

COMMITTEE REPORT

Date: 8 September 2016 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 15/01891/FULM
Application at: Rowntree Wharf Navigation Road York
For: Partial conversion of ground and first floor offices into 34 residential apartments
By: Bonner One Ltd
Application Type: Major Full Application (13 weeks)
Target Date: 11 July 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 This is a full application for the conversion of part of the ground and first floor of an existing former mill building into residential flats at Rowntree Wharf, York. Members may recall that this application was deferred from the last planning committee (4th August 2016). This was to allow re-consultation on additional information received about cycle and bin storage and the design and siting of steps to provide evacuation from the building in the event of a flood.

1.2 The site is within the Central Historic Core Conservation Area, Rowntree Wharf is a Grade II listed building and due to its height and enclosure by water features (Wormalds Cut and the River Foss) on three sides, is a landmark building in this part of the city. It was constructed as a roller flour mill by W G Penty for Sidney Leetham in 1896 and converted (upper floors) to flats in 1990. The building is attached via a mezzanine level access at first floor to a relatively new multi storey car park building providing car parking for the existing office and residential use. A separate application for listed building consent has been submitted in respect of the proposed alterations to the building (15/01892/LBC).

1.3 The proposal includes the remodelling of the internal space of the ground and first floor, external alterations to create additional cycle parking, bin storage and landscaping and the introduction of stepped emergency flood and fire exit from the site via the two storey adjacent car park. Vehicular access is from the existing access from Navigation Road. 27 of the existing car parking spaces in the adjacent multi storey car park are provided for the development. The total number of residential units is 34 of which 21 are studio flats, 7 are 1 bedroomed, 5 are two bedroomed and 1 is three bedroomed.

PLANNING HISTORY

1.4 05/02251/FUL and 05/02258/LBC - planning application and listed building consent for the conversion of fifth floor offices to eight apartments with the provision of additional car parking - granted permission January 2006.

1.5 There have been a number of applications and listed building consents for works to individual flats within the Rowntree Wharf development. These applications are not considered significant to the consideration of the current application.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

Floodzone 3 GMS Constraints: Flood zone 3

Listed Buildings GMS Constraints: Grade 2; Rowntree Wharf Navigation Road York YO1 2XA 0892

2.2 Policies:

CYE3B Existing and Proposed Employment Sites

CYHE2 Development in historic locations

CYHE3 Conservation Areas

CYHE4 Listed Buildings

CYGP1 Design

CYGP15a Development and Flood risk

3.0 CONSULTATIONS

INTERNAL

3.1 The comments below are those set out in the previous committee report any update of consultee comments or further objections as a result of re-consultation will be reported direct to committee.

Highway Network Management

3.2 Have confirmed that there are no objections to the positioning of the emergency steps on to the bridge across the Foss However comments on the details of the scheme are still awaited.

Planning and Environmental Management - Forward Planning

3.3 Advice of the Economic Development Officer should be sought on the loss of the office space. If concerns are raised by Economic Development then policy would raise an objection to the loss of this employment site. If the loss of employment use is acceptable residential use is supported provided the development detail within the conservation area and to the listed building is acceptable.

Economic Development Officer

3.4 There are a number of businesses looking for high quality accommodation in centre of York. Ideally the space should be retained in office use. The site has been marketed and a few businesses have been shown around the site but without further interest given the current quality of the accommodation. The application for use as residential is supported although the space will continue to be marketed for business use.

Planning and Environmental Management - Conservation Architect

3.5 No objections to the removal of the staircase in the south east corner it is a modern insertion. The large open floor spaces, and the construction of the floors, including the cast iron columns, are tangible evidence of the past use of the building and contribute to its significance. The revised plans expose one or two more of the columns on each floor to view in the corridor, but this is not enough to give the impression of a continuous run of columns. The passage should be made straight. As indicated in the heritage statement, the suspended ceilings need to be higher so that the tops of the columns can be seen particularly in the more public areas. Any need to alter windows to achieve privacy should be via blinds not by changes to the windows.

Flood Risk Management

3.6 No objections

Emergency Planning (Floods)

3.7 Initially raised concerns about the development because the scheme would introduce further residential units from which the occupants would need to be rescued in the event of flood. Following the introduction of the emergency steps on to Hungate bridge and discussions with the Flood Risk Management team emergency planning are now satisfied with the scheme.

