



**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, 5 May 2016

**Time:** 4.30 pm

**Venue:** The Snow Room - Ground Floor, West Offices (G035)

**A G E N D A**

**The mini-bus for Members of the sub-committee will leave from Memorial Gardens at 10.00 am on Wednesday 4 May 2016.**

**1. Declarations of Interest**

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

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

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

**2. Minutes (Pages 3 - 20)**

To approve and sign the minutes of the last meetings of the Area Planning Sub-Committee held on 10 March and 7 April 2016.

**3. Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Sub-Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is **Wednesday 4 May 2016 at 5.00 pm.**

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## **4. Plans List**

To determine the following planning applications:

- a) **71-73 Fulford Road, York, YO10 4BD (15/02888/FULM)**  
(Pages 21 - 32)  
Conversion of guesthouse to 10no.flats (use class C3)  
[Fishergate] **[Site Visit]**
  
- b) **8 Petercroft Lane, Dunnington, York, YO19 5NQ**  
**(15/02813/FUL)** (Pages 33 - 46)  
Erection of dwelling to rear and replacement garage  
[Osbalwick and Derwent] **[Site Visit]**
  
- c) **99 Long Ridge Lane, Nether Poppleton, York YO26 6LW**  
**(15/02940/FUL)** (Pages 47 - 54)  
Erection of raised platform with children's playhouse and  
attached slide and steps (retrospective) [Rural West York]  
**[Site Visit]**

## **5. Appeals Performance and Decision Summaries**

(Pages 55 - 70)

This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 January and 31 March 2016, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

## **6. 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 مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

**AREA PLANNING SUB COMMITTEE****SITE VISITS****Wednesday 4 May 2016**

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

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
10:10	Former Saxon House Hotel 71 -73 Fulford Road	4a)
10:45	8 Petercroft Lane Dunnington	4b)
11:30	99 Long Ridge Lane Nether Poppleton	4c)

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City of York Council

Committee Minutes

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Meeting	Area Planning Sub-Committee
Date	10 March 2016
Present	Councillors Galvin (Chair), Carr, Craghill, Gillies, Hunter, Cannon, Looker, Mercer and Orrell
Apologies	Councillors Derbyshire and Shepherd

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Site	Visited by	Reason for Visit
Groves Chapel, Union Terrace	Councillors Craghill, Galvin, Hunter, Looker and Mercer	As the application was recommended for approval and objections had been received.
Car Park Lying to the South of Hurricane Way	Councillors Craghill, Galvin, Hunter and Mercer	As the application was recommended for approval and objections had been received.
Royal Masonic Benevolent Institute, Connaught Court	Councillors Craghill, Galvin, Hunter and Mercer	As the application was recommended for approval and objections had been received.
Newgate, Newgate Market	Councillors Craghill, Galvin, Hunter and Mercer	As the application was recommended for approval and objections had been received.

#### 48. Declarations of Interest

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests that they might have had in the business on the agenda. No interests were declared.

**49. Minutes**

Resolved: That the minutes of the meeting of the Area Planning Sub Committee held on 4 February 2016 be approved and signed by the Chair as a correct record.

**50. Public Participation**

It was reported that there had been one registration to speak under the Council's Public Participation Scheme on general issues within the remit of the Committee.

Councillor Warters questioned why an application for a House in Multiple Occupation in his ward, which he had called in for consideration had been not been brought to Committee. He spoke about the application and the distance between it and another HMO. He felt that the Council's database of HMOs was deficient and he had tried to get the Council's threshold of HMOs reviewed. He urged Members to consider his comments.

**51. Plans List**

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

**51a) 206 Stockton Lane, York, YO31 1EY (15/02624/FUL)**

Members considered a full application from Mr David Todd for the erection of 4 no. dwellings with access from Caedmon Close together with the reconfiguration of existing dwelling at 8 Caedmon Close (resubmission).

Officers gave an update to the Committee, full details of which were published online with the agenda, which was republished following the meeting. Some of the details included;

- A revised water drainage scheme that had been received



- The outline in terms of acceptable rates of surface water run off in the Strategic Flood Risk Assessment
- An amendment to Condition 16 (Foul and Surface Water Drainage Scheme)

Representations were received from Mr David Stinson, a local resident in objection. He spoke mainly about the effect that the development would have on the surface water drainage in the area. He informed the Committee that the development was at a higher elevation and so would flood the properties at a lower elevation. He added that the gully drains could not accommodate rainwater and also that the development would affect Tang Hall Beck, which if this overflowed was one of two great risks for the River Foss flooding.

Further representations in objection were received from another local resident Mr Martin Biggs. He talked about the removal of a rowan tree, the cramped access roadway, the destruction of a grass verge which provided a children's play area, and that external visual impact of the streetscene would be degraded by the alterations to the bungalow with wooden cladding. There would therefore be a loss of visual amenity to the occupants. He felt that the application contravened section 7 of the National Planning Policy Framework on visual architecture grounds and that permission should be refused because the development was of poor quality design.

Representations in objection were received from another local resident, Ann Rylatt. She spoke about the access to the development, stating that it was smaller than the minimum for fire regulations and that due to its narrowness it meant that large vehicles would have to stand at the turning point for a long time. This would lead to obstruction and a loss of residential amenity for all residents of Caedmon Close, particularly those at number 6 who overlooked the turning point, contravening the NPPF for existing residents. The development would not give priority to pedestrians or cyclists as it did not have any pavements.

Further representations in objection were received from a local resident, Mr Hopkinson, who felt that the development would increase congestion. He added that density figures did not take into account infrastructure and that three homes should be the maximum and scale and height should also be considered.

Representations were received from Bill Symons from the Foss Internal Drainage Board. He informed the Committee that the green field run off rate proposed was a discharge of 3 litres per second. This was in relation to a 2.14 hectare field. He confirmed to the Committee that the development was upstream from the Foss Barrier Pumps, and the water run off would go into Tang Hall Beck which the Drainage Board maintained.

In response to a question from a Member, Bill Symons confirmed he did not feel the revised drainage scheme surface water run off rate was sufficient.

Representations in support were received from Eamonn Keogh, the applicant's agent. He stated the privacy and amenity for existing residents of Caedmon Close would be maintained by the distance and placing of the windows in the dwellings. He stated that the Highways Officers had visited the site three times and were happy with the access, and that the Fire Officer was now satisfied. He confirmed that the density of the site would be 26 dwellings per hectare, which was below the Council's suggested 40 dwellings per hectare in suburban areas. In reference to comments from the Drainage Board, he added that their figures were generic and difficult to achieve on small sites. He added that the diameter of pipe to achieve the discharge rate requested by the Drainage Board would be so small it would lead to flooding rather than lessening it.

In response to a Member's question about the written comments received from the Fire Officer, the agent confirmed that the applicant would be willing to install sprinkler systems inside the houses.

Further representations were received from Mr Ron Clayton on behalf of Heworth Without Parish Council. He had concerns over density and access, as he felt there were too many houses on the site and they were too large. He told the Committee that there would be 28.7 dwellings per hectare and this would include the gardens. The Parish Council felt that there should be three houses not four on the site. He added that no turning area was detailed on the site plans and Highways Officers had requested that there be a passing place at the start, it was now half way down.

Officers were asked whether their discussions with the Fire Officer had been recorded. They confirmed that they had two telephone calls, information from which was publicly available on the Planning Portal.

Councillor Orrell moved refusal on the grounds of flooding risk, water dispersal and access arrangements. Councillor Craghill seconded this and added that she felt that fire safety should be added.

Some Members felt that as there had been no objections raised from Flood Risk Management, Highways, Yorkshire Water or the Fire Officer and that the density fell within conditions that he had no objections. They added that given a cumulative effective on drainage, perhaps it would be best to look at watercourse maintenance.

Members were advised that if they wished to refuse the application on grounds of cumulative impact on drainage that they need to have evidence on capacity and one Flood Event further upstream from the site may not be sufficient to defend the refusal.

The Council's Flood Risk Engineer advised the Committee that there was not enough evidence about water capacity to defend a refusal. He also felt that in defence of the Drainage Board, that they had not had access to the same figures that Council Officers had. In relation to additional drainage information, he informed the Committee that they had carried out onsite infiltration testing by way of trial pits which had identified poor ground conditions to support the use of soakaways and a high water table. Discharge to watercourse was discounted due to its location some 560m away across third party land therefore an attenuated system was designed to store up to the 1 in 100 year storm + 20% climate change allowance above what was required by our SFRA. The Council's Flood Risk Engineer advised the Committee that the applicant had produced a reliable system in line with both National and Local Design Guidance.

Councillor Orrell moved refusal of the application then Councillor Craghill seconded refusal.

On being put to the vote this was lost.

Councillor Gillies then moved and Councillor Mercer seconded approval

Following discussion it was;

Resolved: That the application be approved subject to the conditions listed in the Officer's report and the update.

