

Meeting	Planning Committee
Date	21 April 2016
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre (present for items 4b-4e), S Barnes, Boyce, Cullwick (present for item 4a), Cuthbertson (present for item 4a), D'Agorne, Dew, Funnell, Richardson, Shepherd, Warters and Gillies (present for items 4a and 4b- as a Substitute for Cllr Doughty)
Apologies	Councillor Doughty
In Attendance	Councillor Aspden and Cllr Mercer

**87. Site Visits**

Application	Reason	In Attendance
Former Grain Stores, Water Lane	As objections had been received and the officer recommendation was to approve	Councillors Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Galvin, Reid, Richardson and Shepherd.
Elvington Water Treatment Works, Kexby Lane, Elvington	To familiarise members with the site	Councillors Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Galvin, Reid, Richardson and Shepherd.
Land West of Hagg Wood, Broad Highway, Wheldrake	As objections had been received and the officer recommendation was to approve	Councillors Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Galvin, Reid, Richardson and Shepherd.
Connaught Court, St Oswalds Road	As objections had been received and the officer recommendation was to approve	Councillors Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Galvin, Reid, Richardson and

		Shepherd.
Hudson House, Toft Green	As objections had been received and the officer recommendation was to approve	Councillors Cullwick, D'Agorne, Dew, Galvin, Reid and Richardson

## 88. 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 in relation to the following items:

### Plans Item 4a (Land West of Hagg Wood, Broad Highway, Wheldrake)

Councillor Richardson declared a personal and prejudicial interest as he had carried out some work for Mr Hobson, the applicant. He withdrew from the meeting for consideration of this item and took no part in the debate or vote on this application.

### Plans item 4b (Royal Masonic Benevolent Institute, Connaught Court, St Oswalds Road)

Councillor Dew declared a personal and prejudicial interest as he made charitable donations to both RMBI and to Connaught Court and also visited Connaught Court. Councillor Cuthbertson also declared a personal and prejudicial interest as he had a business connection with Fulford Parish Council who had been consulted on the application. They both withdrew from the meeting for consideration of this item and took no part in the debate or vote on this application.

Councillor D'Agorne declared a personal non prejudicial interest. He advised Members that he had declared a prejudicial interest in relation to a previously considered application but did not feel he had a prejudicial interest in the application now being considered.

## 89. Minutes

Resolved: That the minutes of the last meeting held on 17 March 2016 be approved and signed by the chair as a correct record.

## **90. Public Participation**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general matters within the remit of the committee. However it had been agreed that Councillor Aspden, Ward Member for Fulford, who had registered to speak on plans item 4b (Connaught Court, St Oswalds Road) on behalf of local residents, would speak at this point in the meeting as he had to leave to attend another meeting before that application would be considered.

Councillor Aspden asked Members to note the large number of consultation responses received due to the following concerns of residents:

- Impact on traffic congestion on St Oswalds Road and the already busy Main Street and Fulford Road
- Proposed housing in size and type was not in keeping with character of surrounding area and lack of an affordable element
- Failure of the scheme to consider the heritage implications of development.
- Damage caused by loss of important remaining green areas of space, of historic parkland and to the conservation area.
- No proposals had been put forward to mitigate the harm to the conservation area - one improvement could be to refresh or replace some of play equipment nearby.

## **91. 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.

## **92. Land West of Hagg Wood, Broad Highway, Wheldrake, York (15/02439/OUTM)**

Members considered a major outline application by Mr Christopher Hobson for the erection of an agricultural building for egg production.

Officers provided a written update, a copy of which has been attached to the online agenda papers for information. They advised that since publication of the agenda a further 57 representations had been received. The representations reiterated the concerns expressed with regard to the impact of traffic associated with the proposed development along Broad Highway and within Wheldrake Village together with concerns relating to odour, attraction of rats and vermin, archaeology, noise as well as the potential impact on wildlife, the conservation area itself and on watercourses.

