



**Notice of a public meeting of  
Area Planning Sub-Committee**

- To:** Councillors Galvin (Chair), Shepherd (Vice-Chair), Carr, Craghill, Derbyshire, Gillies, Hunter, Cannon, Looker, Mercer and Orrell
- Date:** Thursday, 10 March 2016
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

**AGENDA**

**1. Declarations of Interest**

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

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

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

**2. Minutes** (Pages 3 - 16)

To approve and sign the minutes of the last meeting of the Area Planning Sub-Committee held on 4 February 2016.

**3. Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Sub-Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is **Wednesday 9 March 2016 at 5.00 pm.**

## **Filming, Recording or Webcasting Meetings**

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## **4. Plans List**

To determine the following planning applications:

- a) **206 Stockton Lane, York, YO31 1EY** (Pages 17 - 34)  
**(15/02624/FUL)**

A full application for the erection of 4 dwellings with access from Caedmon Close together with reconfiguration of existing dwelling at 8 Caedmon Close (resubmission) [Heworth Without Ward]

- b) **Groves Chapel, Union Terrace, York, YO31 7WS** (Pages 35 - 66)  
**(15/02833/FULM)**

A major full application for the change of use of an existing building with internal and external alterations to form a convenience store at the ground floor and the erection of a four storey extension to the rear to accommodate 14 flats with associated car and cycle parking [Guildhall Ward] *[Site Visit]*.

**c) Car Park Lying To The South Of Hurricane Way, York (15/02490/FULM) (Pages 67 - 90)**

A major full application for the erection of a retail unit (Class A1) [Rawcliffe and Clifton Without Ward] *[Site Visit]*.

**d) Royal Masonic Benevolent Institute, Connaught Court, St Oswalds Road, York, YO10 4QA (15/01956/FUL) (Pages 91 - 104)**

A full application for the erection of a detached sun room and construction of a footpath [Fulford and Heslington Ward] *[Site Visit]*.

**e) Newgate, Market Newgate, York (15/02890/ADV) (Pages 105 - 114)**

An advert application for the display of eight non-illuminated and one illuminated direction signs in Shambles, Newgate, Silver Street and Parliament Street. [Guildhall Ward] *[Site Visit]*.

**f) Newgate Market, Newgate, York (15/02891/LBC) (Pages 115 - 124)**

A listed building consent application for the display of 4 wall mounted direction signs (3 x non-illuminated and 1 x externally illuminated) at entrances to the Market on 28, 33 and 47 Shambles. [Guildhall Ward] *[Site Visit]*.

**5. Urgent Business**

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

Democracy Officer:

Name: Judith Betts

Contact Details:

- Telephone – (01904) 551078
- E-mail –judith.betts@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 میا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

**AREA PLANNING SUB COMMITTEE****SITE VISITS****Wednesday 9 March 2016**

**The mini-bus for Members of the sub-committee will leave from  
Memorial Gardens at 10.00**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
10:10	Groves Chapel Union Terrace	4b
11:00	Car Park Lying To The South Of Hurricane Way	4c
11:45	RMBI Connaught Court St Oswalds Road	4d
12:15	Shambles Market Advertisements (alley between 28 and 30 Shambles)	4e & 4f

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City of York Council

Committee Minutes

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Meeting	Area Planning Sub-Committee
Date	4 February 2016
Present	Councillors Galvin (Chair), Shepherd (Vice-Chair), Carr, Craghill, Derbyshire, Gillies, Hunter, Looker, Mercer and Orrell
Apologies	Councillor Cannon

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### **38. Declarations of Interest**

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

### **39. Minutes**

Resolved: That the minutes of the meetings of the Area Planning Sub-Committee held on 3 December 2015 and 7 January 2016 be approved and signed by the Chair as a correct record.

### **40. Public Participation**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the sub committee.

### **41. Plans List**

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

**41a) Nanometrics Uk Ltd, 3 - 7 Rose Avenue, Nether Poppleton, York, YO26 6RU (15/01995/FULM)**

Members considered a major full application (13 weeks) by Mr Guy Kilner for the change of use from warehouse/industrial (use class B2/B8) to leisure centre (use class D2).

In their update to committee, officers advised that a condition regarding a travel plan should be included. Furthermore, following a further response from Public Protection regarding the extract and ventilation, two further conditions were recommended for details of machinery, plant & equipment and the treatment and extraction of cooking odours.

Members agreed the importance of the need for a travel plan, and to promote sustainable travel as much as possible, but acknowledged the restrictions of the location due to its distance away from public transport and the need to be realistic. They noted that secure cycle parking and an electric charging point would be provided.

Resolved: That the application be approved subject to the signing of a Section 106 legal agreement, the conditions listed in the report and the additional conditions below.

Additional Condition - Travel Plan

The site shall not be occupied until a Full Travel Plan has been submitted 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 NPPF of the City of York Development Control Local Plan, to encourage the



use of non-car modes of travel to the site. 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. The Travel Plan submitted with the application lacks sufficient detail.

Additional Condition: Details of machinery, plant and equipment

Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted that would be audible outside the curtilage of the site 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.

Informative: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To safeguard the amenity of occupants of neighbouring premises

Additional Condition - The treatment and extraction of cooking odours

There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration

system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

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

Reason: To protect the amenity of future residents and nearby properties.

Reason: The proposed development would result in the loss of units of B1, B2, and B8 use, however the proposed use is considered to employ similar numbers to the permitted use. The use would add to the leisure opportunities available to the residents of York and approval would support the local economy.

**42. Wilkinson, 3 Stirling Road, York, YO30 4XZ  
(15/02431/FULM)**

Members considered a major full application (13 weeks) by Clifton Moor Ltd for alterations and an extension to create two units including mezzanine floor and alterations to the car parking and service yard.

Officers drew Members attention to paragraph 4.28 of the report with regard to cycle parking. Although initially the application had not shown the cycle parking provision, the applicants were now proposing 10 covered and secure cycle parking places in the rear area of the site for employees and 10 covered spaces (5 hoops) at the front of the site for visitors.

Mr Craig Blatchford of Montague Evens, the applicant's agent spoke in support of the application. He assured members that this was not a speculative proposal and that, if approved, work would commence as soon as practically possible. He advised Members that there would be no reduction in the number of jobs at Wilkinson and 20 new jobs would be provided at Furniture Village.

One Member expressed concern that further extending out of town retail floor space would impact on the city centre. However others acknowledged that furniture retail was better suited to out of town retail and noted the recent closure of furniture shops on Fossgate.

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

**Reason:** Clifton Moor is an out of town retail area. There are no suitably sized units in the city centre for bulky items that are likely to be available in a reasonable timescale. Subject to conditions restricting the range of goods to be sold in the new unit and retaining existing restrictions on the Wilkinson's operation, it is considered that the sub-division of the existing unit and the creation of the additional retail floor space would not have an unacceptable impact on the City Centre. In terms of design and landscape, car parking, cycle parking and accessibility and drainage the scheme is considered to be acceptable. As such the proposal complies with Policy SP7a, S2 and GP1 of the City of York Development Control Local Plan, the Retail Study Update (2014); evidence base to the emerging local plan and advice within the National Planning Policy Framework.

**43. Glen Lodge, Sixth Avenue, York (15/02486/FULM)**

Members considered a major full application (13 weeks) from City of York Council for a three storey extension to provide 25 flats and communal facilities, the erection of two semi-detached bungalows and alterations to access road.

Officers advised that some of the recommended planning conditions in the committee report required details to be submitted for approval prior to commencement of development. However they advised that submission of some of those details could reasonably be postponed until some time after commencement. Officers therefore recommended that condition 3 (details of roads, footpaths and open spaces), condition 5 (cycle parking details) and condition 9 (new landscape details) be amended to indicate timescales for fulfilment of the condition.

In response to a question which had been asked at the site visit the previous day as to why the provision of recharging points for electric vehicles was an informative and not a condition, which was more usual, officers advised that Environmental Protection Officers, who had recommended the informative, had advised that as the properties would be occupied by older people, who were less likely to drive vehicles, the parking spaces were likely to be mainly used by short-stay visitors or by some staff. Therefore, requiring electrical recharging points may be considered unreasonable. However they would welcome the provision of one recharging point if members were minded to require it.

With regard to public consultation carried out prior to submission of the planning application, the Housing Development Team had held two public information events, one with the existing residents of Glen Lodge and the adjacent bungalows and one for the wider community. They had also met separately with individuals who would be particularly affected by the development. No objections had been raised and the local community were supportive of the proposals. In particular, existing residents of the care home and bungalows were pleased that the extension would allow for the introduction of 24 hour care on site.

Andy Kerr, City of York Council Housing Strategy Manager and Ben Hellawell, P & HS Architects were in attendance at the

meeting to answer any questions from members. With regard to a query about solar panels and insulation, Mr Kerr advised that high levels of insulation were planned for the extension and they were happy to look at whether the roof would support the installation of solar panels and consider this. One member expressed the view that an electric charging point should be required.

Members acknowledged that the need for more homes with extra provision would increase as the number of over 70s increased and expressed their support for the scheme.

Resolved: That the application be approved subject to the conditions listed in the report and the three amended conditions below

Amended Condition 3

*Within one month of commencement of development fully detailed drawings illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to the Local Planning Authority and approved in writing.*

Reason: In the interests of highway safety.

Amended Condition 5

*Within three months of commencement of development details for the secure storage of cycles, including means of enclosure, shall be submitted to the Local Planning Authority and approved in writing. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with the approved details, and these areas shall not be used for any purpose other than the parking of cycles.*

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

Amended Condition 9

*Within three months of commencement of development a detailed landscaping scheme, which shall illustrate the number, species, height and position of trees and shrubs, shall be submitted to*

the Local Planning Authority and approved in writing. 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.

Reason: The proposal would provide much-needed sheltered housing and extra care for the elderly. The application complies with the National Planning Framework and relevant policies of the 2005 City of York Development Control Local Plan.

**44. 206 Stockton Lane, York, YO31 1EY (15/02624/FUL)**

Members considered a full application from Mr David Todd for the erection of four dwellings with access from Caedmon Close together with the reconfiguration of an existing dwelling at 8 Caedmon Close (resubmission).

Officers advised that an issue has arisen regarding the need, or otherwise, for open space or education contributions and, in view of this, and the need to consider Regulation 123 of the Community Infrastructure Levy Regulation in respect of pooling of contributions, they recommended that Members deferred consideration of the application to a future meeting in order to resolve these issues.

Resolved: That the application be deferred to a future meeting.

Reason: In order to consider the need for open space or education contributions and to consider Regulation 123 of the Community Infrastructure Levy Regulation in respect of pooling of contributions.

**44a) 224 Hamilton Drive West, York, YO24 4PJ (15/02651/FUL)**

Members considered a full application from Miss Claire Bonner for the erection of a summer house in the rear garden (retrospective).

Officers advised that 3 additional neighbour objections had been received making the following comments (in addition to those contained within the agenda):

- The building is far too large and not at all in keeping with most other temporary buildings in the area.
- The building is obtrusive and stands at least 1.5m above the fence boundary at 60 Hobgate
- The committee report states that a similar structure could be built under permitted development. This development is not permitted development as it exceeds the maximum sizing by a reasonable amount and the permitted development regulations are irrelevant to this matter. This requires planning permission and therefore planning regulations should be applied.
- Permission should be denied as the report admits that the development doesn't sit within the numerous relevant policies and is prominent in views of neighbours.
- The development is not a summer house but a permanent structure
- The presence of a culvert adjacent to the development has apparently been ignored and other risk assessment factors have not been considered before building work commenced.
- Allowing the development to be retained would not contribute to the overall improvement of the area, it would detract from it. Nor would it contribute to the housing shortage as it is an outbuilding.
- The erection of the structure has caused considerable stress and worry to the neighbours directly involved.
- Neighbour concerns re. log burner and bar have not been addressed at all – if this development goes ahead it is more akin to a residence/pub than a summer house. There is concern about how it would be used and the likely disturbance (noise).
- The development breaches both policies GP1 and H7.

Mr Frank Walsh, a neighbour, addressed the committee in objection to the application. He raised concerns that he had contacted the planning department once in July and twice in Sept 2015 to voice his and neighbours' concerns over what was being built but he had not had a response until the building was nearly complete. He stated that the proposals showed it exceeded permitted rights by 300mm and that officers acknowledged that the building was not in keeping with surrounding structures. He stated that a culvert had been put in place following the flooding of a beck some years ago and residents told they could not build on it but the applicant had appeared to have ignored this advice and he questioned whether any drainage provision been put in place.

Claire Bonner, the applicant, then addressed the committee in support of her application. She assured members that they had not exceeded the maximum permitted height on purpose, but had done their research and read the technical guidance on the planning portal website and followed this as they understood it. She stated that building work had commenced in August but by the time the council requested a visit it was nearly complete with the roof on. She assured members that apart from the extra 300mm in height, the building complied with permitted development rules and had been built to the specifications they had been led to believe were correct. She explained how they intended to use the building. She expressed dismay that the neighbours had not approached them earlier to voice their concerns and apologised for any upset caused.

With regard to the culvert, officers confirmed that the culvert would normally be in the ownership of whoever's land it crossed and the owner had a duty to maintain it. As City of York Council was the enforcing drainage authority, if any future damage was made to the culvert, it would have the power to enforce any work needed.

Members accepted that building had been built slightly too high based on a misunderstanding of the rules, resulting from the difference in ground levels, rather than a flagrant disregard of the rules. They acknowledged that the structure was very prominent and visible to surrounding neighbouring properties but did not feel that the additional 300mm made a material difference to the impact of the structure on neighbours compared to how it would appear if it had been built to the height allowed under permitted development rights.



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

Reason: Whilst the development is not overly large in the context of the size of the back garden, its positioning close to the boundary makes it somewhat prominent in views from a number of neighbouring properties. Its design does not sit comfortably with guidance given in the NPPF, draft Local Plan policies GP1 and H7 or the Council's House Extensions and Alterations SPD in respect of its appearance. However, under permitted development rights a very similar structure with very similar impacts could be constructed without the need for planning permission.

**45. Yara UK, Station Yard, Elvington Lane, Elvington, York (15/02475/FULM)**

Members considered a major full application (13 weeks) from Mr Alan Capindale for the erection of a replacement raw materials store.

Officers advised that the start of paragraph 1.3 should read "1.3 The existing building has a ridge height of approximately 9.5m and the replacement is proposed to be approximately *14.5m. Its eaves are currently 6m which will rise to 11m.* It would be constructed with a 1m high brick base supporting cement board sheet cladding. All openings to the building would be retained as existing although the vehicular entrances would be higher in order to allow for modern delivery vehicles.

Officers recommended an additional condition for the reporting of unexpected contamination.

Members felt that as the application site was on an industrial estate, it was not likely to affect anyone and offered their support.

Resolved: That the application be approved subject to the conditions listed in the report and the additional condition below.

Additional Condition - Reporting of Unexpected Contamination

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, 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

Reason: It is considered that the replacement building would not have a detrimental impact upon the character of the area or result in any loss of amenity and is in accordance with the NPPF and the City of York Council Local Plan.

**46. Appeals Performance and Decision Summaries**

Members considered a report which informed them of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 October and 31 December 2015 and provided them with a summary of the salient points from appeals determined in that period.

Resolved: That the report be noted.

Reason: To inform Members of the current position in relation to planning appeals against the Council's decisions as determined by the Planning Inspectorate.

**47. Planning Enforcement Cases - Update**

Members considered a report which provided them with a quarterly update on planning enforcement cases for the period 24 October 2015 to 25 January 2016.

Resolved: That the report be noted.

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

Councillor J Galvin, Chair

[The meeting started at 4.30 pm and finished at 5.40 pm].

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**COMMITTEE REPORT**

**Date:** 4 February 2016      **Ward:** Heworth Without  
**Team:** Major and      **Parish:** Heworth Planning Panel  
Commercial Team

**Reference:** 15/02624/FUL  
**Application at:** 206 Stockton Lane York YO31 1EY  
**For:** Erection of 4no. Dwellings with access from Caedmon Close together with reconfiguration of existing dwelling at 8 Caedmon Close (resubmission)  
**By:** Mr David Todd  
**Application Type:** Full Application  
**Target Date:** 11 March 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

No.206 Stockton Lane comprises a substantial brick built detached house with a large rear garden to the east of the City Centre. Planning permission is sought for the erection of four properties in a mix of 1 1/2 and two storey forms on land to the rear and accessed from adjacent to 8 Caedmon Close. The application represents a revised re-submission of an earlier proposal ref:-15/00327/FUL that was previously refused on the ground of adverse impact upon a tree of significant townscape importance in a neighbouring garden protected by tree preservation order. The alignment of the proposed access drive has subsequently been re-aligned so as to lessen impact upon its root protection zone.

**2.0 POLICY CONTEXT**

## 2.1 Policies:

CYED4 Developer contributions towards Educational facilities  
CYL1C Provision of New Open Space in Development  
CYH5A Residential Density  
CGP15A Development and Flood Risk  
CYGP10 Subdivision of gardens and infill devt  
CYGP1 Design  
CYGP9 Landscaping  
CYNE1 Trees, woodlands, hedgerows  
CYH4A Housing Windfalls

### 3.0 CONSULTATIONS

#### INTERNAL

##### Public Protection

3.1 No objection to the proposal subject to any permission being conditioned to restrict proposed hours of construction for the development and to deal with the eventuality of unexpected contamination being found on the site.

##### Planning and Environmental Management (Archaeology, Landscape and Ecology)

3.2 No objection to the proposal in principle subject to any permission being conditioned to secure compensatory enhancement of local biodiversity allowing for the loss of potential habitat for hedgehogs and to secure an archaeological watching brief in view of the potential of the site to accommodate undisturbed Roman archaeology. In terms of the protected tree in the neighbouring garden some concern is expressed in relation to the impact of the proposal upon the availability of ground water to the tree and its relationship to service runs however it is felt that subject to any permission being strictly conditioned to secure the use of appropriate materials and the location of service runs then the development is on balance acceptable.

##### Flood Risk Management Team

3.3 No objection to the proposal. It is felt that the proposed surface water discharge rate of 3 litres per second is compatible with the requirements of the Authority's Strategic Flood Risk Assessment in respect of SuDs (Sustainable Urban Drainage Systems) and would not lead to a material increase in flood risk elsewhere. It is felt that the discharge rate required by the Foss (2008) IDB would require an orifice size of 6mm which would give rise to a serious risk of blockage and system failure with consequent flooding to surrounding properties in Caedmon Close, Stockton Lane and Dales Court.

##### Highway Network Management

3.4 Indicate no objection to the proposal and wish the recommended conditions in respect of the previous proposal to be re-applied. It is further felt that the development would generate negligible levels of traffic and low levels of pedestrian/cycle movements lending itself to an informal layout. Due to the low numbers of vehicle movements and highway layout vehicle speeds will be low with inter-visibility meeting national guidance. Should vehicles have to wait for an opposing vehicle adequate space exists within the site or within the adjacent public highway and it is felt that such instances will be infrequent and momentary in nature. The requirements in terms of access for Fire Appliances contained within Design Bulletin 32 can readily be achieved and it is felt that there are no viable highway grounds for refusal.

Education Services

3.5 Raise no objection to the proposal and indicate that a financial contribution under Section 106 of the 1990 Town and Country Planning Act will not be sought.

Sport and Active Leisure

3.6 Any response will be reported verbally at the meeting.

EXTERNAL

Councillor Nigel Ayre

3.7 Expresses serious concern in respect of the adequacy of the proposed surface water drainage arrangements for the site, the adequacy of the access arrangements for the site and their treatment by Highway Officers and the status of the land comprising the site access.

Yorkshire Water Services Limited

3.8 No objection to the proposal.

The Foss (2008) Internal Drainage Board

3.9 Object to the proposal on the grounds that the proposed surface water discharge rate of 3 litres/per second would give to significant risks of cumulative impact in terms of flow rates into the local water course(Tang Hall Beck) in the event of a heavy rainfall event with consequent increases in flood risk in the locality. A flow rate of the existing Greenfield run off rate minus 30% to allow for climate change is suggested which would result in a run off rate of 0.17 litres per second.

