

COMMITTEE REPORT

Date: 21st January 2016 **Ward:** Fishergate
Team: Major and **Parish:** Fishergate Planning
Commercial Team Panel

Reference: 15/00419/FUL
Application at: The Retreat 107 Heslington Road York YO10 5BN
For: Erection of patient day-care centre and associated
landscaping within walled garden
By: Mr Robert Brownlow
Application Type: Full Application
Target Date: 21 August 2015
Recommendation: Approve

1.0 PROPOSAL

1.1 The application seeks full planning permission for the erection of two single storey buildings within the grounds of The Retreat mental health care facility, which lies to the south of Heslington Road. The proposal is part of a wider development to the north of, and within, an existing walled garden that would provide a care facility for young adolescents (aged 12-18) with eating disorders (see also related applications 15/00420/LBC and 15/00421/FUL).

1.2 The proposed buildings are located within, or attached to, an existing brick walled garden that sits to the east of the main Retreat hospital building and Garrow House, both grade II listed. The historic walled garden has listed status by virtue of its age and location within the curtilage of the main listed buildings.

1.3 The larger of the two buildings would sit across the top section of the walled garden. The smaller building would sit on the south side of the walled garden. The design incorporates a green roof and brise-soleil features to the south facing windows. A glazed corridor would run along the outside of the building to link it to the wall of the enclosed garden. The main building would house a reception area, two recreation rooms, two classrooms, two therapy rooms and associated ancillary accommodation in the main buildings and the smaller buildings would house a rehabilitation kitchen and third therapy room.

1.4 The application is supported by a planning statement, heritage and design statement, archaeological desk-based assessment report, bat survey, arboricultural assessment and tree planting scheme, drainage strategy and geo-environmental desk study report.

2.0 POLICY CONTEXT

2.1 2005 Draft Development Plan Allocation:

- Areas of Archaeological Interest: City Centre Area
- Conservation Area: The Retreat/Heslington Road

2.2 Policies:

i) Yorkshire and Humber Regional Spatial Strategy - Green Belt policies YH9(C) and Y1 (C1 and C2))

ii). National Planning Policy Framework (March 2012)

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

- CYGB1 - Development within the Green Belt
- CYGB10 – Major Developed Sites in the Green Belt
- CYHE2 - Development in historic locations
- CYHE3 - Conservation Areas
- CYHE4 - Listed Buildings
- CYHE9 – Scheduled Ancient Monuments
- CYHE10 - Archaeology
- CYHE11 - Trees and landscape
- CYGP1 - Design
- CYGP3 - Planning against crime
- CYGP4A - Sustainability
- CYGP9 - Landscaping
- CGP15A - Development and Flood Risk
- CYC1 - Criteria for community facilities

- CYNE1 - Trees, woodlands, hedgerows
- CYNE6 - Species protected by law
- CYT4 - Cycle parking standards

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

- DP2 – Sustainable Development
- SS1 – Delivering Sustainable Growth for York
- SS2 – The Role of York’s Green Belt
- D1 – Landscape and Setting
- D4 – Conservation Areas
- D5 – Listed Buildings
- D7 - Archaeology
- G14 – Trees and Hedges
- GB1 – Development in the Green Belt
- CC2 – Sustainable Design and Construction
- ENV4 – Flood Risk
- T1 – Sustainable Access

3.0 CONSULTATIONS

3.1 The application was publicised by the display of notices in the local press and on site. Notifications were sent to statutory consultees and surrounding residents. The consultation period expired on 10.12.2015. The following responses have been received.

INTERNAL

HIGHWAY NETWORK MANAGEMENT

3.2 No objections raised to the proposed development as it will generate an insignificant amount of traffic and parking in relation to the overall institution which has 125 car parking and 44 cycle spaces. Note that Heslington Road is served by a regular bus and the junctions and much of the surrounding carriageway are protected by parking restrictions.

PLANNING AND ENVIRONMENTAL MANAGEMENT

(i) Countryside and Ecology

3.3 The site lies within District Green Infrastructure Corridor 7 Tilmire, which has priorities for wildlife enhancement including neutral grassland, ponds, hedges and scrub. To the south of The Retreat is Walmgate Stray, which is recorded as a Site of Local Interest. The proposed development should not impact negatively on these.