In addition a letter on behalf of the Parish Council and residents was circulated to Members with concerns ranging from the effect of regular HGV movements on the character of Wheldrake Conservation Area, health and safety issues associated with HGVs using Broad Highway and the local highway network to health risks to the vulnerable and arising from the risk to water contamination and the potential spread of avian flu and the impact on local wildlife. Officers advised that the salient issues were covered in the existing officer report.

Officers advised that a further letter from a Mr. Newlove had been circulated raising concerns around the wider environmental impact with it not being a free range unit and the site itself being within the Nitrate Vulnerable Zone. Other concerns included the packing and distribution element not being agricultural, the lack of provision for hazardous waste handling and removal, adjoining woodland being omitted from the ecology report, lack of consultation with local businesses and the safety of residents. Officers responded to those concerns in some detail.

A letter from Alison Chalk was circulated referring to the ownership of the application site, financial charges registered against the applicant company and the possibility of issuing a personal permission. Officers advised that the matters raised in this letter would not affect the Council's ability to determine the planning application before it. They stated that a personal consent would not meet the tests for condition and referred Members to the National planning guidance.

Officers informed members that a petition against the development had now exceeded 2000 signatories.

David Randon, Chairman of Campaign to Protect Rural England (CPRE) York and Selby District Committee and Chair of Wheldrake Parish Council addressed the committee in objection to the application. He asked Members to consider the detailed grounds for objection put forward by CPRE, Wheldrake Parish Council and local residents. He stated that the proposal was for large scale intensive production business which was not compatible with other agricultural operations in that part of the green belt and would be at odds with the most recent draft York Local Plan sustainability objectives.

Ann Boyens, a local resident stated that Broad Highway was not suitable for use by large vehicles. She advised that there had been a large increase in its use over previous years due to the increase in use of Wheldrake Woods for leisure and recreational uses and the two proposed passing places were inadequate. She advised that no independent survey had been undertaken to look at the impact on Hagg Wood which bordered the development.

Angie Roberts, a local resident, then addressed the committee. She raised health concerns stating that the facility would attract rats which would be drawn to hen food, the rats would then be poisoned and would become prey for other wildlife and birds with catastrophic effect on York's ecosystem. She advised that there was no mention of avian flu in the report but a high risk of disease spreading. She also raised concerns about smells and pollution from the facility as well as safety concerns about lorries travelling through the village.

Ian Pick, agent for the applicant, advised the committee that the owners of the existing business, based around dairy and arable practices, were under considerable pressure and suffering losses. The applicant had worked proactively with the council to resolve issues and mitigate concerns including agreeing passing places which had been supported by the highways agency. He advised that the proposals were acceptable in terms of neighbour amenity. He responded to queries raised by Members.

Chris Barber, on behalf of Wheldrake Parish Council, advised Members that 196 written objections had been submitted as well as a petition. He expressed concerns that the report did not refer to the conservation area other than that access to the site was by passing through the conservation area. He stated that

long articulated vehicles would cause damage to the conservation area and there was a risk of gridlock situations at school times. He stressed that the benefit of Broad Highway to the community was priceless.

Councillor Mercer, Ward Member for Wheldrake, addressed the committee on behalf of local residents. She stated that Wheldrake had been founded as a farming community and had become a desirable village to live in. She expressed sympathy with the farmer's plight into diversification but conveyed residents' concerns that the proposed development would impinge on residents' enjoyment of Broad Highway which was used for walking, cycling and horse riding. Regular vehicle movements were a cause for concern, as they passed through the village and past the school and suggested a condition to limit HGV movements to weekdays and that enclosed trailers be used.

Members suggested that, in view of the concerns raised regarding the impact on the amenity of residents who used Broad Highway for recreational purposes, if approved, a condition be added to restrict vehicles movements to weekdays and to avoid school pick up/drop off times. Officers advised that they did not consider this appropriate due to the limited number of proposed vehicle movements but Members felt that this would improve the amenity for local residents. It was also agreed that condition 7 (landscaping and planting scheme) be tightened to refer to the lifetime of the development.