Heworth (Without) Parish Council

3.10 Object to the proposal on the grounds that it would result in an unacceptably dense pattern of development and the revised access form would not allow for adequate access to the site by emergency vehicles but would at the same time give rise to problems of inconsiderate parking and congestion at the junction with Caedmon Close.

Heworth Planning Panel

3.11 No objection to the proposal.

The North Yorkshire Fire Officer

3.12 Indicates that under the Building Regulations a maximum distance of 45 metres from an adjacent highway is stipulated to provide access for emergency vehicles with a minimum drive way width of 3.1 metres. Where such as distance cannot be achieved the provision of a domestic sprinkler system is acceptable as a means of fire prevention.

### Neighbour Notification and Publicity

3.13 Sixteen Letters of objection have been received in respect of the proposal. The following is a summary of their contents:-

- Concern in respect of the scale and density of the proposed development;
- Concern in respect of the poor access design and layout for the proposal;
- Concern in respect of the impact of the proposal upon the residential amenity of neighbouring properties;
- Concern in respect of the relationship of the proposal to the neighbouring pattern of development;
- Concern in respect of the impact of the proposal upon the local pattern of surface water drainage;
- Concern in respect of the impact of the proposal upon local habitat and biodiversity.
- Concern in respect of the impact of the proposal upon the amenities of the occupants of 8 Caedmon Close;
- Concern in respect of the impact of the proposal upon a tree of townscape importance protected by Preservation Order in the grounds of the adjacent property;
- Concern in respect of the lack of provision for affordable housing;
- Concern in respect of the lack of support for local services and facilities;
- Concern in respect of inadequate consideration of alternative layouts;
- Concern in respect of access and available turning space for emergency vehicles.

## **4.0 APPRAISAL**

4.1 KEY CONSIDERATIONS INCLUDE:-

- Scale and Design of the Proposal;
- Impact upon the Residential Amenity of Neighbouring Properties;
- Design and Layout of the Proposed Access Arrangements;
- Impact upon a Tree of Significant Townscape Value;
- Impact upon the Local Pattern of Surface Water Drainage;
- Impact upon Local Habitat and Biodiversity;
- Status of the access land;
- Section 106 Issues.

## **STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN**

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



## SCALE AND DESIGN OF THE PROPOSAL

4.3 Central Government Planning Policy as outlined in paragraph 14 of the National Planning Policy Framework indicates that there should be a presumption in favour of sustainable economic development running as a golden thread through the decision making process. Paragraph 9 previously indicates that sustainable development includes replacing poor design with better design, improving the conditions in which people live and widening the choice of high quality homes. Specifically in respect of residential development paragraph 49 indicates that planning applications should be considered strictly in accordance with the presumption in favour of sustainable development. Policy H4a) of the York Development Control Local Plan indicates a presumption in favour of residential development on land not previously allocated where the site is in the urban area, it is vacant, derelict or underused and it is of an appropriate scale and density to the surrounding development. Policy GP10 states that planning permission will only be granted for the sub-division of existing garden areas where this would not be detrimental to the character and amenity of the local environment.

4.4 The site lies within an enclave of previously undeveloped land between Whitby Avenue, Whitby Drive and Stockton Lane. The land directly to the west which formerly incorporated a detached bungalow has recently been redeveloped to incorporate a mix of five two storey dwelling houses and bungalows. A further development of two bungalows to the rear of 200 Stockton Lane has recently been completed and is now fully occupied. The two properties do not have windows lighting principal living areas facing the development and are sited some 10.4 metres and 12 metres from the rear of the development at the closest point. This is considered acceptable in the context of the wider area. The proposed development would follow a similar pattern albeit access from Caedmon Close to the rear with the eastern elevation of 8 Caedmon Close reconfigured to allow for the passage of the access drive close by. The site is surrounded by residential development and is situated in an area wholly residential in character. As such the principle of the development is felt to be acceptable.

4.5 The area directly to the north along Stockton Lane comprises substantial detached and semi-detached properties dating to the inter-war years set within large gardens. As such the density of development is comparatively low. However, the residential development to the west and south which is of more recent construction and a mix of both bungalows and two storey accommodation is set at a much higher density. Whilst it is felt that three properties would sit more appropriately within the site it is not felt that the proposal would be sufficiently harmful to the local pattern of development as to warrant refusal of permission in itself. The proposal envisages the erection of three two storey dwellings and one dwelling with first floor accommodation provided within its roof. Objections have been received in relation to how the development would relate to the development to the south and south west which consists predominantly of bungalows and the possibility of a precedent for

other similar developments within the surrounding back land. However, whilst the development is accessed from Caedmon Close which contains a mix of bungalows and two storey properties it is more clearly related in visual terms to the area to the north and north east which is characterised by two storey properties. The scale of the development is therefore felt to be acceptable and local pattern of development would once again not be materially harmed. The proposed density would be some 26 dwellings per hectare which is below the 30 dwellings per hectare characteristic of suburban development within York and the 40 per hectare target specified in Policy H5a) of the York Development Control Local Plan.

4.6 The character of the area is largely suburban in nature and whilst quite dense in terms of its layout, the design of the proposed dwellings follows the existing pattern. Subject to the choice of an appropriate palette of materials which can be conditioned as part of any planning permission the design and external appearance of the development is felt to be acceptable.

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

4.7 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 significant weight to the provision and safeguarding of a good standard of amenity for all new and existing occupants of land and buildings. Policy GP1 of the York Development Control Local Plan sets out a firm policy presumption in favour of new development which ensures that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by over-bearing structures.

4.8 Objections have been received in terms of the relationship between the access road to the development and the principal living areas of the retained bungalow at 8 Caedmon Close and also the adjacent property directly to the east at 7 Caedmon Close. The bungalow at 8 Caedmon Close presently has a number of windows in the eastern elevation abutting the proposed access road at close proximity which clearly would not be acceptable in amenity terms. The proposal envisages a significant reconfiguration of the eastern elevation removing the existing window lighting a living room at the southern edge of the property so that it is effectively realigned with more of a southerly aspect. The existing toilet/utility room windows would be obscure glazed and made non-opening and the existing secondary kitchen window would again be obscure glazed and made non-opening. This is felt to be acceptable in terms of mitigating any impact upon the amenity of the occupants of the retained bungalow.

4.9 In terms of the relationship with 7 Caedmon Close, the boundary comprises a substantial densely grown mature hedge some 1.8 metres high. It is envisaged to be retained as part of the proposal. In terms of separation distances Plot 3 would be some 18.8 metres from the gable elevation of the adjacent property at its closest

point. This is felt to be acceptable and characteristic of the pattern of development in the surrounding area. Providing adequate measures are undertaken to secure the hedge during development which can be secured by condition as part of any development the proposal is felt to be acceptable in terms of impact upon the residential amenity of neighbouring properties.

## DESIGN AND LAYOUT OF THE PROPOSED ACCESS ARRANGEMENTS

4.10 The proposed access arrangements as with the previous scheme would enter the site from the turning head to Caedmon Close in the proximity of No 8 but of indeterminate ownership. Concern has been expressed in terms of the potential for conflict between road users entering and leaving the site and traffic on Caedmon Close as a consequence of the length of access drive and the possibility of additional parking on Caedmon Close. Concern has also been expressed in relation to the ability of emergency vehicles to access the development and the ability to comply with the relevant requirements of the Building Regulations.

4.11 The proposed parking provision is two-spaces per dwelling which meets the maximum standard in the local plan and additional parking outside of the site is unlikely. The location of the proposed access drive has been relocated with the re-submission, to the north west and narrowed slightly, though the proposed passing bay for vehicles entering and leaving the site is retained. The internal layout and external elevational treatment of No 8 has been amended in order to minimise impact upon the amenity of occupants of No 8 Caedmon Close as a result of passing traffic. It is not considered that the likely volume of traffic generated by the additional four dwellings would not be such as to have an adverse impact upon levels of congestion or highway safety. At the same time it is considered that the length of drive from the main road is not excessive in terms of access for emergency vehicles in the light of current guidance and the advice of Highway Officers. The access arrangements have been amended since submission to accommodate a reinforced grass strip where it meets Caedmon Close to enable emergency vehicles to more easily enter the site. Reference has also been made by the Fire Officer of alternative means of dealing with incidents at the site incorporated within the Building Regulations notably the fitting of a domestic sprinkler system in the relevant properties. These measures are considered to be suitable if required. The access arrangements are therefore once again considered to be acceptable.

## IMPACT UPON A TREE OF SIGNIFICANT TOWNSCAPE VALUE

4.12 Policy NE1 of the York Development Control Local Plan sets out a clear policy presumption that trees and hedgerows which are of landscape or amenity value will be protected by refusing proposals which would result in their loss or damage as well as requiring trees or hedgerows which are retained on development sites to be adequately protected during any site works. Section 197 of the 1990 Town and Country Planning Act sets out a statutory duty requiring Local Planning Authorities

whenever appropriate, when granting planning permission to ensure that adequate provision is made for the preservation of trees of townscape value.

4.13 The proposed access to the development would be taken from Caedmon Close which was developed in the late 1970s with detached houses in clearly defined grounds with a number of pre-existing mature trees protected by Preservation Order within the surrounding gardens. Of particular significance is a mature silver birch within the front garden of 7 Caedmon Close visually aligned on the north east approach along Caedmon Close from its junction with Whitby Drive. The location of the tree in close proximity to the boundary with the application site gives a high degree of visual definition to the wider street scene. Whilst the tree has been subject to a degree of differential growth as a result of vegetation previously to the east, it has been assessed as being in good health.

4.14 The previous proposal for the site was refused on the grounds of a clear adverse impact upon the root protection area of the protected tree. The revised scheme relocates the access drive further to the south west and to the edge of the identified root protection area of the protected tree. Further detail has also been forthcoming in respect of the method of construction of the proposed access drive and the tree protection measures envisaged. Subject to any permission being closely conditioned in respect of the implementation of the tree protection measures and the location of service runs etc it is felt that adequate provision has been put in place to secure the long term future of the tree and the development is on balance felt to be acceptable.

#### IMPACT UPON THE LOCAL SURFACE WATER DRAINAGE NETWORK

4.15 Policy GP15a) of the York Development Control Local Plan sets out a firm policy presumption that developers must satisfy the Local Planning Authority that any flood risk will be successfully managed with the minimum environmental effect whilst ensuring that the site can be developed, serviced and occupied safely. Central Government Planning Policy as outlined in paragraph 103 of the National Planning Policy Framework indicates that Local Planning Authorities should give significant weight in granting planning permission to the need to ensure that flood risk is not increased elsewhere.

4.16 Objections have been received in relation to the proposed means of surface and foul water drainage for the application site particularly in the light of the Environment Agency's recent assessment of areas likely to be prone to surface water flooding. The proposal envisages the installation of a pumped foul drainage system draining into the public foul water system in Stockton Lane. Surface water would be attenuated on site before being passed through the Yorkshire Water public surface water sewer in Caedmon Close. The applicant has demonstrated through a further report since the submission of the application that this can be safely achieved without increasing flood risk to other properties in the area. This involves a

run-off rate of 3 litres per second which is considered to be appropriate by the Authority's Flood Risk Management engineer. The IDB has objected stating that they consider that flows should be restricted to the existing agricultural rate of run-off. However this is considered to be unreasonable, particularly in the context of a small "windfall" scheme and that there would be a serious risk of failure of the attenuation system at such a restricted rate and a consequent risk of flooding in the immediate locality. A similar discharge rate to that proposed of 2.8 litres per second has been accepted by the drainage authorities in respect of the Dales Court development directly to the west. Concern has also been expressed in relation to smells and particularly noise in relation to the proposed foul sewage pumping system. The system would however be entirely subterranean and would not give rise to any material issue of noise pollution in the surrounding area.

#### IMPACT UPON LOCAL HABITAT AND BIODIVERSITY

4.17 Concern has been expressed in relation to the potential impact of the proposal upon local habitat and biodiversity. There is however no evidence of the presence of protected species in the locality and whilst it is acknowledged that the area of natural habitat would be reduced this is not felt to be materially harmful and can be effectively mitigated by condition attached to any planning permission.

#### STATUS OF THE ACCESS LAND

4.18 Concern has been expressed in respect of the status of the land forming the access to the development from Caedmon Close. The land comprises a small area of land remaining following on from the development of the Caedmon Close estate and is in indeterminate ownership. The applicant has complied with the necessary procedural requirements in terms of trying to identify the owner and serve notice of the application and no response has been received within the requisite period.

#### CONTRIBUTIONS TOWARDS EDUCATION AND OPEN SPACE FACILITIES

4.19 The application falls to be considered against Policies ED4 and L1c) of the York Development Control Local Plan. These seek the payment of commuted sums to secure the provision of educational places and the provision of off-site open space in conjunction with residential development above a prescribed threshold size. This is however, mediated by the requirements of Regulation 123 of the CIL Regulations which prevents the collection of more than five financial contributions to be pooled for use for a specific purpose. It has been indicated that more than five commuted payment have been sought for educational provision in the direction vicinity since 2010 and that a payment will not therefore be sought for that purpose. It has similarly been indicated that more than five commuted payments have been received in respect of open space since 2010 and that a payment will not be sought for that purpose and no commuted payments will be sought overall.

## OTHER ISSUES

4.20 Concern has once again been expressed in relation to the possibility of restrictive covenants relating to the usage of the land. These issues are private legal matters and are not therefore material to the determination of the planning application. The grant of planning permission would not override other legal rights or restrictions.

4.21 Concern has been expressed in terms of the lack of provision for affordable housing within the scheme and the impact upon local services. The development represents a modest windfall development on an otherwise unallocated site. As such it falls below the adopted threshold in terms of affordable housing and as a consequence of the size of the development any impact upon local facilities would be modest.

## 5.0 CONCLUSION

5.1 No.206 Stockton Lane comprises a large brick built house dating from the 1950s with a large garden. Planning permission is sought for the erection of four detached dwellings within the former rear garden area. Planning permission has previously been refused on the grounds of impact upon the root protection area of a protected tree within the grounds of a neighbouring property. The access to the development has now been modified to address the previous reason for refusal and is now on balance felt to be acceptable. The proposal whilst dense in terms of its layout is felt to be acceptable within the context of the surrounding area and the pattern of scale and massing is similarly reflective of the locality. Whilst the proposed access has given rise to some concern it is felt to be adequate to serve four properties without due harm to other road users in the locality. The proposed means of foul and surface water drainage is felt to be acceptable. The application is considered to comply with the NPPF and policies GP1, GP10, H4A, NE1 And GP15A.

## 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:-354003 Rev A; 354004 Rev A; 354001 Rev B; 354002 Rev A; 354005; 354100 Rev I.

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

3 VISQ8 Samples of exterior materials to be app

Application Reference Number: 15/02624/FUL

Item No: 4a

4 VISQ4 Boundary details to be supplied

5 Before the commencement of development, including site preparation, building operations, any excavations, or the importing of materials, a finalised arboriculture method statement regarding protection measures for the existing tree(s) shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include phasing of works, details and locations of protective fencing, location of site cabin, site access during construction, type of construction machinery/vehicles to be used, (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, and locations for stored materials, et al, and location of marketing suite where applicable. It shall also include construction details of driveway; plus means of protecting the existing tree(s) in perpetuity after completion of development.

Reason: To protect existing trees which are covered by a Tree Preservation Order and considered to make a significant contribution to the amenity of the area. This condition is required prior to any development or operations which may impact on the tree.

6 No part of the development shall be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscape scheme which shall include the species, and position of new tree planting, and details of tree pits, means of support and watering. The trees should be planted in locations that are suitable for the trees' successful establishment and development of healthy mature crowns.

This scheme shall be implemented within six months of practical completion of the development. Any trees which within a period of five years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. Any works to existing trees that are protected by a tree preservation order (TPO) are subject to local authority approval within and beyond this five year period.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of trees as they are integral to the amenity of the development.

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9 EPU1 Electricity socket for vehicles

10 ARCH2 Watching brief required

11 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, E and F; of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents and to secure the root protection area of a Protected Tree on adjoining land the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

12 HWAY18 Cycle parking details to be agreed



13 No part of the site shall come into use until turning areas including passing place have been provided in accordance with the approved plans. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To enable vehicles to enter and leave the site in a forward gear thereby ensuring the safe and free passage of traffic on the public highway.

14 No house shall be occupied until its vehicle parking areas (including garage where shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: To avoid the loss of vehicle parking areas in the interests of highway safety and residential amenity.

15 Prior to the commencement of the development hereby authorised above foundation level full details of the proposed measures to safeguard wildlife habitat during and following on from the construction process shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: - To safeguard the habitat of a protected species and to secure compliance with Policy NE6 of the York Development Control Local Plan

16 The development hereby authorised shall not be carried out otherwise than in strict accordance with the submitted Foul and Surface Water Drainage Scheme dated 11th November 2015.

Reason:- To ensure that the site is safely and satisfactorily drained and to ensure compliance with Policy GP15a) of the York Development Control Local Plan.

17 The alterations to no.8 Caedmon Close shall be completed as shown on drawing number 354 005 prior to the commencement of any other part of the approved development.

Reason: To protect the living conditions of no.8 Caedmon Close during and after the development.

## 7.0 INFORMATIVES:

### Notes to Applicant

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

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

\* Sought clarification of the capacity of the proposed surface water attenuation system.

#### 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. 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:

Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

#### **Contact details:**

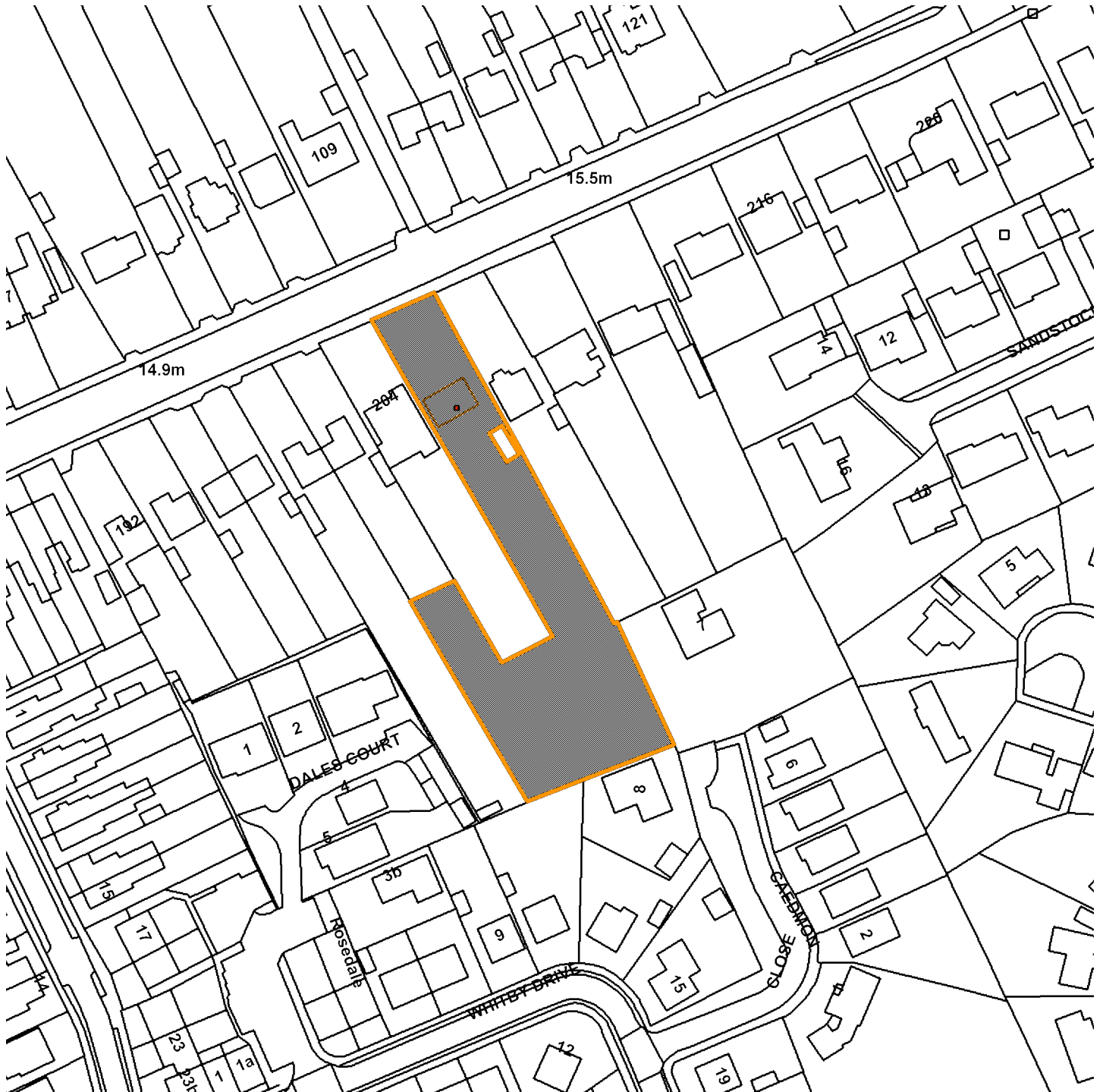
**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

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15/02624/FUL

206 Stockton Lane



Scale : 1:1239

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Location Plan
<b>Date</b>	29 February 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 10 March 2016                      **Ward:** Guildhall  
**Team:** Major and                              **Parish:** Guildhall Planning Panel  
                    Commercial Team

**Reference:** 15/02833/FULM  
**Application at:** Groves Chapel Union Terrace York YO31 7WS  
**For:** Change of use of existing building with internal and external alterations to form convenience store at ground floor, 2no. flats at first floor and erection of four storey extension to rear to accommodate 14no. flats with associated car and cycle parking  
**By:** Clarence Union Developments  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 15 March 2016  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL****SITE**

1.1 The application site is Groves chapel and the associated car park to the rear. The building dates from around 1883 and is grade 11 listed. It is located in the Central Historic conservation area. The front and northern elevation of the building are prominent when viewed from the nearby main roads that meet at the front of the building.