3.4 The area within the walled garden is listed on Natural England's Traditional Orchard Inventory which was produced to support the (now defunct) UK Biodiversity Action Plan as a Priority Habitat. Orchards are listed on Section 41 habitats of 'principal importance for the purpose of conserving biodiversity' of the Natural Environment and Rural Communities Act 2006. Traditional orchards are also identified as a priority habitat within the City of York Action Plan and there are very few orchards remaining in York.

3.5 The ecology survey found 12 no. fruit trees of various stages of growth, neglected but still producing fruit. The tree survey has identified the majority of these to be in poor or dead condition and recommended removal and replacement as part of the development. It is proposed to replace the removed trees with the same or similar fruit species which will maintain its structure as a small orchard. Its value for biodiversity could be further enhanced by creating wildflower grassland within the walled garden and planting nature English bluebell in shady areas to maintain the presence of this species.

3.6 An external inspection of the potting shed and garage identified features suitable for roosting bats and a further survey was undertaken in September 2014. Overall, the buildings were assessed as having a low potential to support roosting bats and no bats were seen to emerge from the building during the dusk emergence survey. It is considered that the development will not impact on roosting bats.

3.7 There was an active wren nest in the potting shed (June 2014) and the dense climbers in the walled garden provides habitat for nesting birds, and the walled

garden is suitable habitat for hedgehogs. Hedgehogs are listed on Section 41 of 'principal importance for the purpose of conserving biodiversity' of the Natural Environment and Rural Communities Act 2006.

3.8 An informative is requested to highlight the protection of birds under the Wildlife and Countryside Act 1981.

(ii) Landscape

3.9 States the large number of mature trees within 'The Retreat', play a key role in the attractive setting of the conservation area and The Retreat, as well as providing a number of health benefits. It is considered such trees should be retained and adequately protected through appropriate design. The large trees located around the outside of the walled garden and adjacent to the existing student accommodation are subject to protection mechanisms by way of their location within the conservation area.

3.10 The majority of fruit trees within the walled garden are in a poor condition, and are not suitable for management as veteran trees. Therefore, their removal is not objectionable in light of the proposed development which retains a substantial portion of the walled garden for new fruit tree planting in relation to the proposed low, single storey building. A few trees would be incorporated into the scheme, which will retain some of the character and maturity of the former orchard, such as Pear T9, however it is not so significant as to compromise the proposed development.

3.11 The proposed tree planting within the walled garden presents a suitable number and range of cultivars, though they could be arranged slightly differently in the eastern half to take them further away from the building in a more formal arrangement to allow a bit more openness immediately in front of the elevation. The outside face of the southern wall presents an opportunity for espaliered fruit bushes or trees, which would also allow greater flexibility for the 'kitchen garden'; additional trees could be set further away in a staggered arrangement if required. These items can be addressed in a landscape scheme under standard condition LAND1.

3.12 In respect of the large, mature trees on the outside of the walled garden, whose root protection areas (RPA) potentially extend under the walled garden, the proposed is to install pile and beam foundations. This would avoid the need for deep excavations. The RPA of T1 Oak is the most likely to be affected. The exchange of a possibly porous surface with a non-porous one may be detrimental to the mature trees on the outside perimeter of the walled garden. The arboricultural impact assessment should provide a view on this.

3.13 A condition is requested requiring a final arboricultural method statement in order to make sure that site practices and proposed foundations are in keeping with the intentions of the arboricultural method statement.

(iii) Archaeology

3.14 It is normal practice in York to require pre-determination evaluation work on sites of archaeological interest. This practice is in line with the guidance in the NPPF and City of York emerging Local Plan. In exceptional circumstances, this requirement can be waived and a condition imposed to provide for and archaeological evaluation and any further archaeological work that might arise as a consequence.

3.15 The applicants have commissioned a desk-based assessment (DBA) that identifies the considerable archaeological significance and interest and acknowledges the direct impact and potential damage to undesignated heritage assets.

3.16 Because of access problems, it is accepted that it is not possible to carry out a pre-determination archaeological evaluation of the walled garden site and that carrying out the evaluation in two phases would impose cost and efficiency penalties and cause disruption and disturbance around the student accommodation block. In these circumstances, it is accepted that this evaluation can take place after approval. If evaluation indicates that there are archaeological features and deposits present on the site, then the evaluation trenches must be extended to cover the footprint of the new development so that all archaeological features and deposits can be recorded prior to construction commencing. Conditions are recommended.