Some Members felt that the proposed development was a large scale production business which would be intrusive and have an unacceptable impact on the openness of the greenbelt, would create unacceptable harm to the environment impacting on existing habitats and biodiversity and was in conflict with the Village Design Statement.

While acknowledging the great strength of feeling within the village against the application, other members noted that the officer's view was that there were no sustainable planning reasons to refuse the application. Members accepted that this was an agricultural use within an agricultural area, which was outside the village and that traffic movements would be minimal. They noted that, although it was a large building, it would be adequately screened and felt that with the additional proposed conditions, this was acceptable.

Councillor Galvin moved, and Councillor S Barnes seconded, approval subject to the conditions listed in report and subject also to an additional condition to limit deliveries to the site to weekdays and avoid school drop off/pick up times and an amendment to condition 7 (landscape and planting scheme) so that it referred to the “lifetime of the development” rather than replacement planting for the first 5 years only. On being put to the vote, this motion fell.

Councillor Derbyshire then moved, and Councillor Shepherd seconded, refusal on the grounds of the negative impact to the openness and visual amenity of the greenbelt. On being put to the vote, this motion fell.

In light of previous motions falling, from the Chair, Councillor Reid then moved, and Councillor Galvin seconded, the original proposal for approval subject to the conditions listed in the report and the proposed additional and revised conditions detailed above regarding the timing of deliveries and landscaping scheme. On being put to the vote, this motion for approval was carried.

Resolved:

That the application be approved subject to the conditions listed in the report and the additional and amended conditions below.

#### Amended Condition 7

The building shall not be occupied until a detailed landscape and planting scheme for the area shown on drawing IP dated Feb 16 titled 'Area Available for Landscaping', has been submitted to and approved by the Local Planning Authority. The approved landscape and planting scheme shall thereafter be implemented within 8 months of occupation. If any tree, hedge or shrub planted dies or is lost through any cause *within the lifetime of the development* it shall be replaced in the next planting season with others of similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: To help integrate the building with its surroundings.

#### Additional Condition 20

During the operation of the development, vehicular movements to and from the site shall take place as specified on page 8 of

the submitted Design and Access Statement. Other than staff travelling to and from the site, there shall be no vehicles entering or leaving the site at the following times and days:-

- Between 07:30 to 09:30 hours, and 14:45 to 18:00 on weekdays.

- On Saturdays, Sundays and Bank Holidays.

Reason: To ensure the site is appropriately managed, and to minimise the impact of traffic associated with the development on the amenity of residents and on the free flow of traffic along Broad Highway.

Reason:

Agricultural development is not inappropriate development in the Green Belt. It is considered however that the negative impact on the openness of the green belt should be balanced against the economic benefits from the proposed farm diversification. In respect of economic issues, the proposal does not conflict with four of the five purposes that the Green Belt serves (paragraph 4.17 above) and that the purposes of safeguarding the countryside from encroachment and the impact on the openness of the green belt should be balanced against the economic benefits from the intensification and diversification of its agricultural use.

**93. Royal Masonic Benevolent Institute, Connaught Court, St Oswalds Road, York, YO10 4QA (13/03481/FULM)**

Members considered a major full application by the Royal Masonic Benevolent Institute (RMBI) and Shepherd Homes Ltd for the erection of 14 dwellings following the demolition of the existing bowling clubhouse and garage block.

A letter from Fulford Friends outlining their main reasons of objection and a statement from Lindsay Cowle, Conservation Consultant on behalf of Fulford Friends with regard to the impact of the proposals on heritage assets were circulated to committee members.

