



**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, 7 April 2016

Time: 4.30 pm

Venue: The George Hudson Board Room - 1st Floor West Offices (F045)

A G E N D A

Please note that there will be no minibus to the site visit and Members are to meet on site.

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. 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 6 April 2016 at 5.00 pm.**

Filming, Recording or Webcasting Meetings

Please note this meeting may be filmed and webcast or audio recorded and that includes any registered public speakers, who have given their permission. The broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if sound recorded, this will be uploaded onto the Council's website following the meeting.

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

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at https://www.york.gov.uk/downloads/file/6453/protocol_for_webcasting_filming_and_recording_council_meetingspdf

3. Plans List

To determine the following planning applications:

**a) Groves Chapel, Union Terrace, York YO31 7WS
(15/02833/FULM) (Pages 3 - 36)**

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 [Guildhall]

**b) Groves Chapel, Union Terrace, York. YO31 7WS
(15/02834/LBC) (Pages 37 - 48)**

Internal and external alterations in association with change of use of existing building 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 [Guildhall]

c) Fossbank Boarding Kennels, Strensall Road, York YO32 9SJ (15/02843/FUL) (Pages 49 - 72)

Demolition of existing kennels, stables quarantine and cattery buildings, erection of 4no. detached dwellings with garages, and provision of new access road from existing driveway [Strensall]

d) Bicis Y Mas, 59-63 Walmgate, York YO1 9TG (16/00012/FUL) (Pages 73 - 82)

Use of rear yard for cafe seating associated with existing retail use. [Guildhall] [Site Visit].

4. 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 (Polish)
własnym języku.**

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 6 April 2016****N.B. NO MINIBUS - MEMBERS TO MEET ON SITE**

TIME (Approx)	SITE	ITEM
10:00	Bicis Y Mas 59 - 63 Walmgate	3d

This page is intentionally left blank

COMMITTEE REPORT

Date: 07 April 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 from 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.

1.9 The application was on the agenda to be considered at the 10 March 2016 Area Planning Sub-Committee but was deferred to the 7 April 2016 meeting so that the application could be considered alongside the Listed Building Consent application relating to the proposed changes (15/02834/LBC).

1.10 This report is unchanged with the exception of section 3.0 which relates to consultation comments received. Formal comments received following the completion of the report for the March committee have been integrated in to this section of the report.

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 33 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.
- It is the proposed S106 payment that makes the scheme acceptable.

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 highways 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 data from the stores in Cardiff and Sheffield used to predict visitor numbers is of limited value as they relate to stores that differ in size from that proposed in the Chapel.
- 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. It is a very dangerous crossroads.
- 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.
- The consultant's auto track diagrams should be verified for accuracy and the width of delivery vehicles clarified.
- Has a traffic survey been undertaken covering 2 weeks?
- Disagree with the statement in section 3.9 of the report for the 10 March Planning Sub-Committee that the increase in customers arriving by car will not be perceptible.

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/lead to hearing loss. 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.
- The proposed 07.00 to 23.00 delivery time is too wide and will harm amenity, including occupants of nearby bedrooms. Deliveries should be restricted to between 10.00 to 16.00. Delivery restrictions equivalent to those in the city centre should apply.
- Has a delivery noise survey been undertaken?

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.
- The Conservation Area's Advisory Panel's comments in section 3.20 of the report for the 10 March Planning Sub-Committee are just opinion and designed to influence Committee.

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. Disagree with section 4.45 of the report for the 10 March Planning Sub-Committee as the proposal may affect delicatessens and specialist shops in Gillygate.

- There are already 4 off-licences in the Groves area. If the scheme is approved there is not enough trade to support them all.

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.
- Has an air pollution forecast been undertaken? The issues raised in section 3.6 of the report for the 10 March Planning Sub-Committee are not supported by facts.

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. Consider such a use is viable. 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 – this should not be the sole consideration. Suggest it should be made available for the Hope Centre to restore and utilise. There is a demand for additional community space in the area.

Home value

- If homes are devalued will owners be compensated?

Rachael Maskell MP

The Groves chapel is a beautiful building and everyone wants to see it brought back into use.

A solution should be found between the developers, hospital and church which is economically viable and has community/health benefits. Feedback has been received from a number of people. One resident welcomed the proposal by Sainsbury's, but a number of concerns have been raised. These relate to increases in traffic on Union Terrace, street safety, parking, noise (including harm to sleep), pedestrian safety, harm from vehicle emissions, damage to homes from vibrations, the sale of alcohol, impact on existing retail businesses and the loss of access to residents' parking.

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 applicants 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 applicants 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

5.1 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;

- i) A widening of the existing footway to the site frontage by 0.5m and dedication of this land as public highway,
- ii) 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,

- iii) 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,
- iv) 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:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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_{ax} 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 (LA_{max} (f)) and average sound levels (LA_{eq}), 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 bowsters 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)

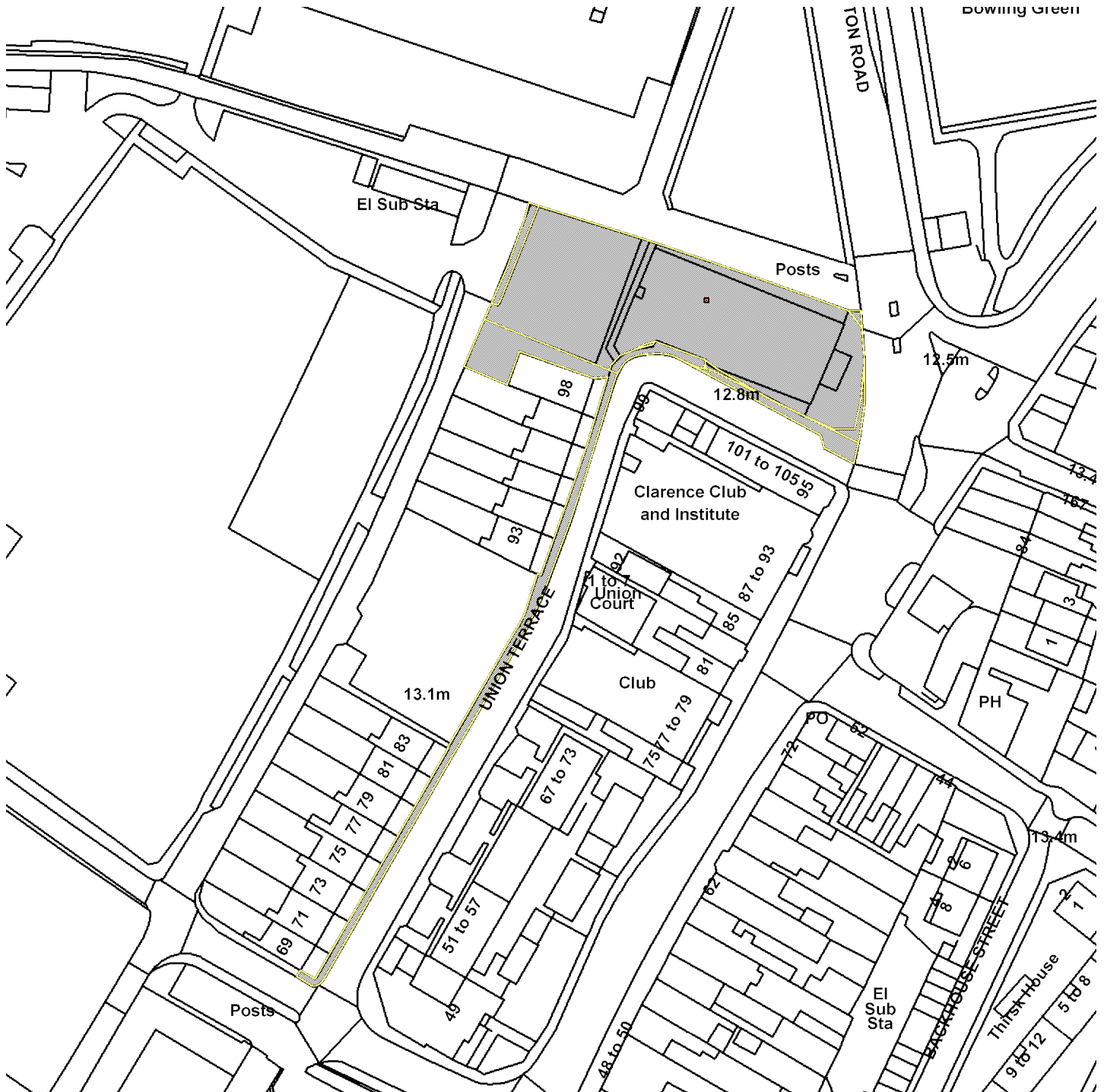
Tel No: 01904 551352

Groves Chapel, Union Terrace

15/02833/FULM



Bowling Green



Scale : 1:1059

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	CYC
Department	Not Set
Comments	Site Plan
Date	29 March 2016
SLA Number	Not Set

This page is intentionally left blank

COMMITTEE REPORT

Date: 07 April 2016 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 15/02834/LBC
Application at: Groves Chapel Union Terrace York YO31 7WS
For: Internal and external alterations in association with change of use of existing building 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: Listed Building Consent
Target Date: 8 April 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 Listed Building Consent is sought for alterations in connection with the proposed conversion of the Chapel to a retail store.