(iv) Conservation Officer

3.17 The scheme in principle is supported and has been very clearly thought through, both in terms of functionality, and in its intention of enhancing the setting of both Garrow House and The Retreat, both grade II listed buildings. The proposals potentially sustain the future use of The Retreat in the use for which it was constructed, and in doing so preserve its significance.

FLOOD RISK MANAGEMENT TEAM

3.18 The development is in low risk Flood Zone 1 and should not suffer from river flooding. Having assessed the further information within the Drainage Strategy dated October 2015 by Campbell Reith Consulting Engineers and onsite infiltration testing, the team has no objections to the development in principle but requests drainage conditions be applied to any approval.

EXTERNAL

HISTORIC ENGLAND

3.19 Recommends that consent be granted subject to appropriate archaeological, arboricultural and materials conditions.

YORKSHIRE WATER

3.20 Requests conditions to cover foul and surface water drainage.

4.0 APPRAISAL

4.1 The key issues pertinent to the determination of this application are:

- Principle of development;
- Green Belt policy;
- Impact on designated and non-designated heritage assets;
- Design considerations;
- Impact on trees and ecology;
- Flood risk and drainage assessment;
- Access, parking and impact on highway safety;
- Effect on residential amenity;
- Contamination risks;
- Other considerations.

THE SITE AND HISTORY

4.2 The Retreat is a Grade II listed hospital located on the south side of Heslington Road. It is bounded by Heslington Road to the north, which then cuts through the site as a cycle/pedestrian route, Thief Lane to the north and University Road to the east. The hospital is situated within a parkland setting. In addition to the main hospital building, Garrow House and a summerhouse are also Grade II listed. There are various other ancillary structures and buildings of varying dates within the grounds. The site falls within The Retreat/Heslington Road Conservation Area (no.8). It sits between the City Centre Area of Archaeological Importance, which is adjacent to the east, and the Retreat Area of Archaeological Importance, centred around the site of Lamel Hill Battery to the west of the main hospital building. It lies within Flood Zone 1 (low probability). There are many mature trees within the parkland that are protected by the conservation status of the site.

4.3 There is a lengthy planning history for The Retreat site. The date of approval for the building to be replaced by the proposed accommodation block is unclear, but it dates to circa. 1970s. No other permissions or consents are relevant to the consideration of the application. The current application has been subject to lengthy pre-application discussions with officers for the proposed health care facility (14/00909/PREAPP).

POLICY CONTEXT

4.4 Section 38(6) of the Planning and Compensation Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no development plan for York other than the retained policies in the Yorkshire and Humber regional Spatial Strategy (“RSS”), saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. These policies, YH9(C) and Y1(C1 and C2), relate to York’s Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt. The policies state that the detailed inner and rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

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

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

4.7 Section 9 ‘Protecting Green Belts’ says that the essential characteristics of Green Belts are their permanence and openness (paragraph 79). Paragraph 80 sets out the purposes of Green Belt. These are to check unrestricted sprawl of large built up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and, to assist in urban regeneration. Paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt, by

reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. With regard to new buildings, paragraph 89 states that the construction of new buildings is inappropriate in Green Belt unless it falls within one of the listed exceptions.

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

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

4.10 Section 12 'Conserving and enhancing the historic environment' requires local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness. It advises consent to be refused where there is substantial harm unless it can be demonstrated that this is necessary to achieve substantial public benefits or where there is less than substantial harm, this be weighed against the public benefits of the proposal.

4.11 Although there is no formally adopted local plan, the City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Whilst it does form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. The relevant policies are summarised in section 2.2 above. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are policies GP1, GB1, HE2, HE4 and HE10.

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

PRINCIPLE OF DEVELOPMENT

4.13 Whilst the RSS has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates the general extent of the Green Belt around York. These policies comprise the S38 Development Plan for York. The policies in the RSS state that the detailed inner and rest of the outer boundaries of the Green Belt around York need to be defined to protect and enhance the nationally significant historical and environmental character of York. The 2005 Draft Local Plan proposals map identifies the site within the general extent

of Green Belt. In accordance with footnote 9 to paragraph 14 of the NPPF, the usual presumption in favour of sustainable development established by the NPPF does not apply in Green Belt locations. Furthermore, the location of the site within the grounds of three listed buildings and in a designated conservation area means that the usual presumption does not apply by virtue of footnote 9. Instead, the more restrictive policies in section 9 and 12 of the NPPF apply.