1.2 Immediately to the north is the York Hospital campus. To the rear of the application site is open land that is used for car parking. To the south is Union Terrace. This is a predominantly residential street, though some office uses exist at the northern end.

1.3 The building is owned by the NHS. The former school room building and later additions attached to the rear of the chapel are used as their offices. The ground floor of the chapel is partly used for the storage of large pieces of equipment from the hospital. The upper floor of the chapel is unused. The building is in poor repair.

**PLANNING HISTORY**

1.4 In 1992 Listed Building Consent was granted for internal alterations to the building. There are no other recent planning records for the building.

## PROPOSED SCHEME

1.5 It is proposed to convert the ground floor of the chapel to a 250sqm retail store. The proposed occupier is Sainsbury's. The ground and first floor of the school room attached to the rear is proposed as staff rooms/offices and storage space for the retail store. The retail store would have no off-street car parking. Lorries would unload at the side entrance of the building. The customer entrance is proposed at the front of the building off Clarence Street.

1.6 On the car park immediately to the rear of the building a four storey brick built attached apartment building is proposed. This would provide 14 two bedroom flats. Two additional flats are also proposed in the second floor of the former school room building.

1.7 13 car parking spaces for the flats are proposed in the ground floor of the extension building. The current car park is accessed from the rear, however, it is proposed to open up a new vehicular entrance form Union Terrace.

1.8 The applicant's undertook a public consultation exercise. A statement of community involvement detailing the consultation has been submitted with the application.

## 2.0 POLICY CONTEXT

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

- Section 2 Ensuring the vitality of town centres.
- Section 6 Delivering a wide choice of high quality homes.
- Section 8 Promoting health communities.
- Section 12 Conserving and enhancing the historic environment.

### **Status of the City of York Draft Local Plan (2005)**

2.2 The City of York Draft Local Plan Incorporating the Fourth Set of Changes approved for Development Management purposes in April 2005

2.3 Whilst the 2005 York Draft Local Plan does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant



to the application are consistent with those in the NPPF. The relevant draft policies applicable to this application include:

CYGP4B: Air Quality  
 CYSP3: Safeguarding the Historic Character and Setting of York  
 CYGP1: Design  
 CYGP4A: Sustainability  
 CYGP15: Protection from flooding  
 CYHE4: Listed Buildings  
 CYT4: Cycle parking standards  
 CYHE10: Archaeology  
 CYH4A: Housing Windfalls  
 CYT20: Planning agreements  
 CYE3B: Existing and Proposed Employment Sites  
 CYHE3: Conservation Areas  
 CYHE6: Shopfronts in historic locations  
 CYT4: Cycle parking standards  
 CYH2A: Affordable Housing

### **2.3 Draft York Local Plan (2014) Publication Draft**

At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application. Relevant draft policies include:

SD1	Sustainable Development
H1	Scale of Housing Growth
ACHM1	Balancing the Housing Market
DH1	Design & Historic Development
DHE2	Heritage Assets
DHE5	Streets & Spaces
DHE6	Conservation Areas
DHE7	Listed Buildings
DH9	Affordable Housing
ENV4	Flood Risk
EC3	Loss of Employment land.

## 3.0 CONSULTATIONS

### INTERNAL

#### Planning and Environment Management

##### Conservation Architect

3.1 No objections. The chapel building is under-occupied and it will shortly become vacant and therefore be "at risk". It is in a poor state of repair and the interior has suffered from ad-hoc alterations and removal of fixtures. This particular building type is limited in its scope for conversion or reuse, and there are few options likely to generate sufficient finance for repair and continued upkeep in its current form.

3.2 The mixed retail and residential scheme proposed includes a linked extension forming a block of apartments. The combined scheme would sustain the significance of the building and its wider site within the conservation area, and put it to viable use consistent with its conservation. By reintroducing the entrance in its natural position under the portico facing the street, in a repaired and redecorated frontage, there would be a huge improvement to the building's appearance within the conservation area.

3.3 The location and design of the new block places it firmly within the hospital grounds which are characterized by larger buildings in a more open landscape settings. This location protects the scale of houses in Union Terrace, and respects the separate identity and principal views of the chapel buildings from within the conservation area and from other public locations. The scheme would not harm the character and appearance of the conservation area.

##### City Archaeologist

3.4 No objections subject to the inclusion of a watching brief condition.

##### Countryside and ecology officer

3.5 No objections. A bat survey has been submitted which indicated that the chapel has a high potential to support roosting bats. Three activity surveys did not record any emerging bats. No objections to the proposals subject to a condition controlling the method of works to ensure that any bats are protected and their habitat/potential habitat safeguarded.

## **Public Protection**

3.6 No objections. Satisfied that noise insulation within the proposed residential accommodation will create a satisfactory living environment close to the busy road. Do not consider that the introduction of a retail store and associated noise from traffic, deliveries, customers and plant will cause undue harm to existing neighbour amenities. In respect to air quality, as Union Terrace is set back from Clarence Street and traffic generation is relatively low there are no concerns.

3.7 Conditions are suggested regarding the following matters:

- Insulation of proposed flats.
- Delivery hours of lorries.
- Details of plant and machinery.
- Construction times and methods.
- Contamination.

## **Highway Network Management**

3.8 No objections. Consideration is given to vehicle manoeuvring (including lorries), car parking, sustainability, the safety of pedestrians and road users and trip generation.

3.9 The development proposals have been supported by a Transport Statement. Despite the concerns raised by local residents and objectors, officers are satisfied that the document takes a reasonable approach and is sufficiently robust.

3.10 The development proposals are located sustainably and prioritise access to the proposed store in accordance with the authority's hierarchy of road users. The scale of improvement/mitigation works as proposed are reasonable, necessary and proportionate to the scale and impact of development. The impact of development proposals cannot be considered nor demonstrated to be classed as severe.

3.11 The chapel and apartments will be excluded from the local residents parking scheme.

3.12 A number of conditions are recommended including the modification of the kerb line and provision of the turning area.

## **Flood Risk Management Team**

3.13 No objections.

### **Forward Planning Team**

3.14 No objections. Do not have a policy objection and are satisfied with the retail impact/sequential test information submitted.

### **Economic Development Unit**

3.15 No objections. Do not consider the loss of the office accommodation would be harmful to the overall supply and quality of office accommodation available in the city.

### **EXTERNAL**

#### **Yorkshire Water**

3.16 No objections subject to development in compliance with revised drainage plan.

#### **Police Architectural Liaison Officer**

3.17 No objections in respect to crime including anti-social behaviour and security.

#### **Conservation Areas Advisory Panel**

3.18 Support the scheme. The constraints relating to the work which would be acceptable to the Chapel itself were explained resulting in the decision to locate the small supermarket at ground floor level beneath a reversible protecting structure at balcony level. This structure would allow maintenance access to the upper areas within the chapel.

3.19 The proposal also included the retention of the former schoolroom (with the demolition of a later, possibly 1950s, addition) and the provision of a new residential block.

3.20 The Panel welcomed the scheme in general and the work to the Chapel itself in particular and looked forward to the building being restored.

#### **Neighbour Notification and Publicity**

3.21 Neighbours were initially consulted on 24 December 2015. A site notice was erected on 15 January 2016. Following revisions to the proposed turning area associated with the development objectors and immediate neighbours were re-consulted. The deadline for comments associated with the re-consultation is 8 March 2016. Any comments received subsequent to writing this report will be outlined at Committee.

3.22 At the time of writing this report objections had been received from 30 residents covering the following matters:

### General

- The proposals are contrary to national and local planning policy relating to sustainability, transport, the historic environment and community. People have not been properly engaged by the developers. Objections were put forward to the developers at the pre-application stage and people as a whole were not broadly supportive.

### Traffic

- The applicant estimates 1,300 cars transporting shoppers each week. This will lead to illegal parking and congestion. There is already limited residents parking. The traffic implications have not been fully considered by the Council's highway's officers.
- The road is too narrow to cope with the increased traffic related to the flats and shop. The blind bend is dangerous and for much of the route the road is only single width due to on street car parking.
- It will be impossible for large lorries to navigate the 'blind corner' on Union Terrace. The site is a bottle neck and the works could lead to traffic problems leading to ambulances being delayed on Clarence Street. Vehicles coming from the south will have to do a three point turn to exit back on to Clarence Street. Car drivers will be more likely to exit illegally through the northern access. Lorries and cars cannot pass on the road. If car's park in the delivery area and a delivery lorry arrives it will block the street. Emergency vehicle access to Union Terrace could be blocked.
- Large lorries can not access from the north and as such drive up the road from the south and reverse back down Union Terrace when leaving.
- Lorries delivering beer to the conservative club and working men's club block the road, causing tensions. There are also existing commercial bin collections.
- Vehicles parking on kerbs in Union Terrace block other vehicles (Photographs have been sent in illustrating vehicles parking on double yellow lines and the footpath).
- The changes reduce parking spaces available for local residents.
- Concerned that cars will cause obstructions through temporary parking on Clarence Street. Lorries have to go into the outer lane in Clarence Street to access Union Terrace. This will cause obstruction.
- The nature of the street is such that only a small increase in vehicle numbers will create problems. The consultant's calculations may not be accurate. Absurd to have no dedicated customer parking. The shop does not meet the council's own parking standards

- A survey of customer travel modes was undertaken by a resident at the Beckfield Lane Sainsbury's store. In a half hour period 50% of customers came by car. Consider the consultants predicted mix of car and pedestrian users at Union Terrace is not robust and may understate customers coming by car.
- The proposed flats have inadequate parking provision.
- The junction between the road access to Bootham Hospital and Union Terrace at the south of the street is dangerous as drivers are unaware of who has priority.
- Difficult for elderly pedestrians and children to cross Clarence Street.
- Will occupants of the new flats be eligible for residents parking permits?
- The 10 minute parking allowance for visitors should be reviewed if the scheme goes ahead.
- There is evidence of many people visiting similar supermarkets by car and parking illegally including on pavements and double yellow lines.

### Crime

- Parked cars will be a target for theft and the shop may become a 'hang out'.
- Concerns regarding the proximity to the homeless hostel.
- Should have more street lighting to the side
- Noise
- The consultants noise report states noise levels from unloading will be between 90-97dB(A). Consider this is unacceptable and can damage hearing. It is wrong to argue that because existing noise levels are high that additional noise, including from deliveries is acceptable. Concerns regarding noise from plant. No assessment of impact of vehicles idling or beeping horns. Also noise from anti-social behaviour from customers including from the nearby homeless centre have not been considered.

### Character

- The scheme will change the quiet character of the street into something resembling a car park.
- The scheme does not adequately conserve the chapel. A heritage asset will be lost. Access to the gallery and views of the ceiling will no longer be available.
- The tall development is overbearing, out of character and will diminish natural light. It should not be higher than the houses on Union Terrace.
- The proposals do not relate well to the style and design of the adjacent double fronted property on Union Terrace.
- Concerns regarding litter.

### Drainage

- The report makes no reference to recent flooding of properties on Union Terrace. There is the potential that the 2013 constructed Yorkshire Water tank built in the terrace could fail leading to sewer flooding in properties. The street has inadequate drainage infrastructure and the development could lead to increased flood risk to properties.

### Retail impact

- The development will undermine local specialist shops and reduce diversity in shops and services. Decline in provision of local produce. It is already a tough economic climate for small businesses. The retail jobs to be created will not be well paid and the proposal will lead to the loss of some jobs.

### Air pollution

- Increase in air pollution through lorry deliveries between 6 am and midnight. The tall new development will make it harder to disperse pollutants. Idling lorries create pollutants and this is a particular concern as bedroom windows are located to the front of homes.
- There are high levels of pollutants around the inner ring road and adjacent streets such as Clarence Street and Haxby Road. The additional 50 large diesel vehicles will increase pollution levels.

### Damage to buildings

- The foundations of the Georgian houses are shallow and believe heavy vehicles will cause structural damage (information from qualified engineer submitted in support).

### Use

- The building should be a place of worship and community centre and include for example youth groups, musical events, an advice centre and crèche. Time should be made available for the local community to explore funding routes. The NHS may have to accept the highest bid, but it does not mean it is good for the community. Suggest it should be made available for the Hope Centre to restore and utilise.

### Home value

- If homes are devalued will owners be compensated?

## **4.0 APPRAISAL**

4.1 The main issues to consider are:

- Impact on the character and appearance of the conservation area and setting of the listed building.
- Highways Issues.
- Noise, disturbance and pollution.
- Retail and employment policy
- Impact on light, privacy and outlook of neighbours
- Quality of the accommodation
- Alternative uses
- Drainage
- Crime
- Impact on foundations
- Planning obligations and affordable housing

## **OVERARCHING PLANNING POLICY**

National Planning Policy Framework (NPPF)

4.2 The core planning principles at Paragraph 17 include the expectation that planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; take account of the different roles and character of different areas, promoting the vitality of our main urban areas, conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;

4.3 Section 7 of the NPPF requires good design. Paragraph 56 says good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment (Para 61).



## **IMPACT ON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA AND SETTING OF THE LISTED BUILDING**

4.4 The site is within the Central Historic Core Conservation Area the Chapel is grade 11 listed.

### Legislative and policy context

- Statutory duty - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

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

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

4.7 Section 72 of this Act requires the Local Planning Authority when determining planning applications for development within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Case law has made clear that when deciding whether harm to a Conservation Area is outweighed by the advantages of a proposed development, the decision-maker must give particular weight to desirability of avoiding such harm. There is a "strong presumption" against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to preserving the Conservation Area.

4.8 The statutory duty under Sections 66 and 72 means that even where harm is less than substantial, such harm must still be afforded considerable importance and weight, i.e. the fact of harm to the listed building or the Conservation Area is still to be given more weight than if it were simply a factor to be taken account along with all other material considerations.

4.9 The legislative requirements of Sections 66 and 72 are in addition to the government policy contained in Section 12 of the NPPF. The NPPF classes listed buildings and Conservation Areas as "designated heritage assets". The NPPF's advice on heritage assets includes the following:

- Paragraph 132 advises that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight

should be given to the asset's conservation. The more important the asset, the greater the weight should be" ... "As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."

- Paragraph 133 advises that "Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of four specified criteria apply
- Paragraph 134 advises that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum use."

4.10 The chapel dates from 1883 it marks the interface between a mixed residential area with some good quality mid C19th terraced housing in Union Terrace (not listed but identified as buildings of merit) and the C18th & C20th hospital sites.

4.11 The building is prominently located at the junction of 3 main roads. The centralized Italianate composition of the building provides townscape interest in the form of a large scale visual landmark of aesthetic value. The rear of the building was extended in the late 19th century and mid twentieth century. Although the building has a degree of grandeur the building looks tired and rundown

4.12 The application involves the demolition of the twentieth century rear extension. This extension detracts from the original building and the change is considered positive. The retail store is proposed in the ground floor of the main building. The gallery level of the main worship hall would be mothballed following the repair of the roof, rainwater goods and internal plasterwork to prevent further deterioration. Mothballing a building is a last resort but it allows it to be inspected, viewed and finally opened up in future if the opportunity should arise. It is not considered that the mothballing has a significant impact on the external appearance of the building.

4.13 The external alterations to the chapel itself are considered sensitive. With the exception of the introduction of the new entrance doors and a ramp to the portico the changes are minor and largely involve restoration of the exterior. It is noted that whatever use were proposed to the chapel a ramp would generally need to be created to provide adequate access for the public/users.

4.14 The four storey residential extension proposed on the car park to the rear would 'book end' the chapel building. The development is considered necessary to sustain the significance of the chapel given its poor condition. Although the extension is a similar height to the chapel it is considered that its slight visual separation at roof height and recessing of the upper floor is such that it would not

undermine the chapel's open front setting or detract from key views of the chapel from the conservation area and beyond. The linking element would be lower and mostly glazed to emphasis the separateness.

4.15 The massing of the extension is broken into 4 sections by the step in the plan. The upper floor is also recessed. The scale and form of the windows partly echo the windows of the chapel. The elevations are intended to be predominantly brickwork which is considered appropriate within the context of local building materials. The car parking is sensitively housed largely within the ground floor of the building.

4.16 The extension is close to 98 Union Terrace which is an attractive dual aspect former house. The long views of this building from the north will be closed off, however, the scheme does have the benefit in that views from the northern section of Union Terrace would be opened up. The attractive gate and brick surround between the new vehicular access and 98 is proposed to be retained.

4.17 Signage details would be subject to an advertisement consent application.

4.18 Subject to suitable conditions regarding details and materials it is considered that the works to the exterior of the chapel, the rear extension and associated landscaping will enhance the setting of the listed building and the character and appearance of the conservation area.

## **HIGHWAY ISSUES**

4.19 The National Planning Policy Framework advises that developments should:

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

4.20 The NPPF states that If setting local parking standards, planning authorities should take into account:

- the accessibility of the development;
- the type, mix and use of development;
- the availability of and opportunities for public transport;
- local car ownership levels; and
- an overall need to reduce the use of high-emission vehicles.

4.21 Union Terrace is a narrow street. It is two-way, though access for motorised vehicles is prohibited from the northern access heading to Clarence Street. Vehicles travelling south along Clarence Street can only access Union Terrace from

the southern entrance. Vehicles travelling north along Clarence Street can access Union Terrace from the north or south.

4.22 A number of residents living in Union Terrace or close to Union Terrace have objected to the scheme on highway grounds. Concerns relate to safety, parking provision, inconvenience and pollution.

4.23 Union Terrace is clearly a narrow road and unsuitable for large flows of traffic. In addition, it must be ensured that delivery lorries serving the proposed retail development can safely access the site without causing unacceptable highway safety concerns or undue harm in terms of the convenience of other road users. Objectors have submitted evidence to show that the road can be easily blocked by large lorries and 'illegal' parking.

4.24 The applicant's propose 13 ground floor off-street parking spaces for the 16 two-bedroom flats. Secure covered parking for a minimum of 16 cycles is also proposed. It is considered given the nature of the accommodation and its accessible location that this level of parking provision for the residential development is acceptable. If the scheme is approved occupants of the flats will not be eligible for resident parking permits.