1.2 It is proposed to convert the ground floor of the chapel buildings into a convenience store, the upper floor of the former “school rooms” would become two apartments, and a new 4-storey plus attic extension containing 14 apartments would be linked to the rear following demolition of the 1950s extension. The gallery of the chapel would be “moth-balled”.

1.3 A separate planning application has been submitted to address the non-Listed Building Consent issues and will be considered at sub-committee.

2.0 POLICY CONTEXT

2.1 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government’s planning policies and is material to the determination of planning applications. The sections in the NPPF most relevant to this proposal include Chapter 12: Preserving and enhancing the historic environment. The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed.

Draft York Local Plan (2014) Publication Draft

2.2 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:

Policy D5: Listed buildings

Policy D9: City of York Historic Environment Record

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:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Listed Buildings: Groves Chapel Grade 11

2.4 Policies:

CYHE4 Listed Buildings

3.0 CONSULTATIONS

INTERNAL

Planning and Environmental Management (Conservation Architect)

3.1 The 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. The mixed retail and residential scheme proposed would sustain the significance of the heritage asset and put it to viable use consistent with its conservation. It would preserve the important characteristics of the building that remain, and as such there would be no further adverse effect on the special architectural and historic interest of the building.

3.2 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.

3.3 Due to the low return on the chapel spaces and the extent of repair required, the linked new build element is necessary to subsidize the whole scheme. Its location and design would respect the separate identity and principal views of the chapel buildings.

EXTERNAL

Historic England

3.4 No comments to make.

Conservation Areas Advisory Panel

3.5 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.

3.6 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.

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

Publicity and Neighbour Notification

3.8 Neighbours were consulted on 24 December 2015. A site notice was erected on 15 January 2016.

3.9 Three letters have been received referencing the listed building consent application number, though issues relating to the conversion are touched upon by others in regard to the full application. A representative of the Hope Centre has written to object and has included letters from 21 people opposed to the conversion works proposed by the applicant. The content of the individual letters are included and summarised within the full application.

3.10 The concerns raised by residents in respect to the actual parameters of the Listed Building Consent application are that:

- The proposal does not restore the building. The proposal will harm it. There are uses such as worship which could fully restore the chapel. Church and community groups can not compete with commercial interests, but if commercial uses are deemed unacceptable church and community groups may have the ability to restore the chapel. Options to restore the chapel as a community resource should be explored.

- The works may safeguard the upper floor of the chapel, but it will be hidden away.

4.0 APPRAISAL

4.1 The key issue is the impact on the special architectural and historic importance of the listed building.

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

4.2 Section 16 requires the Local Planning Authority when determining Listed Building Consent 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.

4.3 Case law has made clear that when deciding whether harm was outweighed by the advantages of a proposed development, the decision-maker must give particular weight to desirability of avoiding such harm. There is a “strong presumption” against the grant of consent 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.

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

4.5 Chapter 12 of the National Planning Policy Framework (NPPF) considered the conservation and enhancement of the historic environment. It explains at paragraph 131 that in determining planning applications for heritage assets, consideration should be given to sustaining and enhancing their significance and putting them to viable uses consistent with their conservation; the positive contribution that their conservation can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness.

4.6 Paragraph 132 states that when considering the impact of 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. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. . Caution is advised when carrying out this balancing exercise, in that any harm (even where less than substantial) must be given considerable weight and importance by virtue of the statutory duty imposed on the Local Planning Authority by Section 16 of the 1990 Act.

4.7 The existing building is in a poor state of repair. It has not been used as a chapel since the early 1970's and has been partly subdivided internally to create office and storage. The changes that have taken place are crude in form and the building is generally underused. The building provides a poor working environment as office space and should it become vacant the listed building would be at risk, given the condition of the roof and exterior.

4.8 The proposed internal and external changes to the building are considered to be sensitive given the constraints of the building's form and its poor condition. It is considered that there are few viable options in terms of delivering a proposal that allows for the repair and upkeep of the building in a way that sustains the significance of the heritage asset.

4.9 The developer's originally sought to create apartments within the gallery level of the chapel area. However, this was discouraged as it was considered essential to retain this as one space. The developer as a result has proposed to make the space water tight and 'moth-ball it'. Moth-balling is a last resort but enables the space to be inspected, viewed and opened up should the opportunity arise.

4.10 In the light of the poor condition of the building and the less than sensitive internal alterations that have taken place over that last 40 years it is not considered that the proposed scheme would in the context cause harm to the heritage asset. It is noted that the exterior of the chapel will be sensitively repaired.

4.11 The rear extension is modern in form though has a degree of harmony in terms of scale, fenestration and materials. It is considered that the proposed flats and the associated linking structure appear sufficiently visually separate to the chapel building to not undermine key views of the building.

4.12 It is considered that the proposals taken as a whole and within the context of the internal and external condition of the building would have a neutral impact on the special historic and architectural interest of the listed building. In considering this, regard is given to the fact that the moth-balling of the gallery is reversible.

4.13 It is noted that the Hope Centre has set out a vision for re-using the building as a place of worship and community centre and that objectors have stated that there is a demand for more community meeting space in the local area. It is unclear if the building were renovated for a community and/or religious use whether it would result in a better scheme in respect to the impact on the listed building. However, it is not considered that the issue of whether alternative uses for the building exist, or whether they are viable, needs exploring when considering the merits of the submitted Listed Building Consent application. This is because it is considered that the scheme as proposed by the applicants does not conflict with advice in the NPPF regarding conserving and enhancing heritage assets.

5.0 CONCLUSION

5.1 The proposals would secure a long term use for the chapel building. This is central to ensuring it retains a landmark building. The building has much deteriorated over recent decades and has been subject to a number of insensitive internal alterations. The proposals are comprehensive and re-model the interior of the building. They do however, respect its general form.

5.2 It is considered that the works whilst creating a new long term use for the building have an overall neutral impact on its special historic and architectural character.

6.0 RECOMMENDATION: Approve

1 TIME L2 Development start within 3 yrs (LBC/CAC)

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 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 (subject to enlarged fan-light).
- b) New delivery and staff entrance door into retail store.
- c) Details of how vents would be formed in the end wall.

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) Metal 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: Because of the special interest of the listed building in accordance with Policy HE4 of the Local Plan.

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

Reason: Because of the special interest of the listed building in accordance with Policy HE4 of the Local Plan.

5 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: Because of the special interest of the listed building in accordance with Policy HE4 of the Local Plan.

6 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: Because of the special interest of the listed building in accordance with Policy HE4 of the Local Plan.

7 A level 2 photographic survey in accordance with guidance set out in Understanding Historic Buildings a guide to good recording practice Historic England Feb 2006 shall be submitted to and approved in writing by the Local Planning Authority prior to any demolition works.

Reason: To record appropriate features of the Listed Building.

8 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used 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.

9 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.

7.0 INFORMATIVES:

Notes to Applicant

Contact details:

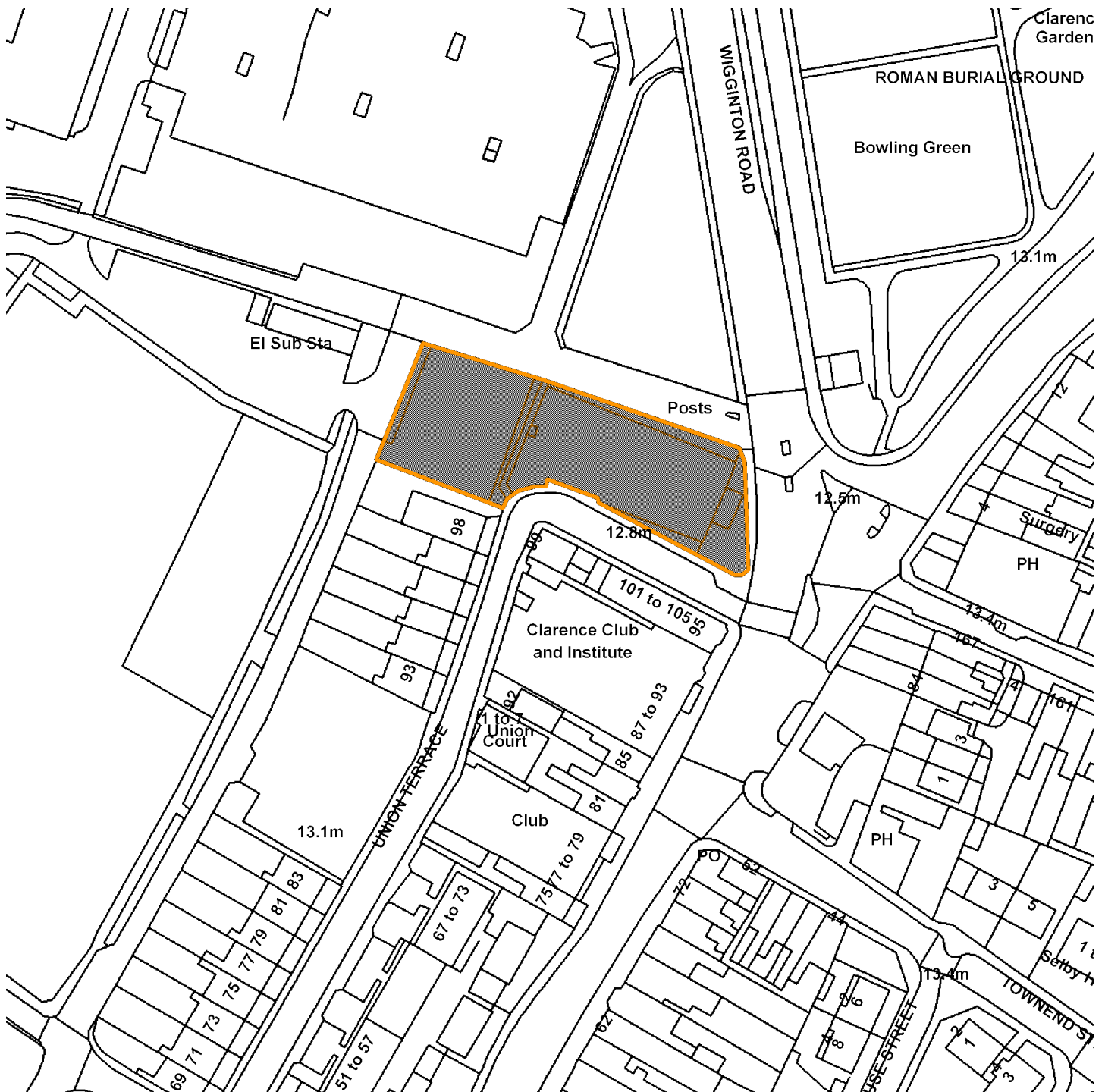
Author: Neil Massey Development Management Officer (Mon/Tue/Fri)

Tel No: 01904 551352

This page is intentionally left blank

Groves Chapel, Union Terrace

15/02834/LBC



This page is intentionally left blank

COMMITTEE REPORT

Date: 7 April 2016
Team: Major and Commercial Team

Ward: Strensall
Parish: Earswick Parish Council

Reference: 15/02843/FUL
Application at: Fossbank Boarding Kennels Strensall Road York YO32 9SJ
For: Demolition of existing kennels, stables, quarantine and cattery buildings, erection of 4no. detached dwellings with garages, and provision of new access road from existing driveway
By: Mrs A & M Royle & Barker
Application Type: Full Application
Target Date: 13 April 2016
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application seeks full planning permission for the erection of four detached houses following demolition of existing single storey outbuildings. The houses would be located to the south and west of the existing dwellinghouse. This house falls outside the application site boundary as does the paddock land to the front of the site with the exception of the section proposed for the new stretch of driveway and SUDS pond.

1.2 The houses would have habitable space over two floors with the upper storey being accommodated within the roof space. The properties are of two different designs. Plots 1 and 3, located to the south of the existing house and centrally between the three remaining proposed properties, would each have 3 bedrooms and a detached single garage. Plots 2 and 4, located to the north and south of the run of three properties to the rear of the existing house, would each have 4+ bedrooms and detached double garages. The submitted drawings do not confirm living accommodation. The materials of construction would be timber finished clad walls and profiled tiled lightweight metal roofing system with timber windows and doors.

1.3 All houses would be accessed via the existing private driveway from Strensall Road to the front of the existing house, after which a newly created driveway would run diagonally across the paddock in front of the existing house and would then wrap around the southern and western site boundaries of the existing house. Individual driveways would be served by this private access road. A pond next to the access driveway to the east of plot is being considered by the applicant 1 to deal with surface water discharge. The existing house would retain its private driveway running along its northern elevation.

The existing reception and grooming parlour serving the business, located immediately to the west of the existing house, falls outside the application site boundary, but would be converted into three garages to serve Foss Bank house.

1.4 A Design and Access Statement including a sustainability statement, has been submitted to support the application. This sets out the planning history and an assessment of the proposal. It concludes that the proposals would remove the noise issue associated with the kennels and cattery, whilst having no impact on surrounding properties or any overlooking or loss of privacy to surrounding properties. It confirms the applicant's intention to utilise the orientation of roofs to accommodate photovoltaic panels and the possible use of ground or air source heat pumps.

2.0 POLICY CONTEXT

1. Yorkshire and Humber Regional Spatial Strategy – Green Belt policies YH9(C) and Y1 (C1 and C2);

2. National Planning Policy Framework (March 2012)

3. 2005 Draft York Local Plan (4th set of changes). Relevant policies include:

- CYSP6 – Location Strategy
- CYGP1 - Design
- CYGP4A – Sustainability
- CGP15A - Development and Flood Risk
- CYGB1 - Development within the Green Belt
- CYGB6 – Housing development outside settlement limits
- CYNE1 – Trees, woodlands, hedgerows
- CYNE6 – Species protected by law
- CYNE7 – Habitat protection and creation
- CYH2A – Affordable housing
- CYH3C – Mix of dwellings on Housing Site
- CYH4a – Housing windfalls
- CYH5A – Residential Density
- CYT4 - Cycle parking standards
- CYL1C – Provision of New Open Space in Development

4. Draft York Local Plan (2014) Publication Draft – relevant policies include:

- DP2 – Sustainable Development
- DP3 – Sustainable Communities
- SS1 – Delivering Sustainable Growth for York
- SS2 – The Role of York's Green Belt

- D1 – Landscape and Setting
- D2 – Placemaking
- G14 – Trees and Hedges
- GB1 – Development in the Green Belt
- CC2 – Sustainable Design and Construction
- ENV4 – Flood Risk
- T1 – Sustainable Access

3.0 CONSULTATIONS

3.1 The application was publicised by the display of a site notice and notification letters to statutory consultees and adjacent owners/occupiers. The consultation period expired on 26.2.16.

INTERNAL

DESIGN CONSERVATION AND SUSTAINABLE DEVELOPMENT

(i) CITY ARCHAEOLOGIST

3.2 This application site covers an area of relatively undisturbed ground to the north of Earswick. The site may potentially contain archaeological features relating to a prehistoric-Romano-British landscape and/or medieval and post-medieval agricultural practices. It is possible that excavations for the foundations of the proposed dwellings and associated service connections may reveal or disturb archaeological features or deposits. It will be necessary to record any revealed features and deposits through an archaeological watching brief on all groundworks. Requests condition ARCH2.

(ii) COUNTRYSIDE AND ECOLOGY OFFICER

3.3 From the photographs of the site and consideration of the surrounding habitat, the buildings to be demolished have potential to support roosting bats. From looking at the file, this was raised in the 2009 application 09/01956/OUT and in the pre-application advice provided in January 2015.

3.4 As protected species are a material consideration, this application cannot be determined without further information on the presence/absence and potential impacts on bats. A preliminary roost assessment can be undertaken at any time of the year; however emergence surveys are restricted to May - September.

PUBLIC PROTECTION

3.5 The application is for the construction of four dwellings on proposed development site which is located on an existing commercial/residential site which

has been occupied as a boarding kennels for a number of years. The existing use of the site has been the subject of a number of complaints about statutory noise nuisance due to dog barking from the kennels which culminated in City of York Council serving a noise abatement notice on the proprietors in September 2013. The noise abatement notice is still active and prohibits the recurrence of noise nuisance due to dog barking.

3.6 As a result of the above, Public Protection consider that the proposed new dwellings would result in the removal of any further noise nuisance affecting residential properties in the vicinity and so would support the application from this perspective.

3.7 In terms of the impact of noise from the surrounding area on the proposed dwellings, a few concerns are raised even though there is a pig farm located to the north east of the site, at a distance of approximately 250 metres away, at Hall Farm.

3.8 There have been objections by members of the public and note that an objection has been received by the owners of Hall Farm, where it is stated that an intensive pig farming operation is undertaken. The concerns relate to the potential impact of noise and odour from their operations as they state that they currently have 2,000 pigs on their farm. Only 4 historical complaints have been received according to the Council's records of noise and odour complaints about their operations. Two of the complaints related to odour associated with muck spreading on the fields around the farm and the other two complaints regarding noise from the sounding of a high level alarm which was indicating that one of the pig units was overheating.

3.9 Given the stated number of pigs at Hall Farm, the Environment Agency has been consulted, as farms which have more than 2,000 pigs require and environmental permit to operate. The Environment Agency has confirmed that they have no record of complaints regarding the farm or of an environmental permit being in operation. As a result of the above, the potential for loss of amenity due to odour or noise from Hall Farm affecting the proposed four new dwellings is low.