Officers provided a written update (full details of which are attached to the published online agenda for information). They advised that additional internal consultation responses had been received from the Planning and Environmental Management



(Conservation Architect) who advised that the drawings and documents summarized at 1.2 and 1.3 of the Planning Statement Further Addendum report dated February 2016 did not change the scheme in a way which is significant to heritage interests. Additionally, the Planning and Development Manager, School Services, had advised that as a result of slightly lower per pupil cost multipliers and updated pupil number projections, a revised contribution was sought as follows:

- £12,147 Primary – towards one additional place at St Oswald's CE Primary
- £30,368 Secondary – towards two additional places at Fulford School

Officers stated that further external responses had been received from Fulford Parish Council who advised that the proposal would cause substantial harm to the Fulford Village Conservation Area and the setting of the Fulford Road Conservation Area and that Development in Area A would dominate and harm the open setting of the former gatehouse for the park which was a listed building. They also felt that the lack of an open space contribution weighed heavily against the proposals in the planning balance and that very few public benefits had been identified and these did not outweigh the harm to heritage assets.

Officers advised that additional representations had been received from Fulford Friends who raised the concerns in relation to misleading comparisons made to the refused 2005 scheme, misleading references to flooding in the area, the need for a full bat survey, harm to the conservation areas and listed building and harm to the historic setting of York. They advised that the proposals included no affordable housing, that a local green corridor would be interrupted with the loss of habitats, that no open space facilities would be provided on site and that no contribution had been offered towards off-site facilities. A letter outlining their main concerns for objection was circulated to Members.

With regard to further publicity and neighbour notification, Officers informed Members that an additional 15 letters had been received which raised objections similar to those already summarised at paragraph 3.53 of the main report and some new or different points. These included concerns in relation to capacity on St Oswalds Road and potential for further congestion due to proposed limited parking, increased flood risk

to surrounding properties and the wider river corridor as a result of changes in land levels and the introduction of walls, fences and gardens impeding flow of water. They also noted the need to retain the gap between Fulford Parish and Fishergate and the loss of open space for care home residents.

With regard to the additional representations and consultation responses, officers advised that the majority of the issues had been discussed within section 4.0 of the officer's report however they provided further responses in respect of flood risk including floor levels, post and rail fences, removing permitted development rights in garden areas, ecology, the impact of the proposal on bats and on green corridors and the consistency of decision making with regard to decisions in the green belt and elsewhere.

They then provided further information to clarify the sections of the report relating to relevant planning history, policy context, housing land supply, impact on heritage assets, flood risk and drainage, education provision and also provided a revised conclusion to include the reference to paragraph 134 of the NPPF and separate the aspects of contributions from the planning balance.

Officer advised that recommended condition 2 should be revised so add the following text: "Plot 6 to be House Type B as confirmed by Richard Wood Associates dated 20/04/2016" and that condition 9 be amended to amend the list of plans to refer to Drainage Layout - 34511 003K. They recommended that, should Members be minded to grant the application, a further condition be added to remove permitted development rights for fences forwards of plots 1,2 and 3 in the interest of conservation and to protect the root protection zone of trees.

Stephen Wilkinson, a local resident, addressed the committee in objection to the application. He informed Members that the proposed development failed to preserve or enhance the character of Fulford. He drew members attention to the high number of objections comments received and advised that, while there was a need for affordable homes, there was no justification for the damage to the conservation area for the provision of 14 high end properties.

Mrs Urmston then spoke as a local resident and also on behalf of Fulford Friends, in objection to the application. She stressed

that the public benefits of the proposed development did not outweigh the harm to heritage assets and that the application failed in respect of the economic, social and environmental elements.

Representations were then heard from Mr Lindsay Cowle, an independent heritage consultant, who spoke on behalf of Fuford Friends with regard to the impact of the proposals on heritage assets. A written statement was circulated to Members. Mr Cowle advised Members that the scheme was over intensive and inappropriate bearing in mind the location of the site within the conservation area and the scheme lacked a heritage input with no specialist heritage advice having been sought by the council to allow them to judge the heritage impact of the proposals.

Mr Richard Wood, the agent for the applicant, spoke in support of the application. He reminded members that the scheme had now been approved twice by City of York Council and there were no material changes to what had been approved previously. With regard to the flood issue raised, he advised that it was only the lower levels of the gardens which were in flood zone 3. He informed members that the scheme provided much needed housing in a sustainable location and that members had previously given a clear and consistent view that they considered the details submitted to be acceptable.