4.25 It is considered that the key highway considerations relate to the proposed retail store. No off-street parking spaces are proposed for the shop's customers or staff. 4 on street car parking spaces are shown to the south of the store which will be available for 10 minute parking or resident permit users. Other short term visitor parking is available elsewhere in Union Terrace.

4.26 A 9.8m designated on street loading bay is proposed to the west of the 4 car parking spaces.

4.27 As part of the scheme, modifications are proposed to the street adjacent to the store including a new turning head at the north-west of Union Terrace

4.28 The applicants have argued that the location of the store is such that it would not prove attractive to car using visitors. This is because there is no practical on-street parking to the front of the building and Union Terrace has restricted access and parking arrangements. Their consultant's have submitted predicted vehicle trip generation rates for the store based upon the nationally recognised TRICS database. This database is based upon national surveys of the same land uses. Whilst the database is a good starting point variables such as catchment areas, local environment, specific end occupier and so forth can lead to variations in what level of trip generation the proposed use could generate.

4.29 Given the location and local environment of the proposed store the council's highway network management officers considered that the TRICS output based on comparative stores in Sheffield and Cardiff is overly robust and should be

considered to represent a worst case scenario. During the peak periods the TRICS data indicates that the proposed development is expected to generate in the region of 15 vehicle movements which is in the region of 1 vehicle every 4 minutes. The average across the 17 hour opening time would be around 12 vehicle visits an hour. Highway Network Management officers consider that this level of traffic is negligible and is within what could be considered as normal variations in day to day traffic levels/patterns.

4.30 In the light of neighbour's concerns regarding the robustness of the consultant's predictions in respect to the number of car users visiting the premises the case officer undertook 3 one-hour traffic surveys at the Sainsbury store on Blossom Street. This was seen as a location which would be likely to have a similar number and split of pedestrian and car users to the application site as it is on a main route out of the city, no parking is to the front and limited on street parking is to the side.

4.31 The results were as follows:

- Friday 29 January 5.00-6.00pm (weather: dry). 7 cars parked and the occupant(s) entered the store. In addition 3 cars (including one taxi) parked and the occupants did not enter the store but used the externally located cash machine. During this period around 160-170 customers entered the store on foot.
- Friday 5 February 3.00-4.00 pm (weather: dry). 4 cars (this includes one taxi) parked and the occupant(s) entered the store. In addition 3 cars parked and the occupants did not enter the store but used the externally located cash machine. During this period around 110-120 customers entered the store on foot.
- Monday 8 February 1.00-2.00 pm (weather: drizzle/dry). 6 cars parked (this includes two taxis) and the occupant(s) entered the store. In addition 1 car parked and the occupant did not enter the store but used the externally located cash machine. During this period around 100-110 customers entered the store on foot.

4.32 Looking at the number of car users visiting Blossom Street it would appear that the consultants TRICS based predicted car visitor numbers per hour (11-12) for the application site is not unrealistic. Although a cash machine is proposed at the application site it is inside the store and as such likely to attract fewer people than is the case at Blossom Street. It is considered based on the TRICS calculations and the survey at the Blossom Street store that the level of car born users would not be such to create highway concerns even taking account of the constrained nature of Union Terrace.

4.33 A further concern raised by many residents relates to the impact of delivery lorries.

4.34 The applicant's transport statement states that there will typically be 7 deliveries a day including two 8.14m depot vehicles. The loading area is adjacent to a very tight bend in the road with poor inter-visibility because the building on the inside corner is close to the highway. The applicant has sought to show that large vehicles can access, unload, and exit Union Terrace without causing unacceptable harm to the free flow of traffic.

4.35 On 5 February they submitted revisions showing an enlarged area suitable for vehicles to turn at the entrance to the flats. This submission and further plans showed tracking movements for various sized vehicles to turn within the area and also pass a parked lorry. The details indicate that cars can pass an 8.14m lorry that is unloading. The plans also indicate that an 8.14m lorry coming from the northern entrance can pass a parked delivery lorry of the same size through using the proposed turning area for manoeuvring.

4.36 It is considered that the delivery arrangements will not cause unacceptable harm in terms of traffic safety or the convenience of road users. It is considered that the scheme also has some highway safety benefits. Most significantly it will allow large vehicles that enter from the south to turn and exit in a forward gear. At the current time it is understood that many larger vehicles coming from the south have to reverse back out again. It would appear that the vast majority of residents enter Union Terrace from the south and do not as such pass by the northern section of Union Terrace. This will in part limit the impact of any vehicle manoeuvring outside the shop on their convenience as resident car users.

## **NOISE, DISTURBANCE AND POLLUTION**

4.37 The NPPF puts great emphasis on maintaining and creating liveable environments. Policy GP1(i) of the Draft Local Plan requires residents to be protected from undue noise and disturbance. Policy GP4b gives advice on air quality.

4.38 The junction of Haxby Road and Clarence Street has very high background noise levels as a result of the considerable traffic movement. Noise levels in the east-west northern stretch of Union Terrace are also high, however, these drop considerably when turning the corner into the rest of Union Terrace.

4.39 It is unlikely that pedestrian movement will generate unacceptable noise levels. Vehicles manoeuvring close to the store also should not cause harm given the local 'noise' environment. It is not considered that the level of car and lorry movement associated with the store or new flats would create undue harm to living conditions on Union Terrace.

4.40 The key consideration in respect to noise is the impact of deliveries. The applicants have employed consultants to undertake noise readings and assess the additional impact of the deliveries. Public Protection are satisfied that providing deliveries and collections are restricted to between 07:00 - 23:00 Monday to Saturday and 08:00 to 16:00 Sundays and Bank Holidays the use will not cause unacceptable harm to existing residents. They also consider the use can satisfactorily co-exist with the proposed flats subject to suitable sound insulation.

4.41 The impact of plant and machinery associated with the proposed store can be controlled by condition.

4.42 Officers are satisfied that occupants of the flats will not be exposed to unacceptable pollution levels and the introduction of the retail store does not cause concern in terms of the impact on localised pollution levels associated with vehicle movement.

## **RETAIL AND EMPLOYMENT POLICY**

4.43 Paragraph 23 indicates that needs for retail, leisure, office and other main town centre uses should be met in full and should not be compromised by limited site availability.

4.44 Local planning authorities at paragraph 24 are directed to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Paragraph 26 states that when assessing applications for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

4.45 The applicant's have submitted a detailed retail statement setting out the policy basis for the proposals. The store would be sustainably located in that it is designed to attract custom from the high number of passing pedestrians and also local residents and local workforce. The City Council's policy officers are satisfied that the submitted retail impact and sequential test information is in accordance with relevant local and national advice regarding the siting of such uses. The NPPF advice takes precedence over the City Council's Retail Study Update (2014). In policy terms any negative impact on the trading of shops in small neighbourhood parades such as Haxby Road or Lowther Street is not a valid planning reason to oppose the proposal given that Annex 2 of the NPPF makes reference to the impact on city centres, district centres and local centres, but excludes small neighbourhood shopping parades. Gillygate is a local centre, however, the mix of uses at Gillygate

is unlikely to be impacted upon by the proposed store. In addition, there is already a small Sainsbury's supermarket at its southern end.

### **IMPACT ON LIGHT, PRIVACY AND OUTLOOK OF NEIGHBOURS**

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

4.47 The changes to the chapel will have little impact on neighbours in terms of light and privacy. The key issue is the impact of the four storey extension. The main residential property to consider is 99 Union Terrace. It is not considered that the extension will be unduly harmful given that it is oblique to the main openings and a relatively large gap will remain between the proposed flats and 98 Union Terrace. As the building is to the north-west of 99 it will have a limited impact in terms of overshadowing.

4.48 The property immediately to the south (98) which will be most impacted upon is an office. It is understood that this is occupied by the NHS who are selling the Chapel building. The separation distance to the new residential building is around 11m. This equates to separation distances within many older areas of York. It is noted that the new building is located to the north and as such will have limited impact in terms of sunlight. A car park is proposed immediately adjacent to the office building. This reflects the existing use. Open railings are proposed along the boundary to avoid blocking the outlook from ground floor openings.

### **QUALITY OF THE LIVING ACCOMMODATION**

4.49 The accommodation is of generous size. Subject to suitable noise insulation that is covered by condition it will provide good quality accommodation in an accessible location. The site is located relatively close to the office building to the south, however, the separation distances to the building is considered consistent with the 'grain' of the area, including separation distances on Union Terrace.

### **ALTERNATIVE USES**

4.50 The planning use of the chapel for around 40 years has been offices and storage. The proposal is for retail and residential. It is considered from a land use only planning perspective there is no justification for refusing the application on the grounds that some residents may prefer the building to be used as a place of worship or for community purposes. Policy C3 of the Draft Local Plan seeks to protect community and religious facilities where they are capable of meeting local needs. This is not applicable to this application as in planning terms the building is no longer a community building. The issue of the validity of any possible alternative use(s) and merits of this in terms of the repair and restoration of the Listed Building



is considered in the accompanying report for the Listed Building application (15/02834/LBC)

## **DRAINAGE**

4.51 The NPPF requires that development should be directed into areas where flood risk is low. Developments should be safe from flooding and not increase flood risk elsewhere. Draft Local Plan policy GP15 seeks to reduce flood risk elsewhere by ensuring developments do not lead to increased surface water run-off.

4.52 The site is in Flood Zone 1 (low risk), however Union Terrace has suffered from localised flooding through the backing up of the public sewer. Yorkshire water and the Council's Flood risk officer are satisfied that the development will not increase flood risk or be at unacceptable risk of flooding.

## **CRIME**

4.53 Paragraph 58 of the NPPF requires LPA's to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

4.54 The Police Architectural Liaison officer had an input into the design of the retail and flatted scheme at the pre-application stage. His recommendations were taken on board and he has no objections to the submitted application. It is not considered that the sale of alcohol causes security concerns given there are other premises nearby where it can be purchased. It is understood that the portico of the chapel has been a location for anti-social behaviour in the past and the enhancement of the building should help lesson this problem.

## **IMPACT ON FOUNDATIONS**

4.55 An objection has been received (with support from an engineer) expressing concerns that the shallow foundations of the Georgian properties on Union Terrace coupled with structural problems relating to drainage works may mean that the increased use of the road, particularly by lorries could lead to structural damage. The objector has requested further consideration be given to this matter.

4.56 It is not considered that this would typically be a material planning consideration and if in the future it were considered problems had occurred it would be a private law matter for the residents to pursue.

## **PLANNING OBLIGATIONS AND AFFORDABLE HOUSING**

4.57 Planning Obligations (otherwise known as section 106 agreements) are agreements made between local authorities and developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

4.58 Contributions are subject to the pooling restrictions introduced under regulation 123 of the CIL Regulations whereby no contribution can be sought in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010.

4.59 The Council's current affordable housing targets for Brownfield sites, where over 15 houses are proposed is 20%. The applicant proposes 16 flats. This would generally trigger a requirement for 3 affordable units. Following negotiations regarding viability and alternative lower levels of housing (14 units) that could be justifiable at the site (and be exempt from any affordable housing contribution) it was agreed that a contribution of £125,000 to off-site affordable housing was appropriate and justifiable.

4.60 There is no requirement for contributions to education improvements as no named schools in the catchment are identified for works.

4.61 A contribution of £13,632 (based on £426 a bedroom) is sought for sporting improvements related to securing access to York St John University Playing fields on Haxby Road. There is no requirement for amenity open space and children's play space improvements.

4.62 The improvements/contributions required in respect to transport are listed below:

- £5k towards the introduction/amendment of traffic orders in the vicinity of the site including exclusion from the residents parking scheme.
- The choice of either a bus pass or cycle/cycle accessories, up to a maximum value of £160 for first occupiers of the residential units
- A contribution of £160 per residential unit towards car club membership initiatives for first occupiers.

4.63 The requirements for planning obligations are set out in policies GP13, T20 of the Draft Local Plan and guidance on commuted sum payments for open space and interim targets for affordable housing.

4.64 Leisure officers confirm that there is a shortfall in sporting provision in the area and the cap has not been met.

4.65 The payments outlined above have been agreed by the applicant and would be secured by a section 106 unilateral undertaking

## 5.0 CONCLUSION

The proposed scheme will create a long term viable use for the building. It is considered that the external changes are acceptable in terms of their impact on the appearance of the conservation area. The vast majority of customers visiting a retail store in this location would arrive on foot, however it will draw some custom by car drivers who will park on Union Terrace. Lorries must also access the constrained road. It is considered, however, based on the submitted calculations that the level of vehicle movement will be within acceptable levels. It is noted that the road becomes easily blocked, however, the provision of a turning head will help large vehicles to better manoeuvre in the street. The servicing of the store will generate some noise, however, it is noted that, in the context of high background noise levels at the northern end of the street this will not be unduly disruptive to living conditions.

## 6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years

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

Site plan 1134\_AR10\_01(revision A) dated 06/02/2015.

Drainage drawing 4648 dwg no.500 (revision D) prepared by Ward Cole dated 09/02/2016.

Proposed ground and first floor plans 1134\_AR20\_01'B' received by the Local Planning Authority on 24 February 2015.

Proposed second and third floor plans 1134\_AR20\_02 received by the Local Planning Authority on 11 December 2015.

Proposed fourth floor plan 1134\_AR20\_03 received by the Local Planning Authority on 11 December 2015.

Proposed elevations 1134\_AR30\_01 received by the Local Planning Authority on 11 December 2015.

Proposed section A-A and detail 01 1134\_AR40\_01 received by the Local Planning Authority on 11 December 2015.

Proposed section B-B and detail 02 1134\_AR40\_03 received by the Local Planning Authority on 11 December 2015.

Proposed south elevation 1134\_AR50\_01 received by the Local Planning Authority on 11 December 2015.

School room secondary glazing 1134\_DT10\_01 received by the Local Planning Authority on 11 December 2015.

Porch Ramp Plan 1134\_EW10\_01 received by the Local Planning Authority on 11 December 2015.

Porch steps and ramp 1134\_EW10\_02 received by the Local Planning Authority on 11 December 2015.

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

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

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

Reason: So as to achieve a visually cohesive appearance.

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

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of

their sensitive location.

5 HWAY19 Car and cycle parking laid out

6 No deliveries shall be taken at or dispatched from the retail store (except for the delivery of newspapers) outside the hours of:

Monday to Saturday 07:00 to 23:00

Sundays and Bank Holidays 08:00 to 16:00

Reason: To protect the amenity of occupants of the new and nearby properties from noise.

7 The site shall not be used for the purpose of food retail until the following highway works have been implemented in accordance with the aforementioned approved plan or arrangements entered into which ensure the same;

- 1) A widening of the existing footway to the site frontage by 0.5m and dedication of this land as public highway,
- 2) Modification of the kerbline at the junction Of Union Terrace and Clarence Street to enable the length of on-street parking on Union Terrace to be extended,
- 3) relocation of the existing traffic signal head at the junction Of Union Terrace and Clarence Street to further minimise the risk of any vehicles striking it,
- 4) Modification of the existing kerb line on Union Terrace and construction of a new adoptable turning head to the front of the apartment car park entrance provision

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.

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

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

highway.

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

9 HWAY40 Dilapidation survey

10 HWAY35 Servicing within the site

11 HWAY31 No mud on highway during construction

12 HWAY29 IN No gate etc to open in highway

13 HWAY18 Cycle parking details to be agreed

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

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

(ii) an assessment of the potential risks to:

o human health,

o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

o adjoining land,

o groundwaters and surface waters,

o ecological systems,

o archaeological sites and ancient monuments;

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

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

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.

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

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.

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

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.

17 In the event that previously unidentified contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18 Prior to the occupation of the development details shall be provided showing the provision for the charging of electrical vehicles at the residential car park. The scheme shall be designed and maintained as agreed.

Reason: To support the use of electric vehicles.

19 The building envelope of all residential accommodation shall be constructed in accordance with the submitted details so as to achieve internal noise levels of 30 dB LAeq (8 hour) and 45dB LAm<sub>ax</sub> inside bedrooms at night (23:00 - 07:00 hrs) and 35 dB LAeq (16hour) in all other habitable rooms during the day (07:00 - 23:00 hrs). These noise levels shall be observed with all windows shut in the particular and other means of acoustic ventilation provided. Thereafter no alterations to the external walls, facades, windows, doors, roof or any openings in the building(s) shall be undertaken (including the closing up or removal of openings) without the prior written approval of the Local Planning Authority.

Reason: To protect the amenity of residents

20 ARCH2 Watching brief required

21 Notwithstanding the details provided any service equipment mounted externally shall be hidden from public view.

Reason: To protect the appearance of the conservation area.

22 Large scale details (1:20, 1:5 as appropriate) of the following shall be submitted to and agreed in writing by the Local Planning Authority prior to their erection/construction:

Existing building:

- a) Main entrance doors.
- b) New delivery and staff entrance door into retail store.
- c) Details of how vents would be formed in walls.

New building and link:

- d) A typical window bay of the external elevation of the new apartment block showing the modelling and details of the facade, including the integration of vents.
- e) Full details of the linking entrance.



- f) Details of all windows and doors, including manufacturer's literature
- g) Typical dormer to be provided within the mansard.
- h) Sheet metal material roofing with standing seams for the roof covering.
- h) Security screen within the car park

Whole site:

- i) The specification of landscape (hard and soft).
- j) Adaptations to the external wall onto Union Terrace including the retention of the gate and gate-piers and the new gate
- k) External lighting.

The works shall be completed in accordance with the agreed details.

Reason: To protect the appearance of the conservation area.

23 Prior to any alterations to the original chapel or school house a schedule of repair shall be provided to clearly show how repairs to the building will be carried out. The repairs works shall be completed in accordance with the agreed details prior to the occupation of the building.

Reason: To enhance and protect the character and appearance of the building.

24 Notwithstanding the details provided of the new entrance ramp at the front entrance of the chapel, details of a new open type balustrade shall be submitted to and agreed in writing by the Local Planning Authority prior to its erection/construction.

The works shall be completed in accordance with the agreed details.

Reason: To protect the appearance of the conservation area.

25 All contractors and all those involved with timber treatment, roofing and building works to be made aware of the potential presence of bats and the need to follow standard good working practices in relation to bats specifically, roofs which are to be stripped or replaced should be dismantled carefully by hand. Only half of the roof should be removed on the first day and the second half 24 hours later. This will create unfavourable conditions for any bats still roosting within the roof structure and encourage the bats to leave on their own accord. If timber treatment is required, Permethryn type chemicals on the Natural England list of approved safe

chemicals should be used - Natural England Bat roosts and timber treatment products (TIN092).

Prior to the commencement of development details of what measures are to be provided within the design of the new building to accommodate bats shall be submitted and agreed in writing by the Local Planning Authority. The development shall be constructed in accordance with these approved details. Features suitable for incorporation for this group include the use of special tiles, bricks, soffit boards, bat boxes etc.

26 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted shall be submitted to the local planning authority for approval. These details shall include maximum sound levels ( $L_{Amax}(f)$ ) and average sound levels ( $L_{Aeq}$ ), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 5dB below the background noise level at 1 meter from the nearest noise sensitive façade when assessed in accordance with BS4142: 1997 (or exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014) inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

Reason: To protect the amenity of occupants of the new and nearby properties from noise.

27 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, 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 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. 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. Details shall 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.

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 the CEMP shall 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

28 All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site associated with such works 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

## **7.0 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 an acceptable outcome:

Revised drawings submitted to enlarge the proposed turning area.

### 2. INFORMATIVE:

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

### 3. INFORMATIVE

Any proposal for signage is subject of separate applications.