GREEN BELT POLICY

4.14 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. Paragraph 80 sets out the five purposes of the Green Belt:

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

4.15 Paragraph 89 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Paragraph 87 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 says when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

4.16 Most development within the Green Belt is considered inappropriate. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt. The proposal involves the construction of two new buildings within the general extent of York's Green Belt. The applicant is of the opinion that the proposal falls within the exception in paragraph 89 of the NPPF of 'limited infilling or partial redevelopment of previously developed sites...which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. However, the NPPF excludes land within built-up areas such as private residential gardens and parks from the definition of previously developed land. As such, it is officers' view that the proposal does not fall within any of the exceptions listed in paragraph 89 of the NPPF and, therefore, constitutes inappropriate development that is by definition harmful for the purposes of the Green Belt policy tests. 'Very special circumstances' must, therefore, exist that outweigh

the harm to the Green Belt by reason of inappropriateness, and any other harm identified below, for the development to be acceptable.

IMPACT ON OPENNESS AND GREEN BELT PURPOSE

4.17 In addition to the harm by reason of inappropriateness, consideration also needs to be given to other harm to the Green Belt. The NPPF states that the essential characteristics of Green Belts are their openness and their permanence. The proposed development would largely be contained within an existing walled garden and as such there would be limited views of it from outside the enclosure. A smaller structure would be mainly concealed from public views by the existing brick boundary wall and the southern elevation of the walled garden. Although marginally higher than the walls of the enclosure, the only element of the buildings that would be viewed from outside would be the roof structure, which for the primary building would be a green roof. It would replace previous glass house structures that have been removed not in the near past and had a smaller footprint, but for which the bases still exist. The presence of structures within walled gardens, such as single storey glass houses, is characteristic of these historic features. As such, it is officer's opinion that the proposal would not result in any additional harm to the openness of the Green Belt. Furthermore, the proposal does not conflict with purposes of including land within Green Belt listed in paragraph 80. In conclusion, no additional harm has been identified to openness and purpose of the Green Belt.

HERITAGE ASSETS

4.18 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("1990 Act") imposes a statutory duty on local planning authorities, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interests which it possesses. Section 72(1) of the 1990 Act imposes a statutory duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas when determining planning applications. The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under section 66 and 72 of the 1990 Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted. The presumption in favour of sustainable development set out at paragraph 14 of the NPPF does not apply in these circumstances.

4.19 The legislative requirements of Sections 66 and 72 are in addition to government policy contained in Section 12 of the NPPF. The NPPF classes listed buildings, conservation areas and scheduled monuments as “designated heritage assets”. Section 12 of the NPPF advises that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. Paragraph 131, in particular, states that local planning authorities should take account of the desirability of sustaining and enhancing an asset’s significance, the positive contribution it can make to sustainable communities and the positive contribution new development can make to local character and distinctiveness. Paragraph 132 establishes the great weight that should be given to a designated heritage asset's conservation with a clear and convincing justification being provided to justify any harm or loss. Paragraph 135 requires the effect of an application on the significance of a non-designed heritage asset to be taken into account in determining an application. Draft Local Plan policies HE2, HE4 and HE10 reflect legislation and national planning guidance. In particular, Policy HE2 states that proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials.

4.20 The application site lies within the setting of grade II listed buildings, The Retreat and Garrow House. It falls within the designated Retreat/Heslington Road Conservation Area, which was designated in 1975. Its description explains that the land occupies high ground to the south of the City and commands views northwards across the city and southwards over Walmgate Stray towards Fulford. The character of the conservation area results from ‘an institutional use set in parkland surrounded by obscuring walls but with views out’. The conservation area includes Lamel Hill, a large mound raised during the Civil as part of works that encircled York and an extensive late Roman or Anglian cemetery. As a result of its historic significance, the mound is a Scheduled Ancient Monument that has been designated an area of archaeological importance. The City Centre Area of Archaeological Importance lies to the east of the site and focuses on Green Dykes Lane/University Road and the land either side of it.