Karin de Vries, Chair of Fulford Parish Council, expressed the Parish Council's opposition to the application. She stressed that no heritage assessments had been carried out at any stage in the process and asked Members to consider whether they were certain as to whether there was only unsubstantial or insignificant harm. She expressed concern that the proposals would be harmful to the areas of open space and to the conservation area as described in the Fulford Village Conservation Area appraisal.

Officers confirmed that the council's conservation architect had had input into the preparation of the Conservation Area appraisal and the view of the conservation architect on this proposal was that it constituted minor harm.

Members asked whether it was possible to remove permitted development rights (PDR) for changes to the area fronting onto St Oswalds Road. Officers advised that a condition could be

imposed to remove PDR for the creation of driveways. Condition 11 (which prevented any structure, enclosure or building to be erected within FZ3) could be amended to make it explicit that fences should not be changed due to the impact on both conservation area and flooding.

Some Members commented that the scheme was significantly better than what had originally been proposed and expressed the view that they didn't find significant harm. However others felt that conflicting advice had been received from officers on the important view from the lngs and the effect on the conservation area, and expressed the view that no added benefit to the city had been proven stating that they would prefer the applicant to come back with better scheme.

Resolved:

That the application be approved subject to a Section 106 Agreement, the conditions listed in the report and the amended and additional conditions below to remove permitted development rights.

Amended Condition 2

As detailed in report with addition of following text: "Plot 6 to be House Type B as confirmed by Richard Wood Associates dated 20/04/2016"

Amended Condition 9

As detailed in report with amendment the list of plans to refer to Drainage Layout - 34511 003K

Additional Condition

Notwithstanding the provisions of Article 3 Schedule 2 Part 2 Class A of the Town and Country Planning (General Development Order 2015), (or any Order revoking or re-enacting that Order), no fences, gates, walls or other means of enclosure shall be erected between the front walls of plot nos. 1, 2 and 3 and the boundary of the application site with St Oswalds Road (other than those shown on drawing nos. Y81:822.03Q, Y81:822.28 and Y81:822.29).

Reason: In the interests of the character and appearance of the conservation area and to protect the roots of the existing trees along the boundary of the site.

### Additional Condition

Notwithstanding the provisions of Article 3 Schedule 2 Part 2 Class B of the Town and Country Planning (General Development Order 2015), (or any Order revoking or re-enacting that Order), there shall be no formation, laying out or construction of a means of access to plots 1, 2 and 3 other than as shown on approved drawing no. Y81:822.03Q.

Reason: In the interests of the character and appearance of the conservation area and to protect the roots of the existing trees along the boundary of the site.

Reason:

In accordance with paragraph 134 of the NPPF, the identified harm to heritage assets is outweighed by the application's public benefits of providing housing in a sustainable location within defined settlement limits and with good access to public and sustainable transport links and local services. This is in line with the aim of the NPPF to boost, significantly, the supply of housing and to deliver a wide choice of high quality homes. In terms of flood risk the site fails the sequential test as there appears to be reasonably available sites for the proposed development in areas with a lower probability of flooding. However following consultation with the Environment Agency the development would be appropriately flood resilient and resistant, limited parts of three of the proposed houses would be in flood zone 2 (areas of medium risk of probability of river flooding) with the remainder within flood zone 1. Whilst paragraph 100 of the NPPF states that development should not be permitted in such cases, it is considered that on balance the development provides wider benefits with the provision of new housing and that the submitted flood risk assessment has demonstrated that the site can be safely developed without increasing the risk of flooding elsewhere. A Section 106 Agreement would fund contributions towards providing additional capacity at St Oswalds Primary school and Fulford Secondary School and improvements to bowling green facilities at Scarcroft Green.