Reason: The proposal whilst dense in terms of its layout is felt to be acceptable within the context of the surrounding area and the pattern of scale and massing is similarly reflective of the locality. Whilst the proposed access has given rise to some concern it is felt to be adequate to serve four properties without due harm to other road users in the locality. The proposed means of foul and surface water drainage is felt to be acceptable and the application is considered to comply with the NPPF and policies GP1, GP10, H4A, NE1 and GP15A.

**51b) Groves Chapel, Union Terrace, York, YO31 7WS  
(15/02833/FULM)**

Members were informed by Officers that that there were two applications on the site, a full and a listed building consent. However due to an administrative error, the listed building consent application was not attached on to the printed agenda. They suggested as the two were inextricably linked that it would be safer if Members deferred the application, in order to consider both at the same time.

Resolved: That the application be deferred.

Reason: In order for Members to consider both applications at the same time.

**51c) Car Park Lying To The South Of Hurricane Way, York  
(15/02490/FULM)**

Members considered a major full application by Mr Mick Roult for the erection of a retail unit (Class A1).

Representations were received from James Beynon, the agent for the applicant.

He spoke about how the applicant had provided soft landscaping on the southern side of the site and an acoustic fence, had improved the access routes and had raised the overall design of the site. He reminded Members that it was also a brownfield site. In response to a question from a Member about an objection from the Parish Council in respect of possible light pollution, he replied that the applicant had proposed no external lighting.

Councillor Orrell asked if there was an renewable energy requirement for the building. Officers confirmed they could add one.

Resolved: That the application be approved subject to the conditions listed in the Officer's report and the following additional condition;

Additional Condition

20. BREEAM (BRE Environmental Assessment Method)

The development shall be carried out to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority prior to occupation of the building or (or in the case of the certificate as soon as practical after occupation). Where it can be reasonably demonstrated that a very good rating is not feasible, full justification for the lower rating shall be submitted to and agreed by the LPA prior to occupation. Should the development fail to achieve a BREEAM standard of 'very good' or the agreed alternative rating, a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve the agreed standard. The approved measures should then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local Plan and paragraphs 2.1 to 2.4 of the Interim Planning Statement 'Sustainable Design and Construction' November 2007.

Reason: The proposal complies with Policies S2 and GP1 of the City of York Development Control Local Plan, the Retail Study Update (2014); evidence base of the emerging local plan and advice within the National Planning Policy Framework.

**51d) Royal Masonic Benevolent Institute, Connaught Court, St Oswalds Road, York, YO10 4QA (15/01956/FUL)**

Members considered a full application by Mr Marc Nelson Smith for the erection of a detached sun room and the construction of a footpath.

Representations in objection were received from Stephen Wilkinson. He felt that it was difficult to see how the frail elderly residents would benefit from the proposal. He made reference to the empty adjacent bungalows owned by the applicants, which he said were heated and had toilet facilities. He asked whether Members were willing to protect the conservation area and green areas of Fulford, which he felt would be affected by the application.

Further representations in objection were received from Karin de Vries of Fulford Parish Council. She informed Members that the application was sited in an important green corridor between Fulford and Fishergate, which had been added into the Conservation Area in 2008. She questioned if the very mature trees on the site would remain unharmed. She felt there would be no benefit from the application particularly given its close proximity to Fulford Ings and Main Street.

One Member mentioned an objection listed in the report, that the application would not be of benefit to the wider community. She stated that residents of Connaught Court care home were local residents.

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

Reason: The proposal would preserve the character and appearance of Fulford Village Conservation area and would not have an adverse impact on trees on the site, protected species, the openness of the area or the amenities of local residents.

**51e) Newgate, Market Newgate, York (15/02890/ADV)**

Members considered an advert application by Mr Chris Price for the display of eight non illuminated and one illuminated direction signs in Shambles, Silver Street and Parliament Street.

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

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

**51f) Newgate Market, Newgate, York (15/02891/LBC)**

Members considered a listed building consent application from Mr Chris Price for the display of 4 no. wall mounted direction signs (3 x non-illuminated and 1 x externally illuminated) at entrances to the Market on 28,33 and 47 Shambles.

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

Reason: The proposed signs will respect the special historic and architectural interest of the listed buildings and the character and appearance of the conservation area. The proposal complies with national planning guidance, as contained in the NPPF, and Development Control Local Plan HE4.

Councillor J Galvin, Chair

[The meeting started at 4.30 pm and finished at 6.15 pm].

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Meeting	Area Planning Sub-Committee
Date	7 April 2016
Present	Councillors Galvin (Chair), Shepherd (Vice-Chair), Carr, Craghill, Derbyshire, Gillies, Hunter, Cannon, Mercer, Orrell and Funnell (Substitute for Councillor Looker)
Apologies	Councillor Looker

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## **52. Declarations of Interest**

At this point in the meeting, Members were asked to declare if they had any personal, prejudicial or disclosable pecuniary interests in the business in the meeting.

Councillor Galvin declared a personal interest in Agenda Items 3a) and 3b) Groves Chapel, Union Terrace as he was a Governor of York Hospital NHS Foundation Trust. The building was owned by the NHS. He clarified that as a Governor, he was appointed by the Council and was not involved in the operational running of any of the hospital's business matters. He added that membership of the Hospital's Governing body was open to all.

No other interests were declared.

## **53. Public Participation**

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

## **54. Plans List**

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

**54a) Groves Chapel, Union Terrace, York YO31 7WS  
(15/02833/FULM)**

Members considered a full major application by Clarence Union Developments for a change of use of an existing building with internal and external alterations to form a convenience store at ground floor, 2no. flats at first floor and the erection of a four storey extension to the rear to accommodate 14 no. flats with associated car and cycle parking.

Representations in objection were received from:

Mr Andrew Dickinson who commented that in the Local Plan section on shopping developments that it stated that permission should not be granted if there was considered to be an adverse effect on neighbouring properties and he felt that there would be an adverse effect. He added that the noise statement provided by the applicant, mentioned that the development would emit in total 97db, which was equivalent to a construction site. He further commented that, in his opinion, the development did not provide a diverse retail experience for the community, given the closeness of other convenience stores to the site.

Mrs Rosie Dickinson, who mentioned that Union Terrace was a cul de sac with problems with traffic and safety, and asked Members to consider a deferral in order for a highways report to be received. She referred to subsidence issues and that an ongoing investigation by the council in respect of whether a weight limit needed to be imposed on vehicles using the road. In respect of delivery vehicles she asked Members to consider a reduction in the size and weight of these and regarding delivery times, suggesting that residents would appreciate if the applicants would consider changing this to 10 am- 4pm.

Angus McArthur, who commented that the road had not been built for two way traffic and circulated photographs amongst Members, to demonstrate.

Michael Askew, who spoke about Hope Church's wish to buy the chapel to restore it, if the current proposal failed to do so. Although the Church would not be able to match a commercial offer to buy the chapel, it could raise a substantial figure.

Brian Dunning, who spoke about the comparison sites for convenience stores used to assess traffic, and traffic surveys in York. He commented that these had been taken from Sheffield where the shop was substantially smaller and Cardiff where the shop was difficult to find. In regards to the traffic survey on Beckfield Lane, he suggested that there was inadequate parking as this suffered from congestion and parking on double yellow lines.

Reverend Alastair Rycros, from St Thomas' Church, who referred to there being no desire in the community for the shop because there were three stores located within ten minutes of the site. He felt that the development would worsen congestion in the area, and also suggested that the proposal was not the only option for reuse of the building.

Representations were then received in support of the application from the agent, Gavin Douglas. He spoke about how the building had been underused, needed significant repairs and in order to continue to support it, a substantial financial commitment was required from the NHS. He added that the proposals offered the building a long term future, improved the appearance and reduced anti social behaviour. The sale of the building would also allow for improvements to take place at York Hospital.

In response to questions from Members to the agent and a representative from Sainsbury's who was present at the meeting, it was reported that;

- Sainsbury's wanted night time deliveries in order to set up shelves for the next day.
- Staff at the Sainsbury's store would be expected to use the car park on Union Terrace, walk or cycle to work.
- 89% of shoppers were expected to arrive at the store on foot
- A comparison of parking at the Sainsbury's store in Blossom Street had been raised with Officers and they had no concerns.
- The apartments were aimed at people who worked nearby.

Further representations in support were received from a representative of the owners of the chapel, James Hayward of York NHS Foundation Trust.

He informed Members that the Trust had an estate of buildings, including Groves Chapel which was surplus to requirement. It was in a poor state of repair and housed redundant medical equipment. The Trust intended to use alternative facilities, as the listing of the building did not allow for modern health care to take place at the Chapel. He reported that proceeds from the sale of the chapel would go towards a new Endoscopy Unit and Radiology Suite.