4.21 The proposed building has been designed to be subservient to the walled garden in order to retain the integrity of this historic structure when viewed from the outside. The primary day care building would be set away from the historic wall by approximately 2.8m with a glazed roof corridor separating them. The roof of the buildings would extend above the height of the walls by approximately 100mm, which, given the set back, would not be read in external views of the building at ground level. The primary day care building would be constructed partly on the footprint of the glasshouses that once existed within the walled garden and would leave the southern portion of the garden in its intended use. New planting is proposed within the garden. The smaller building is limited in size and would not interfere with the function of the walled garden. A kitchen garden area is proposed

adjacent to the rehabilitation kitchen, which would provide a link to the historical use of this part of The Retreat. The use of timber and a green roof would reflect the rural nature of this historical structure and space. As such, the proposed development would retain the value of the walled garden and that of the site as a mental health hospital within a parkland setting, which is cited in the conservation area description as the main element of the conservation area's character.

4.22 The location of the proposal within the site would not impact on the Scheduled Ancient Monument or the Area of Archaeological Importance centred around it. The applicant has submitted a desk-based assessment that highlights that the site is of considerable archaeological potential as it appears to have been part of an important Anglo-Saxon landscape with definite and potential burial mounds and cemeteries and a 6th century settlement within 400m. It considers that the proposal would potentially impact on these remains and there is a high likelihood that the extant remains of the 19th century gardening and leisure buildings would be impacted.

4.23 The City Archaeologist did ask at pre-application stage for an archaeological evaluation to be carried out before submission of the application. However, following further discussion, he agreed that the application could be approved subject to conditions. As such, and in line with advice in paragraph 40 of the Planning Policy Guidance document that accompanies the NPPF, conditions relating to archaeological evaluation have been requested by the City Archaeologist.

4.24 In light of the above, the proposal would not result in harm to the significance of the grade II listed buildings on site, including that of the curtilage listed walled garden, nor that of the conservation area. The proposal would preserve the setting of the listed buildings, as required by section 66(1) of the 1990 Act, and in doing so would preserve the character and appearance of the conservation area, as required by section 72(1) of the Act. Any harm to archaeological deposits and features can be adequately addressed and mitigated through the imposition of conditions. There would be no additional harm to Green Belt.

DESIGN

4.25 Chapter 7 of the NPPF gives advice on design, placing great importance to the design of the built environment. At paragraph 58 it states that planning decisions should aim to ensure that, amongst other things, developments will function well and add to the overall quality of an area, establish a strong sense of place, incorporate green and other public space as part of them, respond to local character whilst not stifling innovation, create safe and accessible environments and include appropriate landscaping. It goes on to say that great weight should be given to outstanding or innovative designs which help raise the standard of design in the area (para. 63). The advice in chapter 7 is replicated in Draft Local Plan policies GP1 (Design) and GP9 (Landscaping) and these policies, therefore, accord with the NPPF. In

particular, Policy GP1 which requires new development to respect or enhance its local environment and be of an appropriate density, layout, scale, mass and design compatible with neighbouring buildings and using appropriate materials.

4.26 A simple design approach has been adopted for the buildings including contemporary elements, such as timber cladding, green roof and brise-soleil, that seek to enhance their appearance as well as meet sustainability requirements. An entrance would be provided via the west facing wall to allow access to the proposed accommodation block that would be situated north of the walled garden. A condition requiring material samples should be imposed if the application is approved. Further details of hard and soft landscaping to the remaining garden should also be covered by condition. On the basis of the above, the proposal would respect the local environment and would accord with the aims of the NPPF to achieve high quality and inclusive design. There would be no additional harm to Green Belt.

TREES AND ECOLOGY

4.27 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural local environment by, amongst other things, minimising impacts on biodiversity. Paragraph 118 of the NPPF aims to conserve and enhance biodiversity, including the refusal of planning applications where significant harm cannot be avoided or adequately mitigated and where development would adversely affect Sites of Special Scientific Interest, ancient woodland and European protected sites. Policies NE1 and NE6 of the Draft Local Plan reflects this advice in relation to trees and protected species.

4.28 There are no such designated sites within the vicinity of the site that would be adversely affected. The proposal would not impact negatively on Walmgate Stray, a Site of Local Interest. The ecology survey identified 12 no. fruit trees as part of the traditional orchard within the walled garden, though these were categorised in the tree survey as being in poor or dead condition. It is proposed to remove some of these and replace with the same or similar fruit species. A landscape condition, which would require further details of the replacement planting is recommended as well as a method statement condition to cover site practices and foundations to ensure that the proposed building does not adversely affect the root protection area (RPA) of the mature Oak tree that lies adjacent to the east facing section of the walled garden.