#### **94. Elvington Water Treatment Works, Kexby Lane, Elvington, York (15/02639/FULM)**

Members considered a major full application by Kelda Energy Services for the installation of solar photovoltaic array with

associated infrastructure including kiosks, security fencing, cctv and internal access track.

Officers advised that should Members be minded to approve the application, as it was both non-residential development of over 1ha in size and was defined as inappropriate development within the Green Belt, and was considered to have a significant impact on the openness of the Green Belt, then the application must be referred to the Secretary of State. Planning permission could not be granted for a period of 21 days following the start of the consultation to allow the Secretary of State to consider whether he would determine the application. (The Town and Country Planning (Consultation) (England) Direction 2009)

Officers advised that, as there had been some uncertainty about the ownership of the hedgerows surrounding the site, that condition 10 (landscaping) should be amended to require that the scheme included details of new hedges or hedgerows to be planted along the inside of the existing hedgerows immediately adjoining the site.

Mr Paul Kelly, on behalf of the applicant Kelda Energy Services Ltd, addressed the committee in support of the application. He explained that the water treatment works was a very energy intensive operation and the company was looking to reduce reliance on carbon energy with a programme of wind, solar and biogas to produce renewable energy. He advised Members that Elvington was the largest water treatment works in Yorkshire and used a lot of energy but if approved this scheme would produce 15% of the works' demand through renewable energy.

Members enquired as to whether vegetation would be allowed to grow around the panels and how this would be managed. The applicant advised that a bio diversity plan would be in place which would allow natural flora and fauna to flourish. Members were advised that a disposal plan would be put in place for when the units came to the end of their life.

Resolved:

That the application be approved after referral to the Secretary of State subject to the conditions listed in the report and the amended condition below.

### Amended Condition 10 (Landscaping)

No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. The scheme shall include details of new hedges or hedgerows to be planted along the inside of the existing hedgerows immediately adjoining the site. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants or any parts of the new hedges or hedgerows which during the life-time 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: To ensure the maintenance of screening to the site and to protect the appearance and character of the area and so that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

Reason:

The site is within the Green Belt and the proposals comprise inappropriate development in the Green Belt with additional impact on openness and permanence. However, in the overall balancing exercise, even when substantial weight is given to the harm to the Green Belt and the additional harm to the landscape character of the site, the benefits of the generation of significant amount of renewable energy and the particular site circumstances are considered to clearly outweigh the identified harms. These therefore amount to very special circumstances necessary to justify the inappropriate development in the Green Belt.

### **95. Former Grain Stores, Water Lane, York, (15/02856/FULM)**

Members considered a major full application by Mr Jason Stowe for the erection of a food store with car park with access off Water Lane.

Officers advised that since the report was written, a detailed landscape scheme in an acceptable form had been submitted

and therefore recommended that condition 5 should be amended. They also advised members of amendments to the following recommended conditions:

- Condition 2 – to substitute plan refs: - 3851-SK6-Rev C, 1439-210 G and SF 2466 LL01 Rev K for the drawings previously included.
- Condition 10 - to include the wording “excluding the refrigeration unit” after “Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted” as the issue has been addressed in the submitted noise report.
- Condition 11 – to read “Prior to development, an investigation and risk assessment (in addition to any assessment undertaken in association with the planning application) shall be undertaken”
- Condition 24 - the access and parking layout has been revised and as a consequence this condition should be amended to substitute drawing refs: - 210-G and 3851-SK6 Rev C for those previously included.
- Condition 26 vi) – the list of comparison goods should be amended to delete magazines.

Members noted that at the site visit the general view of members of the public was very much in favour of the application. They asked whether any consideration had been given to putting solar panels on the building. Officers advised that this was not a requirement of policy but the committee agreed that the applicant should be made aware that this was something they would welcome if possible.

Resolved:

That the application be approved subject to the conditions listed in the report and amendments to conditions 2, 5, 10, 11, 24 and 26 vi) as follows:

#### Amended Condition 2

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



Drawing Refs:-3851-SKA; 1439 210 G; 1439 214B; 1439 213; 1439 215; 1439 211; 1439 212; W635 E200 P1, 3851-SK6-REV-C; SF 2466 LL01 Rev K.