In response to a question from a Member regarding other options for conversion of the building, it was confirmed that Officers were aware of Hope Church's proposal but they thought this was only to put a floor across the interior of the chapel to use it as a meeting room, but there were no other proposals forwarded at the pre-application stage.

In response to other questions from Members, it was reported that;

- There would be no disabled parking for customers, as there would be no customer parking at all.
- 1 hour pay and display would be changed to 10 minutes, would lead to a better use of parking.

During debate some Members felt that the delivery hours were unsociable, and the manoeuvring space for vehicles on the street was limited, they added that they were disappointed that the housing that would be provided would not be affordable housing. Some Members added that they were not sure if the proposed highways improvements would ease the traffic problems, given the delivery vehicles using the road. Some Members were concerned about the increase of the traffic, the location of the supermarket, supermarket deliveries and the impact on residential amenity. However, others pointed out that the building had been empty for fifty years.

Councillor Craghill then moved refusal of the application on the grounds of traffic, location of the supermarket, deliveries and how this would affect residential amenity, which was seconded by Councillor Cannon. On being put to the vote that motion fell.

Councillor Carr then moved and Cllr Derbyshire seconded that the delivery times be amended from 7 am- 11pm to 10 am- 4pm.

On being put to the vote that motion also fell.

Finally, Councillor Gillies then moved and Councillor Orrell seconded, approval conditional upon the delivery times being revised from 7am -11pm to 7 am- 6pm.

On being put to the vote that motion was then carried.

Resolved: That the application be approved subject to a Section 106, an amended condition regarding delivery times (7am- 6pm) and the conditions listed in the Officer's report.

Reason: The proposed scheme will create a long term viable use for the building and it is considered that the external changes are acceptable in terms of their impact on the appearance of the conservation area. Based on the submitted and assessed calculations, the levels of vehicle movement will be within acceptable levels. The servicing of the store will generate some noise, but it is note in the context of high background noise at the northern end of the street this will not be unduly disruptive to living conditions. The development is considered acceptable in terms of amenity and in all other relevant planning considerations.

**54b) Groves Chapel, Union Terrace, York. YO31 7WS  
(15/02834/LBC)**

Members considered a listed building application by Clarence Union Developments for internal and external alterations in association with change of use of existing buildings to form convenience store at ground floor, 2 no. flats at first floor and erection of four storey extension to rear to accommodate 14 no. flats with associated car and cycle parking.

This application was considered at the same time as Plans Item 54a).

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

Reason: The proposals would secure a long term use for the chapel building, this is central to ensuring it retains a landmark building. It is considered that the works whilst creating a new long term use for the building have an overall neutral impact on its special historical and architectural character.

**54c) Fossbank Boarding Kennels, Strensall Road, York YO32 9SJ (15/02843/FUL)**

Members considered a full application by Mrs A & M Royle & Barker for the demolition of existing kennels, stables quarantine and cattery buildings, erection of 4 no. detached dwellings with garages, and provision of a new access road from an existing driveway.

In their update to Members, Officers reported that the applicant sought deferral so that the second reason for refusal, to undertake a bat survey, could be addressed.

Resolved: That the application be deferred to be determined at a later date.

Reason: To allow for further information to be provided on roosting bats.

**54d) Bicis Y Mas,59-63 Walmgate, York YO1 9TG (16/00012/FUL)**

Members considered a full application by Mr Ellis Thackray for the use of rear yard for café seating associated with existing retail use.

Officers provided an update to Members, in which they advised that since their report had been written and published two additional objections had been received. One of these objections included a noise report, and that the site was predominantly a café not a retail premises/bike repair shop. In addition, if Members were minded to approve the application Officers suggested that condition 2 be reworded, as the applicant had expressed a wish at the site visit for a decrease in the number of tables in the yard. Full details of the noise report and the reworded condition were found in the Officer's update which was attached to the online agenda for information.

Representations in objection were received from Mr Price. He felt that the application would have a detrimental affect on residential amenity, and informed the Committee that the Council's Environmental Protection Unit had identified a loss of amenity is likely if the rear yard was used particularly in the evening. He highlighted than no assessment had been carried out as to the increase in covers or extended hours by either the Council or the applicant.

Representations in support were received from Jane Thackray, the applicant. She informed the Committee that their primary business was as a bike repair shop. It was reported that during a trial period in 2011, complaints about noise received were due to a new member of staff moving recycling and the other were due to cyclists moving tables. It was noted that the courtyard had previously been rubble and that the cycling community had brought more tourists to the city. The applicant confirmed that the café was licensed but the yard was not.

Resolved: That the application be approved subject to the amended condition 2, to have four tables with three chairs around, and the conditions listed in the Officer's report.

Reason: 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 and not intrusive. The impact on residential amenity is considered to be acceptable and there are no other detrimental impacts to warrant refusal of the application.

Councillor J Galvin, Chair

[The meeting started at 4.30 pm and finished at 6.25 pm].

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**COMMITTEE REPORT**

**Date:** 5 May 2016                      **Ward:** Fishergate  
**Team:** Major and                      **Parish:** Fishergate Planning  
                    Commercial Team                      Panel

**Reference:** 15/02888/FULM  
**Application at:** 71 -73 Fulford Road York YO10 4BD  
**For:** Conversion of guesthouse to 10no.flats (use class C3)  
**By:** Skelwith Group  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 21 April 2016  
**Recommendation:** Approve

**1.0 PROPOSAL****APPLICATION SITE**

1.1 The application relates to two mid-terrace properties located on the eastern side of Fishergate currently in use as a guesthouse. The facility has 15 guestrooms and there are 2 flats within the building at the rear, which are for staff use only. The hotel has off-street parking at the rear, accessed via a shared passageway which runs underneath the adjacent block of flats; Ellwood House.

1.2 To each side of the application site Ellwood Court is made up of two blocks of flats with one on the frontage with Fishergate and one at the rear, 69 Fulford Road is also in use as flats. The grounds of St.George's Primary School bound the site to the rear.

1.3 The site is outside of conservation area. It is one of the main routes into the city centre.

**PROPOSALS**

1.4 A change of use is proposed to convert the guesthouse into 10 dwellings/flats. There would be living space within the roof and roof-lights/dormers are proposed. The plans also show a building to accommodate 12 cycles and refuse bins within the rear courtyard. There would 6 car parking spaces in the yard (one privately owned).

**SITE HISTORY**

1.5 An application for a change of use of the building to a House in Multiple Occupancy was withdrawn in 2014 - 14/00165/FUL

1.6 Permission for rear extension at first floor level and self-contained flats, one of which is in the basement, were approved in 2011 - 11/01658/FUL.

The permission required that the self-contained flats were for manager's accommodation only, in particular because there was a car parking space immediately outside the light-well to the basement flat.

## **2.0 POLICY CONTEXT**

### 2.1 Policies:

CYGP1	Design
CYT4	Cycle parking standards
CYH7	Residential extensions
CYED4	Developer Contributions Towards Educational Facilities
CYL1C	Provision of new open space in Development

## **3.0 CONSULTATIONS**

### Highway Network Management

3.1 Officers ask for covered and secure cycle parking provision and advise that it would be acceptable if there were a reduction in car parking provision.

3.2 The property as its current use as two guest houses will be eligible for guest house permits within the R20 zone. As such they will only be able to access the limited number of guest house permit bays within that zone currently. The change of use to residential will have an impact on residents parking bays which are oversubscribed in the vicinity of this property, as each flat would be eligible for multiple permits. It is considered that in line with other development proposals, it would be appropriate to remove the proposed site from R20. This will mean that the occupants of the (flats/ dwellings) will not be eligible to apply for permits for either personal or visitor use and thus the parking scheme will not be placed under further pressure.

3.3 To encourage sustainable modes of transport officers recommend future residents are provided with city car club membership (£160 per dwelling) and either a 6 month bus pass or cycle vouchers to the value of £160 per dwelling.

### Public Protection

#### **Noise**

3.4 Due to traffic noise officers seek a planning condition to ensure internal noise levels comply with World Health Organisation regulations

### **Air Quality**

3.5 The building itself is located outside of the AQMA and set back from the road by approximately 6 metres. As a result Public Protection do not have concerns regarding poor air quality affecting the health of any occupants of the proposed flats. Officers would welcome the installation of any electric vehicle charging points on-site.

### **Construction**

3.6 An informative is recommended to advise the developer about requirements within the Control of Pollution Act, which relate to demolition/construction.

### Education

3.7 Officers are not requesting a contribution in this case due to the regulations and restrictions on pooling. The amount that could be secured would not make a meaningful contribution to a particular infrastructure project.

