015, a total of 11 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 3 were allowed. At 27% the rate of appeals allowed is below the national annual average of appeals allowed which is around 35%. By comparison, for the same period last year, out of 6 appeals 0 were allowed (0%), 0 were part allowed (0%). None of the appeals allowed between 1 July and 30 September 2015 related to “major” applications.
- 6 For the 12 months between 1 October 2014 and 30 September 2015, 32% of appeals decided were allowed, again below the national average, but above the previous corresponding 12 month period of 19%.
- 7 The summaries of appeals determined between 1 July and 30 September 2015 are included at Annex A. Details as to whether the application was dealt with under delegated powers or by committee are included with each summary. In the period covered one appeal was determined following refusal at sub-committee.

**Fig 2: Appeals Decided 01/07/2015 to 30/09/2015 following Refusal by Committee**

Ref No	Site	Proposal	Outcome	Officer Recom.
14/01720/FUL	Brook House Main St, Elvington	Two storey detached dwelling	Dismissed	Refuse

- 8 The list of current appeals is attached at Annex B. There are 10 planning appeals lodged with the Planning Inspectorate (excluding tree related appeals).

9 We continue to employ the following measures to ensure performance levels are maintained at around the national average or better:

i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with Paragraph 56 of the NPPF and draft Development Control Local Plan Policy.

ii) Where significant planning issues are identified early with applications, revisions are sought to ensure that they can be recommended for approval, even where some applications then take more than the 8 weeks target timescale to determine. This approach is reflected in the reduction in the number appeals overall. This approach has improved customer satisfaction and speeded up the development process and, CYC planning application performance still remains above the national performance indicators for Major, Minor and Other application categories.

iii) Additional scrutiny is being afforded to appeal evidence to ensure arguments are well documented, researched and argued.

### **Consultation**

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

### **Council Plan**

11 The report is relevant to two key priorities of the new Council Plan 2015-19 namely a 'A Prosperous City for All' and 'A Council That Listens to Residents'. In particular the aim to protect the green belt and the unique character of the city.

### **Implications**

12 Financial – There are no financial implications directly arising from the report.

13 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.

14 Legal – There are no known legal implications associated with this report or the recommendations within it.

15 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

**Risk Management**

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

**Recommendation**

- 17 That Members note the content of this report.

**Reason**

- 18 To inform Members of the current position in relation to planning appeals against the Council’s decisions as determined by the Planning Inspectorate.

**Contact Details**

**Author:**

Gareth Arnold  
Development Manager,  
Directorate of City and  
Environmental Services

**Chief Officer Responsible for the report:**

Mike Slater  
Assistant Director Planning &  
Sustainability, Directorate of City and  
Environmental Services

**Report  
Approved**



**Date** 23 October  
2015

**Specialist Implications Officer(s)** None.

**Wards Affected:**

All  Y

**For further information please contact the author of the report.**

**Annexes**

**Annex A – Summaries of Appeals Determined between 1 July and 30 September 2015**

**Annex B – Outstanding Appeals at 23 October 2015**

## Appeal Summaries for Cases Determined 01/07/2015 to 30/09/2015

**Application No:** 14/01657/CLD  
**Appeal by:** Mrs A Carrington  
**Proposal:** Certificate of lawfulness for conversion of stables/outbuildings to habitable annexe  
**Address:** Hendwick Hall Farm Scoreby Lane Scoreby York YO41 1NP  
**Decision Level:** DEL  
**Outcome:** ALLOW

The attached appeal related to an application for a certificate of lawful use/development to use part of an as a 2 bedroom bungalow. A large en-suite bedroom/guest suite was also proposed within the building but this had no internal link with the proposed bungalow. The building is located within the curtilage of a large detached house in a rural location. The LPA did not issue the certificate considering the external changes were material and that the scale and separation of the proposed annex was such that a new planning unit would be formed. The inspector allowed the appeal. He considered the external changes would not be material and that the proposed detached residential accommodation would be incidental/ancillary to the main house and would not create a separate planning unit. In justifying the decision he made reference to Uttlesford D.C. v. SSE and R.J. White (1992). He pointed to the fact that there was a shared access and parking and that the close proximity of the two buildings would be convenient for social interaction. He also seemed to base his judgement on the accommodation only being occupied by the parents of the occupiers of the main house, or close family members.