3.10 The objector states that they have no objections to the principle of development but are concerned over the potential for complaint in the future. It cannot be ensured that the intensive pig unit would not be subject to complaints from future residents. However historic complaints would indicate that this would be unlikely, particularly given that Foss Bank Farm is already occupied as a residential property at a similar distance to the proposed new houses.

3.11 In terms of contaminated land, requests that a condition be attached to any permission granted due to potential for contamination associated with the former uses of the land.

3.12 In accordance with paragraph 35 of the NPPF and the Council's Low Emission Strategy (October 2012), the environmental protection unit would recommend that a condition be placed upon any approval given requiring an electric vehicle charge point.

HIGHWAY NETWORK MANAGEMENT

3.13 Request deferral to allow revised plans showing larger garages to accommodate modern vehicles and cycle storage and the highway access to be 5m wide for a 10m length from the back of the verge. A bin collection at the site entrance though within the property curtilage is requested as turning within the site would not accommodate a refuse vehicle turning. A more detailed plan of the entrance is required to show that the piers, trees, relationship of the bin collection point and sightlines achievable can be assessed.

EDUCATION

3.14 No requirement.

PUBLIC REALM AND SPORT AND ACTIVE LEISURE

3.15 Off site play, amenity and sports pitch payments are required and will be used within the Earswick Parish Council area.

HOUSING DEVELOPMENT

3.16 Requests an affordable housing contribution of £34,700.70 if applicable to meet the interim policy.

EXTERNAL

EARSWICK PARISH COUNCIL

3.17 Support.

LOCAL RESIDENTS

3.18 Hon Alderman Richard Watson writes in support of the application. He sets out the history of the site referencing the allegations of noise from the site, describes the proposal that he considers to be very carefully thought out and explains that the proposed development would not adversely affect the two purposes of the Green Belt at this juncture being protecting the setting of the approach to the City and preventing coalescence and would remove a land use conflict.

3.19 Emails of support submitted by the applicant and the applicant's husband, Andrea Royle and Stephen Royle of Foss Bank Farm, making the following points:

- 15 to 20 vehicles attend the premises daily attending the premises dropping dogs in and out along with grooms etc.
- A noise abatement notice is in force on the kennels, served by York City Council, with the threat from York Magistrates Court of a £20,000 fine should the order be breached, which would mean inevitable closure;
There has been a letter drop for people to object to this development on the grounds of traffic overload, sustainability and pollution;
The proposal for 4 dwellings would half the amount of cars and get rid of the noise irritant;
- Intention is to develop the site in order to re-locate my family business in order to remove the ongoing noise abatement order;
- Residents from Earswick Chase (Fosslands) have complained of noise from barking dogs, coming from Foss Bank Kennels;
- Application is for a very small re-development of 4 properties, on land where buildings already stand, would remove a nuisance, would remove any prospect of criminal prosecution and would enable Foss Bank Kennels to re-locate.

3.20 There have been 44 emails of support from residents of York (including Earswick, Strensall, Huntington, Wheldrake, Stockton on the Forest, Naburn), Alne, Harrogate, Bradford, Saltburn-by-the-Sea and Scotland (former Councillor Richard Moore), some of whom are customers of the Kennels/Cattery, including the following comments:

- Impact of noise abatement notice on family run business, causing stress to proprietors and forcing them to relocate business;
- Access already present and proposal would result in reduction in traffic flows as business replaced by only four houses;
- Four houses would be better for neighbouring properties as removes noise from barking dogs;
- Proposed development would be sympathetic to local area;
- Proposal is only small scale and would incorporate landscaping and green areas;
- There would be no encroachment on existing open space or land that is not already in use with buildings;
- Development would not put any pressure on local amenities or infrastructure;
- Similar type of development to that of existing farm buildings further along Strensall Road;
- Proposal would provide much needed housing in the greater York area;
- Kennels are valued local amenity that has been in operation long before the neighbouring properties were built and claims of noise pollution are exaggerated and unjustified;
- Garden Village development, approved in 2003, establishes precedent for development on another part of the same site;

- There would be no visual or openness disamenity and the site is brownfield land;
- Development can be undertaken using sustainable techniques and the site is on a regular bus route;
- Site is in flood zone 1 and a retention pond for surface water drainage is supported as it would reduce the amount of water entering the public drainage system;
- Removal of noise nuisance that impacts on residential amenity;
- Access and parking addressed and there would be little traffic movement;
- Potential for bats can be addressed by a bat survey with measures taken to accommodate bats in the new development;
- Unreasonable that an existing operation has to take remedial action to address an issue that was known when the neighbour purchased their property knowing that the operation existed.

3.21 Two letters received on behalf of the Keep Earswick Rural Action Group, making the following objections and comments:

- The proposed development is an encroachment onto Green Belt land;
- The 'very special circumstances' test set out in NPPF has not been met;
- The proposal breaches the special planning rules for development of existing farm buildings;
- The changes would adversely affect the landscape character and visual amenity of the area;
- Vehicular access to the site will compromise road safety;
- Additional properties will overload the already strained drainage and sewage infrastructure;
- Concerned application is a precursor to incremental perimeter development on the outskirts of Earswick;
- Submitted Counsel opinion that confirms that: the proposal is inappropriate development in the Green Belt for which very special circumstances must be demonstrated; the officer's response letter shows that the Council recognises the severity of the test the applicant must pass; the planning system does not exist to guarantee a landowner value in their land and 'compensating' a landowner is not a very special circumstance; any grant of planning permission could be challenged as it would be unlawful.

3.22 There have been 36 objections received from local residents, including the following grounds:

- The proposed development is on Green Belt land, would lead to coalescence and there are no 'very special circumstances' to justify encroachment onto Green Belt;
- The layout designs extend beyond the historical footprint of the Fossbank Kennels and therefore do not satisfy the special planning rules for development of farm buildings;
- This application is essentially (albeit larger) than two earlier applications, both that were rejected because of the Green Belt and nothing has changed

- Development would be readily visible from many vantage points and would detract from the open character and appearance of the site, causing harm to Green Belt, landscape and visual amenity of area;
- There is plenty of brown sites in an around York to build on;
- Impact of access to Strensall Road adds to the possibility of accidents as cars speed from the north and the proposed entrance is much nearer than the current garden village;
- Concerned this is just the start of a larger development which could infill the space between it and Strensall Road causing greater issues in terms of traffic safety, additional traffic on what is already an extremely busy route onto the inner ring road.
- The noise nuisance raised in 2011 and again in 2013 can be adequately dealt with by sound proofing buildings, erecting acoustic fencing and revising management practices at the kennels;
- An attempt to raise capital to facilitate relocation is not a sufficient justification to offset the harm that would be caused to the Green Belt by this inappropriate development.
- Expresses sympathy with kennel owner, but proposal is not a logical conclusion;
- Supporting views are from kennel customers who would not be visiting the area if the kennels are moved;
- Traffic will increase at peak times on the Strensall road heading to the ring road as the new premises will increase traffic at this time, compared to the current kennel traffic which will be more dispersed throughout the day.
- The exit to the proposed development is very close to the speed reduction signs and as such traffic is not always obeying the 30mph limit as they have been travelling at 60mph up until this point.
- Extra run-off into River Foss will increase flood risk and the sewage system is already overstretched;
- Lack of supporting infrastructure in Earswick with no shops, pubs, or schools;
- The expansion of the footprint of the development on green belt land without special circumstances would be setting a precedent;
- Initial results of Earswick's Neighbourhood Planning process strongly suggests that villagers do not want the village to be developed.

3.23 One email from a local resident, neither objecting nor supporting the proposal, but making the following points: - Advised to object based on Green Belt retention, but on the other hand the replacement of the old kennel building with modern ones is a good thing. Understands concern about opening the door to other constructions.

4.0 APPRAISAL

4.1 The key considerations material to the determination of the application are:

- Principle of development
- Green Belt policy

- Openness and purposes of Green Belt
- Character and appearance
- Flood risk
- Highway safety
- Residential amenity
- Ecology
- Archaeology
- Local facilities
- Other considerations

POLICY CONTEXT

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. These policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

4.3 Central Government guidance is contained in the National Planning Policy Framework (NPPF, March 2012). Paragraph 7 of the National Planning Policy Framework says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Footnote 9 of paragraph 14 contains restrictions where this presumption in favour of sustainable development does not apply, including land designated as Green Belt. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as seeking high quality design and protecting Green Belt.

4.4 Section 6 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development (paragraph 49), with housing in rural areas being located where it will enhance or maintain the vitality of rural communities (paragraph 55).

4.5 Section 7 of the NPPF requires good design. At paragraph 56, it says that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

4.6 Section 9 'Protecting Green Belts' says that the essential characteristics of Green Belts are their permanence and openness (paragraph 79).

Paragraph 80 sets out the purposes of Green Belt. These are to check unrestricted sprawl of large built up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and, to assist in urban regeneration. Paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. With regard to new buildings, paragraph 89 states that the construction of new buildings is inappropriate in Green Belt unless it falls within one of the listed exceptions.