### Yorkshire Water

3.8 It is proposed to use the existing drainage system and therefore YW have no objection/comments to make.

### Fishergate Planning Panel

3.9 No response.

### Neighbour Notification and Publicity

3.10 There have been objections from 9 of the residents of Ellwood Court and the management company. The concerns are that no.71 has no right to use the rear access which belongs to Ellwood Court and that any extra activity in the rear courtyard would cause noise disturbance. The concerns raised are as follows -

- Comings and goings and intensified use of the application site, in particular cars and residents in the rear courtyard area, would cause noise disturbance and have an adverse effect on residential amenity. It is recommended that the primary entrances at the front of the premises should be used, and only the front entrance at 71 as those residents do not have a right of access over the rear courtyard.
- The rear access is owned by the management company for Ellwood Court, which is opposite. They advise they would not permit the occupants of 71 Fulford Road access and nor would they allow access for construction. 73 currently has permission to use the access, but only in conjunction with the use of the property as a guest house.

- Concerns about noise, dust and disturbance during construction.
- By allowing this change of use the council would be encouraging more students to overwhelm Fishergate and jeopardise the community for long-term residents.
- A purpose built bin area should be built and only a few parking spaces made available for the residents of 73 Fulford Road.  
No parking spaces should be provided for the residents of 71 Fulford Road because the occupants do not have right of access over the land.
- There would be inadequate car parking for visitors and car parking provision would be abused.

## 4.0 APPRAISAL

### KEY ISSUES

4.1 The key issues are as follows -

- Principle of the proposed use
- Residential Amenity
- Highway Network Management
- Planning Gain

#### Principle of the proposed use

4.2 National Planning Policy requires local planning authorities to boost, significantly, the supply of housing. National Planning Policy Framework paragraph 49 states that in dealing with applications for housing, there should be a presumption in favour of sustainable development. Paragraph 51 states local planning authorities should normally approve planning applications for change to residential use and any associated development from commercial buildings where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate. York does not have an up to date 5 year housing land supply which is compliant with the NPPF. There are no Local Plan policies or a local evidence base which specifically identifies the need to retain existing guest houses.

4.3. Due to housing need in the city and the lack of an adopted Local Plan which identifies supply to meet demand, policy is strongly in favour of allowing applications for residential development. There are no material considerations to justify retention of the guesthouse.

## Residential Amenity

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

4.5 The application proposes a reduction in the amount of car parking spaces; 5 are now proposed.

The parking spaces have been re-configured so they are now all of a size which meets current standards. Currently parking is informal and the spaces, as shown on the existing block plan, would not be workable on site. Both 71 and 73 would have front doors onto Fulford Road. In relation to the existing guest house use, there is no evidence that there would be an increase in activity within the courtyard, and consequently no material impact on neighbour's amenity in this respect.

4.6 Dedicated bin storage and screening are proposed and the installation of such can be secured through a planning condition. The structures based on their location and scale would not have a material impact on neighbour's amenity. The only external alterations to the existing building are the addition of roof-lights, two of which would project beyond the roof plane. The rear roof-lights would look towards the school grounds. There would be 4 small roof-lights at the front, spaced evenly over the two houses. The roof-lights would not unduly overlook neighbouring houses. The roof-lights due to their location scale and amount would have an acceptable impact on the appearance of the building.

4.7 Planning conditions currently restrict the use of the flats within the building at the rear. They are permitted to be used as manager's accommodation only. The basement flat proposed would be 55 sq m. The site plan proposes a garden area by the light-well on the south-east side, to prevent car parking in front of the window. The presence of car parking immediately outside the light well previously raised concerns over future occupant's level of amenity. The flats proposed on the upper floors are larger than those shown in the previously approved scheme; they occupy 2 levels and have more floor space than the basement flat. All the flats are of a reasonable area and whilst outlook is limited from the basement flat, outlook alone is not grounds to prevent its use for independent occupation in this case.

## Highways Considerations

4.8 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.

4.9 The application is for re-use of existing buildings. The buildings were originally used as separate properties and the two front doors would be re-used.

4.10 Car parking is at the rear. There are 5 spaces proposed. Neighbours objections state that the applicants have no legal right to the proposed vehicle access. Should the applicant be unable to negotiate access, a car free development would be acceptable in this case. Car parking standards in the Local Plan are maximums, which allows flexibility depending on location factors, the type of development proposed and the need to reduce high emission vehicles, as explained in paragraph 39 of the NPPF.

This site is on a public transport route and within walking distance of amenities and the city centre. In this urban location 1 and 2 bed flats without parking would comply with the thrust of the NPPF.

4.11 Preferably cyclists would be able to use the entrance via neighbouring Elwood Court. However if this is not permitted by the landowner as a fallback cycles could be brought through the building.

4.12 Highway Network Management advise that the residents parking zone in which the site is located has limited capacity to accept further vehicles. As such future occupants would not be eligible for permits. An informative can advise the developers and future residents of this, but the required amendment to the existing Traffic Regulation Order would be carried out under the Highways Act.

### Public Open Space

4.13 The application of Local Plan policy L1c would require a contribution towards amenity space and sports provision in the area subject to consideration of the Local Plan Evidence Base: Open Space and Green Infrastructure Final report September 2014. Any contribution sought must meet national guidance and CIL Regulations 122 and 123; the contribution must be necessary to make the development acceptable in planning terms and the council cannot ask for more than 5 contributions towards any single infrastructure project.

4.14 There have not been any projects towards open space in the locality identified towards which a contribution is required to make the scheme acceptable.

### Education

4.15 A contribution towards primary school provision could potentially be requested based on council policy ED4 as 4 of the flats proposed would have 2 or more bedrooms.

Any contribution sought must meet national guidance and CIL Regulations 122 and 123; the contribution must be necessary to make the development acceptable in planning terms and the council cannot ask for more than 5 contributions towards any single infrastructure project. Supplementary planning guidance advises that only a contribution towards 1 primary school place could be sought based on the amount of 2 bedroom flats proposed. National regulations require that no more than 5 contributions can be made towards any project. The contribution which could be sought as a consequence of this development would not make a meaningful contribution towards any project and is therefore not requested.

## 5.0 CONCLUSION

5.1 The development proposed is acceptable in principle and compared to the extant use there is no evidence there would be harm on neighbour's amenity or highway safety. There would be adequate levels of amenity for future occupants. The entrance to the car park is owned by a third party. This was the situation previously; if there were no car parking, there would not be grounds for refusal as the site is within a sustainable location and the type of dwellings proposed would not necessarily require its own parking. The scheme does not conflict with policies within the NPPF and approval is therefore recommended.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

- 1 TIME2 Development start within three years
- 2 PLANS1 Approved plans - revised plans 004C and 005B
- 3 Cycle storage shall be provided on site in accordance with the approved plans prior to first occupation of the development hereby approved.

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

- 4 Bin storage shall be provided on site in accordance with the approved plans prior to first occupation of the development hereby approved.

Reason: To ensure adequate space for waste recycling and litter collection in accordance with policy GP1 of the City of York Draft Local Plan and design guidance for housing in the National Planning Practice Guidance.

5 The courtyard / car parking area shall be laid out in accordance with the approved block plan 004 revision C, with landscaping provided outside the light-well to flat 1 (which is located in the basement) prior to first occupation of flat 1.

Reason: To ensure that there is no car parking outside the light-well window, and to ensure an acceptable level of amenity for future occupants.

6 The building envelope of all residential accommodation shall be constructed to achieve internal noise levels of 30 dB LAeq (8 hour) 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) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

7 Roof-lights on the front elevation of the building shall be conservation type.

Reason: In the interests of visual amenity, in accordance with paragraphs 56, 57, 58 of the National Planning Policy Framework.

## **7.0 INFORMATIVES: Notes to Applicant**

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

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

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



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

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

(f) There shall be no bonfires on the site

## 2. RESIDENTS PARKING ZONE

The applicant is asked to note that the development/property (as proposed), is not considered eligible for inclusion within the Residents Parking Zone, and it will be removed from such under the Traffic Regulations 1984. Upon commencement of development on the site the applicant is requested to contact the Council's Network Management Section (tel 01904 551450), in order that the amendments to the Residents Parking Scheme can be implemented prior to the occupation of the development.

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

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

### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323

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15/02888/FULM

Former Saxon House Hotel 71-73 Fulford Road



GIS by ESRI (UK)



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	26 April 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 5 May 2016                      **Ward:** Osbaldwick and Derwent  
**Team:** Major and                      **Parish:** Dunnington Parish  
Commercial Team                      Council

**Reference:** 15/02813/FUL  
**Application at:** 8 Petercroft Lane Dunnington York YO19 5NQ  
**For:** Erection of dwelling to rear and replacement garage  
**By:** Mr Peter Hodgson  
**Application Type:** Full Application  
**Target Date:** 24 March 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 Erection of a detached 3-bedroom dormer bungalow with a height of 3m to the eaves and 5.8m to the ridge. Off-street parking would be provided for two cars served by a new access from Petercroft Close. A pitch-roofed single garage on the site would be demolished to make way for the new dwelling. The garage would be replaced by a new garage (6m x 4.5m x 3.9m) between the host house and No.8a Petercroft Lane. The application has been amended since submission to reduce the impact on neighbouring occupiers.