Neighbourhood Enforcement Officer

3.8 Concerned that adequate facilities have not been provided for the disposal of waste including recycling facilities.

EXTERNAL

Environment Agency (EA)

3.9 No objections to the application. The floor level of the building will be above the flood level. No. As the EA are not involved with emergency procedures during a flood no comments are made about the emergency access/egress arrangements.

Foss Internal Drainage Board

3.10 Defer to the opinion of the Flood Risk Management Team.

Publicity and Neighbour Notification

3.11 Five letters of objection have been received covering the following points:-

- Statements that there is no interest in the office space are merely anecdotal and do not have credibility if there has not been a recent attempt to market the office space which can be clearly evidenced with documentation. Ms Pawson at CYC appears to accept the anecdotal evidence provided by the applicant at face value which is incompatible with a rigorous approach. Without an evidence base it is difficult to see how CYCs obligations are discharged or how a change of use can be authorised. Therefore, at present, there does not appear to be any credible evidential support for change of use.
- I would like to see documentary evidence and more specific details about the proposed use of the affordable housing element and details of the type of end user. I would also like to see the agreement about this between the applicant and CYC to aid transparency as well as any other documentary evidence about this aspect of the application.
- Concerns about the poor condition of the windows do not appear to have been addressed by the applicant. The applicant has stated 'Independent Building control & SAP assessors have confirmed no requirement to upgrade the existing windows'. Where is the accompanying documentary evidence to support these statements about the windows? On what basis have the windows been assessed? Double glazing was installed on the fifth floor when these properties were converted in 2007 windows have deteriorated further since then.
- There is a shortfall of car parking spaces for the number of flats.
- Concerned that fire exits will be lost and provision will not be adequate.

- Concerned about the amenity of flats particularly those adjacent to the public right of way. The footfall study carried out by the applicant is not independent or objective a considerable amount of noise is caused by members of the public along the right of way.
- Objectors would like to see some restrictions placed on this building work to protect the amenity of the existing residents.
- Objector sees nothing in the documents which is consistent with the above provisions. Can CYC and the applicant provide written assurances that legal advice has been received on this matter and that relevant risk assessments have been carried out in relation to the existing Rowntree Wharf residents' wellbeing and measures implemented to ensure that this proposed work does not breach Article 8 of the HRA 1998? Without such assurances and relevant risk assessments any decision made by the planning committee in relation to this application will be subject to challenge under the provisions of Article 8.
- Concerned about the proposed flood escape route there is no evidence to support the view that the statement that the exit will be sufficient to protect residents in the event of a flood. legal documentation has not been provided to ensure that the steps can exit on to Hungate Bridge. Detailed plans and drawings have not been submitted. means of escape does not appear safe. It is a security risk to the car park. There is no provision for residents once they have exited the building.
- The applicant knows the windows are of inferior quality.
- There is nothing from Building control confirming they are happy with the fire exits.
- What are the janitor areas to be used for?
- No mention of additional drying areas.
- Existing service store is already used to full capacity and can not take bike storage. Concerned that a weekly bin storage collection will not be possible and proposals for bin storage. No bin rooms proposed on each floor.
- Objector points to a number of inaccuracies in the submitted information.
- There has been no community engagement on the application.
- The proposed scheme which has a high number of bedsits which throws the scheme out of balance with the current occupation of the site out of the existing 68 flats only 3 are bedsits.
- Numbering of the flats replicates the number of existing units and suggests little thought has been put into the scheme.
- Development affecting the common parts of the building will need to be agreed with existing flats as these are form part of their leaseholds.
- No mention of energy conservation in the scheme.
- Some of the units face directly on to the right of way and some have doors opening out on to it. Concerned about practicality, security of this and residential amenity of future occupiers.
- Ground floor units have very restricted light because of walk way above.

4.0 APPRAISAL

4.1 The key issues to be considered as part of this application are:

- Principle of development;
- Employment use;
- Impact on heritage assets;
- Access and highway issues;
- Residential amenity;
- Affordable Housing;
- Flood risk.