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**Application No:** 14/01720/FUL  
**Appeal by:** Mr And Mrs J Benson  
**Proposal:** Erection of two storey dwelling with detached garage (resubmission)  
**Address:** Brook House Main Street Elvington York YO41 4AA  
**Decision Level:** CMV  
**Outcome:** DISMIS

The appeal related to the refusal of planning permission for a new two storey detached dwelling in Elvington Conservation Area. It was refused because of its impact on the landscaped and treed character of the application site and its immediate surroundings which is important in providing an attractive natural backdrop to the village hall and also in terms of forming part of the intact landscaped approach to the heart of the village. The Inspector agreed that the trees as a group were of value to the appearance of the Conservation Area. He did not consider that the applicant had shown that if they were removed there was sufficient space to incorporate suitable replacement planting and a dwelling.

---

**Application No:** 14/01750/FUL  
**Appeal by:** Mr Shaun Thomas  
**Proposal:** Change of use of land for siting 20 holiday static caravans  
in place of touring caravans  
**Address:** Home Lea Elvington Lane Elvington York YO41 4AX

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal site comprises a touring caravan site with an extant permission for the siting of 20 touring caravans on land in open countryside within the Green Belt to the north west of Elvington village. The site had been the subject of a previous refusal for the erection of 23 static caravans in 2011 which had been dismissed at appeal at that time. The current proposal was for the erection of 20 static caravans and had previously been the subject of a pre-application enquiry shortly before. It was indicated that there had not been a material change in circumstances since the original refusal and dismissal at appeal. The appellant's agent contested this claiming that the site was previously developed land and therefore appropriate development within the Green Belt in line with the exceptions outlined within paragraph 89 of the NPPF at the same time an appeal judgement in respect of a site at Rochdale in 2010 involving a change from touring to static caravans was sited in support of their case. Planning permission was applied for and duly refused on the grounds that the development was inappropriate within the Green Belt and would at the same time conflict with the purposes of including land within the Green Belt as being an encroachment into open countryside. The refusal was appealed and the Inspector agreed that the development was clearly inappropriate within the Green Belt, it would cause substantial harm to its openness and it would clearly conflict with the purposes of including land within it. The contention that the site was previously developed land was firmly rejected and the appeal decision from Rochdale was dismissed as irrelevant. A claim for our costs was made at the same time and the Inspector agreed that the appeal had been pursued in the full knowledge that it had no reasonable prospect of success and costs were awarded to the Local Planning Authority.

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**Application No:** 14/01760/CLU  
**Appeal by:** Mr David Palliser  
**Proposal:** Use of detached garden building as separate dwelling  
**Address:** The Annexe 20 Asquith Avenue York YO31 0PZ

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal relates to the non-determination of a certificate of lawfulness to use a detached rear garden building as a dwelling. The building is occupied by the owner of the host property that is in use as a HMO. The LPA argued that inadequate clear information had been provided by the applicant to indicate that the building had been used as a separate dwelling continuously for 4 years. The Inspector dismissed the appeal. The Inspector stated that the appellant had not provided evidence to show that the garden building had been used continuously for 4 years as a separate dwelling rather than a retreat from the main house. The Inspector did not feel it necessary to assess the issue of deception given the above judgement.

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**Application No:** 14/01835/FUL  
**Appeal by:** Mr D Whiteley  
**Proposal:** Erection of two storey and single storey rear extension, conversion of garage into habitable room and change of use from small house in multiple occupation (use class C4) to large house in multiple occupation (sui generis)  
**Address:** 42 Newland Park Drive York YO10 3HP

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal related to the change of use of a small House in Multiple Occupation (HMO) to a 7 bed large HMO. The works involved the erection of a two storey and single storey extension and the conversion of the existing attached garage to a habitable room. The application had been refused because of a lack of car parking and the harm to the streetscene if the front garden were used for bin and cycle storage. It was also considered that 7 people occupying the HMO would harm neighbour amenity. The Inspector dismissed the appeal. She considered that the increase in occupants would be material and unacceptable, that the front garden bin and cycle storage arrangements would be unsightly and that it was inappropriate to remove parking provision and increase the number of occupants. In considering the appeal she made reference to the street being a quiet and pleasant residential environment. She also considered that there would be on street parking pressure in the evenings. In assessing parking provision she noted that the property was occupied by students but stated that this would not necessarily always be the case.