1.2 The application has been called in by Councillor Brooks on the grounds that it would be overdevelopment of the plot, there would be insufficient room for the enjoyment of either property, it would have an adverse effect on neighbouring properties in Petercroft Close due to the loss of parking space and that sub-division of gardens is contrary to Dunnington Village Design Statement.

**2.0 POLICY CONTEXT**

## 2.1 Policies:

CYGP1 Design  
CYGP4A Sustainability  
CYGP10 Subdivision of gardens and infill devt  
CGP15A Development and Flood Risk  
CYH4A Housing Windfalls

### 3.0 CONSULTATIONS

#### INTERNAL

##### Highway Network Management

3.1 No objections. The new access and two parking spaces would accord with CYC standards. The access would provide adequate width and visibility. Additional traffic movements would be negligible. Add conditions regarding provision of cycle storage and car parking.

##### Public Protection Unit

3.2 Environmental Protection Unit - No objections. Add low emission and contamination conditions and the council's standard construction informative.

##### Flood Risk Management

3.3 No objection in principle. If planning permission is to be granted add a condition requiring details of foul and surface water drainage, including any balancing works and off-site works, to be approved by the local planning authority.

#### EXTERNAL

##### Dunnington Parish Council

3.4 Objection to the proposed dwelling due to: absence of surface water attenuation; garden grabbing, which is contrary to the Dunnington Village Design Statement; and overdevelopment as evidenced by the proposed dwelling's small garden and both dwellings being out of proportion to their respective plots. No objection to the replacement garage subject to the provision of surface water runoff measures that fully attenuate the additional surface water runoff. If planning permission is granted this should be made a condition of approval.

##### Ouse & Derwent Internal Drainage Board

3.5 The site is in an area where drainage problems exist. Development should not start until the council as local flood risk authority is satisfied that surface water drainage has been appropriately considered. Surface water discharge should be restricted to no more than 1.4 l/s/ha, so as to avoid increasing the risk of flooding. The applicant has stated their intention to use a hydrobrake and attenuator but no details have been provided of how the required discharge rate would be achieved. The Board therefore objects to the proposal.

## Public Consultation

3.6 Four objections have been received raising the following planning issues:

- Loss of parking would exacerbate existing parking problems.
- Vehicular access should be taken from Petercroft Lane as existing.
- The dormers and double-width driveway would be out of keeping with the area.
- Highway safety - Risk to pedestrians in Petercroft Close.

## **4.0 APPRAISAL**

### 4.1 KEY ISSUES

- Use for housing
- Design and appearance
- Highway safety, access and parking
- Flood risk and drainage
- Neighbour amenity

## PLANNING POLICY CONTEXT

4.2 Section 38 of the 1990 Act requires local planning authorities to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. There is no development plan in York other than the saved policies of the Regional Spatial Strategy relating to the general extent of the Green Belt. (The application site is not within the Green Belt). Although there is no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. Whilst it 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. Local plan policies that remain relevant to the current application are listed at paragraph 2.2 of this report.

4.3 The NPPF is the most up-to date representation of key relevant policy issues and it is against this Framework that the proposal should principally be addressed. The essence of the Framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan.

Where, as at York, the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14).

## APPLICATION SITE

4.4 Part of the rear garden of a 2-storey detached house at the corner of Petercroft Lane and Petercroft Close. The character of the area is suburban residential. The host house has a pitch-roofed garage accessed from Petercroft Lane. The rear garden abuts a bungalow at No.8 Petercroft Close.

## USE FOR HOUSING

4.5 The NPPF requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (section 6). The site is in a sustainable location, within the settlement limit of Dunnington and with good access to shops and public transport.

4.6 The NPPF excludes private residential gardens from the definition of previously-developed land. However it has not introduced a general presumption against the development of gardens, it merely removes this as a positive factor in determining such applications. Local planning authorities are still expected to seek the efficient use of land, which focuses new residential development on sites in sustainable locations, such as the application site. Any scheme still has to be judged against the impact on the character of an area, the impact on adjacent residents and any other material considerations. Policy GP10 'Subdivision of Gardens and Infill Development' states that planning permission will only be granted for the sub-division of garden areas or infilling to provide new development where this would not be detrimental to the character and amenity of the local environment.

4.7 Dunnington Parish Council says in its objection that building in back gardens is contrary to the Dunnington Village Design Statement (VDS). In response, although the VDS states that new buildings should '... respect the form, layout and density of development in the locality' there is no specific mention of opposing, in principle, development in back gardens. The application site has a street frontage. The proposed dwelling would face the street, in keeping with the general character and layout of dwellings in the area.



## DESIGN AND APPEARANCE

4.8 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. Permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64).

4.9 Policy GP1 'Design' of the 2005 local plan includes the expectation that development proposals will, among other things: respect or enhance the local environment; use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape and incorporate appropriate landscaping. Policy GP10 'Subdivision of Gardens and Infill Development' states that planning permission will only be granted for the sub-division of garden areas or infilling to provide new development where this would not be detrimental to the character and amenity of the local environment.

4.10 The application site is in a residential area. Petercroft Close is characterised by bungalows without dormers but the host dwelling (which faces Petercroft Lane) is a 2-storey house. Petercroft Lane and neighbouring roads have a variety of dwelling types notably bungalows and 2-storey houses with or without dormer windows or dormer extensions. In this overall context the scale, design and materials (brick and tile) and the density of development would be in keeping with the character of the area. Samples of the materials should be made a condition of planning permission. The application complies with section 7 of the NPPF and policies GP1 and GP10 of the 2005 local plan.

## HIGHWAY SAFETY, ACCESS AND PARKING

4.11 The proposed dwelling would require the demolition of the existing garage on the site. It would be replaced by a new garage between nos 8 and 8a Petercroft Lane. Access to the garage would remain as existing, from Petercroft Lane. The new dwelling would not have a garage but would have two parking spaces, side by side, accessed via a new 6m-wide crossover from Petercroft Close. The council's highway officers have no objection to the location or width of the access, nor to the minor loss of on-street parking that would result. Cycle storage for the host house would be provided in the new garage. Cycle storage for the new dwelling would be in a cycle store within the curtilage. Details should be made a condition of approval. The new dwelling would have no material impact on traffic levels or highway safety.

## FLOOD RISK AND DRAINAGE

4.12 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

Where development is necessary it should be made safe without increasing flood risk elsewhere (paragraph 100). The application site lies within low-risk flood zone 1 and is unlikely to suffer from river flooding. The applicant proposes to reduce the post-development surface water run-off rate, from the existing run-off rate. However, for such a small site as this a run-off rate of 1.4 l/s/ha. as sought by the IDB would not be practicable. Nevertheless, some reduction in run-off is achievable that would conform to the Council's SFRA. The Council's flood risk engineers are not objecting to the application but require drainage details, including attenuation, to be submitted for approval.

## NEIGHBOUR AMENITY

4.13 The NPPF seeks to improve the conditions in which people live (paragraph 9). Policy GP1 of the 2005 local plan states that development proposals will be expected to ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.14 The nearest neighbouring dwelling is a bungalow at No.8 Petercroft Close. The proposed dwelling would have no openings in the elevation (a gable) facing No.8 so there would be no overlooking. The minimum separation distance would be 3.3m but this part of No.8 has no windows so there would be no overbearing impact. A combined front door/window of No.8 faces the proposed dwelling but the separation distance at this point would be 4.5m. This distance is acceptable bearing in mind that the main windows of No.8 face north-east and south-west, i.e. away from the proposed dwelling.

4.15 Three of the four proposed dormers would face the public highway at Petercroft Close. They would not significantly affect any neighbouring occupiers. The fourth dormer would face the rear (north east) but this window would be to a bathroom. A condition should be attached requiring the window to be obscure-glazed. The rear elevation would face the rear garden of a 2-storey house at 8a Petercroft Lane. The minimum distance from the boundary would be 4.8m. This distance is acceptable bearing in mind the modest size of the proposed dwelling (2.8m to the eaves at this point) and the closer proximity, 4m, of the existing garage which would be demolished. Permitted development rights for dormers should be removed in order to protect the neighbouring occupiers from overlooking.

4.16 The host house, No.8 Petercroft Lane, is occupied by the applicant and lies to the south east of the proposed dwelling. No.8 has a single-storey rear extension that faces the application site at an oblique angle. The separation distance between the window of the extension and the proposed dwelling would be approximately 10m. This separation distance is acceptable bearing in mind the modest size/height of the proposed dwelling and the oblique aspect from No.8.

Nevertheless, householder permitted development rights should be removed in order to protect the amenity of neighbouring occupiers from overbearing impact of future extensions/outbuildings.