PLANNING POLICY

4.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. 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 relate to Green Belt and are not relevant to this application.

4.2 Central Government policy advice is contained in the National Planning Policy Framework (NPPF, March 2012). Paragraph 7 of the National Planning Policy Framework says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Although Paragraph 14 sets out a presumption in favour of sustainable development Footnote 9 of paragraph 14 contains restrictions wherein the presumption in favour of sustainable development does not apply. Footnote 9 includes designated heritage assets. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as supporting the delivery of homes, seeking high quality design and a good standard of amenity for all existing and future occupants, taking full account of flood risk, encouraging the effective use of land, and conserving heritage assets in a manner appropriate to their significance.

4.3 Section 1 of the NPPF says the Government is committed to securing economic growth in order to create jobs and prosperity. It says to help economic growth, local planning authorities should plan proactively to meet the development needs of business. However paragraph 22 says that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Other uses should be treated on their own merits.

4.4 Section 6 of the NPPF 'Delivering a wide choice of high quality homes' seeks to boost the supply of housing. Paragraph 49 states that housing applications should be considered in the context of presumption in favour of sustainable development.

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

4.6 Section 10 of the NPPF requires local planning authorities, when determining planning applications, to ensure flood risk is not increased elsewhere as a result of the development.

4.7 Section 12 of the NPPF requires local planning authorities to take account in determining planning applications of the desirability of sustaining and enhancing the significance of heritage assets and put them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities and 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 to a heritage assets significance 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.

4.8 Significance of heritage assets is defined in Annex 2 of the NPPF as the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.

4.9 The National Planning Policy Guidance (NPPG) provides advice about what is meant by significance in decision taking in the historic environment. In particular the NPPG says that 'Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals'.

Development Control Local Plan (DCLP)

4.10 The policies in the Development Control Local Plan (DCLP) adopted for development management purposes in 2005 can, in accordance with advice in paragraph 216 of the NPPF, have weight attached to them where the policies are consistent with the NPPF. The DCLP sets out a number of policies which are considered relevant. Policies support the retention of employment uses through policy E3b, GP1 seeks to respect or enhance the local environment, Policies HE2, HE3 and HE4 are relevant to the sites historic location.

4.11 The planned consultation on the Publication Draft of the City of York Local Plan, which was approved by the Cabinet of the Council on the 25 September 2014, was halted pending further analysis of housing projections. Since then officers have initiated a work programme culminating in a "Local Plan - Preferred Sites 2016" document and other supporting technical documents. Members have approved these documents for consultation which commenced on the 18th July 2016 and will run until the 12th September 2016. The emerging Local Plan policies can only be afforded weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight is limited. Policies in the emerging plan support the development of sustainable city centre sites. Policy EC3 seeks to protect employment sites. Policy D4 and D5 seek evidence based approach to development affecting conservation areas and listed buildings. In conservation areas changes of use will be supported when it has been demonstrated that the primary uses can no longer be sustained, where the proposed new use would not significantly harm the special qualities and significance of the place and where proposed changes of use will enhance the significance. Demolition of buildings which make a positive contribution to a conservation area will be resisted. Development affecting the setting of a listed building will be supported where they protect its setting; alterations and extensions will generally be supported when they do not harm the special architectural or historic interest of the building or its setting. Demolition of a listed building should be wholly exceptional, requiring the strongest justification.

4.12 The site is located within York's Central Historic Core Conservation Area (CHCCA). The CHCCA is described within a number of conservation area character appraisal documents. Rowntree Wharf is within character area 15, Fossgate and Walmgate. It says that 'One of the most prominent landmarks in the area, Rowntree Wharf, can be seen from many points. The best view is that from the walkway on the northern side of the Foss, just outside the Conservation Area boundary.'

4.13 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the NPPF. It is against this Framework that the application proposal should principally be addressed.

PRINCIPLE OF THE DEVELOPMENT

4.14 Rowntree Wharf is sustainably located close to the city centre. The principle of providing new housing in this location is considered to be acceptable and to accord with NPPF policy which seeks to boost significantly the supply of housing.

Employment Land

4.15 The last use of the building was for offices. The offices have recently been vacated and the area where the new residential apartments are proposed is currently not occupied.