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

#### Amended Condition 5

The development hereby authorised shall not be undertaken otherwise than in strict accordance with the detailed landscape scheme outlined in drawing ref: - SF 2466 LL01 Rev K within the first planting season following completion of the development.

Reason: To safeguard the visual amenity of the wider street scene.

#### Amended Condition 10

Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted (excluding the refrigeration unit), 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 ( $L_{Aeq}$ ), 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 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.

Reason: To protect the amenity of local residents

#### Amended Condition 11

Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons. A

written report of the findings shall be produced, submitted to and 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 shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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.

#### Amended Condition 24

The site shall not be used for the purpose of food retail until the following highway works (as shown indicatively on drwgs; 210 Rev G and 3851-SK6 Rev C) have been implemented in accordance with the aforementioned approved plans or arrangements entered into which ensure the same;

1) Widening of the existing footway to 3m along the Water Lane frontage from the Toucan crossing to the pedestrian/cycle access to the store (save for a localized pinch point around the BT cabinet)

2) Formation of a new bus stop on Water Lane consisting of a bus half layby with associated footway and kerb works

Reason: In the interests of providing a safe means of access to the site by all modes of transport and to, minimise disruptions to the free flow of traffic.

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

Amended Condition 26 (vi)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended or any order amending, revoking or re-enacting that Order, or the description of development associated with this permission, no more than 249 square metres or 20% of the net floor space (whichever is the lower figure) of the retail development hereby authorised shall be used for the display and sale of comparison goods.

Comparison goods are defined as follows:-

- i) Clothing, footwear and fashion accessories (including jewellery and watches);
- ii) Music, Video/DVD recordings and computer games;
- iii) Cameras (including camcorders) and other photographic equipment;
- iv) Electronic Goods (incl TVs, Video, DVD, PC's and hi-fi equipment);
- v) Toys;
- vi) Books, and stationery;
- vii) Household Textiles;
- viii) Sports Goods;
- ix) Gardening Equipment and Furniture;
- x) Camping Equipment and tents;
- xi) Luggage;
- xii) Mobile phones and communication equipment

Reason:

The proposal has been subject to a detailed sequential test and retail impact assessment. It is concluded that there are no sequentially preferable sites and the proposal is found to be acceptable in terms of its impact upon the vitality and viability of the City Centre. The applicant has been able to convincingly demonstrate that the site has not been successfully marketed for employment use.

The levels of parking and access arrangements have been demonstrated to be acceptable and subject to the detailed landscaping of the site being conditioned as part of any planning permission the proposal is felt to be acceptable.

**96. Hudson House, Toft Green, York (15/01256/FULM)**

Members considered a major full application by Signal Property Investments LLP for the conversion of first, second and third

floors of wings A and B and all floors of wing C from offices to 82 flats (use class C3) and external alterations.

Officers advised that it had originally been proposed that all the education contribution would go towards the project to expand Scarcroft School. However as this project did not currently involve pre-school facilities it was proposed that the pre-school contribution instead be used towards pre-school facilities in the catchment area. It was confirmed that there had not been more than five contributions towards such facilities.

Members questioned whether it was possible to provide a car club bay on site but officers advised that two spaces were available on North Street and that it was not part of the proposals to finance a car club parking space at Hudson House. The applicant's representatives, who were present at the meeting, were asked to look into the possibility of one car parking space at Hudson House being allocated as a car club space.

Resolved:

That the application be approved subject to the conditions listed in the report and a Section 106 Agreement.

Reason:

Giving significant weight to Government priorities in this respect, there are no policy grounds to resist the change of use of the majority of the building and overall the external works will improve the setting. There would be no harm to designated heritage assets. A Section 106 agreement would secure contributions towards car club membership and drive time, which would be offered to residents of the host building, and towards local education provision at Scarcroft School and pre-school facilities in the catchment area.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 7.55 pm].