4.7 Section 10 'Meeting the challenge of climate change, flooding and coastal change offers advice on locating new development to avoid increased flood risk.

4.8 Section 11 'Conserving and enhancing the natural environment' says that the planning system should contribute to and enhance the natural environment by, amongst other things, minimising impacts on biodiversity and providing net gains in biodiversity where possible as well as preventing adverse affects on pollution and land instability.

4.9 Section 12 'Conserving and enhancing the historic environment' requires local planning authorities to recognise the significance of heritage assets and conserve them in an appropriate manner.

4.10 The City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Its policies are material considerations in the determination of planning applications, although it is considered that their weight is limited except when they are in accordance with the NPPF. The relevant policies are summarised in section 2.2 above. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are GP1 'Design' and GB1 'Development in the Green Belt'.

4.11 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).

SITE AND HISTORY

4.12 The application site is located on the west side of Strensall Road, between the settlements of Earswick and Strensall. It comprises an area of land 4,715sq.m. at the end of a 290m long (approximately) private driveway. The driveway currently serves the dwellinghouse, known as Foss Bank, the paddocks and stables and a kennels/cattery business that occupy a collection of single storey buildings to the rear of the existing house.

Only the single storey, L-shaped building housing the kennels and the quarantine building fall within the application site boundary. The kennel building is of brick and tile construction and follows the site boundaries at the north-western corner of the site. The quarantine building is also a single storey structure adjacent to the cattery building. The remainder of the application site is exercise space serving the kennels or orchard. The site is landscaped on its boundaries and within it, including a line of evergreen trees along the boundary between the kennels and the existing house.

4.13 To the north of the site are open fields and Hall Farm - an intensive pig farming operation. To the south is a field that separates the site from a large more modern housing estate, which is an extension to the Earswick settlement that falls within its defined settlement limit. To the west is open land used as a playing field/play area and beyond this the River Foss. To the east, beyond the original house and its paddock, is Strensall Road, with a row of houses on its eastern side.

4.14 The kennels and cattery business has been present at the site for many years and pre-dates the housing estate to the south. There have been previous pre-application enquiries and two outline planning applications relating to development of the site for housing.

4.15 Most recently, outline planning permission (09/01956/OUT) was refused at Committee in 2010 for three new houses on the grounds that the proposal constituted inappropriate development for which there was no compelling benefit that clearly outweighed harm.

4.16 Subsequent to this, a pre-application enquiry was submitted in 2014/2015. This concluded that the proposal would only be supported if compelling evidence could be provided that constitutes the very special circumstances to clearly outweigh definitional and other identified harm to the Green Belt. Advice was given as to the information/evidence that could be submitted to support the applicant's case. The need for a bat survey of the buildings to be submitted with any application for the site was highlighted in the response.

PRINCIPLE OF DEVELOPMENT

4.17 Whilst the RSS has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates the general extent of the Green Belt around York. These policies comprise the S38 Development Plan for York. The policies in the RSS state that the detailed inner and rest of the outer boundaries of the Green Belt around York need to be defined to protect and enhance the nationally significant historical and environmental character of York. The Key Diagram of the RSS and the 2005 Draft Local Plan proposals map identify the site within the general extent of Green Belt. The site is considered as having Green Belt status when assessing the merits of the proposed development against the National Planning Policy Framework and Guidance, relevant local plan policies

and other material considerations. In accordance with footnote 9 to paragraph 14 of the NPPF, the usual presumption in favour of sustainable development established by the NPPF does not apply in Green Belt locations. Instead, the more restrictive policies in section 9 of the NPPF apply.

GREEN BELT POLICY

4.18 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. 'Openness' is considered as meaning an absence of built development. Paragraph 80 sets out the five purposes of the Green Belt:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and,
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.19 Paragraph 88 of the NPPF establishes that 'substantial weight' should be given to any harm to the Green Belt. Paragraph 87 states that inappropriate development that is, by definition, harmful to the Green Belt, should not be approved except in 'very special circumstances'. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

4.20 In terms of the Green Belt status of the site, the main considerations are:

- whether the proposal constitutes inappropriate development in the Green Belt;
- its effect on the openness of the Green Belt and the purposes of including land within it;
- if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

4.21 Paragraph 89 of the NPPF states that the construction of new buildings in Green Belts is inappropriate development, unless it falls within one of the specified exceptions. One such exception is the complete or partial redevelopment of previously developed land, whether or not in use, providing it would not have a greater impact on openness of the Green Belt and the purpose of including land within it.

4.22 Whilst the proposal involves the complete redevelopment of the kennels business, it would have a greater impact on the openness of the Green Belt than the existing development. This is due to the replacement of two single storey outbuildings located to the rear of the existing house with four detached two storey houses and associated driveways and garaging. As such, the proposal constitutes inappropriate development that is, by definition, harmful to the Green Belt. In accordance with paragraph 88 of the NPPF, substantial weight must be attributed to this definitional harm by the decision maker.

IMPACT ON OPENNESS AND GREEN BELT PURPOSES

4.23 In addition to the harm by reason of inappropriateness, consideration also needs to be given to other harm to the Green Belt. The NPPF states that the essential characteristics of Green Belts are their openness and their permanence.

4.24 The site comprises land that surrounds an existing two storey dwelling house and that accommodates two single storey outbuildings. Two further single storey buildings, comprising a cattery and stables, are proposed to be removed. These are within the applicant's ownership, but fall outside the planning application boundary. The remainder of the site is undeveloped other than the single width access track. The land is divided by field boundaries and means of enclosure, such as around the kennels, and there are trees and planting within the area that is the application site. The site, in its wider context, reads as a single host dwelling within its own plot of land with related outbuildings. The kennel block and quarantine building are single storey and of low scale, and as such, there is limited visibility of them when viewed from Strensall Road and they are not prominent in views from the surrounding open land.

4.25 The proposal, on the other hand, would introduce four 1 ½ storey detached houses with associated garages that would be spread across the site as well as an increased level of domestication. The dwellings would be readily visible from publicly accessible vantage points, which would detract from the open character and appearance of the site.

4.26 Furthermore, the site was assessed as part of the York Green Belt Appraisal (February 2003), which acts as a key document for the Local Plan evidence base, and identifies significant areas of Green Belt as primary constraints against future development. This site was identified in the appraisal, along with a much larger area that extends north and south, as undeveloped land between the settlements of Earswick and Haxby that prevents coalescence and in doing so maintains their historic character and setting. As a result, the site was discounted as part of the Council's Strategic Housing Land Availability Appraisal, when it was put forward for consideration by the land owner.

4.27 The update to the Green Belt Appraisal undertaken as part of the preparation of a Local Development Framework and titled 'Historic Character and Setting Technical Paper, January 2011', considered whether to exclude the site of the former Foss Bank Farm and including the land between this and the housing estate to the south from the 'Area Preventing Coalescence' to allow to residential development. However, it concluded that as the gap between the settlements at this point is particularly narrow, any development in this area would have a significant impact and as such no change was made to the historic character and setting boundary.

4.28 The site has since been assessed as part of the preparation of the new Local Plan for the City. In the City of York Local Plan Preferred Options document (June 2013), the site at Foss Bank Farm remains within an Area Preventing Coalescence (figure 5.3) and within a Regional Green Corridor stretching north from Strensall to the City (figure 17.1). The site has considered again in 2014 as part of the City of York Local Plan Further Sites Consultation (June 2014) and the Site Selection Paper Addendum (September 2014), where it failed the assessment criteria in its access to residential services and as part of the site (the former Foss Bank Farm) was identified as a natural environmental asset that protects historic character and the regional green corridor. Whilst the Local Plan has not been adopted, the background documents have some weight as they have been through a consultation process and are an indication of the future local planning policy approach towards the site.

4.29 Therefore, in addition to definitional harm, it is considered that the proposal would cause further harm to the openness of the Green Belt, which would undermine the purposes of including land within it, namely checking unrestricted sprawl of large built-up areas, preventing neighbouring 'towns' merging into one another and preserving the setting of historic towns. This harm on openness should be afforded substantial weight by the decision maker.

CHARACTER AND APPEARANCE

4.30 The NPPF, at paragraph 64, advises against poor quality design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.31 The houses themselves are of an appropriate design to a rural location and the layout and density would not result in a cramped arrangement either with the existing dwelling or between the proposed houses. The lower height would help to reduce the visual impact of the buildings on the general appearance of the site when viewed from outside. Nevertheless, the design of the buildings would not overcome the adverse impact the proposal would have on the character and appearance of the site. Where the current buildings on the site read as a host dwelling with ancillary outbuildings, the proposed development would be seen as a collection of houses

removed from the existing housing estate to the south and the ribbon development along Strensall Road and separated by the open fields that surround the site. This would erode the rural character of the area.

FLOOD RISK

4.32 Paragraph 103 of the NPPF states that development should be directed to the areas of low flood risk and that development should not result in an increase of flood risk within the site or elsewhere.