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**Application No:** 14/01917/LBC  
**Appeal by:** Mr Keith Hilton  
**Proposal:** Conversion of basement and ground floor flats into 1 no. residential dwelling with associated works including blocking up existing window, opening existing staircase from basement to ground and installing partition wall between ground floor and first floor  
**Address:** Flat 1 9 Bootham Terrace York YO30 7DH

**Decision Level:** DEL  
**Outcome:** DISMIS

The proposal was the conversion of two flats into one at 9 Bootham Terrace, a Grade II listed building. The scheme included the formation of a stud wall partition in the entrance hallway. LBC was refused for the reason that the stud partition would detract from the aesthetic and historic importance of the staircase, which appears visually unsupported and pleasingly decorated. It would fail to preserve the character of the building as one of special architectural or historic interest. The Inspector noted that the proposed stud wall would wholly obscure the cantilevered engineering of the staircase. Whilst the Inspector accepted that the wall has been designed as a temporary structure, he concluded it would cause significant detriment to the heritage asset through the loss of views of an important internal architectural feature for an indeterminate period. The Inspector noted that the wall would also reduce the spaciousness of the main entrance hall and that the benefit of reinstating the connection between the basement and the ground floor would be negated by the fact that the original circulation pattern would still be disrupted by the proposed stud wall. Also that further harm would be caused by a resulting loss of natural light to the entrance hallway. Whilst the harm to the significance of the heritage asset was determined to be less than substantial, no evidence was provided to demonstrate that any public benefit would outweigh that harm.

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**Application No:** 14/01963/FUL  
**Appeal by:** Mr John Stabler  
**Proposal:** Change of use from dwelling (use Class C3) to house in multiple occupation (use Class C4)  
**Address:** 75 Heslington Road York YO10 5AX

**Decision Level:** DEL

**Outcome:** ALLOW

The proposal was for a change of use from a family dwelling (Use Class C3) to a house in multiple occupation (Use Class C4). The property was in a predominantly residential area and had a reasonably long front garden, so was set back from Heslington Road. The application was refused because the existing density thresholds of HMO's (neighbourhood area 20.7% - street level 35.05%) already breached policy thresholds (Neighbourhood 20% - Street Level 10%). The planning authority did not consider there were any exceptional circumstances, which warranted a departure from policy. The Inspector disagreed, considering the 'property would not be attractive to many families.' She continued by saying 'the intention of the proposal is to provide accommodation for single, professional people' This would add to the diversity of accommodation available and in doing so would 'contribute to mixed and balanced communities.' So rather than conflicting with the policy, as set out in the SPD of April 2012 'Controlling the Concentration of Houses in Multiple Occupation.' the Inspector considered this proposal was in fact compliant with it. In order to achieve and maintain this dynamic, the Inspector imposed a condition to be attached to the consent requiring a management plan to be submitted, establishing the 'types and numbers of occupants.'

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**Application No:** 14/02374/CLD  
**Appeal by:** Mr C Johnson  
**Proposal:** Certificate of lawfulness for retention of dwelling without complying with conditions attached to planning permission 4/2/3487 dated 28/07/1966  
**Address:** Grange Lodge Holtby Lane Holtby York YO19 5XQ

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal relates to a detached bungalow in open countryside, west of Holtby, that was granted planning permission in 1966 and was completed in 1968. The appeal application sought a certificate of lawful development for the retention of the bungalow without complying with the conditions of approval. The basis of the request was that the bungalow had not been built in accordance with the approved plans and therefore the permission had never been implemented. As such, the conditions, in particular the agricultural occupancy condition, did not apply. Various legal cases were cited. The Authority's view was that the bungalow had been constructed to all intents and purposes in accordance with the approved plan; it was in the same location, of the same size and design, but rotated in its orientation through 8 degrees. The extent of deviance from the plans was not considered to be material nor would the effect of the variation have given rise to any material objection or harm; the change in orientation was not apparent and neighbouring buildings were some distance away. The legal cases cited in the application were considered not to have direct relevance to the application or related to a significant, and therefore material, discrepancy from the approved scheme. In dismissing the appeal, the Inspector concurred with the Authority and considered that the refusal to grant a certificate was well founded.