4.17 The replacement garage would sit between the host dwelling at No.8 Petercroft Lane and the neighbouring house at No.8a Petercroft Lane. The garage is unlikely to have any significant impact on the amenity of either occupier. In summary, the development (dormer bungalow and replacement garage) is unlikely to have any significant impact on the occupiers of any neighbouring property. It accords with paragraph 9 of the NPPF and policy GP1 of the 2005 local plan.

## **PUBLIC OPEN SPACE**

4.18 For small housing developments an open space contribution for the provision of off-site open space is normally required in accordance with policy L1c of the draft local plan. Such requirements 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. In the current case a planning obligation cannot be lawfully entered into because the cap set by regulation 123 has already been reached.

## **5.0 CONCLUSION**

5.1 The application accords with the national planning policy in the NPPF and relevant policies of the 2005 City of York Draft Local Plan. The application is acceptable subject to the recommended conditions.

## **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 approved plans numbered H/131-PL-02C, H/131-PL-03C, H/131-PL-04C, H/131-PL-05C, H/131-PL-06 and H/131-PL-07A.

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 within one month of commencement of the construction of the development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

4 The dwelling shall not be occupied until secure covered cycle storage for two cycles has been provided in accordance with approved plans H/131-PL-02C and H/131-PL-04B. The facilities shall be retained thereafter and shall not be used for any purpose other than the parking of cycles.

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

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

Reason: In the interests of highway safety.

6 In the event that previously unidentified contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall 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 shall 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.

7 Prior to first occupation of the development the applicant shall install within (a) the curtilage of the proposed dwelling and (b) the proposed garage of the existing dwelling a three pin 13 amp electrical socket in a suitable position to enable the recharging of an electric vehicle within the curtilage using a 3m length cable.

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

NOTE: Any socket provided must comply with BS1363, or an equivalent standard, Building Regulations, and be suitable for charging electric vehicles. The socket for the proposed dwelling should be suitable for outdoor use and have an internal switch within the property to enable the socket to be turned off.

8 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site and to ensure that these details are acceptable prior to any alterations to ground conditions that may adversely affect the ability to adequately drain the site.

9 The upper floor window on the north-east elevation of the dwelling hereby approved shall be (i) obscure-glazed and (ii) non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Reason: In the interests of the amenities of occupiers of the adjacent residential dwelling at No. 8a Petercroft Lane.

10 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) development of the type described in Classes A, B, C or E of Schedule 2, Part 1 of that Order shall not be erected or constructed unless permission has first been granted by the Local Planning Authority.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the local planning authority implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) by seeking solutions to problems identified during the processing of the application. In order to achieve an acceptable outcome the local planning sought amendments to the footprint, fenestration and separation from the adjacent dwelling at No.8 Petercroft Close.

## 2. HIGHWAYS ACT

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

Vehicle Crossing - Section 184 - Stuart Partington (01904) 55136.

## 3. CONTROL OF POLLUTION

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

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

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

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

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

(f) There shall be no bonfires on the site.

#### 4. FOUL AND SURFACE WATER DRAINAGE

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

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

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

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

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

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

**Contact details:**

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**Tel No:** 01904 552830

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15/02813/FUL

8 Petercroft Lane Dunnington



Scale : 1:1059

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	26 April 2016
<b>SLA Number</b>	Not Set

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## Publicity and Neighbour Notifications

3.2 Objections received from two adjoining neighbours on the following grounds:

- The platform appears to be 2.5m above ground level and the eaves of the playhouse around 5m. The whole structure is built up to the low boundary fences at side and rear and dominates the rear of the adjoining garden.
- The playhouse is visible from neighbouring gardens and has a direct line of site into the ground level and bedrooms of the neighbouring property.
- Prior to its construction there was complete privacy in the garden and house; this has now been eroded by the structure.
- The large telegraph poles used for the swings are out of scale for a domestic garden. The children using it are well behaved, however, if a new family with boisterous children moved in it could create a bad atmosphere and have a detrimental effect on potential house sale.

3.3 Letters of support have been received from seven neighbours including one adjoining neighbour making the following points:

- Whilst boundary shrubs in the garden have grown so that the neighbour can no longer see the structures, even when it could be seen it did not invade privacy.
- Should be encouraging children to play outdoors.
- The playhouse is tastefully designed and appears to have been there for many years.
- It is constructed and sited at the end of a very large garden.
- The raised platform has been sympathetically camouflaged as it is not immediately obvious.
- No objection to its location or its presence.

3.4 The applicants have submitted a letter in support of their application, which can be précised as follows:

- The neighbours were informed of the plans.
- Several evergreen plants have been planted and a laurel tree allowed to grow higher to screen from the neighbours
- The neighbours cut down a large mature tree from their border which had previously obscured their view.
- The play area has been constructed with a lot of thought and consideration to its surroundings, it enables our children to be outside whatever the weather.
- The design also incorporates a wildlife haven.
- The playhouse is sited at the end of the large garden, approximately 40m away from the nearest property.

## 4.0 APPRAISAL

### KEY ISSUES

4.1 The key issue in the assessment of this proposal is the impact upon the character of the area and the amenities of nearby residents.

### POLICY CONTEXT

4.2 The National Planning Policy Framework (March 2012) sets out the Government's overarching planning policies at its heart is a presumption in favour of sustainable development. A principle set out in Paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF. The relevant City of York Council Local Plan Policy is GP1 'Design', which requires development proposals to respect or enhance the local environment, be of a design that is compatible with neighbouring buildings and the character of the area and ensure that residents living nearby are not unduly affected by overlooking, overshadowing or dominated by overbearing structures.

4.4 The Council has a Supplementary Planning Document (SPD) for House Extensions and Alterations and was approved on 4 December 2012. Paragraph 15.1 advises that outbuildings, wherever possible, should not be detrimental to the space around it. Paragraph 15.3 advises that they must not have a detrimental impact on the residential amenity of neighbours.

4.5 The Poppleton Village Design Statement SPD (August 2003) states that proper assessment of the character of the surrounding environment should be taken into account when development is proposed. It also advises that development should reflect and respect existing character in size, scale, materials, layout and landscape.

### ASSESSMENT

4.6 The application property lies within a row of residential properties with open fields lying to the south east. It, along with other nearby houses in the row, has a long rear garden, circa 43m. The raised platform and playhouse, etc. are located at the rear end of the garden.

4.7 This rear garden is L-shaped. Near to the rear of the house it is 9m wide. It widens to 17m circa 10m from the rear elevation where it runs eastwards and forms the rear boundary to the adjacent property no.97 Long Ridge Lane.

The boundary then turns southwards and forms the western boundary of the garden to no.95 Long Ridge Lane. On this stretch of the boundary there is a mix of 2m high close boarded fence and 2m high mature hedgerow. The whole of the western boundary of the application property is shared with no.101 Long Ridge Lane. The boundary between nos.101 and 99 is not as well screened as that between nos.99 and 95. There is a low post and rail and the boundary is interspersed with shrubs up to circa 2m high but there are gaps between the shrubs. The main raised platform abuts the rear boundary with the open fields to the south east. The front of the platform is circa 5m from the boundary with no.101 and circa 8-9m from the boundary with no.95. The rear edge is about 2.5m from the boundary with no.101 and 6-7m from the boundary with no.95. It is also roughly 38m from the rear elevations of nos.101 and 95. The playhouse sits roughly in the centre of the platform.

4.8 Schedule 2, Class E of the Town and Country Planning (General Permitted Development) Order 2015 outlines a list of structures that can be erected within the curtilage of a dwellinghouse without planning permission. Specifically excluded from this is development which includes a raised platform. For this reason both the raised platform and playhouse and the set of slide and steps require planning permission.

4.9 There is a set of swings attached to the left hand side of the raised platform but it is considered that this structure and other pieces of play equipment in the garden, including trampolines and wooden gymnastic beam, benefit from PD rights.

4.10 In terms of the impact on the character of the area, it is considered that this is acceptable. The structures are located at the far end of the garden, adjacent to open fields and circa 40m away from the nearest houses in Long Ridge Lane and they are constructed from timber, which is an appropriate material for the location.

4.11 The main issue is the impact on immediate neighbours. Although there is support from a number of local residents none of these have gardens that lie immediately adjacent to the structures. Even no.97, which lies adjacent to the application property, is not affected in the same way as nos. 95 and 101. As the occupant of no.97 states she cannot see the structures because of the high shrubs on her rear boundary and her garden is circa 23m away, whereas the rear gardens of nos. 95 and 101 lie next to and are overlooked by the raised platform and playhouse.

4.12 It is not considered that the privacy of the occupants of nos.101 and 95 within their own houses is eroded (the raised platform is 40m away) but it is considered that the potential to enjoy their rear gardens is affected due to the fact that they can be overlooked from the raised platform. Although the applicant has provided some plants on the raised platform to try and screen the structure and the activities on it to address this problem, it is not considered that it overcomes the issues. The impact is probably greater felt by the occupants of no.101.