4.33 The site falls within flood zone 1 and, as such, should not suffer from river flooding. The applicant was advised at pre-application stage to submit a drainage report to demonstrate how foul and surface water would be discharged. The application form states that foul sewage would be discharged to a package treatment plant and surface water disposed of via a soakaway. A drainage document has been prepared by the architect and submitted in support of the application, but does not contain sufficient information to satisfy the Council's Flood Risk Engineer that surface water, in particular, could be adequately drained. In view of the lack of information provided with the application, a condition would be required to be attached to any approval.

HIGHWAY SAFETY

4.34 The NPPF encourages sustainable travel and the location of development in sustainable and accessible locations. The application proposes additional residential properties on a site isolated from local services, but on the public transport route from York City Centre to Strensall. The Council's Highway Network Management officer has requested amendments to the scheme, particularly the size of the garages, the access arrangements and provision for refuse storage. Revised plans have been submitted that increase the dimensions of the garages so as to fit a modern car and to widen the width of the access from Strensall Road. Further amendments are required including the provision of a roadside refuse collection area to serve the five houses that would be on site as refuse vehicles would not be able to access and turn within the site. Subject to these changes, the proposal is considered to be acceptable in highway terms.

RESIDENTIAL AMENITY

4.35 One of the core principles of planning outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants.

4.36 The nearest residential properties are located to the south of the site and form part of a large modern housing estate. They are at a distance of over 30m from the site and separated by a field.

The proposed houses would not have any impact on the nearby houses in terms of overlooking, overshadowing or increased sense of enclosure. Indeed, the removal of the existing commercial use and associated noise and its replacement with the domestic use of the land would benefit the local community.

4.37 The proposed houses, and retained host dwelling, would have sufficient private amenity space and parking to serve them. The arrangement of the dwellings would mean that adequate separation distances would be retained between the properties on site. The houses would be at a distance of approximately 250m of the pig farm located to the north of the site. Whilst there have been noise and odour complaints about the operations at Hall Farm, these have not related to the pigs themselves. It is also noted that the proposed houses would be no closer to the adjacent farm than the current host property at the site. In light of this, and the fact that the Environment Agency has received no complaints nor have record of an environmental permit being in operation for the farm, the Public Protection Officer considers that the potential loss of amenity to the proposed four new dwellings is low. The Public Protection Officer requests conditions covering contamination and electric vehicle charge points be attached to any approval.

4.38 In light of the above, no objections are raised to the proposal on the grounds of residential amenity and there would be negligible harm caused in this respect.

ECOLOGY

4.39 Paragraph 118 of the NPPF aims to conserve and enhance biodiversity, including the refusal of planning applications where development would adversely affect Sites of Special Scientific Interest, ancient woodland and European protected sites. The site does not fall within any of these designations.

4.40 The existing buildings at Foss Bank are considered to have the potential to support roosting bats, considering their construction and the surrounding habitat. The applicant has been advised as part of the pre-application enquiry to have a bat survey carried out to see if there is any evidence of occupancy or suitable habitat present and submit this survey, along with any proposed mitigation, with any application. No such survey has been undertaken. The applicant has written to confirm that such a survey would be carried out following the grant of planning permission. However, as a protected species, the presence of bats within the building is a material consideration and the application cannot be determined without information on the presence/absence and potential impacts on bats. The lack of this information, requested as part of the pre-application enquiry, is grounds for refusal.

ARCHAEOLOGY

4.41 Section 12 of the NPPF advises that planning should 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. Paragraph 131, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset's significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness. Paragraph 135 requires the effect of an application on the significance of a non-designed heritage asset to be taken into account in determining an application.

4.42 The City Archaeologist has identified the site as having the potential to contain archaeological features relating to a prehistoric Romano-British landscape and/or medieval and post-medieval agricultural practices. As such, the proposal may reveal or disturb these archaeological features and any deposits. Therefore, in line with advice in the paragraph 40 of the Planning Policy Guidance document that accompanies the NPPF, a condition requiring an archaeological watching brief on all groundworks has been requested by the City Archaeologist. Any harm to archaeological deposits and features can be adequately addressed and mitigated through the imposition of conditions.

LOCAL FACILITIES

4.43 The application proposes the introduction of four additional family sized properties to the area. The Council's Education Officer has confirmed that there would be no requirement for a commuted sum payment towards education facilities to cater for the additional children generated by the development if approved. The Council's Public Realm and Sport and Active Leisure Officer has requested a commuted sum payment towards off-site public open space (play and amenity space and sports pitches) in lieu of on-site provision. Based on the number of bedrooms proposed, this would equate to a figure of 8,426. The Council's Housing Development Officer has requested an affordable housing contribution of £34,700.70 to meet the interim policy. These matters could be covered by means of a legal agreement.

OTHER CONSIDERATIONS

4.44 Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development, unless other considerations exist that clearly outweigh identified harm to the Green Belt and which would amount to very special circumstances.

4.45 Whilst the applicant has not formally submitted a statement setting out the very special circumstances case as advised at pre-application stage, the design and access statement and letters provided by the applicant set out the following circumstances:

- the removal of a noise nuisance and the consequential benefits to the wider community;
- the impact that the noise abatement notice has had on the viability of the kennel business and the costs involved in relocation of the family business;
- the proposals relate to already developed land and would reduce the massing of the buildings on site and have a footprint slightly more than the buildings to be removed.

4.46 The previous application seeking outline consent for the erection of three homes to replace the kennels business was refused planning permission in 2010 on Green Belt policy grounds as well as the unsustainable location of the site. The applicant put forward at the time a case for very special circumstances being: the relocation of a 'bad neighbour' and the resultant benefits to residential amenity; the reuse of previously developed land; and, the visual improvement to the site. These were not accepted as sufficiently compelling to outweigh harm to the openness and purpose of the Green Belt.

4.47 Since the 2010 refusal, a noise abatement notice has been served by the Council against the operation of the kennels business, which the applicant claims has adversely affected the viability of the client's business. This is in terms of a reduction in the number of dogs, loss of a lucrative York City Stray Dogs contract and reduced opening times for drop off and collection. The applicant states that an appeal against the noise abatement order at the Magistrates Court failed, where it was accepted that the 'best practicable means' of management practises had been employed to address the noise nuisance. Sound proofing of the buildings was not considered to be a suitable solution by a sound proofing company as the noise was when the dogs were in the outdoor space not the kennels.

4.48 The removal of a potential noise nuisance and the consequential benefit this would have for local residents has been accepted by a Planning Inspector in an appeal outside City of York Council's boundary as being capable of constituting very special circumstances to be weighed in the balance when against restrictive Green Belt policy. The appeal decision related to the replacement of a kennels for 90 dogs and 60 cats with one modest dwelling. This application proposes the replacement of a business with 23 individual kennels and 14 individual cattery units with four dwellings.

4.49 The applicant was advised at pre-application stage to submit the following information/evidence to support any planning application in order to justify what was then the erection of three dwellings:

Application Reference Number: 15/02843/FUL

Item No: 3c

- The measures that have been employed/implemented by the applicant to address the noise complaints and overcome the abatement notices in order that the business can be viable;
- The recent marketing of the site to another user;
- An open book viability assessment of the value of the business, cost of relocation including information on alternative sites and likely development costs and sale value of the properties.

4.50 On the first point, the applicant has confirmed that the issue with the dogs barking is whilst they are outside the kennel building being exercised and, therefore, it would be difficult to attenuate the noise. Other measures adopted in the management of the business, including the reduction in the number of dogs and hours of drop off and collection, have not resolved the problem and have affected the viability of the business.

4.51 With regards the second point, the applicant has submitted estate agent documentation (prepared in 2008) when the site was marketed as a kennels, cattery, stables and office accommodation, but with potential for light industrial, office and commercial premises. The site was advertised for sale separate from the existing dwelling, which diminishes its attractiveness as an on-going business, regardless of the commercial use, due to its isolated location. Furthermore, the sale particulars reference that the land would be subject to a restricted covenant precluding the conversion of the buildings to residential use, thereby preventing the presence of a dwelling in connection with an alternative commercial (or rural business) venture. The applicant confirms that the kennels were marketed at a cost of £770 + VAT and that the only interest was from two property developers.

4.52 The applicant provides details of alternative premises that were on the market at the time of the pre-application enquiry and relate to properties with at least one dwelling on site with the associated buildings that either had established kennel/cattery businesses or the potential to be converted to such a use. These properties range from £625,000 for a dwelling with outbuildings in Strensall to £1.2 million for an established boarding kennels, stables and two three bedroom homes in the North Yorkshire Moors.

4.53 However, the applicant has confirmed recently that an assessment of development costs or sale values for the proposed properties has not been undertaken as it is considered to be too early in the application process. Therefore, whilst the personal situation set out by the applicant are acknowledged and could form part of a very special circumstances case for allowing some redevelopment of the site, there is no clear justification for the erection of four dwellings at the site and the consequential harm to the openness and purposes of the Green Belt previously identified.