There is however an area to the ground and first floor on the west side of the building that is retained and in use as offices. The NPPF says that employment uses should be proactively supported but indicates that allocated employment sites should not be protected where there is no reasonable prospect of a site being used for that purpose in the long term.

4.16 The DCLP through policy E3b (Existing and Proposed Employment Sites) seeks to resist the loss of existing employment sites and retain them within their current use class. In order to determine if there is a sufficient supply of employment land to meet both immediate and longer term requirements over the plan period in quantitative and qualitative terms, evidence that the site has been marketed (for at least 6 months) should be sought. Similarly the emerging local plan Policy EC3 (Loss of Employment Land) continues the approach to existing employment land set out under E3b in the Draft Local Plan. The DJD Economic Baseline Report which formed part of a suite of documents known as the Economic and Retail Growth and Visioning Study (2014) says that York's ability to attract and retain investment into the city and support business expansion is in part dependent on ensuring the availability and suitability of employment land. The Design and access statement says that the office space was last occupied in 2009/2010 on the ground floor and in 2011 on the first floor. The statement also highlights that the Rowntree Trust has previously marketed the building and there was very little interest in the current use, although there was an interested party in 2013, this was never pursued and heads of terms were never agreed. Other than this no further interest was registered. Economic Development comment that there are a number of businesses seeking good quality business accommodation in the centre of York, and as such believe there would be demand such premises in the Rowntree Wharf location. Equally appealing is the idea of modern office space in an iconic historic building. From an economic perspective, ideally the desire would be that the building continue to be marketed and upgraded accordingly - working with agents and Make it York to identify potential business end users. However, given the site has been actively marketed, and in the knowledge that Make it York have shown a few businesses around the premises, but without further interest; given the current quality of the accommodation, it would be difficult to refuse planning permission for change of use. Economic Development's conclusion is that the cost to upgrade is prohibitive for the developer, particularly given the nature of the historic former flour mill. Also the site's location is on the edge of the city centre and there are other lower grade commercial sites within the city centre and closer to York railway station - it is hard to argue against the demand for other uses.

4.17 In light of the comments of Economic Development the loss of the employment use of the site is accepted to comply with local and national policy. The principle of the buildings residential conversion is supported.

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 sections 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 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 134 says that where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing optimum viable use.

4.20 The lower floors have most recently been in use as offices, and retain large open spaces punctuated by cast iron columns, and staircases between the floors. There has been subdivision by partitions and insertion of suspended ceilings in connection with office use. The machinery has gone, but the open spaces, cast iron columns and layout of the building are a tangible link to its use and the technology

use in the construction of the building. The significance of the listed building is as a roller mill of late 19th century date, constructed to the design of a prominent local architect, within historic core of the City of York.

4.21 The proposed alterations to the building are all internal. The first floor level has already been formed into smaller compartments and the original open plan layout is not in evidence, columns have been built around and the ceiling has been lowered covering their top section. The new layout will form different compartments and the final amendment to the layout shows straight corridors (originally proposed to be curved) so that evidence of the form of the columns within the building are retained. Ground floor level has existing compartments set along the outer edge of the floor area however the central area of the floor plate remains open and two lines of columns remain exposed. The proposed layout at ground floor level will lose the sense of spaciousness by creating compartments for each apartments arranged around the window openings, however, like the upper floor, amendments to the scheme have sought to modify the corridors to show a continuous run of columns and the upper section of the columns will be revealed. The scheme proposes only minor alterations to the external elevations of the building; there are not proposed to be any alterations to the windows. The applicant has confirmed that the windows will not be replaced or double glazed. The floors have already been raised to accommodate services for the previous office use and the ceilings have been lowered.

4.22 The site is within the Central Historic Core Conservation Area. Externally the scheme includes a retractable means of escape in the event of flood which is to be attached to the modern car park building. Although the staircase will be visible in the conservation area officers consider that it will not detract from its character or appearance.

4.23 The site lies within the Central Area of Archaeological Importance there are no below ground works that would affect archaeology.