4.30 A bat survey was undertaken of the existing structure, which assessed the buildings as having a low potential to support roosting bats and no bats were seen emerging. As a result the proposed development would not impact on roosting bats. An active wren nest was found in the potting shed and the dense climbers are suitable for nesting birds. The habitat is also suitable for hedgehogs. The Council's Ecologist recommends an informative be added to any approval to bring the

applicant's attention to the requirements of the Wildlife and Countryside Act 1981 with regards birds.

4.31 Whilst there is the potential for some harm to be caused to mature trees and protected species, this can be mitigated by the imposition of conditions and an informative. Therefore, it is considered that the proposal would not result in harm to biodiversity and there would be no additional harm to Green Belt.

FLOOD RISK

4.32 Paragraph 103 of the NPPF states that development should be directed to the areas of low flood risk and that development should not result in an increase of flood risk within the site or elsewhere. Policy GP15a of the Draft Local Plan supports this approach to flood risk.

4.33 The site lies within low risk flood zone 1 and should not suffer from river flooding. Foul water would be discharged to the existing sewers that serve the site. A drainage strategy has been submitted to support the application. It explains that following an infiltration test, topographic site survey and site walkover, it is proposed that surface water run-off from the site would be discharged to the existing sewer outfall, controlled so as not to exceed run-off rates agreed with the Council's Flood Risk Engineer and Yorkshire Water. The Council's Flood Risk Engineer has assessed the submitted drainage strategy and is satisfied in principle subject to detailed drainage information being submitted for approval prior to development commencing. As such, the proposal would result in no harm to flood risk in the area and no additional harm to Green Belt.

HIGHWAY SAFETY

4.34 The NPPF encourages sustainable travel and siting development in sustainable and accessible locations. The proposal involves the provision of additional mental health services and facilities in connection with an existing and long established mental health hospital that is close to the City Centre and accessible by public transport and other non-car modes of travel. The building would be served from the existing site entrance with the public highway on Heslington Road and there is existing car and cycle parking facilities that serve the hospital including the accommodation block that is to be demolished to make way for the proposal building. As such, there are no objections raised on highway grounds. There would be no further harm to Green Belt.

AMENITY

4.35 One of the core principles of planning outlines in the NPPF is to seek a good standard of amenity for all existing and future occupants. Paragraph 120 of the NPPF also states that new development should be appropriate for its location to prevent unacceptable risks from pollution and land instability, with the responsibility for securing a safe development resting with the developer. Paragraph 123 in particular advises that planning decisions should avoid and mitigate any impacts from noise and light pollution. Policy GP1(i) of the Draft Local Plan seeks to ensure that development proposals do not unduly affect the amenity of nearby residents in terms of noise disturbance, overlooking, overshadowing or from overbearing structures.

4.36 The Environmental Protection Unit has raised concerns about the impact on amenity during construction and from plant and have requested conditions and informatives be imposed on any approval to address this. A further condition is recommended in the event that contamination is found during construction works.

4.37 The proposed building is contained within the built extent of the walled garden, with the exception of the kitchen element, which is on the inner side of the boundary wall. As such, there would be no residential properties that would be adversely affected by the development, in terms of overlooking, overshadowing or over-dominance. The proposed building would be located at a sufficient distance away from Garrow House. The layout of the new building and its relationship with the walled garden creating a private and secluded amenity space would benefit future users of building.

4.38 In light of the above, the proposal would not result in harm to amenity that could not be mitigated through condition. There would be no additional harm to Green Belt.

OTHER CONSIDERATIONS

4.39 The proposal would constitute inappropriate development that would by definition be harmful to the Green Belt by reason of inappropriateness. No other harm has been identified, subject to the imposition conditions should Members be minded to approved the application. Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development, unless other considerations exist that amount to 'very special circumstances' that are sufficient to clearly outweigh harm to the Green Belt by reason of inappropriateness and any other harm.