4.54 Officers do not agree that the replacement of one single storey building, albeit 247 sq.m. (and 416.18m including the office, cattery and stable buildings), with four 1 ½ storey dwellings with detached garages would reduce the massing of structures on site. Whilst the site is previously developed, Green Belt policy would only allow redevelopment of such land, whether partial or complete, if there is no greater harm to openness, which officers have concluded above that the proposal would not satisfy this provision.

4.55 As a result of the above, the issues set out by the applicant to justify inappropriate development in the Green Belt are not of overriding weight, either individually or collectively, in the consideration of the application to clearly outweigh the identified harms to the Green Belt. Therefore the very special circumstances necessary to justify the development do not exist.

5.0 CONCLUSION

5.1 The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 88 of the NPPF, and by definition causes harm to the Green Belt. The proposed development would cause additional harm to the openness of the Green Belt and conflicts with the key purposes of including land within it set out in paragraph 80. The definitional harm and other harm to the purposes and openness of the Green Belt must be afforded substantial weight when applying the NPPF policy test – namely, that very special circumstances will not exist unless the potential harm to Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5.2 It is considered that the other considerations put forward by the applicant, when considered individually and collectively, are not compelling reasons sufficient to clearly outweigh the identified harm to the openness and purposes of the Green Belt and that the very special circumstances necessary to justify the development do not exist.

5.3 Furthermore, the applicant has not undertaken and submitted the necessary survey to assess the presence of, or impact on, a protected species, as advised at pre-application stage.

6.0 RECOMMENDATION: Refuse

1. Policies YH9 and Y1 of the Yorkshire and Humber Plan Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. The application site is located in Green Belt as identified in the City of York Development Control Draft Local Plan (April 2005) and forms part of an area preventing coalescence

between Haxby and Earswick. It is considered that the proposed development consisting of the direction of four dwellings and associated garages following the removal of single storey outbuildings, constitutes inappropriate development in the Green Belt as set out in Section 9 of the National Planning Policy Framework. As such, the proposal results in harm to the Green Belt, by definition, and harms the openness of the Green Belt and conflicts with the purposes of including land within it. No 'very special circumstances' have been demonstrated by the applicant that would clearly outweigh this harm. The proposal is, therefore, considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt land' and City of York Draft Local Plan Policy GB1.

2. The existing buildings at Foss Bank are considered to have the potential to support roosting bats, given their construction and the surrounding habitat. No survey has been undertaken to assess the potential occupancy. As such, there is insufficient information to allow the impact of the proposed development on this protected species to be fully considered. The proposal is, therefore, considered contrary to advice within the National Planning Policy Framework, in particular section 11 'Conserving and enhancing the natural environment' and City of York Draft Local Plan Policies NE6 and NE7.

7.0 INFORMATIVES:

STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

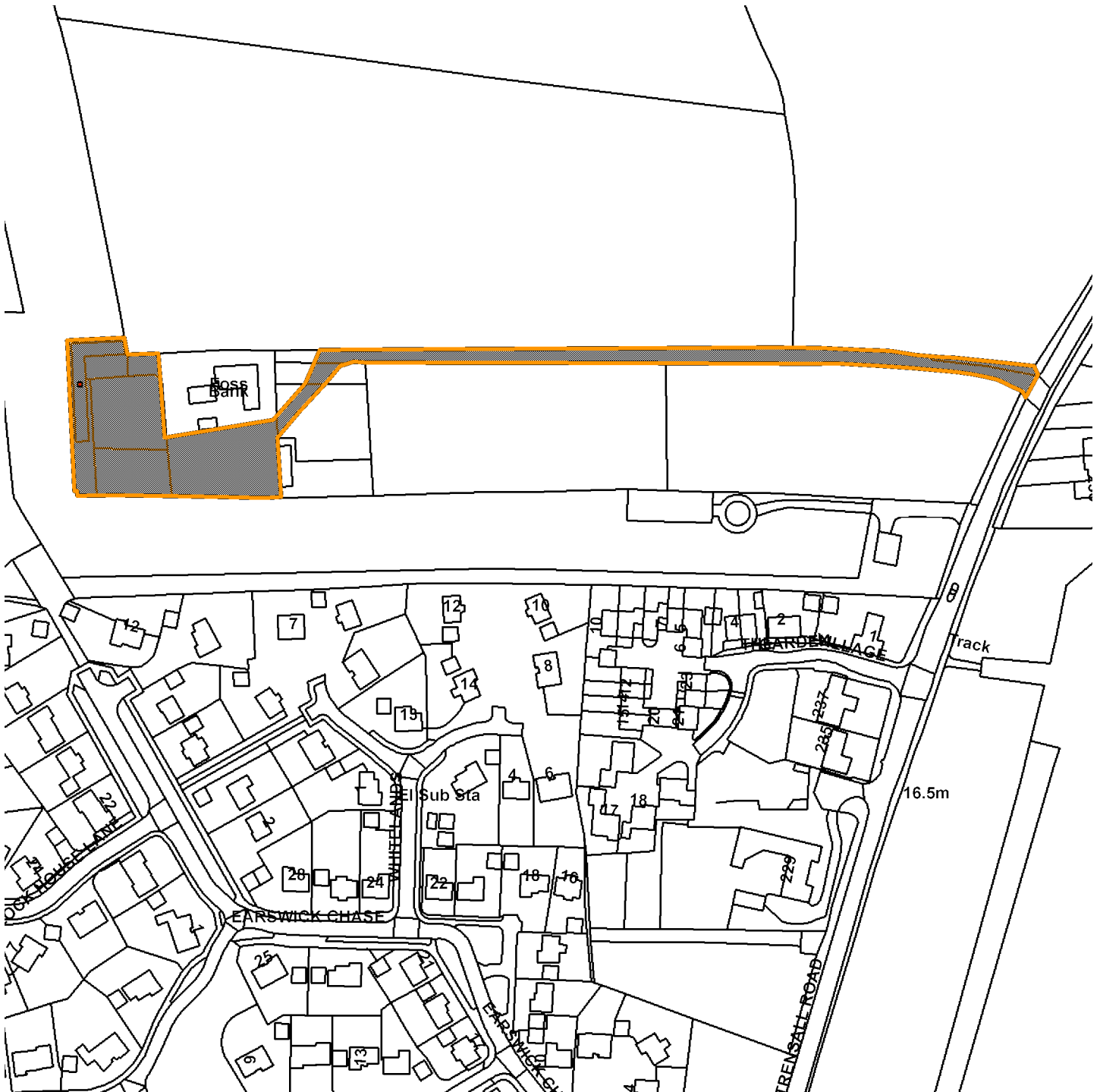
1. In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

Contact details:

Author: Hannah Blackburn Development Management Officer

Tel No: 01904 551325

This page is intentionally left blank



Organisation	CYC
Department	Not Set
Comments	Site Plan
Date	29 March 2016
SLA Number	Not Set

This page is intentionally left blank

COMMITTEE REPORT

Date: 7 April 2016
Team: Major and Commercial Team
Ward: Guildhall
Parish: Guildhall Planning Panel

Reference: 16/00012/FUL
Application at: Bicis Y Mas 59 - 63 Walmgate York YO1 9TY
For: Use of rear yard for cafe seating associated with existing retail use
By: Mr Ellis Thackray
Application Type: Full Application
Target Date: 17 March 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to the bike shop, cafe and cycle repair facility located on the corner of Walmgate and George Street. Despite the address the facility includes 2 George Street, where cycle repairs are undertaken. This was understood when the use was granted permission in February 2015, under application 14/01960/FUL. The associated outside yard is used for storage and provides an outside seating area for cafe customers. In the original permission the use of the outside area was controlled by planning conditions as follows -

- The use was to be for a trial period only, ending 31 Jan 2016
- There would be no more than 8 customers using the yard area
- The yard area would only be used between 0830 to 1800 Monday to Saturdays and 0930 to 1630 on Sundays and Bank Holidays.

1.2 The restrictions on the use were agreed to by the applicant in order to address objections from neighbours. There were 7 objections from residents of St Denys Court. This application has attracted four objections.

1.3 This application is to allow permanent use of the outside yard as a seating area. It proposes an increased number of covers, from 8 up to 12 and to allow the area to be used to 1900 Monday - Saturday and until 1700 Sundays.

1.4 The application site is within the Central Historic Core Conservation Area. Walmgate predominantly has commercial premises at ground floor level and there are residential properties which bound the site at the rear; St Denys Court, Hotham's Court and the houses on George 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
City Boundary GMS Constraints: York City Boundary 0001
DC Area Teams GMS Constraints: Central Area 0002

2.2 Policies:

S6 Control of food and drink uses

3.0 CONSULTATIONS

Forward Planning

3.1 Officers explain the relevant planning policy and conclude that the assessment should consider the effect of the proposal in terms of any negative impacts on the amenities of surrounding occupiers. If these can be overcome there would not be a policy objection to the proposals.

Public Protection

3.2 No objection. Ask that planning conditions ensure the use is as per the application only, regarding the times of operation and number of covers.