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**Application No:** 15/00034/FUL  
**Appeal by:** Mr Alistair Smith  
**Proposal:** Two storey side and single storey rear extensions  
**Address:** 17 Derwent Road York YO10 4HQ

**Decision Level:** DEL

**Outcome:** DISMIS

This application was a resubmission of a previously approved application for a pitched roof two storey side and rear extension and single storey extension to be situated on the shared boundary with 15 Derwent Road. The difference was that the roof design was altered from a gable to a pitched roof designed with a set down from the main ridge by approx 400mm. A slight increase in the approved width at first floor level was also proposed. The LPA considered that the proposed roof design would be poorly related and at odds both to the existing house and the terrace block, causing harm to both the appearance of the terrace and the wider street scene. The Inspector agreed and dismissed the appeal on the basis that it would introduce a highly unsympathetic design feature that would be at odds with its immediate context and also unbalance the simple rectangular form of the adjoining terrace. The Inspector also considered that the proposal would result in a poorly designed, highly incongruent addition. Furthermore, it was added that the intended benefit of creating a pitch to resemble the pitched roof at no.15 and allowing a slight increase in width would not outweigh the harm that would be caused to the street scene or the adjoining terrace.

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**Application No:** 15/00547/FUL  
**Appeal by:** Mr Tim Dean  
**Proposal:** Single storey side extension attaching the main house to existing detached garage  
**Address:** Burlands Farm Burlands Lane Upper Poppleton York YO26 6QL  
**Decision Level:** DEL  
**Outcome:** ALLOW

The appeal site is Burlands Farm; a detached dwelling house with adjacent detached double garage situated to the south west of Upper Poppleton. Burlands Farm is one of a group of dwelling houses located in an open farmland setting within the Green Belt. The appellant sought planning permission for a single storey side extension attaching the main house to the existing detached garage. The dwelling house had previously been the subject of extension with a 38.5% increase in the footprint. The proposed extension connecting the house and garage building would further increase the footprint to a total of 115% of the original dwelling house. The proposal was refused planning permission on the grounds of being a disproportionate addition to the dwelling that would be inappropriate development and harmful to the Green Belt. The extension would result in an additional massing that would further harm the openness of the Green Belt. The Appeal Inspector acknowledged the increase in the footprint of the dwelling house that would result from the extension. However, he considered that in this instance due to the linkage of the dwelling house and garage by the connecting wall and courtyard, at present there is little sense of openness and therefore the impact of the extension on the perception of openness would be almost nil. The Inspector concluded that the proposal would not conflict with the five purposes of including land within the Green Belt and would have no material impact on openness. He found that in this instance the proposed development would not be inappropriate but stressed that this is an unusual case. He advised that because of its particular circumstances this finding cannot be used as any form of guide or precedent for other extensions in the Green Belt. The appeal was allowed.

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

## Outstanding appeals

<b>Officer: Diane Cragg</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
25/08/2015	15/00030/REF	APP/C2741/W/15/3132727	W	Log Cabin (Orchard Lodge) Adjacent To Mount Pleasant	Removal of condition 3 of permitted application 07/00102/FUL to allow existing log cabin to be occupied as a main residence	
<b>Officer: Erik Matthews</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
13/08/2015	15/00025/REF	APP/C2741/W/15/3131280	W	Naburn Lock Caravan Park Naburn Lock Track Naburn	Change of use of land for touring caravans with associated amenity building, gas compound and bin store	
23/09/2015	15/00033/REF	APP/C2741/W/15/3135064	W	Country Park Pottery Lane Strensall York YO32 5TJ	Variation of condition 2 of permitted application 12/03270/FUL to allow camping pods on pitches 1-10	
<b>Officer: Esther Priestley</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
12/05/2014	14/00017/TPO	APP/TPO/C2741/3909	W	14 Sails Drive York YO10 3LR	Fell Silver Brch (T3,T11), Mountain Ash (T5), Oak (T8), Trees protected by Tree Preservation Order CYC15	
09/05/2014	14/00015/TPO	APP/TPO/C2741/3907	W	7 Quant Mews York YO10 3LT	Crown Reduce Silver Birch (T1,T2), Trees protected by Tree Preservation Order CYC 15	
<b>Officer: Elizabeth Potter</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
13/08/2015	15/00027/REF	APP/C2741/D/15/3130002	H	15 Norfolk Street York YO23 1JY	Single storey rear extension	
<b>Officer: Heather Fairy</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
27/05/2015	15/00020/REF	APP/C2741/W/15/3049419	W	Whinchat House York Road Deighton York YO19 6EY	Erection of detached dwelling and garage on land adjacent to Whinchat House	