4.24 It is considered that the harm to the heritage asset would be less than substantial and in officer view there are a number of public benefits that outweigh this identified harm. The NPPG advises that public benefit could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework (Paragraph 7). The proposed development will provide housing in a sustainable city centre location, bring the floors of the building into use, introduce a use that is compatible with the residential use within the upper floors of the building and ensure the building's future maintenance. Officers consider that these benefits are sufficient to outweigh the less than substantial harm to the building even when attaching additional weight to the requirements of the Planning Acts. The proposal, therefore, complies with national and local planning policies in respect of the historic environment.

Highways, Access and Parking Arrangements

4.25 The site is accessed via Navigation Road. Car parking for the existing development and office use is provided on the entrance to the site at surface level and in a multi storey car park which was constructed as part of the original building conversion. The proposals provide for 27 parking places in the multi storey car park to serve the 34 units. This is within car parking standards for a city centre location and is considered to be acceptable.

4.26 There is an existing cycle storage area which serves the existing flats located as part of the car park area. This building does not have sufficient capacity to provide cycle parking for the new units. The proposal is to convert an existing detached brick built which is the current bin store for landfill waste. This building would provide 16 cycle spaces a further area adjacent to the main entrance within the new car park area will provide 8 cycle spaces and a further ten spaces are to be provided on level one of the car park. The comments of Highway Network Management are awaited on the detail of the proposed layout there response will be reported direct to committee.

Residential Amenity

4.27 Section 7 of the NPPF 'requiring good design' says the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people (paragraph 56). Proposals should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (Para 64). Paragraph 58 says planning policies and decisions should aim to ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. The core principles within paragraph 17 of the NPPF supports the requirements of section 7 when it says that underpinning decision-taking planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives and should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.28 The scheme is for 34 additional units in a building that already has 68 residential units and some office space. There is no more land available around the site and although there has been an office use within the floor space before there needs to be sufficient organisation of the existing available facilities in order to be able to accommodate the new residential units.

4.29 The applicant has provided additional clarification on the bin storage and collection arrangements, cycle parking (see paragraph 4.26 above) and a plan has been submitted which shows additional landscaping to the existing outside space adjacent to the south side of the building.

Bin Storage and Collection

4.30 The existing bin storage area is located adjacent to the building on the south side.

The applicant says that 'the existing refuse store is located to the side of the recycling store and currently houses 7no 1100l waste bins, which are collected on a weekly basis. It is proposed to relocate these bins to the rear of the existing building and increase capacity with an additional 3no 770l, 1no 340l & 1no 240l bins. Based on the current accommodation 14,409l of waste/recycling storage is required, the proposed accommodation will increase this by a further 7,083l therefore a total of 21,492l of waste storage is required (based on the number of bedrooms in the residential development). Based on the above additional bins proposed, the total storage achieved on site will be 21,850l (11,260 recycling/10,590l general waste). Whilst it is shown the proposed provision can serve the residential development, the managing agent has confirmed that collection will be increased to suit - i.e. increased from fortnightly to weekly in the case of the recycling and twice weekly from weekly in the case of general waste. The increase in capacity/collection will therefore more than cover the proposed development'

4.31 Officers consider that the location of bin storage is acceptable. Waste management has been consulted on the capacity of the bin storage areas to accommodate the waste of the additional units and a condition is proposed to secure the arrangements for the site storage and collection of waste arrangements

4.32 Within the building there are areas where existing residents can place rubbish before it is taken to the bins. The applicant having reduced the number of units to 34 has provided a small janitor area on each floor. These areas can be used for bin storage if this is necessary within the building. A condition requiring details of use of the janitor areas is proposed.

Landscaping

4.33 There is a small paved area to the south side of the building adjacent to the River. This area is accessible to all the flats existing and proposed. The area is uninspiring and would benefit from upgrading. The applicant has provided a plan which shows a small amount of additional landscaping and the provision of seated areas around new tree planting. The scheme is limited; it works with the existing hard surface materials and features rather than seeking a complete upgrade. However the additional planting will enhance the area somewhat and the seating has the potential to encourage further use by residents.