The raised platform is closer to the boundary with this property than it is to no.95 and because the shared boundary is less well screened, the platform and playhouse appear as more dominant structures. The slide is also adjacent to the boundary with no.101 and it is considered that activities around this structure and on the raised platform erode the privacy of the rear garden area to no.101. The rear garden area to no.95 benefits from better screening provided by 2m high hedges and fencing. Whilst the raised platform and playhouse can still be seen above this screening from the garden of no.95, the loss of privacy is considered to be less significant.

4.13 Raised platforms are specifically excluded from Schedule 2, Class E of the Town and Country Planning (General Permitted Development) Order 2015. This ensures that neighbour's privacy from works that could otherwise be undertaken without planning permission can be assessed. The play structures provide a valuable amenity for the applicant's children however this has to be balanced against the impact that the use of the structures has on ability of the neighbours to reasonably enjoy their private amenity space.

## **5.0 CONCLUSION**

5.1 It is considered that the use of the raised platform and playhouse adversely affect the adjoining neighbours' ability to enjoy their garden in a reasonable manner and as a result the scheme is in conflict with NPPF Paragraph 17, Policies GP1 of the City of York Draft Local Plan and the Council's Supplementary Planning Document (SPD) for House Extensions and Alterations.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1. It is considered that the raised platform and playhouse adversely affects the level of privacy that the adjoining neighbours could reasonably expect to enjoy within their rear garden area. As a result the scheme is in conflict with NPPF Paragraph 17, Policies GP1 of the City of York Draft Local Plan and the Council's Supplementary Planning Document (SPD) for House Extensions and Alterations.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **STATEMENT OF POSITIVE AND PROACTIVE APPROACH**

1. In respect of the requirements set out within the National Planning Policy Framework paragraphs 186 and 187 regarding adopting a positive approach towards sustainable development in their decision-taking and seeking solutions to problems identified during the processing of the application, the Local Planning Authority has considered the proposal against national and local planning policies

and it was not considered that amendments or conditions would overcome the stated reason for refusal.

**Contact details:**

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15/02940/FUL

99 Long Ridge Lane Nether Poppleton



Scale : 1:1059

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	26 April 2016
<b>SLA Number</b>	Not Set

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**Area Planning Sub Committee**

**5 May 2016**

**Planning Committee**

**12 May 2016**

**Appeals Performance and Decision Summaries**

**Summary**

- 1 This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 January and 31 March 2016, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

**Background**

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, the Government will use appeals performance in identifying poor performing planning authorities, with a view to the introduction of special measures and direct intervention in planning matters within the worst performing authorities. This is now in place for Planning Authorities where more than 60% of appeals against refusal of permission for major applications are allowed.
- 3 The tables below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Table 1 shows performance on appeals decided by the Planning Inspectorate, for the last quarter 1 January to 31 March 2016, Table 2 shows performance for the 12 months 1 April 2015 to 31 March 2016.

**Table 1: CYC Planning Appeals Performance**

	<b>01/01/16 to 31/03/16 (Last Quarter)</b>	<b>01/01/15 to 31/03/15 (Corresponding Quarter)</b>
Allowed	0	3
Part Allowed	0	2
Dismissed	5	9
Total Decided	5	14
<b>% Allowed</b>	<b>0%</b>	<b>21%</b>
% Part Allowed	-	14%

**Table 2: CYC Planning Appeals Performance**

	<b>01/04/15 to 31/03/16 (Last 12 months)</b>	<b>01/04/14 to 31/03/15 (Corresponding 12 month period)</b>
Allowed	4	13
Part Allowed	0	4
Dismissed	29	24
Total Decided	33	41
<b>% Allowed</b>	<b>12%</b>	<b>32%</b>
% Part Allowed	-	10%

**Analysis**

- 4 Table 1 shows that between 1 January and 31 March 2016, a total of 5 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 0 was allowed. At 0% the rate of appeals allowed is below the national annual average of appeals allowed which is around 35%. By comparison, for the same period last year, out of 14 appeals 3 were allowed (21%), 2 were part allowed (14%). None of the appeals allowed between 1 January and 31 March 2016 related to a “major” application.
- 5 For the 12 months between 1 April 2015 and 31 March 2016, 12% of appeals decided were allowed, again well below the national average, and below the previous corresponding 12 month period of 32% allowed.
- 6 The summaries of appeals determined between 1 January and 31 March 2016 are included at Annex A. Details as to whether the application was dealt with under delegated powers or by committee are included with each summary. In the period covered one appeal was determined following refusal at sub-committee. Four of the five appeals related to proposals that were considered to be inappropriate development in the Green Belt.

**Table 3: Appeals Decided 01/01/2016 to 31/03/2016 following Refusal by Committee**

Ref No	Site	Proposal	Outcome	Officer Recom.
14/02008/FUL	Ivy House Farm, Hull Road, Kexby	Erection of wind turbine	Dismissed	Refuse

- 7 The list of current appeals is attached at Annex B. There are 13 planning appeals lodged with the Planning Inspectorate (excluding tree related appeals but including appeals against enforcement notices).
- 8 We continue to employ the following measures to ensure performance levels are maintained at around the national average or better:
- i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with Paragraph 56 of the NPPF and draft Development Control Local Plan Policy.
  - ii) Where significant planning issues are identified early with applications, revisions are sought to ensure that they can be recommended for approval, even where some applications then take more than the 8 weeks target timescale to determine. This approach is reflected in the reduction in the number appeals overall. This approach has improved customer satisfaction and speeded up the development process and, CYC planning application performance still remains above the national performance indicators for Major, Minor and Other application categories.
  - iii) Additional scrutiny is being afforded to appeal evidence to ensure arguments are well documented, researched and argued.

### **Consultation**

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

### **Council Plan**

- 10 The report is most relevant to the “Building Stronger Communities” and “Protecting the Environment” strands of the Council Plan.

**Implications**

- 11 Financial – There are no financial implications directly arising from the report.
- 12 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.
- 13 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 14 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

**Risk Management**

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

**Recommendation**

That Members note the content of this report.

**Reason**

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

**Contact Details**

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Gareth Arnold  
Development Manager,  
Directorate of City and  
Environmental Services

**Chief Officer Responsible for the report:**

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

**Report  
Approved**



**Date** 22 April  
2016

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

**Wards Affected:**

All  Y

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

**Annexes**

**Annex A – Summaries of Appeals Determined between 1 January  
and 31 March 2016**

**Annex B – Outstanding Appeals at 22 April 2016**

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**Appeal Summaries for Cases Determined 01/01/2016 to 31/03/2016**

**Application No:** 14/02008/FULM  
**Appeal by:** EDP  
**Proposal:** Erection of wind turbine (maximum height to blade tip 78 metres) with associated access tracks, crane pad, sub-station building, underground cabling and temporary construction compound  
**Address:** Ivy House Farm Hull Road Kexby York YO41 5LQ

**Decision Level:** COMP  
**Outcome:** DISMIS

The appeal relates to a proposal for erection of a single wind turbine with a 50 metre high pylon and an overall height to the blade tip of 78 metres at Ivy House Farm Kexby within the Green Belt to the south east of Dunnington. Planning permission was sought for erection of the turbine for the purposes of securing farm income and to export up to 880kWh of electricity to the National Grid. It is acknowledged in paragraphs 89 and 90 of the NPPF that large scale renewable energy schemes are inappropriate development within the Green Belt although the need for production of low and zero carbon energy could comprise a case for "very special circumstances" to overcome the usual presumption against inappropriate development within the Green Belt. Despite a strong contrary argument by the applicant it was felt that not only was the scheme inappropriate development within the Green Belt its sheer scale(it would have been much the tallest structure within the City area) would cause very substantial harm to the open character of the Green Belt and on that basis it was refused planning permission. The applicant duly appealed but in the meantime Secretary of State for Communities and Local Government issues a written Ministerial Statement indicating that the Government would not be minded to support large scale renewable energy projects where there was not demonstrable local community support. The appeal inspector supported the view of the Local Planning Authority that the proposal would give rise to significant harm to the open character of the Green Belt contrary to paragraph 79 of the NPPF and furthermore identified a significant degree of harm to local landscape character. She furthermore noted the significant degree of local opposition to the scheme and in that light gave significant material weight to the Ministerial Statement of the Secretary of State. The appeal was therefore dismissed.