3.3 During the temporary permission public protection received two noise complaints. The first was regarding the early emptying of bottles, which was resolved informally. The other related to two weekends in October when groups of patrons moved tables together, rather than the tables being used by smaller groups or individuals. The complainant acknowledged that whilst the noise was audible, it was not sufficient for a complaint about nuisance to be lodged with us, as such the company was not contacted.

Guildhall Planning Panel

3.4 No objection.

Publicity

3.5 The application was publicised by site notice, and neighbour notification letters. The deadline for comment was 8 March.

3.6 Four objections have been received from occupants of the flats at upper floor level in St Denys Court. The concerns raised are as follows -

Application Reference Number: 16/00012/FUL

Item No: 3d

- The rear yard is primarily at the rear of and belonging to 2 George Street. The yard is directly surrounded and enclosed by at least 11 residential properties that either abut or overlook it. As such, the rear yard must be considered as being predominately within a residential area and having no connection with the predominately commercial Walmgate.
- The council's Environmental Protection Unit (now Public Protection) saw it fit in the previous approval for the rear yard to restrict number of customers who were allowed to use the area and the hours of operation. Conditions were imposed and only a trial period granted permission. This confirms the council had concerns over the possible impact on amenity.
- There is a loss of privacy suffered as customers using the outside seating area can see into surrounding properties and onto external balconies.
- The view of the cafe from a neighbouring balcony is unattractive and disturbing.
- The use of the rear yard by customers has lead to an increase in noise caused by customers talking, the use of mobile phones, dogs barking, babies crying etc, and noises associated with the laying up and serving at tables etc. On occasions tables have been pushed together to accommodate large and noisy groups. On occasions noise could be heard in the adjacent flats, even with windows closed. Complaints have been made to the CYC Public Protection Unit on two occasions concerning the level of noise. There were a number of occasions when further complaints could have been made but on such occasions there was unlikely to be a statutory noise nuisance. On occasions noise from the cafe could be heard in the flat at St Denys when windows were closed. The outside area is likely to be popular during better weather, when residents would also want to have windows open/sit outside, thus leading to disturbance. Whilst it is acknowledged that the impact does not justify enforcement under the Environmental Protection Act, there has been an adverse effect on residential amenity.
- The summer of 2015 was not particularly good and that the number of days when people might want to sit outside in a cafe were limited by this.
- In the neighbours opinion the restrictions on numbers of customers using the rear yard and restrictions on the times that the rear yard can be used do not prevent the loss of amenity.
- Concern that the cafe is popular and is becoming the dominant part of the use of the premises. There would be 34 covers if the increase in seating proposed were allowed, which is more substantial than other cafes along Walmgate, the

use which has occurred conflicts with the original proposal for primarily a shop and cycle repair workshop.

- It is suggested the applicant is in breach of the premises licence due to the amount of floor space used as a cafe. There is also concern that the applicant will in future apply to vary the licence and allow alcohol to be served in the outside area. It is highly likely a loss to residential amenity would result.

4.0 APPRAISAL

Key Issues

4.1 The issue in this application is the impact on the amenity of surrounding occupants.

Assessment

Noise

4.2 The National Planning Policy Framework (NPPF) states that developments should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impact on health and quality of life as a result of new development and use planning conditions to secure mitigation.

4.3 Local Plan policy S6 states that planning permission for the development of premises for food and drink uses will only be granted provided there is no unacceptable impact on the amenities of surrounding occupiers as a result of noise, smell or litter.

4.4 There is further guidance within National Planning Policy Guidance (NPPG) on noise. The guidance explains where noise would cause an adverse effect and if this cannot be adequately mitigated, developments should be refused. Noise is described as being noticeable and intrusive when, for example neighbours would have to close windows for some of the time because of the noise, if there were potential for some reported sleep disturbance or noise would affect the acoustic character of the area such that there is a perceived change in the quality of life.

4.5 The NPPG guidance advises that in considering whether there would be an adverse effect, consideration should be given to -

- the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night, when people are trying to sleep and when background noise levels can be lower) than if they occurred during the day

- for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise
- the spectral content of the noise (i.e. whether or not the noise contains particular high or low frequency content) and the general character of the noise (i.e. whether or not the noise contains particular tonal characteristics or other particular features)

4.6 Of the 35 neighbour notification letters sent there have been four objections made. The objections refer to occasions when noise could be heard as a consequence of the outside seating area. The noise was described as talking, the use of mobile phones, dogs barking, babies crying etc, and noises associated with the laying up and serving at tables. There is concern because in times of good weather and when larger groups occupy the yard area noise levels have an adverse effect on amenity. There is concern also that if alcohol were served in the outside area (which is not allowed under the current premises licence) there would be further disturbance.

4.7 The rear yard is enclosed by surrounding buildings. It is overlooked by flats. Noise levels are lower in this area in comparison to front of the buildings where there is activity during the day and evening and traffic noise. Consultation responses note that within the flats in St Denys, external noise is audible in rooms overlooking the street and rear rooms are more tranquil. The national planning guidance advocates provision of such quieter areas by design to mitigate against noise pollution.

4.8 The noise assessment undertaken by Dragonfly Consulting for the 2014 application recorded noise levels as being 44-52 dB between 13.00 and 21.00. It was estimated that as a consequence of the outside seating area originally proposed, noise levels would increase to 54.6 to 56.3 dB between 13.00 and 21.00. Noise levels were lower after 17.00. However this was on the basis of a typical licensed restaurant whilst the application site has a cafe with limited alcohol sales and predominantly trades during the daytime and not the evening.

4.9 The application asks to allow the outside area to operate for a further hour Monday to Saturday (until 19.00) / half an hour Sundays (until 17.00). There would be 4 more covers.

4.10 It is evident that there would be a noticeable change to the noise environment on occasions as a consequence of the rear yard being in use as proposed in this application. The activity associated with the use could at times be heard by neighbours if they were using their balconies or if they had windows open. However the use would still remain during the daytime; 7pm at the latest, and the type of noise would not be unduly intrusive. Given the type of noise that would result, when it occurs and the number of events, it would not cause any change in behaviour or attitude to the extent that there would be a perceived change in the quality of life.

4.11 The site is within a mixed use and dense developed area. There are a number of flats above the host premises and should the rear yard be made available for their use, it could equally be used to a similar effect. Even in less urban areas, activity from traffic and neighbouring activity would typically be evident, including noise from people making use of outside amenity spaces during better weather.

4.12 Officers agree with residents that if alcohol were permitted to be served in the yard, or if it were to open into the evening, when background noise levels are known to be lower, there would be an undue effect on residential amenity. The times of operation can be controlled via a planning condition. Alcohol is currently not permitted in the outside area; prevented by the premises licence. This matter would need to continue to be managed through the licensing legislation.

Appearance of the yard

4.13 The objections include comments that the view of the outside area is unattractive. The yard is surfaced in a mix of stone paving and timber decking. There is a timber bin store and a cycle shelter with a green roof. The premises were last in retail use and in such a case it would be unlikely the yard would be landscaped to such a high standard as it is currently. If the yard were particularly unattractive, it would also be unlikely to appeal to customers. Photographic evidence has been provided showing the appearance of the yard; it appears well kept and does not detract from the setting.

Whether the applicant is according to the original permission for mixed use

4.14 The application relates to the outside seating area only. However the internal layout has not materially changed since planning permission was granted in February 2015. Although the application only refers to a Wamgate address, it has always been the case that the planning unit includes also the George Street property, where the workshop is located, as was explained in the 2014 permission (14/01960/FUL).

5.0 CONCLUSION

5.1 According to the NPPF the test in terms of impact on residential amenity is that developments should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impact on health and quality of life and use planning conditions to secure mitigation.

5.2 Whilst noise as a consequence of the introduction of the outside seating area would be apparent at times, the potential impact, based on national planning policy guidance, is regarded as noticeable and not intrusive. There would not be an undue impact on residential amenity. Adequate mitigation by the application of planning conditions can ensure suitable management. Conditions can control times of use and the number of covers and can prevent amplified noise, from music and televisions for example. Whether customers are allowed to consume alcohol is a matter for licensing and would not be controlled through the planning process in this case.

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:-

Site plan dated 21 Jan
Seating area dated 5 Jan

The number of covers shall not exceed the amount (12) shown on the approved 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 The use of the rear yard as an outside seating area for customers shall only occur during the following times -

Monday to Saturdays 08.30 to 19.00 hours
Sundays and Bank Holidays 09.30 to 17.30 hours

Reason: In the interests of residential amenity.

4 There shall be no amplified or recorded music or installation of other electrical equipment (such as televisions) in the courtyard area.

Reason: In the interests of residential amenity.

7.0 INFORMATIVES:

Notes to Applicant

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

Application Reference Number: 16/00012/FUL

Item No: 3d

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: the use of planning conditions.

Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323

Bicis Y Mas 59 - 63 Walmgate

16/00012/FUL



Scale : 1:529

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	CYC
Department	Not Set
Comments	Site Plan
Date	29 March 2016
SLA Number	Not Set

This page is intentionally left blank