Space Standards and Amenity of Future Occupiers

4.34 The scheme proposes 34 units in all, of which 21 are studios (bedsits). The smallest studio is 27 sqm. The subdivision of the building into units is largely determined by the placing of existing windows in the building's elevations. In 2015 the Government produced a document setting out minimum space standards. The supporting statement issued at the same time as the standards says that decision takers should only require compliance with the new national technical standards where there is a relevant current Local Plan policy. The emerging local plans do not have an appropriate space standard to apply and officers consider that compliance with the technical guidance cannot be required. Furthermore the document does not provide a space standard for studio flats; the minimum space standard is for a 1 bedroomed unit and is 37 square metres.

4.35 On a more general level the NPPF says that development should provide a good standard of amenity for all existing and future occupiers of land and buildings. Each of the smaller units has a small kitchen area, shower room, dining and sitting area. Ceiling heights are relatively high creating a greater sense of spaciousness and the entrance and surrounding of the buildings provides a pleasant living environment in a sustainable location with access to parking or cycle parking facilities and shared open space. Officers consider that overall the new units provide an acceptable standard of amenity for future occupiers of the site.

4.36 The units on the north side of the building at first floor level have windows that look out on to the public right of way which forms part of the path that links Foss Islands Road to the city centre. There are concerns that the proximity between the units and the walkway will result in the future occupiers of the flats being disturbed and overlooked by pedestrians. In most cases the units facing the walk way are studios so that only one window provides light to the whole unit. The applicant considers that the path does not generate a lot of pedestrian movements and the formation of a new path along the river frontage as part of the Hungate development is likely to divert pedestrians to the other side of the river. The objectors consider that the walkway can be a source of disturbance and can be noisy due to groups using the walkway particularly late at night. Officers understand objectors concerns, the windows are large and open directly on to the walkway however on balance do not consider that future residents will be so disturbed by pedestrian movements along the walkway that there is sufficient to refuse permission as pedestrian movements are limited during the day and at night blinds and shutters are likely to be closed. In its wider context the studio units are in a highly accessible location in a pleasant, increasingly residential, environment.

Affordable Housing

4.37 There is no requirement for affordable housing. A recent high court judgement had the effect of re-introduced government guidance that allows vacant floor space in existing buildings to be converted to residential development without the need to provide affordable housing.

Open Space

4.38 Restrictions on the pooling of s106 planning obligations under Regulation 123 of the amended Community Infrastructure Regulations 2014 means that no more contributions may be collected in respect of a specific infrastructure project or a type of infrastructure through a s106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010. No contribution is sought towards open space provision within the area.

Flood Risk

4.39 Paragraph 104 of the NPPF says in relation to flood risk that applications for minor development and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements for site-specific flood risk assessments. As this site is a change of use sequential and exceptions tests are not required. The NPPG advises that the objectives of a site-specific flood risk assessment are to establish:

- Whether a proposed development is likely to be affected by current or future flooding from any source;
- Whether it will increase flood risk elsewhere;
- Whether the measures proposed to deal with these effects and risks are appropriate;

Two further bullet points are referred to but these are only relevant where sequential and exception test are required.

4.40 A revised/updated Flood Risk Assessment has been submitted following the flood event in December/January. The applicant says that 'whilst flood water entered the lift pit, there was no sign in of entry in the building proper, a point supported/confirmed by the loss adjuster in their consideration of the claim. It must also be highlighted the proposed scheme raises the Ground floor by a further 250mm to provide an AOD (Above Ordnance Datum) of 10.610 - this is approx. 350mm higher than the highest recorded level during the recent floods (as measured by the Senior Flood Risk Engineer). Our client is actively pursuing the tanking of the lift pits to prevent flooding of this area occurring again, and in addition a significantly improved evacuation plan is proposed - providing safe passage from the building for all occupants to safe ground in the event of a flood'

4.41 The scheme also includes a set of retractable stairs on the east elevation of the car park building which can be lowered in the event of flood allowing all occupants of the building to escape across Hungate Bridge.

4.42 The Environment Agency is satisfied that with the measures indicated in the flood risk assessment that the details of the scheme can be supported subject to conditions. Flood Risk Management is also satisfied that the flood risk assessment and the proposed escape stairs are acceptable to manage flood risk for occupants of the site. The scheme is considered to meet the requirement of national and local policy relating to flood risk.