### 4. INFORMATIVE:

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

### 5. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

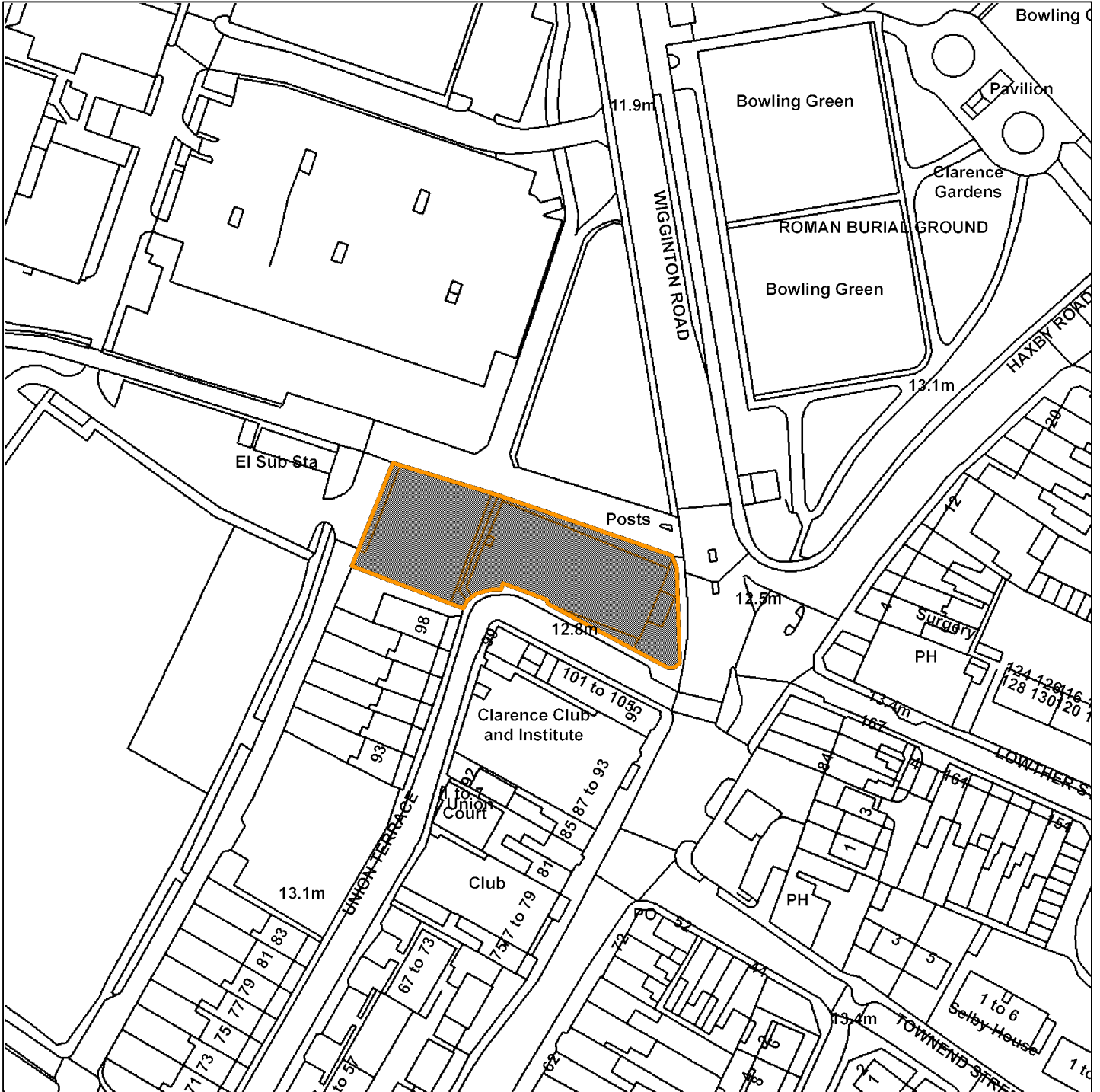
#### **Contact details:**

**Author:** Neil Massey Development Management Officer (Mon/Tue/Fri)

**Tel No:** 01904 551352

15/02834/LBC

Groves Chapel, Union Terrace



Scale : 1:1205

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Location Plan
<b>Date</b>	29 February 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 10 March 2016      **Ward:** Rawcliffe And Clifton  
Without  
**Team:** Major and      **Parish:** Rawcliffe Parish Council  
Commercial Team

**Reference:** 15/02490/FULM  
**Application at:** Car Park Lying To The South Of Hurricane Way York  
**For:** Erection of retail unit (Class A1)  
**By:** Mr Mick Rault  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 14 March 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 This is a full planning application for the erection of a new retail unit within the car park of Phase 3 Clifton Moor Retail Park, Hurricane Way, York.

1.2 Phase 3 of the Clifton Moor Retail Park is located on the west side of Clifton Moor Gate. The application area is on the junction of Clifton Moor Gate and Hurricane Way; the land is currently part of the car park which serves the Maplin and Curry's units. To the north, west and east of the site is existing retail development and associated infrastructure and to the south is existing residential development accessed from Longwood Road.

1.3 The proposal is to construct a two storey building to provide a unit of 929 sqm gross internal area at ground floor with near full cover mezzanine of 873 sqm resulting in a total floorspace of 1802 sqm. The building measures approximately 32 metres by 29 metres and stands 7.7 metres high to a flat roof. The details include an external service yard on the southern side of the building; the service yard area measures 8.13 metres by 19.56 metres and is surrounded by a fence that stands between 3 and 3.8 metres high.

1.4 The proposed building is shown located between 6 and 8 metres back from the Hurricane Way frontage and between 8 and 17 metres back from Clifton Moor Gate. The details include the reorganisation of the car park, landscaping and cycle parking facilities.

1.5 The retail unit is for a bulky goods operator. It is indicated that the likely occupant will be Sofa Works.

1.6 There have been some minor changes to the details since first submission to enhance the landscaping scheme around the building.

## PLANNING HISTORY

1.7 There is a significant amount of planning history on this site the following are considered to be most relevant to the proposals:-

- In March 1993 outline planning permission was granted for the erection of non-food retail stores, restaurant, hotel, public house, vehicle show rooms and car wash on 5.86 Ha of and south of York outer ring road and west of Clifton Moor Gate. (Planning ref. 3/104/141CV/OA)
- In December 2002 planning permission was refused for the erection of a retail unit in the car park area adjacent to Hurricane Way and Clifton Moor Gate (planning ref: 01/03178/FUL). The reasons for refusal were that the applicant failed to demonstrate compliance with the sequential test in accordance with the then S2 of the deposit draft local plan and the siting of the building was considered to be visually awkward in relation to nearby retail development.
- In November 2007 planning permission was refused for the erection of a restaurant (Pizza Hut) on the same site (Planning ref: 07/01937/FUL). The reason for refusal related to the impact of the movements to and from the site and the operation of the business on the adjacent residential properties.

## 2.0 POLICY CONTEXT

2.1 Policies:

CYGP1  
Design

CYS2  
Out of centre retail warehouse criteria

CYSP7a  
The Sequential Approach to Development

See also paragraphs 4.2 to 4.21 of this report

## 3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections in principle subject to conditions to ensure the appropriate implementation of the scheme.



Planning And Environmental Management (Forward Planning)

3.2 It is considered that the sequential assessment has demonstrated that there are no sequentially preferable development sites within or on the edge of York City Centre which are both suitable and available at the present time. There will not be a 'significantly adverse impact' upon the vitality and viability of trade or turnover of centres within the City of York or the wider study area. No objections in principle subject to consideration of design.

Public Protection

3.3 No objections in principle. The noise assessment submitted shows that the levels of noise associated with the deliveries to the site are at an acceptable level subject to conditions restricting the times of deliveries to between the hours of 0600hours and 2300 hours. Conditions are also requested in relation to land contamination, electric hook up points, installation of plant and machinery and requiring a construction environmental management plan.

EXTERNAL

Rawcliffe Parish Council

3.4 Strongly objects to the application on the following grounds:

- Proximity to adjacent residential properties; significant increase in noise from additional vehicular movement and deliveries both during daylight hours and at night, resulting in a detrimental impact on the residential amenity of the area.
- Design is incongruous in scale, mass and materials to be used on the street scene.
- Traffic management issues; additional retail and delivery traffic at an already congested area of the retail site. Predicted HGV reversing and turning movements causing increased congestion and road safety issues.
- Light pollution; impact on the amenity of adjacent residential properties due to additional lighting during hours of darkness and the environmental impact of additional lighting causing light pollution.
- Environmental impact of increased air pollution levels due to increased vehicular traffic flow.
- Previous planning applications to develop this site have required a sequential test to be applied which the applicant has provided; however the Retail Study Update 2014 notes that the Community Stadium Development will provide sufficient floor space to house such developments as such small site developments are unnecessary.
- Planned new developments in the vicinity (at Grain Store site, housing planned for North A1237 and approved planning for grocery pickup at Tesco site) will impact on the number of traffic movements; adversely affecting free flow of traffic in this area.

Yorkshire Water Services

3.5 Further information is needed to establish that the ground conditions will not support soakaways. Additional information on the use of SUDS is required.

Police Designing Out Crime Officer

3.6 Considers that the short stay cycle parking should be located closer to the entrance to the building.

Letter of Support

3.7 A letter of support for the scheme has been provided from Sofa Works:-

- It is their intention to occupy the unit
- The design of the building is suitable for their operation
- The delivery facilities are appropriate for their operation. Sofa Works are generally considered to be a 'good neighbour' for other sites in similar environments
- Car parking facilities are appropriate for their use
- The location on the retail park will allow link trips with other retail units on Clifton Moor

Letters of Objections

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

- There have been two previous refusals for development of this site.
- Told that amongst the reasons for refusal it was felt that there was already sufficient commercial development in the surrounding area. The traffic infrastructure was also considered to be inadequate.
- The car park is very busy at bank holidays and weekends where will customers park if a section of the car parking spaces is built on. Concerned that any overspill will park down Longwood Road inconveniencing residents and blocking the main bus route.
- The building process will be noisy and intrusive.
- Concerned about the position of the service yard close to front doors of houses facing the site.
- There is possibility of residents being disturbed by light and noise pollution from the site.
- If permission is approved the objector would be interested to note what has changed from the two previous refusals.
- Concerned that noise from deliveries will be 24 hours.
- Concerned about the use of fork lift trucks.
- Concerned about the height of the building blocking light out of gardens.
- Concerned about increase in traffic; it is very busy at peak times.

## 4.0 APPRAISAL

### 4.1 Key Issues:-

- Principle of the development
- Design, layout and landscaping
- Access and parking arrangements
- Residential amenity
- Drainage
- Sustainability

## PLANNING POLICY

### National Planning Policy Framework (NPPF)

4.2 Paragraph 14 of the NPPF indicates that at the heart of the framework is a presumption in favour of sustainable development, for decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted.

4.3 Paragraph 17 sets out the core planning principles which should underpin decision taking. These principles include the expectation that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.4 Paragraph 23 of the NPPF says that planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. Local planning authorities at paragraph 24 are directed to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Paragraph 26 states that when assessing applications for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

4.5 Paragraph 35 says plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of good and people. Developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements and have access to high quality public transport facilities; create safe and secure layouts, incorporate facilities for charging plug-in and other ultra low emissions vehicles; consider the needs of people with disabilities by all modes of transport.

4.6 Paragraph 56 of the NPPF states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development and is indivisible from good planning, and should contribute positively to making places better for people. The NPPF also states at paragraph 57 that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area.

4.7 Paragraph 216 of the NPPF states that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

#### National Planning Policy Guidance

4.8 The NPPG sets out that the sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses (and therefore avoid the need to undertake the impact test). The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy).

#### City of York Draft Local Plan

4.9 The City of York Draft Local Plan (DCLP) Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) was approved for Development Management purposes.

4.10 The DCLP does not form part of the statutory development plan for the purposes of S38 of the 1990 Act. Its policies are however considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.11 Policy S2 recognises that proposals for retail warehouses selling non bulky good may detrimentally impact on the current product available in City Centre and District Centres. To control this, such proposals will be expected to be accompanied by analysis to demonstrate that they would have no adverse impact. The policy also supports the sequential approach to development set out in Policy SP7a ( town centre first then edge of centre then site other out of centre sites that are genuinely accessible by a wide choice of means of transport). Net floorspace of less than 1000 sqm. should be restricted.

4.12 Policy GP1: Design is of relevance to this application. The policy indicates in section a) that any development proposal must respect or enhance the local environment.

### Emerging Local Plan

4.13 Following the motion agreed at Full Council in October 2014, the publication draft of the York Local Plan is currently not progressing through its statutory consultation; pending further consideration of the Council's housing requirements and how it should meet those requirements. As such, there is a possibility that the position in relation to this site may change when the Local Plan recommences its passage to adoption. This response should be seen only in the context of the present application and in the light of the most recently published evidence.

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

4.15 The emerging plan does not attach a specific designation to the application site. Hurricane way is identified, on its west side, as part of the existing strategic cycle network. Adjacent to the site Hurricane way is identified as a route where cycle routes need improvement.

4.16 Policy R1 seeks to maintain and enhance the vitality and viability of the City Centre, district and local centres and neighbourhood parades. Main town centre uses will be directed sequentially to the city, district and local centres and neighbourhood parades. Proposals for main town centre uses outside a defined city, district or local centre must be subject to an impact assessment where the floor

space of the proposed development exceeds the locally set thresholds. Should a formal application be submitted the relevant threshold for a proposal outside York City Centre would be greater than 1,500 sqm gross floor space. An impact assessment would therefore be required. Applicants should seek to agree the scope of the impact assessment which should be appropriate to the scale and nature of the proposed development and to identify any specific local issues.

4.17 Policy R4 relates to out of centre retailing and continues the approach taken in Policy S2 of the 2005 local plan. It states that proposals for out of centre retailing will only be permitted where it:

- cannot be accommodated in a sequentially preferable location in accordance with Policy R1;
- will not result in a significant adverse impact on existing, committed and planned public and private investment in York city centre, and other relevant defined centres in the catchment area of the proposed development;
- will not result in an individual or cumulative (significantly adverse) impact on the vitality and viability of any defined centre including local consumer choice and trade in the centre and wider area up to five years from the time the application is made; and
- is in accordance with other policies within the Local Plan, and national guidance, as appropriate.

4.18 Restrictions on floor space or goods sold will be secured by condition to prevent out of centre proposals having a negative impact on the vitality and viability of the city centre.

#### Evidence Base

4.19 The most relevant evidence base is the Retail Study Update (2014). It considers that the hierarchy in the emerging plan represent sound tiers in the hierarchy for planning for future community needs and in the absence of new guidance still represent previous best practice. It is not considered that a blanket threshold is suitable for all types of centres across the city. Instead it is considered more appropriate to have a range of thresholds, a tiered approach whereby the threshold applied at edge of centre and out of centre locations varies in relation to the role and function of the particular centre.

4.20 For comparison retailing, the retail study update advises that there is no requirement to identify any sites for new comparison goods retailing in the local plan. Most of the future requirements could be met through the new floorspace at the stadium site and other planning permissions up to 2023. There is also some floorspace capacity available through vacant units at out of centre retail parks and the city centre that could absorb some of the identified capacity. Historic trends

show a shift away from the city centre towards the surrounding retail parks and shopping destinations. Whilst this decline has stabilised since 2004 and 2007 it is recommended that new comparison provision should be focussed towards the city centre. Out of centre locations should therefore be subject to restrictive mechanisms to control further expansion as well as restrictions on the range of goods sold from existing and future floorspace.

## PRINCIPLE OF THE DEVELOPMENT

4.21 The land is within the built up area of York but is not specifically allocated in the emerging local plan documents. The site is considered to be previously developed land having regard to the definition of such land in the NPPF.

4.22 The NPPF presumption in favour of development is considered to apply to this site so that planning permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

### Retail

4.23 Clifton Moor is an out of town retail area. In accordance with NPPF policy a sequential test has been submitted in support of this application. Sequential tests are required to consider sites which are in sequentially preferable locations ( city centre first then edge of centre then only if suitable sites are not available should out of centre sites be considered) and to assess these in terms of availability, suitability, and viability. The sequential test considered sites at York Central, Castle Piccadilly and Foss Islands Retail Park. In each case it is concluded that the site/unit is either unavailable, unsuitable for bulky goods retailing, or is unviable, or a combination of those. The applicant also says that bulky good operators have specific requirements in order to successfully trade their business model and operate a viable store. In many cases bulky goods retailers are regarded as complementary to the role of the town centre retailing and do not generate sufficient sales productivity to trade in pure town centre locations.

4.24 It is agreed that that there are no suitable sites in the city centre for bulky items that are likely to be available in a reasonable timescale. As a result it is concluded that the proposed development would not have an unacceptable impact on the city centre subject to the use of a bulky goods condition restricting the goods sold. The applicant has confirmed in their submitted statements that they are content with the use of a bulky goods condition.

4.25 The proposed development results in an additional gross internal floor space of 1802 sqm. This is below the 2500 sq m threshold set in the NPPF for requiring an impact test. However the Retail Study Update (2014) requires impact tests on site over 1500 sqm. The purpose of an impact test is to assess the impact of a proposal

on existing committed and planned investment in a centre and the impact of the development on the vitality and viability of the city centre and wider area (paragraph 26, NPPF). The applicant has submitted an impact test which concludes that sufficient capacity exists within the catchment to accommodate the proposals. The proposals will not result in significant adverse impact (the NPPF test) on growth across the study period. Officers would concur with this conclusion based on the evidence submitted.

4.26 It is considered that the principle of the creation of the additional retail floor space can be supported having regard to advice in the NPPF and the Retail Study Update 2014 subject to conditions restricting the range of goods to be sold in the new unit.

## DESIGN SITING AND LANDSCAPING

4.27 The NPPF says that the Government attaches great importance to good design. Good design should contribute positively to making places better for people. Planning policies should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. GP1 of the DCLP has similar objectives in relation to design.

4.28 In terms of the design of the building the elevation to Clifton Moor Gate is a secondary elevation (the entrance faces into the site) but the elevation has been designed with significant areas of glazing. The Hurricane Way elevation has been similarly designed. The main entrance to the unit is located on the car park side of the building and again is a predominantly glazed elevation. The use of significant glazed areas will 'open up' the building elevations and prevent the unit from appearing to have been designed to face away from main vehicle and cycle/pedestrian routes.

4.29 The unit is shown sited a minimum of 6 metres from the footpath along Clifton Moor Gate; the front boundary is at an angle to the building so that much of the unit will be set further back from the road frontage. Along Hurricane Way the unit will be set between 6 and 8 metres from the road frontage. On these two sides of the building existing planting is enhanced with additional shrub and tree planting. Other than existing planting the site is a car park; views over the car park are towards the existing retail units and towards the residential development on the site's south side. The spaciousness of the site frontage and the existing landscaping are beneficial to the appearance of the area in that the retail development appears less dense and less dominant. However there have been a number of other developments on the edge of the park that have introduced new retail and restaurant units close to road frontages and there is no overriding character to the area which suggests that there is a strong need to retain the openness of the site. The design of the building provides a modern building and landscaping is retained and enhanced on the site



boundaries. It is considered that the siting and design of the building is acceptable and appropriate having regard to advice in the NPPF and policies in emerging local plan documents.

## ACCESS AND PARKING ARRANGEMENTS

4.30 The retail unit will displace car parking spaces that currently serve Maplin and Curry's. There are currently a total of 200 parking spaces, 82 of which will be lost as a result of the development leaving 118 spaces which will be available to serve the existing shops and the proposed development. As part of a transport assessment the applicant has carried out a survey of existing car park usage. This shows that at weekends existing parking demand peaked at 57 spaces. During the week peak parking demand of 37 spaces was observed. The likely parking accumulation associated with the proposed retail unit has been derived from the estimated vehicle trip generation. This indicates that the peak car parking demand associated with the proposed retail unit will be approximately 41 vehicles on Saturdays and 41 vehicles on weekdays. The transport assessment says that ample spare capacity (equating to at least 29 spaces or 24% of the total) will remain available, which will be sufficient to address daily and seasonal variation in demand and changes in duration of stay. Furthermore the survey work treats all vehicle trips associated with the proposed retail unit as wholly new trips on the highway network, with a corresponding impact on parking capacity. In practice, it is likely that a proportion of trips will be existing journeys to the existing retail units opposite, or to the wider Clifton Moor Retail Park (potentially with the linked element of the journey to the proposed retail unit undertaken on foot). As such, in practice, it is possible that the parking demand associated with the proposed unit will be lower than demonstrated. The level of car parking retained for the site is sufficient.