<b>Officer: Kevin O'Connell</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
16/09/2015	15/00032/REF	APP/C2741/W/15/3134347	W	Shepherd Group Social Club 131 Holgate Road	Removal of condition 4 of application 13/02712/FULM (Conversion and extensions to create 12no flats) to allow the use of UPVC windows and doors	
<b>Officer: Matthew Parkinson</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
17/06/2011	11/00026/EN	APP/C2741/C/11/2154734	P	North Selby Mine New Road To North Selby Mine	Appeal against Enforcement Notice	
<b>Officer: Sandra Duffill</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
09/09/2015	15/00034/REF	APP/C2741/D/15/3134204	H	12 St Peters Grove York YO30 6AQ	Front and side dormers	
<b>Officer: Sharon Jackson</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
04/09/2015	15/00031/REF	APP/C2741/W/15/3081186	W	20 Hartoft Street York YO10 4BN	Change of use from dwelling (use class C3) to House in Multiple Occupation (use class C4)	
<b>Officer: Sophie Prendergast</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
17/08/2015	15/00026/REF	APP/C2741/W/15/3130186	W	Land To Rear Hilbra Avenue Haxby York	Outline application for erection of 4no. dwellings with associated access and parking	
<b>Total number of appeals: 12</b>						





## Planning Committee

19 November 2015

### Planning Enforcement Cases - Update

#### Summary

1. The purpose of this report is to provide Members with a continuing quarterly update on planning enforcement cases.

#### Background

2. Members have received reports on the number of outstanding enforcement cases within the Sub-Committee area, on a quarterly basis, since July 1998, this report continues this process for the period 28 July 2015 to 23 October 2015.
3. The lists of enforcement cases are no longer attached as an annexe to this report. The relevant cases for their Ward will be sent to each Councillor by email as agreed by the Chair of the Planning Committee.
4. Section 106 Agreements are monitored by the Enforcement team. A system has been set up to enable Officers to monitor payments required under the Agreement.

#### Current Position.

5. Across the Council area 152 new enforcement investigation cases were received and 176 cases were closed. A total of 624 investigations remain open. One enforcement notice has been served against an unlawful advertisement on a Grade 2 (STAR) listed building.
6. There have been 2 new section 106 cases, 5 cases have been closed and there are 184 cases on-going. The section 106 cases secured total contributions of £45,748 towards public open space, £11,984 towards education provision and £34,700 towards affordable housing provision required in connection with the relevant development.

### **Consultation.**

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

### **Options**

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

### **The Council Plan 2015-2019**

9. The report is relevant to two key priorities of the new Council Plan 2015-19 namely a 'A Prosperous City for All' and 'A Council That Listens to Residents'. In particular the aim to protect the green belt and the unique character of the city.

### **Implications**

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

### **Risk Management**

10. There are no known risks.

### **Recommendation**

11. That Members note the content of the report.

The individual case reports are updated as necessary but it is not always possible to do this straight away.

Therefore if Members have any additional queries or questions about cases on the emailed list of cases then please e-mail or telephone the relevant planning enforcement officer.

Reason: To update Members on the number of outstanding planning enforcement cases.

**Author:**

Gareth Arnold  
Development Manager  
Tel. No: 551320

**Chief Officer Responsible for the report:**

Michael Slater  
Assistant Director (Planning and Sustainable Development)

Dept Name: **City and Environmental Services.**

**Report Approved**

**Date** 28/07/2015

**Specialist Implications Officer(s)**

*Implications:*

*Financial*

*Patrick Looker*

*Legal:*

*Andrew Docherty*

**Wards Affected:** *All Wards*

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