Other Matters:

4.43 The Human Rights Act 1998 incorporated provisions of the European Convention on Human Rights (ECHR) into UK law. The specific Articles of the ECHR relevant to planning include Article 8 (Right to respect for private and family life, home and correspondence) to which one of the objectors refers to in raising concerns about the development. The Local Planning Authority (LPA) are satisfied that its processes and practices are compatible with the ECHR. The planning system by its very nature respects the rights of the individual whilst acting in the interest of the wider community. It is an inherent part of the decision-making process for officers on behalf of the LPA to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development should be allowed to proceed. In carrying out this balancing exercise for this application Officers are satisfied that it has acted proportionately.

5.0 CONCLUSION

5.1 Rowntree Wharf is sustainably located close to the city centre. The principle of providing new housing in this location is considered to be acceptable and to accord with NPPF policy which seeks to boost significantly the supply of housing. The loss of the employment use within part of the ground and first floor is considered to be acceptable.

5.2 The proposal would result in less than substantial harm to heritage assets that, when balanced against the public benefits of the proposal, is considered to be acceptable.

5.3 The parking, residential amenity and flood risk implications of the scheme are considered to be acceptable when considered in the context of NPPF policy and subject to appropriate conditions.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 PLANS1 Approved Plans

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

Reason: In the interests of highway safety.

4 The development shall be carried out in accordance with the submitted flood risk assessment (Yew Tree Associates, revised 4th January 2016) and the following mitigation measures it details:

a. Finished floor levels shall be set no lower than 10.61m Above Ordnance Datum (AOD)

b. The mitigation measures detailed in section 7.1 of the FRA are incorporated into the development.

These measures shall be fully implemented prior to occupation, and according to the scheme's phasing arrangements (or with any other period, as agreed in writing, by the local planning authority).

Reason: To reduce the risk of flooding to the proposed development and future occupants and to reduce the impact of flooding to the proposed development and future occupants

5 Large scale details of the following items shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works. The development shall be carried out in accordance with the approved details.

- Full details at a scale of 1:20 and 1:50 of the junctions between the internal face of the external walls and the new stud work.

- Large scale details of the alterations to the suspended ceiling and the connection between the ceiling and the upper part of the columns.

Reason: So that the Local Planning Authority may be satisfied with the details in the interests of preserving the special setting of the listed buildings and the character and appearance of the conservation area.

6 All construction and demolition works and ancillary operations, including deliveries to and dispatch 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 or Bank Holidays.

Reason: To protect the amenities of existing residents within the building.

7 No dwelling unit hereby approved shall be occupied until a scheme for the on site storage arrangement, disposal areas and collection schedule for refuse from the site has been submitted to and approved in writing by the local planning authority. The scheme shall also include details of how the ground and first floor janitor areas shall be laid out to provide housekeeping facilities for the use of the flats. The scheme shall be implemented in accordance with the approved details before any dwelling is occupied and shall continue to operate in accordance with the scheme for the life time of the development unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the residential and visual amenity of the site and area to accord with paragraph 17 of the National Planning policy framework.

NB: In accordance with the information submitted with the application in order for the scheme to provide sufficient storage for refuse a weekly collection of waste is expected to form part of the scheme proposed

8 No development shall commence until there has been submit to and approved in writing a large scale detail of the proposed flood escape staircase on the east side of the multi storey car park building. The escape staircase shall be implemented in accordance with the approved details before any dwelling is occupied and shall continue to operate in accordance with the scheme for the life time of the development unless otherwise agreed in writing with the Local Planning Authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to reduce the impact of flooding to the proposed development and future occupants. The information is being sought prior to commencement to ensure that an appropriately designed means of escape is provided to serve the proposed dwellings

9 The Landscaping scheme shown on drawing no.RWYL1 shall be implemented

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within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

7.0 INFORMATIVES: Notes to Applicant

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

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

- Considerable discussion about the scheme
- Amended and additional plans submitted and further information provided.
- Re-consultation undertaken.

2. Note the application details confirm that there will be no requirement for new ventilation or other services to be vented through new wall or roof interventions. Further listed building consent would be required for any such works. Windows are not to be altered. Further listed building consent would be required for works to the existing windows

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