4.31 The scheme provides for enclosed and secure cycle parking for staff and separate visitor cycle parking to the front of the unit. A separate cycle/pedestrian entrance is provided from the Hurricane Way frontage close to the retail entrance and the existing access on the north eastern corner of the site is retained which would provide pedestrian entrance around to the entrance. The cycle and pedestrian facilities provided are considered to be acceptable.

## RESIDENTIAL AMENITY

4.32 Residential development is located along the southern boundary of the existing car park. Houses accessed via Longwood Road and Langsett Grove are adjacent to the site their rear and side elevations face the retail park. The existing car park is surfaced and lit. The scheme proposes to site the service yard for the retail unit adjacent to the boundary. The service yard consists of an uncovered area extending just over 8 metres from the side of the building. The yard will be enclosed by fencing of between 3 and 3.8 metres high. The service yard is set about 7 metres from the

joint boundary with the nearest residential properties and about 9 metres to the houses.

4.33 The principal concern relates to the potential for noise associated with delivery vehicles. A noise impact assessment was submitted to assess the potential impact of noise from vehicles accessing the site affecting the nearby residential properties. The noise modelling undertaken assumed that there was only one vehicle movement in any one hour period and compared the predicted level with current background sound levels at the nearest residential properties and also against British Standards. The results of the assessment indicate that with the provision of a 3 metre high barrier around the service yard, 2 metres high in some places, the noise levels will be at least 3dB below current background levels experienced at these sites and within the nearest residential properties predicted levels will fall below daytime noise levels. In addition the external levels will fall below 50dB(A) in garden areas. The only exception was on a Sunday night between 22:00 and 23:00 when it was predicted that the background level would be exceeded by up to 3dB. No assessment was undertaken on the impact of any deliveries during the night time period between 23:00 and 06:00. During this time it is expected that the background sound levels will reduce resulting in a likely greater impact during these hours if deliveries were to occur. Noise from deliveries is unlikely to result in an adverse impact or loss of amenity providing hours of delivery are restricted by condition.

4.34 In terms of noise associated with car movements, the car park is already in operation and could be used to a greater extent than it is currently without the need for planning permission. Restriction of night time opening should be sought via condition. Conditions are also sought in relation to siting of fixed plant and to protect existing properties during the construction phase of the development.

4.35 Although the proposal is for the unit to be occupied by a furniture retailer if restricted to bulky good retailing only there are a number of other operators that could occupy the unit such as those selling kitchens or large electrical goods. Each of these users will have a different operating arrangement and will generate a different pattern of deliveries and opening hours. To be satisfied that the development will not detract from the adjacent properties amenity sufficient conditions should be applied to protect adjacent residents from noise which ever bulky good operator occupies the site. Conditions to restrict hours of deliver, opening hours, and reversing beepers and ensure the implementation of acoustic fencing around the service yard. With these conditions in place it is considered that the adjacent properties can be protected from activities associated with the development.

4.36 The proposed building stands 7.7 metres high and is of flat roof construction. The scale of the building will appear larger than adjacent houses even though it is a similar height because of its flat roof. The building is 15 metres from the joint boundary with residential properties and is 17 metres from the nearest house. The

houses are located to the south of the site so there will be no loss of light to existing properties. Furthermore at a distance of 15 metres from the boundary the structure will not dominate the existing properties or garden areas. Windows facing on to the site will have a changed view but privacy will not be affected. It is considered that the siting and design of the building will not detract from the amenity of the adjacent residential development.

## DRAINAGE

4.37 The site is located within flood zone 1, low risk, and should not result in river flooding. Yorkshire Water Services are concerned to ensure that sustainable urban drainage methods are used to dispose of surface water. The submitted surface water drainage report indicates that soakaways will not work because of ground conditions. There is no water course close enough to the site for surface water disposal. The conclusion is that the most appropriate means of disposal of surface water is to the drainage in Hurricane Way. Yorkshire Water require further evidence of surface water drainage options including options to attenuate surface water run off. A condition is proposed to require drainage details to be submitted.

## OTHER MATTERS:

4.38 Public Protection seek an electric vehicle recharging point within the car park. The applicant has indicated on the submitted plans that a charging point will be provided the details will be conditioned.

4.39 Conditions requiring land contamination investigation are proposed as the site was previously a military airfield.

## 5.0 CONCLUSION

5.1 It is considered that the proposal, subject to the conditions listed , would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of the development considering retail issues, design and landscape, car parking, cycle parking and accessibility, residential amenity and drainage. As such the proposal complies with Policy S2 and GP1 of the City of York Development Control Local Plan, the Retail Study Update (2014); evidence base to the emerging local plan and advice within the National Planning Policy Framework.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

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

3 VISQ8 Samples of exterior materials to be app

4 No construction works 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 soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

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

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

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

## 5 Investigation of Land Contamination

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

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,
  - o ecological systems,
  - o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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. The approval of details is required at this stage in order to ensure that the risk from contamination is not increased by the premature commencement of works at the site.

## 6 Submission of a Remediation Scheme

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

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.

## 7 Verification of Remedial Works

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

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.

## 8 Reporting of Previously Unidentified Contamination

In the event that previously unidentified contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation

scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite

receptors.

9 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted shall be submitted to the local planning authority for approval. These details shall include maximum sound levels ( $L_{Amax}(f)$ ) and average sound levels ( $L_{Aeq}$ ), octave band noise levels and any proposed noise mitigation measures. All such approved machinery,

plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 5dB below the background noise level at 1 metre from the nearest noise sensitive façade when assessed in accordance with BS4142: 1997 (or exceed the background noise level at 1 metre from the nearest noise sensitive facades

when assessed in accordance with BS4142: 2014) inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

REASON: To safeguard the amenity of occupants of neighbouring residential properties

10 No deliveries shall be taken at or despatched from the site outside the hours of

Monday to Saturday 06:00 to 23:00

Sundays and Bank Holidays 07:00 to 23:00

Reason: In the interests of the residential amenity of properties to the south side of the site

11 The use hereby permitted shall not be open to customers outside the following times:

07:00 hours and 23:00 hours

Reason: In the interests of the residential amenity of properties to the south side of

the site

12 Before the occupation of the new unit, an Electric Vehicle Recharging Point shall be provided in a position to be first agreed in writing by the Local Planning Authority. Within 3 months of the first occupation of the unit, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle

Recharging Point for a period of 10 years. Electric Vehicle Recharging Point means a freestanding, weatherproof, outdoor recharging unit for electric vehicles with the capacity to charge 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point of the same specification. The charging unit should be capable of charging two vehicles simultaneously. The type and location of the charging point should be agreed in writing with the Local Planning Authority prior to installation. (City of York Council's Low Emission Officer can offer further advice on suitable technologies for the site.)

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

13 The landscaping details shown on Drawing no. 03 revision D 'Landscape Concept Plan' and drawing no. 02 revision C ' Tree Removal, Retention and Protection Plan' 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.

14 No construction works shall take place until details of the cycle parking areas, including means of enclosure, have been submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

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



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

Reason: In the interests of highway safety.

16 Prior to the building hereby approved being first occupied, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans. 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.

17 All delivery vehicles to the site shall be fitted with and use white noise vehicle reversing alarms

Reason: To protect the amenity of local residents

18 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 or The Town and Country Planning (General Permitted Development) Order 2015 as amended or as may be subsequently amended the following range of goods shall not be sold in unit 3B, save where ancillary (defined for the purposes of this condition as no more than 15% of the total floorspace of the retail unit) to the main range of goods sold:

- Men's, women's and children's clothing and footwear
- Fashion accessories
- Watches and jewellery
- Music and video
- Cameras and photographic equipment
- Toys
- Pharmaceutical goods
- Books, magazines and stationery
- Food, drink and other convenience goods

Reason: In the interests of the protection of the vitality and viability of the city and district centres the range of goods to be sold shall not compete with typical products found in these centres and to ensure that any intensification of the use of the site can be accommodated satisfactorily without detriment to residential properties on the south side of the site.

19 Notwithstanding the provisions of section 55(2)(f) of the Town and Country Planning 1990 (as amended) and article 3(1) of the Town and Country Planning (General Permitted Development Order) (England) 2015 , there shall be no subdivision of the retail unit hereby approved in the absence of any planning permission relating directly to such subdivision.

Reason: In order to protect the vitality and viability of the city and district centres and to ensure that any intensification of the use of the site can be accommodated satisfactorily without detriment to residential properties on the south side of the site.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. INFORMATIVE:**

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

## 2. 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:- Amendments to landscaping scheme sought and provided

**Contact details:**

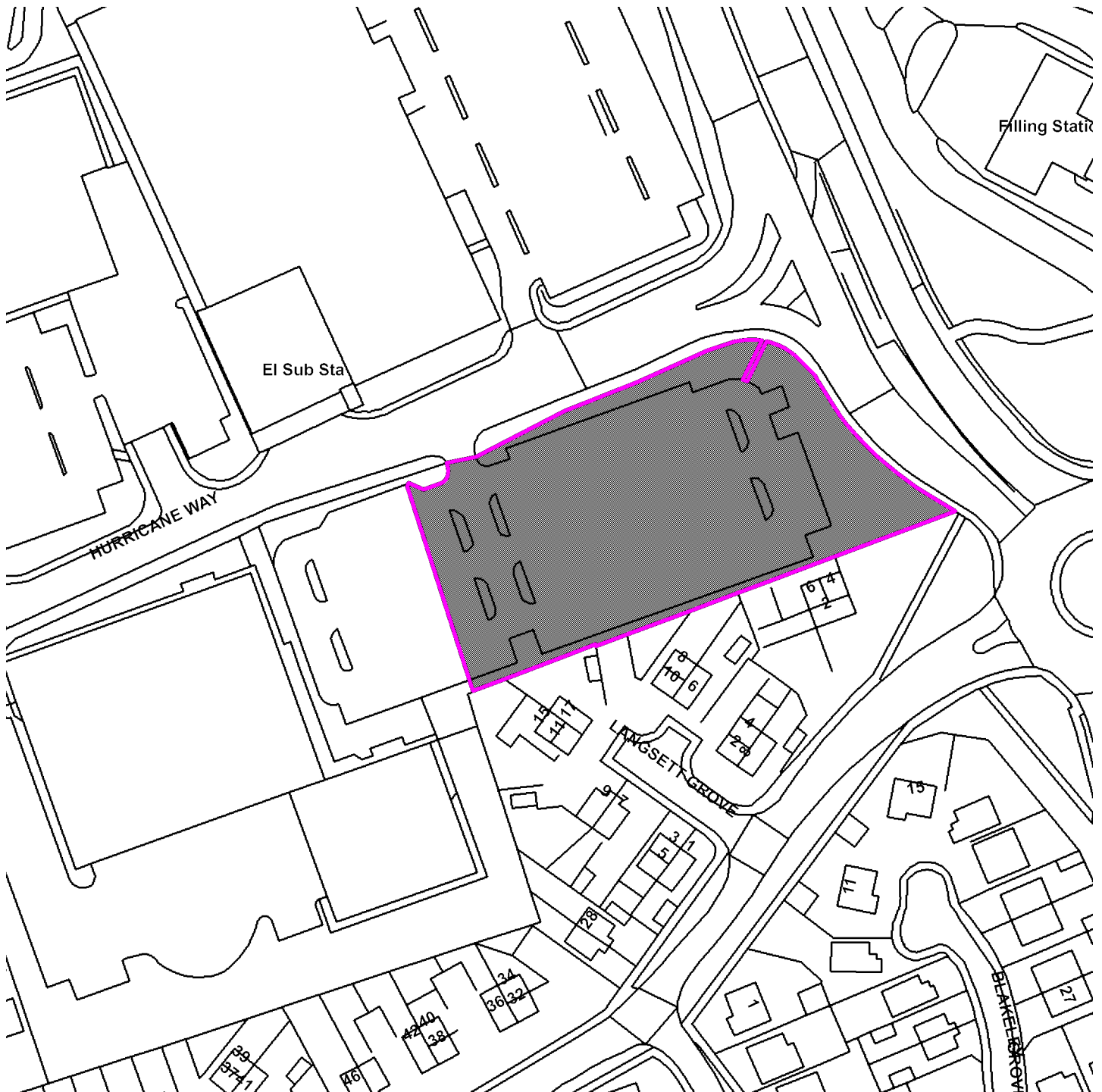
**Author:** Diane Cragg Development Management Officer (Mon-Thur)

**Tel No:** 01904 551351

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# 15/02490/FULM

## Car Park Lying To The South Of Hurricane Way



Scale : 1:1239

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Location Plan
<b>Date</b>	29 February 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 10 March 2016      **Ward:** Fulford And Heslington  
**Team:** Householder and      **Parish:** Fulford Parish Council  
Small Scale Team

**Reference:** 15/01956/FUL  
**Application at:** Royal Masonic Benevolent Institute Connaught Court St  
Oswalds Road York YO10 4QA  
**For:** Erection of detached sun room and construction of footpath  
**By:** Mr Marc Nelson Smith  
**Application Type:** Full Application  
**Target Date:** 17 March 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 Connaught Court is a 90 bed care home (4.86ha) in a parkland setting. It lies between Main Street, St.Oswalds Road, Atcherley Close, Fulford Park and Fulford Ings and is within Fulford Conservation Area. The site is dominated by a large 2/3 storey building, towards the western end, with associated smaller buildings and dwellings grouped around it. Most of the remainder of the site is private open space. The main vehicular access is from St. Oswalds Road.

1.2 The application site lies amongst trees just to the east and slightly south of the main building in the southern half of the care home complex.

1.3 This application seeks permission to erect a timber clad sun room for residents to use. The sun room would be constructed from timber boarding and would have a pitched roof of green felt shingles. A new path would be constructed to provide access to the facility and a patio would be constructed on the west side of the sun room.

1.4 There is a long history of planning applications for residential development and various extensions/buildings on the care home site but it is not considered that any are relevant to the consideration of this application.

**Councillor Call-in**

1.5 The application has been called to Committee by the Cllr. Aspden because the proposed development is in a green corridor and it concerns whether the principle of development is acceptable in an area designated as conservation area for its open space and green infrastructure qualities. He also considers that the development within the park would set a precedent for further development in the future.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Fulford CONF

### 2.2 Policies:

CYHE2 - Development in historic locations

CYGP1 - Design

CYNE1 - Trees, woodlands, hedgerows

CYNE8 - Green Corridors

CYNE6 - Species Protected by Law

## 3.0 CONSULTATIONS

The consultations responses outlined below cover two phases in the application consideration process. Firstly, responses made by various parties (internal and external) to the initial submission and, secondly, responses made following the submission of additional tree survey information, details of footpath construction and revisions to the scheme, which involve a slight relocation of the sun room and the connecting footpath.

### INTERNAL

#### **Planning and Environmental Management (Conservation Architect)**

3.1 It is proposed to add a small summer house into the parkland for use in connection with the neighbouring residential home which has views and access into this area. The parkland and its mature trees provide an important break between Fulford Village and sub-urban development on the edge of the city. The openness also reinforces the semi-rural and less dense setting of the village. The association between Fulford Park House and its parkland is of historic significance, having been formed together in the late C18th. The area also provides visual amenity and views towards Fulford Ings which contribute to relief from the urban area and the busy main road leading into York city centre.

3.2 The summer house would be a relatively small intervention into the openness of the area. It would be located in a line of trees close to the existing buildings. Its eaves height would be 2.2m which is very low in relation to the main buildings on site and the stature of the mature trees. The effect of the proposed building within the area would be further diminished in views from Fulford Road towards the Ings by the significant slope of the land towards the river. The path is a necessary part of the scheme; the only concern is in relation to the impact on trees on the proposed site.



Trees are integral to the character and history of the site and they must be preserved.

3.3 Summary - The summer house would enable residents to enjoy the garden, especially in poor weather conditions as well. Due to its size, location and materials, the summer house would have an insignificant impact on the character and appearance of the conservation area if it can be demonstrated that adjacent trees would remain unharmed. For clarification, by the use of the term “insignificant impact” it is meant that there would be no harm to the overall character and appearance of the conservation area. As the proposal would introduce a very small garden building and access path into the area for the enjoyment of the gardens by residents then there would be a minor change to the area which would not have a significant impact on its character and appearance.

### **Planning and Environmental Management (Landscape Architect)**

#### **Comments on Initial Submission**

3.4 The summer house is shown not only within the canopy spread of an adjacent Sycamore but will most likely cover a considerable portion of the root protection area (RPA) as well. The footpath crosses the RPA of an adjacent tree, however, this could probably be overcome by a porous, no-dig construction, especially as it would only take foot traffic and not a maintenance vehicle.

3.5 By placing the summer house amongst the trees its impact on the sweeping open space is limited. However the current location is inappropriate due to the likely harm that it would cause the adjacent Sycamore. The buttress roots appear quite shallow as will probably be the root plate. Excavations for a pad foundation could be limited but this could still result in compaction and loss of water, gaseous exchange and soil health over a large portion of the rooting zone and is therefore unacceptable.

3.6 A nearby terraced area adjacent to the buildings is likely to have caused some root damage to trees and the addition of a summer house in the proposed location would represent incremental harm to a number of the trees within the grounds of Connaught Court. There appears to be scope, however, to relocate the sun room to the north west to avoid, or at least considerably reduce, the intrusion into the RPA of the surrounding trees.

#### **Comments on Revised Proposals**

3.7 The sun room has limited encroachment into the RPA of the adjacent Sycamore. The footpath passes through the RPA of a couple of trees; this will cause minimum disruption by adopting a porous shallow footpath construction as shown on the construction detail and annotated plan. Thus provided great care is taken to contain

the construction operations, the proposal is now acceptable in respect of minimising risk to trees.

### **Planning and Environmental Management (Ecology and Countryside Officer)**

3.8 Fulford Ings Site of Special Scientific Interest (SSSI) is found c.140m at its closest point west of the site. Using Natural England's Risk Impact Zones the development does not trigger consultation on likely impacts to the SSSI. There are no comparable habitats within the development site, the loss of which could have an indirect impact on the SSSI. However best working practices for construction should be followed e.g. waste water, dust control etc.

3.9 The site is located within 'Local Green Corridor (26) Fulford Park' as set out in the draft Biodiversity Action Plan (2013). Green corridors are not fixed boundaries but are a consensus of where multifunctional green infrastructure assets occur. The proposed sunroom will not significantly impact on the functioning of this green corridor.

3.10 The main habitat on site to be impacted by the development is amenity grassland with standard trees. The wider site is managed as a care home complex. The Council's landscape architect has been consulted and is satisfied that the construction of the footpath will not impact on the trees. There is no proposal to introduce new lighting into the area. The construction of a stand alone timber sunroom in the grounds of Connaught Court will have negligible impact on local biodiversity, including bats. Bat roosts may be present within the immediate area and bats are likely to forage in the grounds, however no trees will be felled as part of the development, no new lighting will be introduced to the area and the loss of amenity grassland is not significant. There is no objection to the proposal on the grounds of ecology. An informative relating to bat protection and the incorporation of bat enhancement features into the scheme should be attached to a planning consent.

### EXTERNAL

#### **Fulford Parish Council**

##### **Comments on Initial Submission**

3.11 The Parish Council objects on grounds of harm to Fulford Village Conservation Area stating that the sun room is within the view corridor from Main Street mentioned in Fulford Village Conservation Area Appraisal 2008 and in a 2008 Inspector's report relating to a previous Connaught Court application.

## Comments on Revised Proposals

### 3.12 Object as follows:

- The sun room will harm the character of the conservation area by introducing built development into open parkland of historic importance, the importance of which is emphasized in the Fulford Village Conservation Area Appraisal.
- The green corridor forms a separation between Fulford Village and Fishergate, keeping it free from development is important to the identity of Fulford village.
- No assessment has taken place of the impact on views from Main Street, from public footpaths along the Ings or from Fulford Park.
- Despite the slight shifting of the sun room, the proposed building is still within the root protection area of very tall, mature trees.
- Shading of the sun room and the risk of falling branches will lead to the eventual demise of trees
- The proposed development will set a precedent for further developments encroaching into an area that is of great value to Fulford Village.
- In planning guidance it is clear that there is no presumption in favour of development within a conservation area. The proposal will cause significant harm to the conservation area and we therefore ask that it is refused.