4.40 The scheme would provide an additional health care facility at a long-established mental health institution that serves the City and wider region. The planning statement includes a clinical justification for the facility, which is intended to cater for young adolescents aged between 12 and 18 with eating disorders, particularly anorexia nervosa. The justification explains the need, both nationally and locally, for such a facility. It quotes a position statement issued in August 2013 by the Quality for Inpatient CAMHS (QNIC) and the Quality Network for Community CAMHS (QNCC) Royal College of Psychiatrists in response to increasing numbers of young people being admitted to adolescent psychiatric units. The statement confirms that the reliance on hospital admission has led to an increase in the number of 'out of area' admissions as the demand for local beds increasingly exceeds supply. The Retreat and the environment provided by its landscape setting and the seclusion of the walled garden away from the main hospital, which caters for adults, are suited to the proposed use. The scheme would, therefore, provide a much-needed social and community benefit.

4.41 The proposal would help to maintain the use of the land for its intended purpose – a mental health institution – as well as benefitting the listed fabric and the setting of heritage assets as detailed in paragraphs 4.18-4.24 above, without causing additional harm to the openness of purposes of the Green Belt.

4.42 It is officers' opinion that the above considerations represent compelling reasons that, when taken together, constitute 'very special circumstances' that clearly outweigh the identified harm to the Green Belt.

5.0 CONCLUSION

5.1 The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 88 of the NPPF and by definition causes harm to the Green Belt. This harm to openness and purposes of the Green Belt must be afforded substantial weight and very special circumstances will not exist to justify the development unless the potential harm to the green belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5.2 It is considered that the other considerations set out in paragraph 4.40-4.41 above, together with mitigation of other harm through planning conditions, clearly outweigh the potential harm to the Green Belt, even when affording this harm substantial weight. This, therefore, amounts to the 'very special circumstances' necessary to justify the development.

5.3 The proposal is considered to comply with national and local planning policies and is recommended for approval.

6.0 RECOMMENDATION: Approve

1. TIME2 Development start within three years
2. PLANS Approved plans
3. No development will take place until an archaeological evaluation of the site has been carried out in accordance with a detailed methodology (which will detail a trial trench, analysis, publication and archive deposition) which shall first be submitted to and approved in writing by the Local Planning Authority and a report submitted to and approved in writing by the Local Planning Authority. A report on the results of the evaluation shall be submitted to the Local Planning Authority within six weeks of the completion of the field investigation.

Reason: The site is located within an area identified as being of archaeological interest. The investigation is required to identify the presence of significance of archaeological features and deposits and enclosure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

4. If, following the carrying out of the archaeological evaluation required by the above condition, the Local Planning Authority so requires, an archaeological excavation of the site will be carried out before any development is commenced. The excavation shall be carried out in accordance with a detailed methodology (to include trenches, community involvement, post-excavation analysis, publication and archive deposition), which shall first be submitted to and approved in writing by the said Authority. Reasonable access shall be afforded to any Local Planning Authority nominated person who shall be allowed to observe excavations. A report on the excavation results shall be submitted to the Local Planning Authority within twelve months of completion of the field investigation.

Reason: The site is located within an area identified as being of archaeological interest. The investigation is required to ensure that archaeological features and deposits identified during the evaluation are recorded before development commences, and subsequently analysed, published and deposited in an archaeological archive.

5. LAND1 New landscape details
6. No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a final Arboricultural Method Statement agreed and signed by the developer and contractor. This shall include the following additional information: details and methodology for

demolition operations, building foundations, ground protection, paving, type of construction vehicles and machinery to be used where these have the potential to impact on the roots, trunk or crowns of existing trees shown to be retained in the approved drawings.

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

7. VISQ2 Large scale details
8. VISQ7 Sample panel ext materials to be approved
9. VISQ8 Samples of exterior materials to be app
10. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interest of satisfactory and sustainable drainage.

11. 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. The details shall be in accordance with the Drainage Strategy dated October 2015 by Campbell Reith Consulting engineers.

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

12. Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

13. Surface water from vehicle parking and hard standing areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage should not be passed through any interceptor.

Reason: In the interest of satisfactory drainage

14. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme.

Reason: To protect the amenity of local residents.

15. NOISE7 Restricted hours of construction

16. Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which would be audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval prior to coming into use. These details shall include maximum sound levels (LA_{max}(f)) and average sound levels (LA_{eq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant and equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenities of adjacent residents.

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

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

Contact details:

Author: Hannah Blackburn Development Management Officer

Tel No: 01904 551325