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**Application No:** 14/02792/OUT  
**Appeal by:** Mr D Blissett  
**Proposal:** Outline application for erection of 4no. dwellings with associated access and parking  
**Address:** Land To Rear Hilbra Avenue Haxby York

**Decision Level:** DEL

**Outcome:** DISMIS

The application was an outline application for four dwellings with access road and parking to the rear of Hilbra Avenue, Haxby. The application was refused. The Inspector considered whether the site had Green Belt status and through reference to the Draft DCLP and emerging Local Plan concluded that neither of these documents had statutory development plan status. However, referring to the RSS and retained policies relating to Yorks Green Belt, he concluded that the site was in the general extent of the Green Belt and the development therefore comprised inappropriate development and by definition was therefore harmful. The Inspector agreed that the site was primarily open and that the four dwellings would cause substantial loss of openness, an essential characteristic of the Green Belt. However the development would not materially harm the historic setting of York and any erosion of the gap between York and Haxby would be minimal. It would not safeguard the countryside from encroachment nor check the unrestricted sprawl of large built up areas. The proposal therefore conflicted with two purposes of Green Belt. The Inspector did not find any other substantive harm caused by the proposals, including any harm to the landscape. He attributed substantial weight to the harm to the Green Belt by reason of inappropriateness, loss of openness and conflict with the purposes of the Green Belt. Very limited weight was given to the contribution to meeting housing needs, housing land supply and sustainability. Therefore there were no other considerations that clearly outweighed harm nor any very special circumstances.

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**Application No:** 14/02832/FUL  
**Appeal by:** Mr Thomas Coomber  
**Proposal:** Change of use from a dwelling (use class C3) to a house of multiple occupation (use class C4)  
**Address:** 28 Third Avenue York YO31 0TX

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal site is located within predominantly residential street, lying within a predominantly residential area. The CYC Policy data base identified a 13.73% density of HMO's at street level and a 10.00% density at neighbourhood level. The Inspector noted a variance between the Council's figures, and those of local residents. The Inspector was satisfied that policy levels had been breached at street level. The Inspector was satisfied that the application property would meet all the requirements of future occupants and there was adequate off-road parking. However he considered that the proposal, culmulatively with other HMO's within Third Avenue, would adversely affect the residential character and living conditions of Third Avenue with particular regard to the balance and mix of households and found conflict with the provisions of CYC Local Plan Policy H8 and the SPD. The inspector concluded that the proposal would materially harm the character of, and living conditions within the area surrounding the appeal site.

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**Application No:** 15/00555/FUL  
**Appeal by:** Mr S Duggan  
**Proposal:** Erection of dog boarding kennels and siting of temporary dwelling for a period of 3 years  
**Address:** Spring Wood Stables New Road Deighton York YO19 6EZ

**Decision Level:** DEL

**Outcome:** DISMIS

The application was for the erection of dog boarding kennels and siting of temporary dwelling for a period of 3 years. The site is within the general extent of the greenbelt. In 2013 planning permission was granted for stables and equine exercise arena, and an agricultural shed together with the change of use of the field for equine use, this development has been constructed. The appellant argued that because of the previous development that the site was considered to be 'previously developed land' and that the proposed development was considered infill as such very special circumstances were not required to be submitted. During the appeal they argued that this area had a shortage of small kennels and travel up to 15 miles was unreasonable. The appellant argued that the proposal was required to be sited in a rural location, and should be considered as a rural workers dwelling. The LPA argued the site was green belt and did not fall within the definition of previously developed land and concluded that the considerations put forward were not sufficient or compelling and did not clearly outweigh the substantial weight given to harm to the Green Belt. The Inspector did not consider that the development fell within the exceptions of the para 89 of the NPPF. He concluded that the kennels, enclosure and caravan would reduce the openness of the greenbelt and would be contrary to the purposes of the greenbelt and inappropriate development in the greenbelt. The Inspector had reservations about the lack of evidence provided with regard to the viability of the proposed business. The Inspector did not consider it to be a sustainable location.

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**Application No:** 15/01156/FUL  
**Appeal by:** Mr And Mrs R Karn  
**Proposal:** Removal of condition 3 of permitted application  
 07/00102/FUL to allow existing log cabin to be occupied as  
 a main residence  
**Address:** Log Cabin (Orchard Lodge) Adjacent To Mount Pleasant  
 House Elm Avenue Acaster Malbis York YO23 2UP  
**Decision Level:** DEL  
**Outcome:** DISMIS

This was an appeal against the refusal of a section 73 application for the removal of an occupancy condition ( restricting use to holiday let only). The site had previously been granted a CLU to retain a caravan for holiday purposes. Subsequently the caravan was removed and replaced with the log cabin under a grant of planning permission which restricted occupation to holiday let only. The site is in the Green Belt. The section 73 application was refused on the basis that the consequence of the conditions removal would be the formation of a separate dwelling in the open countryside which would be inappropriate development in the Green Belt (paragraph 89). In accordance with paragraph 87 there was considered to be definitional harm to the Green Belt. Furthermore there would be other harm to openness through the need to accommodate the requirements of a permanent household and to the purposes of Green Belt through encroachment into open countryside and other harm associated with the loss of a tourist facility. The Inspector came to a similar conclusion finding that there was definitional harm, harm to the character and appearance of the area and other (limited) harm associated with the loss of tourism.

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

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## Outstanding appeals

<b>Officer: Diane Cragg</b>						<b>Total number of appeals:</b>	<b>3</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
11/02/2016	16/00002/REF	APP/C2741/W/16/3142732	W	11 Murton Way York YO19 5UW	Erection of 1no. dwelling to rear		
23/12/2015	15/00040/REF	APP/C2741/W/15/3140414	W	Former Garage Site 172 Fulford Road York YO10	Erection of petrol service station with retail unit		
24/09/2015	15/00035/CON	APP/C2741/W/15/3135274	W	B And Q Osbaldwick Link Road Osbaldwick York	Use of premises as retail food store with external alterations including reconfiguration of shop front, canopy, installation of new customer cafe and associated toilets, installation of ATM`s, removal of existing garden centre and builders yard and reconfiguration of site access and customer car park		
<b>Officer: Erik Matthews</b>						<b>Total number of appeals:</b>	<b>2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
26/01/2016	16/00001/REF	APP/C2741/W/15/3140253	W	35C Drome Road Copmanthorpe York YO23	Erection of part two storey part single storey dwelling		
11/02/2016	16/00003/REF	APP/C2741/W/16/3143484	W	Country Park Pottery Lane Strensall York YO32 5TJ	Variation of conditions 7 and 8 of permitted application 12/03270/FUL to allow caravan site to open and caravans to be occupied from 14th March in any one year to 14th January in the succeeding year		
<b>Officer: Esther Priestley</b>						<b>Total number of appeals:</b>	<b>3</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
12/05/2014	14/00017/TPO	APP/TPO/C2741/3909	W	14 Sails Drive York YO10 3LR	Fell Silver Brch (T3,T11), Mountain Ash (T5), Oak (T8), Trees protected by Tree Preservation Order CYC15		
27/11/2015	15/00041/REF	APP/TPO/C2741/4900	H	1 Beaufort Close York YO10 3LS	Various tree works including the felling of 4 no. trees protected by Tree Preservation Order No. CYC15		
09/05/2014	14/00015/TPO	APP/TPO/C2741/3907	W	7 Quant Mews York YO10 3LT	Crown Reduce Silver Birch (T1,T2), Trees protected by Tree Preservation Order CYC 15		

<b>Officer: Elizabeth Potter</b>						<b>Total number of appeals:</b>	<b>2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
07/03/2016	16/00004/REF	APP/C2741/D/16/3145311	H	11 Top Lane Copmanthorpe York YO23 3UH	Two storey extension to front and side and single storey rear extension and dormer (amended scheme)		
29/02/2016	16/00006/REFL	APP/C2741/Y/16/3145522	W	26 Holgate Road York YO24 4AB	Internal alterations including removal of partition wall and ground floor chimney breast		
<b>Officer: Jonathan Kenyon</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
14/03/2016	16/00008/REF	APP/C2741/W/16/3146486	W	Coalters Ltd 2 Low Ousegate York YO1 9QU	Extension to roof to create 1 no. apartment		
<b>Officer: Kevin O'Connell</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
26/09/2014	14/00036/EN	APP/C2741/C/14/2225236	P	Land At OS Field No 9122 Holtby Lane Holtby York	Appeal against Enforcement Notice dated 31 July 2014		
<b>Officer: Matthew Parkinson</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
17/06/2011	11/00026/EN	APP/C2741/C/11/2154734	P	North Selby Mine New Road To North Selby Mine	Appeal against Enforcement Notice		
<b>Officer: Neil Massey</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
24/02/2016	16/00007/REF	APP/C2741/W/16/3145190	W	105 Newland Park Drive York YO10 3HR	Change of use from dwelling (use class C3) to House of Multiple Occupation (use class C4)		
<b>Officer: Paul Edwards</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
30/03/2016	16/00005/REF	APP/C2741/W/16/3146542	W	46 Heslington Road York YO10 5AU	Change of use of dwellinghouse (use class C3) to a house in multiple occupation (use class C4)		



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**Officer: Sophie Prendergast****Total number of appeals: 1**

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<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
12/11/2015	15/00036/REF	APP/C2741/W/15/3136728	W	Lidgett House 27 Lidgett Grove York YO26 5NE	Erection of two storey dwelling

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**Total number of appeals: 16**

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