## Publicity and Neighbour Notifications

### Comments on Initial Submission

3.13 Ten letters of objection have been received from local residents. Their objections can be outlined as follows:

- proposal will set a precedent for further development of the site
- detrimental impact on the green corridor and views to the river
- positioning of the building and footpath so close to large mature trees presents a risk to the residents using the property and to the trees and will lead to need to prune or remove trees
- no benefit to residents or wider community
- inappropriate encroachment into conservation area
- unnecessary and will be underused and not the correct position
- would be better to convert one of the existing empty bungalows
- building lacks charm and looks gloomy
- It is not possible to properly assess the impact on protected trees without a BS survey and plan to identify the age, height and structural condition of nearby trees.

- In a tree survey submitted with an application for tree work dated Sept 2014 (Ref 14/02375/TCA) three trees are assessed as in 'severe decline' - T27, 28 & 34. The siting of a recreational building underneath the canopy and/or within falling distance of these trees will significantly increase the risk to their future health and survival.
- In 2005, a tree survey was carried out to establish the potential for individual trees to support roosting bats and several trees in the vicinity were identified as suitable, including the two sycamores. Also in 2005, The Council's ecology officer confirmed the probable presence of a roost within the park.

### Comments on Revised Proposals

3.14 Three letters received – objections as follows:

- The changes are minimal and do not address concerns.
- The local plan shows this area should be kept open for its amenity value and there is no public benefit in this building.
- A building of this type would not be allowed in the Museum Gardens, Rowntree's Park or any of the other green open areas which are beneficial to the city.
- It will interrupt the long distance views and open rural aspect of the site, which the local plan rightly seeks to protect.
- The Council defends other areas in the city where there is a possible impingement of conservation areas or green spaces and it should be consistent in its approach.
- The building is unnecessary as adjoining it are four unused bungalows which could easily be adapted to provide far better facilities for the residents.

### Fulford Friends

#### Comments on Initial Submission

3.15 Object on following grounds:

- building will encroach into green corridor and one of most important long distance views in Fulford from Main Street to Fulford Ings
- no evidence provided to quantify impact on this view
- positioning of the building under trees will lead to calls for branches or whole TPO trees to be removed - more info needed on the impact of construction works and additional lighting within the green corridor
- unwelcome encroachment into conservation area and green space

## Comments on Revised Proposals

### 3.16 Comments as follows:

- The minor repositioning of the sun-room does not overcome previous concerns in relation to trees. The sun-room would still sit beneath the overhanging branches of tall, mature trees and will cause excessive shading to users of the sun-room during the summer months.
- The tree survey describes the two sycamore trees as being in a 'fair' structural condition but also states that they are 'over mature' and that their physical condition is in 'decline'. Both trees have a height of 20m or more and the siting of a sun-room directly beneath the overhanging branches is also likely to create a perceived or actual danger to anyone sitting within falling distance either within the sun-room or in the patio area.
- We maintain our previous objections in relation to harm to the conservation area and question the lack of justification for siting the building within the green corridor.
- If the planning committee are minded to allow this development there should be a condition to prohibit the addition of any external lighting. To safeguard protected species such as the bats.
- The proposal would create a very unwelcome precedent for further development in the area.

## **4.0 APPRAISAL**

### KEY ISSUES

4.1 The key issues in the assessment of this proposal are the design of the proposals, impact upon the character and appearance of the conservation area, impact on the green corridor and protected species and impact on the amenities of local residents.

### LEGISLATIVE BACKGROUND

4.2 In the exercise of an LPA's planning function with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

### POLICY CONTEXT

4.3 The National Planning Policy Framework 2012 (NPPF) sets out the overarching roles for the planning system. Paragraph 186 states that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. Paragraph 187 states that Local Planning Authorities

should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. A principle set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.4 Paragraph 132 states that considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed by or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

4.5 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.6 The relevant City of York Council Local Plan Policies are GP1, HE2, NE1 and NE8. Policy GP1 'Design' requires development proposals to respect or enhance the local environment, be of a design that is compatible with neighbouring buildings and the character of the area. Policy HE2 'Development in Historic Locations' advises that development in conservation areas must respect adjacent buildings and be of a design that is compatible with the character of the area and neighbouring buildings. Policy NE1 'Trees, Woodlands and Hedgerows' advises that trees, woodlands and hedgerows which are of landscape, amenity, nature conservation or historical value will be protected. Policy NE8 advises that planning permission will not be granted for development which would destroy or impair the integrity of green corridors and, conversely, development which ensures the continuation and enhancement of green corridors for wildlife will be favoured. Policy CYNE6 advises that where proposals may have a significant effect on protected species or habitats, applicants will be expected to undertake an appropriate assessment demonstrating their proposed mitigation measures.

## ASSESSMENT

### Proposals

4.7 The proposal involves erecting a sun room within a group of mature trees just to the south (circa 11m) of the complex of buildings on the site. The location lies circa 190m west of Main Street and 50m north of a row of residential properties in Fulford Park.

4.8 The sun room has an octagonal shape and is 5.7m long, 4.2m wide and has a pitched roof, the ridge of which is 3.7m above ground level. The walls would be constructed from cedar boarding and it would have a green mineral felt roof. A footpath would be constructed through a number of trees for circa 35m southwards from the main east-west footpath that connects the RMBI buildings with Main Street. A patio area 3.6m square would be constructed on the west side of the sun room.

4.10 The proposed footpath would have a surface constructed from Terrabound, which is a porous material that allows water to percolate to the ground below.

#### Context

4.11 The Connaught Court site fronts Main Street and extends approximately 320m to the west. It is then a further circa 200m across predominantly open fields to the eastern bank of the River Ouse. The green corridor, referred to above, commences at Main Street and runs through the southern part of the site. It varies in width being circa 70m wide on the Main Street frontage, narrowing to circa 25m where it runs past the easternmost buildings on the site (ie. circa 90m in from the site frontage). It then widens to circa 60m for the remainder of the site up to the western boundary.

4.12 There is a belt of mature trees up to 30m in width along the southern edge of this corridor, which extends circa 120m into the site from the site frontage. The remainder of the green corridor is then predominantly open grassland up to the western boundary of the site, apart from a belt of trees approximately 100m long and 20m wide along its northern edge. It is within this latter belt of trees that it is proposed to erect the sun room.

4.13 Within the RMBI buildings that form the northern edge of the green corridor there is a gap of circa 25m between two of the buildings and it is through this gap that it is proposed to run the footpath that would link the sun room with the main site footpath. The sun room would sit within a group of six trees but would not project as far into the open green space as the trees do (ie. it would be set back approximately 6-7m from the southern canopy edge of the two southernmost trees within the group).

#### Evaluation

4.14 In view of its relatively small size, its distance from Main Street, its setting within mature trees and the significant down slope of the land as it extends westwards towards the river, it is not considered that the proposed sun room would have a detrimental impact on the openness of the area or views across the green corridor from the east.

4.15 The sun room has been relocated circa 800mm to the north west and a reposition of the northern section of the footpath circa 1m to the east. They have also clarified details of footpath construction, including adopting a porous shallow

footpath construction, and secured the provision of protective fencing for the trees during construction. All of these measures will help avoid adverse impact on the trees and it is considered that the incorporation of a condition on a planning consent requiring the approval of a method statement to protect existing trees during construction works, will further ensure that the well-being of the trees near to the sun room and footpath is secured. Although the proposals will not require the removal of any trees, there may be a need to crown lift one of the trees near to the sunroom, it is considered, however, that such work would be acceptable and would not threaten its well being.

4.16 As it is considered that the well-being of the trees will be ensured and there is no proposal to introduce new lighting into the area it can be reasonably concluded that there will be no impact on bats and it is therefore considered that there is no need to undertake a bat survey prior to determination of this application. The provision of new lighting along the footpath could not be prohibited by condition. Its installation would, however, require planning permission and if an application was submitted it would be considered on its merits, including and potential adverse impact on protected species such as bats.

4.17 Installing lighting units on sun room, however, may well be regarded as 'de-minimis' and therefore not requiring planning permission. In this respect it is possible that in some form external lighting could have an adverse impact on nocturnal animals such as bats. As there is good foraging habitat surrounding the site it is considered that a condition requiring the submission and approval of any external lighting on the sun room should be imposed.

4.18 In view of the distance from the nearest residential properties outside the site (ie. circa 50m), it is not considered that there would be any adverse impact on the residential amenity of nearby occupants. It is also not considered that approval of this small sun room would create a precedent for further development of the site. Any further development proposals, whether in the green corridor or any other part of the RMBI site, could legitimately be assessed on their own merits and potential impacts.

4.19 In terms of its visual impact, the sun room is a small building that will use materials entirely appropriate for its location and it is considered that the character and appearance of the conservation area will not be harmed. As such, if Members resolve to approve the application it is considered that in reaching its decision the Local Planning Authority will have properly exercised its duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.20 In assessing the impact of the proposed development on the significance of the conservation area officers have placed great weight on the conservation of this heritage asset, as required by Paragraph 132 of the NPPF, and have judged that there will be no harm. As it is considered there will be no harm, there is no need to



weigh the proposal against the public benefits as required by Paragraph 134 of the NPPF.

## 5.0 CONCLUSION

5.1 It is considered that the proposal would preserve the character and appearance of Fulford Village conservation area and would not have an adverse impact on trees on the site, protected species, the openness of the area or the amenities of local residents. As such the proposal satisfies national guidance in the NPPF and Development Control Local Plan Policy and it is considered that planning consent should be granted. In reaching this conclusion and recommendation special attention has been given to the desirability of preserving or enhancing the character and appearance of the conservation area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawings nos. 18890-4000H, 4001C, 4002E and 4003C

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

3 Before the commencement of development including any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing in accordance with British Standard 5837, phasing of works, site access during construction, type of construction machinery/vehicles to be used, including arrangements for loading/off-loading, parking arrangements for site vehicles, and locations of stored materials.

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

4 No external lighting shall be installed on the sun room until and unless details of a lighting scheme have been submitted to and approved by the Local Planning Authority showing how the scheme will minimise light spillage including:

- i) External lighting requirements to be carefully designed to avoid light spillage affecting surrounding habitat.
- ii) Security lighting to be on a short timer and motion sensitive to large objects only.

Reason: To take account of and to enhance the habitat for a protected species.

## **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:

Officers negotiated a slight relocation of the sun room and footpath and secured details of footpath construction and protective fencing to avoid adverse impact on the trees.

Account has been taken of all relevant national guidance and local policies and with the attachment of conditions the proposal is considered to be satisfactory.

#### **2. BAT PROTECTION AND ENHANCEMENT FEATURES**

In the UK, due to the decline in bat numbers in the last century, all species of bat are protected by the Wildlife & Countryside Act (1981) as amended, Countryside and Rights of Way Act (2000) and the Conservation of Habitats and Species Regulations (2010). Because of their protected status, it should be noted that if bats are discovered during the course of the work, all works must cease and Natural England must be informed immediately. It is an offence for anyone to disturb or handle a bat without the appropriate licences. This may cause some delay but should not prevent the work continuing, provided that due account is taken of their presence.

There are opportunities for the development to enhance the building for bats. This can be done without detriment to the building through bat friendly features which can be designed at the outset and include features such as bat bricks, bat tiles or an adapted fascia (see [http://www.bats.org.uk/pages/accommodating\\_bats\\_in\\_buildings.html](http://www.bats.org.uk/pages/accommodating_bats_in_buildings.html) for more information).

#### **Contact details:**

**Author:** David Johnson Development Management Assistant

**Tel No:** 01904 551665

Application Reference Number: 15/01956/FUL

Item No: 4d

15/01956/FUL

Connaught Court, St Oswalds Road



Scale : 1:1059

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<b>Organisation</b>	City of York Council
<b>Department</b>	CES
<b>Comments</b>	Location Plan
<b>Date</b>	29 February 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 10 March 2016      **Ward:** Guildhall  
**Team:** Major and      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 15/02890/ADV  
**Application at:** Newgate Market Newgate York  
**For:** Display of eight non-illuminated and one illuminated direction signs in Shambles, Newgate, Silver Street and Parliament Street  
**By:** Mr Chris Price  
**Application Type:** Advert Application  
**Target Date:** 17 February 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application relates to five locations around the Market and consists of the following:

- a) A market stall at the entrance to the market on Parliament Street - lettering and graphics applied to existing canopy on market stall and new pvc pelmets with lettering attached to either side of canopy
- b) An existing bin fin sign on Silver Street circa 18m back from the junction with Church Street - application of lettering and graphics
- c) The side elevation of 47 Shambles - wall mounted panel sign and street sign
- d) The alley between 33 and 34 Shambles - street sign
- e) The alley between 28 and 30 Shambles - wall mounted panel sign

1.2 The rationale behind the application is that the Council's market and city centre managers together with Shambles Market Traders Association consider that the hidden nature of the market, enclosed by Parliament Street and Shambles, means that it is often overlooked by shoppers. The intention is therefore to provide additional signage around the perimeter of the market to draw more attention to the facility. (A concurrent application for listed building consent is being processed for the signs proposed for Shambles).

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006  
Conservation Area GMS Constraints: Central Historic Core CONF

Listed Buildings GMS Constraints: Grade 2; 34 Shambles York YO1 2LX 0702

Listed Buildings GMS Constraints: Grade 2; 28 Shambles York YO1 2LX 0710

Listed Buildings GMS Constraints: Grade 2; 31, 32, 33 Shambles York 0707

## 2.2 Policies:

CYGP21 - Advertisements

CYHE8 - Advertisements in historic locations

## 3.0 CONSULTATIONS

### INTERNAL

#### Planning and Environmental Management (Conservation Architect)

3.1 Newgate Market occupies an open area formed by building clearances in the C19th and C20th between the rear of Shambles, Jubbergate and Piccadilly. The area is within the Central Historic Core conservation area between the “medieval streets” character area and the main shopping streets. The east and north sides of the market are defined by historic buildings dating from C15th onwards, most of which are listed, and together these form an enclosure of high visual amenity. By contrast the majority of buildings enclosing the west side of the market are of low architectural and historic significance, having been introduced mid-late C20th, and they represent a scale change in the urban fabric.

3.2 It is proposed to introduce nine signs at key entrances to the market area. The signs would serve two purposes:- direction signage indicating how to get to the market from the main thoroughfares; and information signage describing what can be found in the market.

3.3 The market has recently been remodelled and upgraded. It is still located within an urban block and has no open edges addressing the major thoroughfares, such as King’s Square, Shambles, Church Street and Parliament Street, where there is higher footfall. To achieve its new economic potential there is a need for direction signage at key entrance points. Also by introducing information boards with maps it is hoped residents and visitors would be attracted into the area and also use it as a potential through route.

3.4 The nine signs would be grouped in three areas: a) Jubbergate/Parliament Street,  
b) Silver Street and c) Shambles/Newgate.

- a) At the market entrance off Parliament Street simple direction signage would be added to the existing canopy of the projecting stall. There would be 2no inclined and 2no pelmet signs using serif letters and a pointing hand. It would

be attached to a light-weight stall rather than a building. This signage is considered compatible with the character and larger scale of Parliament Street

b) A sign would be added to the existing “bin fin” along Silver Street to attract pedestrians from Church Street. The roundel has been well designed and is of a scale compatible with the area.

c) Signs leading off Shambles and Kings Square are of two types:

Two direction signs matching existing street signs in size and finish. These would be located at high level similar to street signage. They would be a minor intervention in the scale of the street.

Two larger information boards with maps would be fixed to the wall at each end of the Shambles buildings (west side) to attract people through Newgate (north end) and through the wider modern ginnel at the south end. The ginnel sign requires external illumination and the proposed luminaire would be a relatively small down-lighter. Shambles is a highly picturesque narrow medieval street with a high number of surviving timber-framed buildings most of which are listed. The two larger signs have been designed to a high quality in a brass finished frame, and they have been located to avoid harm to the setting of the historic buildings and to avoid being within views looking up or down Shambles.

3.5 The signage scheme has been designed with great care, in terms of design, scale and material, to respect the character and appearance of the conservation area at each of the main entrances to the remodelled market. Specific locations have been chosen to avoid harm to key views whilst being effective. Proposed signage would preserve the character and appearance of the conservation area. The comprehensive nature of the information and assessment in the application documents is exemplary.

## EXTERNAL

### Publicity and Neighbour Notification

3.6 One objection on the following grounds - any wall mounted signs will detract from the beauty of such an important and historic street. Shops and businesses on Shambles are subject to strict rules so that the street may be preserved and no one business overpowers the look of Shambles as a whole - which is exactly what advertising signs for the market will do, illuminated or non-illuminated.

Guildhall Planning Panel

3.7 The Panel supports the proposals

**4.0 APPRAISAL**

KEY ISSUES

4.1 Visual impact on the conservation area and, where attached to listed buildings the character of those buildings, and the impact on public safety

BACKGROUND LEGISLATION

4.2 The Town and Country Planning (Control of Advertisements) Regulations 2007 state that the display of outdoor advertisements can only be controlled in the interests of "amenity" and "public safety".

4.3 In the exercise of an LPA's planning function with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

PLANNING POLICY

4.4 Central Government advice in relation to the control of advertisements is contained within Paragraph 67 of the National Planning Policy Framework. It advises that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

4.5 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF. Policy GP21 "Advertisements" states that permission will only be granted if the size, design, materials colouring of signs, hoardings and large panels and any form of illumination does not detract from the visual amenity of the area in which they are displayed particularly with regard to the character of listed buildings and conservation areas. Policy HE8 "Advertisements in Historic Locations" states that within conservation areas, or on listed buildings advertisements should be of a design and scale that respect the character and appearance of the area and be of sympathetic materials.



## ASSESSMENT

### Proposals and Evaluation

4.6 The signage proposals in detail consist of the following:

#### Market Stall at the entrance to the market on Parliament Street:

- Letters on canopy read '*Shambles Market*' with capitals 523mm high and lower case 327mm high. Letter colour to match existing market stall structure BS381C 631 (light grey)
- Graphic of a hand pointing towards market – 620mm high
- New pelmets on either side of canopy 200mm high – with letters reading '*Welcome to Shambles Market*' and small finger pointing graphic. Letters in white, pelmet colour to match existing market stall structure BS381C 631 (light grey)

4.7 In essence this element of the scheme amounts to applying lettering and a graphic to an existing canopy and attaching fairly slim pelmets with lettering to either side of the canopy. In this respect it is considered that the proposals are fairly modest and will have a neutral impact on the visual amenities of the location.

#### Refuse Bin Fin Sign on Silver Street:

- Lettering at high level to read '*Welcome to Shambles Market*' in white, largest capital letter to be 100mm high
- Graphic circa 600mm high at high level to be a view of Shambles Market

4.8 The existing refuse bin fin sign is 2.6m high by 0.83m wide and is located circa 18m back from the junction with Church Street. The lettering and graphic image will be applied to the upper part of the sign, they are tasteful in appearance and fairly modest in scale and will have a neutral impact on the visual amenities of the location.

#### Side Elevation of 47 Shambles (Grade II listed building):

- Wall mounted panel sign 1.6m wide by 1.4m high (bottom of sign 0.6m above ground level) incorporating chalkboard and street map. Located to right of existing shopfront
- Street sign 900mm long 250mm high reading '*Market*' located above shopfront at circa 4m above ground level

4.9 The wall mounted panel sign has been tastefully designed with a 50mm x 50mm brass frame surround and brass lettering reading '*Shambles Market*' (100mm high) on the top edge and it will sit comfortably on the wall to the side of the shopfront to the property. The new street sign is relatively small and adopts the standard established approach of black lettering on a white background. It is considered that the proposals will respect the character of this listed building and will have a neutral impact on the visual amenities of the location.

Alley between 33 and 34 Shambles:

- Street sign 900mm long 250mm high reading '*Market*' located on south side of alley (no.33 – Grade II listed building) at circa 2m above ground level

4.10 The new street sign is relatively small and adopts the standard established approach of black lettering on a white background. It is considered that it will respect the character of the listed building and have a neutral impact on the visual amenities of the location.

Alley between 28 and 30 Shambles:

- Wall mounted panel sign 1.6m wide by 1.4m high (bottom of sign 0.6m above ground level) incorporating chalkboard and street map. Located on south side of alley (no.28 - Grade II listed building)

4.11 The wall mounted panel sign has been tastefully designed with a 50mm x 50mm brass frame surround and brass lettering reading '*Shambles Market*' (100mm high) on the top edge and will sit comfortably on the wall to the side elevation of the alley near to the entrance from Shambles. As it will essentially be located in an underpass and in shadow, it is proposed to provide a small black wall light, circa 200mm wide by 100mm high, above the sign. It is considered that the appearance of both elements is acceptable and that they will respect the character of the listed building and have a neutral impact on the visual amenities of the location.

Overview and Legislative Compliance

4.12 Overall it is considered that the signage proposals have been well thought through and that a scheme has been produced which will preserve the character and appearance of the conservation area and will not detract from visual amenities. It is therefore considered that if the application is approved the Local Planning Authority will have properly exercised its duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In addition public safety is not prejudiced by the proposals.

## 5.0 CONCLUSION

5.1 The signs respect the character and appearance of the conservation area and the listed buildings they are attached to and do not detract from the visual amenities. Public safety is not prejudiced. They comply with Development Control Local Plan Policies HE8 and GP21 and national planning guidance as contained in the National Planning Policy Framework. It is considered that advertisement consent should be granted.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

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

Drawings: 823SMS-001, 101, 201, 301, 501, 601 and 701

Photomontages: 823SMS-102, 202, 203, 302 and 401

Images: 823SMS-602, 603 and 702

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

2 Notwithstanding the submitted drawings the signage shall be finished in the following manner:

- a. Alley between 28 and 30 Shambles - the wiring to the down-lighter within the alley shall be hidden if possible, or otherwise neatly clipped vertically from above.
- b. Side Elevation of 47 Shambles and Alley between 28 and 30 Shambles - the removable front over the chalk-board should be flush with the front face of the frame.
- c. Side Elevation of 47 Shambles and alley between 28 and 30 Shambles - the brass finish shall be unpolished or a dulled bronze (i.e. not as polished brass).

Reason: So that the Local Planning authority can be satisfied with the finished appearance of the signs and their impact on the character of the listed buildings and conservation area.

## 7.0 INFORMATIVES:

**Contact details:**

**Author:** David Johnson Development Management Assistant

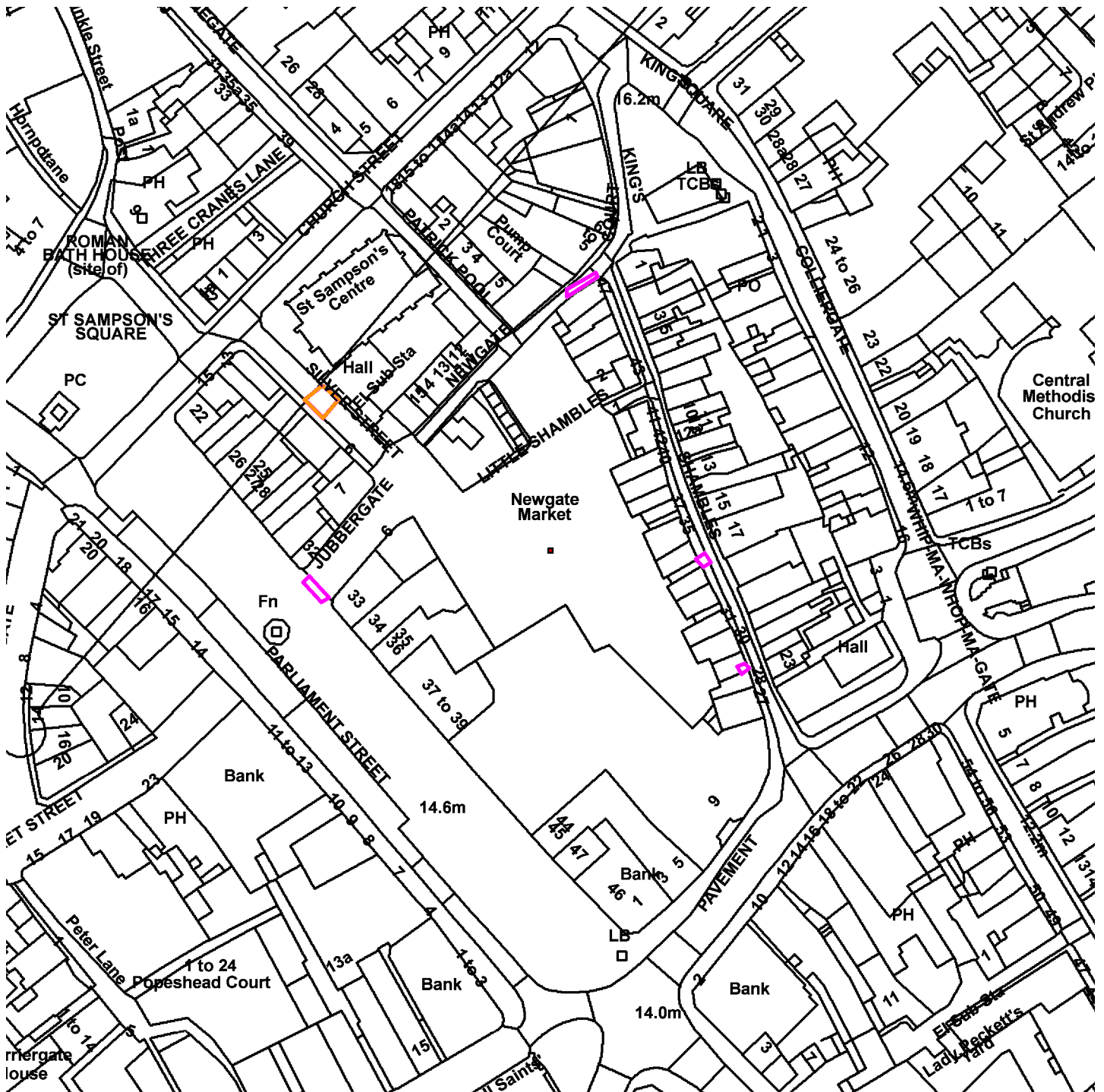
**Tel No:** 01904 551665

15/02890/ADV

Newgate Market



GIS by ESRI (UK)



Scale : 1:1239

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Location Plan
<b>Date</b>	29 February 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 10 March 2016      **Ward:** Guildhall  
**Team:** Major and      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 15/02891/LBC  
**Application at:** Newgate Market Newgate York  
**For:** Display of 4 no. wall mounted direction signs (3 x non-illuminated and 1 x externally illuminated) at entrances to the Market on 28, 33 and 47 Shambles  
**By:** Mr Chris Price  
**Application Type:** Listed Building Consent  
**Target Date:** 16 February 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application relates to three locations in Shambles to the east of the Market specifically and consists of the following:

- a) The side elevation of 47 Shambles - wall mounted panel sign and street sign
- b) The alley between 33 and 34 Shambles - street sign
- c) The alley between 28 and 30 Shambles - wall mounted panel sign

1.2 The rationale behind the application is that the Council's market and city centre managers together with Shambles Market Traders Association consider that the hidden nature of the market, enclosed by Parliament street and Shambles, means that it is often overlooked by shoppers. The intention is therefore to provide additional signage around the perimeter of the market to draw more attention to the facility. (A concurrent application for advertisement consent is being processed for these proposals, which includes signage on Silver Street and at the entrance to the market on Parliament Street).

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006  
Conservation Area GMS Constraints: Central Historic Core CONF  
Listed Buildings GMS Constraints: Grade 2; 34 Shambles York YO1 2LX 0702  
Listed Buildings GMS Constraints: Grade 2; 28 Shambles York YO1 2LX 0710  
Listed Buildings GMS Constraints: Grade 2; 31, 32, 33 Shambles York 0707

## 2.2 Policies:

CYHE4 Listed Buildings

## 3.0 CONSULTATIONS

### INTERNAL

#### Planning and Environmental Management (Conservation Architect)

3.1 Newgate Market occupies an open area formed by building clearances in the C19th and C20th between the rear of Shambles, Jubbergate and Piccadilly. The area is within the Central Historic Core conservation area between the "medieval streets" character area and the main shopping streets. Nos 28, 33 & 47 Shambles are located at key entrance areas into the market from King's Square and Shambles. The buildings are designated heritage assets listed at grade II. No 28 Shambles is one of a pair of three-storey early C19th buildings in brick and render. No 33 Shambles is part of a timber framed range of buildings dating from early C15th. No 47 Shambles was built around 1740 and has a later C19th extension and shop-front. Individually the three buildings are of evidential and historic significance and they contribute to the fortuitous aesthetic value of Shambles.

3.2 It is proposed to introduce 4no signs at key entrance points off Shambles. Two of the signs are proposed as direction signs similar in material, scale and design to the street signs. Two of the signs would give information about the market and include maps and a protected chalk board. They would be approx 1.65m x 1.4m overall and have a high quality brass finished frame with cut-out lettering along the top. One of the information signs would be illuminated from a small external down-lighter fixed to the wall above the frame.

3.3 The market has recently been remodelled and upgraded. It is still located within an urban block and has no open edges addressing the major thoroughfares, such as King's Square and Shambles, where there is higher footfall. To achieve its new economic potential there is a need for direction signage at key entrance points. Also by introducing information boards with maps it is hoped residents and visitors would be attracted into the area and use it as a through route.

3.4 Three signage locations have been chosen to serve people coming from each end of Shambles. No 28 Shambles is located towards the southern end of the lane. The adjacent alley is the first opportunity to enter the market from Pavement end of the street. An externally illuminated information board would be attached to the inner face of the alley. Of the four alleys or "snickleways" leading from Shambles this one is the widest and most recent. Evidence in the application documents and on site shows it was created after 1960. Only the revealed side wall of relatively recent



brickwork to no 28 would be affected by the attachment. The main frontage and historic setting of the building would be preserved.

3.5 The narrow historic alley adjacent to no33 Shambles would receive a small direction sign. In this location a sign would reinforce the public role of the historic route, helping to overcome the "cul-de-sac" nature of this end of the market. The sign would be fixed onto the rendered and scored cement render to avoid damage to exposed timber framing. This sign would be a small intervention on a relatively plain and long wall to the side of the building. The location and design of the small sign would not harm the historic character of the building or the alleyway.

3.6 No.47 Shambles occupies a corner location which is highly visible from King's Square. This three-storey C18th building has a late C19th shop-front of aesthetic value wrapping around the corner. The rest of the north facing elevation forming this side of Newgate is relatively blank. In order to be seen from the primary streets the board would be located close to the shop-front and away from the straight-through joint marking the extension. The board would be of relatively small size in relation to the C19th shop-front and its design would not challenge the aesthetic appearance of the large scale shop-front.

3.7 A small direction sign would be added above the shop-front close to the corner to align with street signs on the front elevation. This sign would have a similar appearance and role to the street signs and would not crowd other signage or conflict with the architectural features of the building.

All signs would be reversible.

3.8 Justification has been provided for attaching 2no direction signs and 2no information signs in total to three historic buildings in Shambles. Locations have been chosen to be most effective for the newly regenerated market whilst causing no harm to the special architectural or historic interest of each of the buildings. The signs have been designed with great care, in terms of their design, scale and material, to respect the special characteristics of the historic buildings.

## EXTERNAL

### Publicity and Neighbour Notification

3.9 One objection on the following grounds - any wall mounted signs will detract from the beauty of such an important and historic street. Shops and businesses on Shambles are subject to strict rules so that the street may be preserved and no one business overpowers the look of Shambles as a whole - which is exactly what advertising signs for the market will do, illuminated or non-illuminated.

Guildhall Planning Panel

3.10 The Panel supports the proposals

**4.0 APPRAISAL**

KEY ISSUES

4.1 The key issues in the assessment of this proposal are the impact on the special historic and architectural interest of the building and the character and appearance of the conservation area.

LEGISLATIVE BACKGROUND

4.2 Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

4.3 In the exercise of an LPA's planning function with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

POLICY CONTEXT

4.4 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. Paragraph 186 states that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. A principle set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.5 Paragraph 132 states that considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed by or lost through alteration or destruction of the heritage asset or development within its setting.

4.6 Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use

4.7 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF. Policy HE4 states that with regard to listed buildings, consent will only be granted for internal or external alterations where there is no adverse effect on the character, appearance or setting of the building.

## ASSESSMENT

### Proposals and Evaluation

4.8 The signage proposals in detail consist of the following:

#### Side Elevation of 47 Shambles (Grade II listed building):

- Wall mounted panel sign 1.6m wide by 1.4m high (bottom of sign 0.6m above ground level) incorporating chalkboard and street map. Located to right of existing shopfront
- Street sign 900mm long 250mm high reading 'Market' located above shopfront at circa 4m above ground level

4.9 The wall mounted panel sign has been tastefully designed with a 50mm x 50mm brass frame surround and brass lettering reading 'Shambles Market' (100mm high) on the top edge and it will sit comfortably on the wall to the side of the shopfront to the property. The new street sign is relatively small and adopts the standard established approach of black lettering on a white background. It is considered that the proposals will respect the character of this listed building and will have a neutral impact on the visual amenities of the location.

#### Alley between 33 and 34 Shambles:

- Street sign 900mm long 250mm high reading 'Market' located on south side of alley (no.33 - Grade II listed building) at circa 2m above ground level

4.10 The new street sign is relatively small and adopts the standard established approach of black lettering on a white background. It is considered that it will respect the character of the listed building and have a neutral impact on the visual amenities of the location.

Alley between 28 and 30 Shambles:

- Wall mounted panel sign 1.6m wide by 1.4m high (bottom of sign 0.6m above ground level) incorporating chalkboard and street map. Located on south side of alley (no.28 - Grade II listed building)

4.11 The wall mounted panel sign has been tastefully designed with a 50mm x 50mm brass frame surround and brass lettering reading 'Shambles Market' (100mm high) on the top edge and will sit comfortably on the wall to the side elevation of the alley near to the entrance from Shambles. As it will essentially be located in an underpass and in shadow, it is proposed to provide a small black wall light, circa 200mm wide by 100mm high, above the sign. It is considered that the appearance of both elements is acceptable and that they will respect the character of the listed building and have a neutral impact on the visual amenities of the location.

Legislative and NPPF Policy Compliance

4.12 It is considered that the proposals will preserve the special architectural and historic interest of the listed buildings they would be attached to and that, therefore, if the application is approved the Local Planning Authority will have properly exercised its duty under Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.13 It is also considered that the signs will preserve the character and appearance of the conservation area and that in approving the application the Local Planning Authority will also have properly exercised its duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.14 In assessing the application officers have considered the impact of the proposed development on the significance of heritage assets (ie. listed building and conservation area) as required by Paragraph 132 of the NPPF and have judged that there will be no harm. As it is considered there will be no harm, there is no need to weigh the proposal against public benefits as outlined in Paragraph 134 of the NPPF.

## **5.0 CONCLUSION**

5.1 The proposed signs will respect the special historic and architectural interest of the listed buildings and the character and appearance of the conservation area. The proposal complies with national planning guidance, as contained in the NPPF, and Development Control Local Plan Policy HE4 and it is considered that listed building consent should be granted.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

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

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

Drawings: 823SMS-001, 101, 201 and 301

Photomontages: 823SMS-102, 202, 203, 302 and 401

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

3 Notwithstanding the submitted drawings the signage shall be finished in the following manner:

a. Alley between 28 and 30 Shambles - the wiring to the down-lighter shall be hidden if possible, or otherwise neatly clipped vertically from above.

b. Side Elevation of 47 Shambles and Alley between 28 and 30 Shambles - the removable front over the chalk-board should be flush with the front face of the frame.

c. Side Elevation of 47 Shambles and Alley between 28 and 30 Shambles - the brass finish shall be unpolished or a dulled bronze (ie. not as polished brass).

Reason: So that the Local Planning authority can be satisfied with the finished appearance of the signs and their impact on the character of the listed buildings.

#### Contact details:

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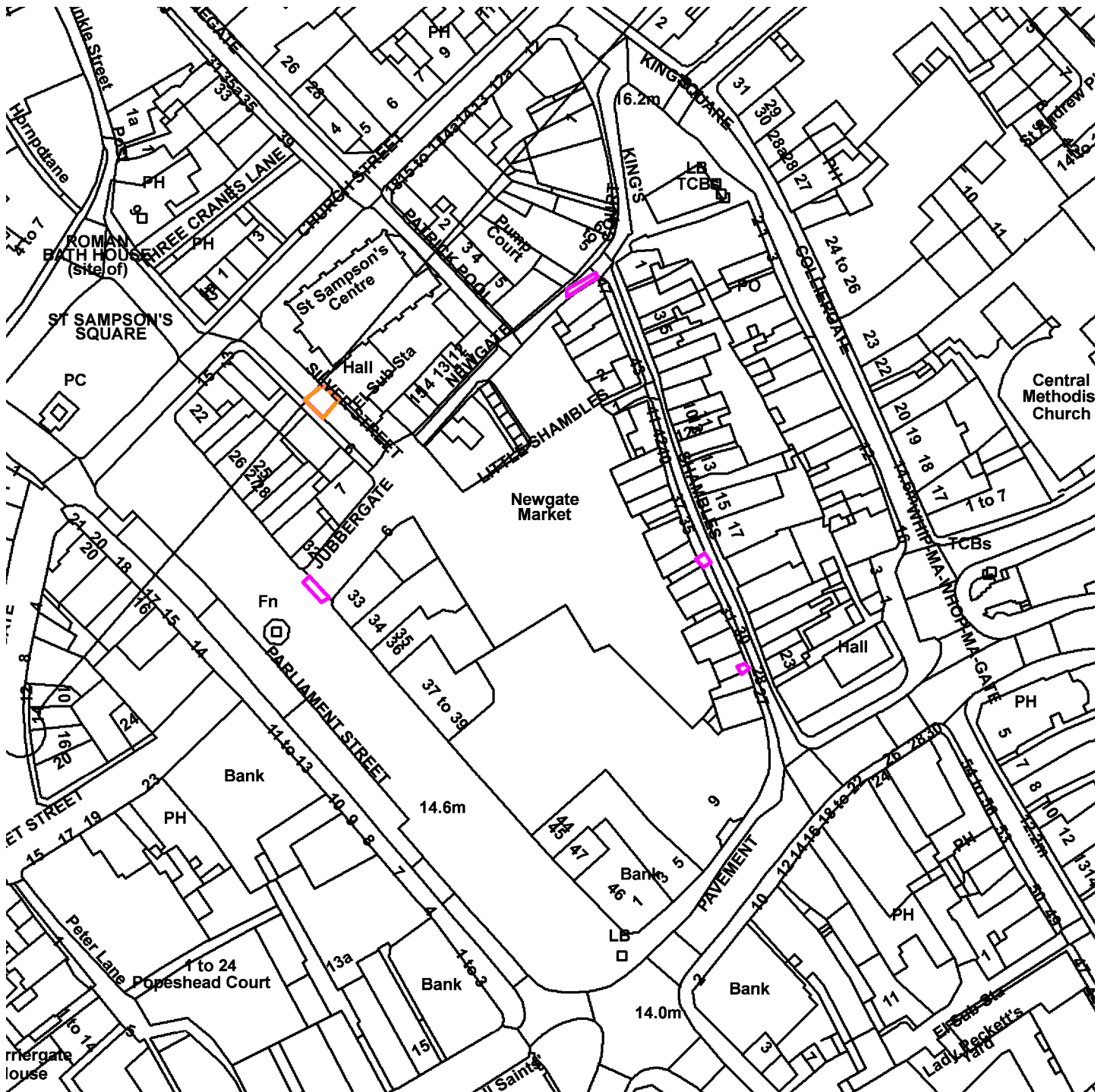
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15/02891/LBC

Newgate Market



GIS by ESRI (UK)



Scale : 1:1239

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Location Plan
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