

COMMITTEE REPORT

Date: 4 May 2017 **Ward:** Heworth
Team: Major and **Parish:** Heworth Planning Panel
 Commercial Team

Reference: 17/00088/FULM
Application at: Former Londons, 31A Hawthorn Grove, York, YO31 7UA
For: Conversion of shop (use class A1) to 10no. apartments (use class C3) with external alterations
By: Miss J Golightly
Application Type: Major Full Application (13 weeks)
Target Date: 20 April 2017
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

APPLICATION SITE

1.1 The application property is a former two storey retail building. The part of the building fronting Mill Lane also has useable space within the roof. It is in a relatively prominent location on the junction of Mill Lane and Hawthorne Grove in Heworth. It was previously used as a toy shop/newsagents but has been vacant for around two years.

1.2 The surrounding area is primarily residential, although also contains a number of commercial uses. The buildings in the area are generally two or three storeys and of a mix of styles. A relatively new flatted development is located to the west. To the north is a small mews development and the rear parking areas and gardens of properties on Mill Lane.

1.3 Heworth Conservation area is located immediately across Mill Lane to the east. No listed buildings are located in the immediate vicinity. The site is in flood zone 1 (low risk).

PROPOSALS

1.4 It is proposed to convert and adapt the building to create 10 apartments. 8 are intended to have one bedroom and 2 would have two bedrooms. Car parking for 6 vehicles is proposed on the hard surfaced car park to the rear. The only entrance to the building would be from the rear. The land to the front of the building is intended to be enclosed by a low wall and landscaped.

1.5 The main external changes to the building are the provision of 4 bay windows to the front and three dormer windows to the front and one to the rear. It is proposed to render the brick built building.

PLANNING HISTORY

1.6 In July 2016 planning permission (15/01323/FUL) was granted to demolish the building and erect a residential development of 8 flats. The form was similar to the current scheme. Car parking for 7 cars was proposed.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation: None

Draft Local Plan Policies

2.2 The Development Control Local Plan was approved for development management purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the National Planning Policy Framework.

CYGP1 Design

CYGP15 Protection from flooding

CYGP4 Environmental sustainability

CYS9 No loss of local or village shops

CYT4 Cycle parking standards

2.3 The emerging Local Plan (2014 draft) policies can only be afforded very limited weight at this stage of its preparation (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.

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections subject to conditions and a Section 106 agreement removing future occupants of the apartments from the local residents parking scheme.

Application Reference Number: 17/00088/FULM

Item No: 4d

Page 2 of 14

Flood Risk Management

3.2 No comments received.

Planning and Environmental Management (Urban Design and Conservation)

3.3 No comments received.

Public Protection

3.4 No objections subject to conditions controlling working hours and consideration of contamination during construction. Request the provision of a car recharging point.

Waste Services

3.5 No objections.

EXTERNAL

Heworth Planning Panel

3.6 Objection. The scheme is overdevelopment of the small site, there is inadequate car parking space in an area where parking is already difficult and the garden area at the front will become a rubbish dump unless properly hedged off and maintained.

Neighbour Notification and Publicity

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

- Concerns regarding the impact of the new first floor extension on the internal and external amenities of John Minford Ltd (case officer comment - this extension has been removed from the revised scheme).
- Concerns regarding overlooking from dormer windows.
- The single vehicular access to the car park will cause congestion when cars cannot enter because another vehicle is exiting.
- The scheme has inadequate car parking. The lack of car parking will put pressure on nearby streets and the entrance to Heworth Mews.
- The site should have electric vehicle charging points.

- The shop should be retained on the ground floor for a use such as a pub, bakers, butchers or restaurant. This would help to retain the local character and vitality.
- The site is overdeveloped and the flats are too small.
- Rendering the brick building will detract from the area.
- The single entrance to the rear will increase noise for existing residents living to the rear.

Health and Safety Executive

3.8 No comments received.

Yorkshire Water

3.9 No comments received.

4.0 APPRAISAL

4.1 The key issues in assessing the proposal are:

- Impact on streetscene/conservation area.
- Impact on neighbours living conditions.
- Parking and highways issues.
- Loss of shop.
- Drainage.
- Quality of accommodation created.
- Sustainability.
- Contamination.
- Section 106 agreement.

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that 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. One of 12 core principles set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 Paragraph 187 states that local planning authorities should look for solutions rather than problems and decision takers at every level should seek to approve

applications for sustainable development where possible. The NPPF states that there are three dimensions to sustainable development - an economic role, a social role and an environmental role. In considering proposals for new or improved residential accommodation, the benefits from meeting peoples housing needs and promoting the economy will be balanced against any negative impacts on the environment and neighbours' living conditions.

4.4 Development Control Local Plan (DCLP) policy GP1 'Design' expects development proposals to be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and local character; respect or enhance the local environment; provide/protect amenity space; protect residential amenity; accord with sustainable design principles; include refuse facilities; and include, where appropriate, landscaping.

4.5 Policy GP4a 'Sustainability' states that all proposals should have regard to the principles of sustainable development, including accessibility by means other than the private car.

4.6 Policy GP15a 'Development and Flood Risk' states that discharges from new development should not exceed the capacity of existing and proposed receiving sewers and watercourses and long-term run-off from development sites should always be less than the level of pre-development rainfall run-off.

4.7 Policy S9 'Loss of Local Shops' states that the loss of local shops is acceptable providing a local need for the shopping facility no longer exists or alternative facilities exist within the local area.

4.8 Policy T4 'Cycle Parking Standards' seeks to promote cycling and states that all new development should provide storage for cycles in accordance with the standards in appendix E of the Local Plan (1 space per one or two bedroom dwelling).

4.9 Local Plan Policy H4a 'Housing Windfalls' states that new development should be accessible to shops and services and of an appropriate scale.

IMPACT ON THE STREETSCENE/CONSERVATION AREA

4.10 The site is outside the conservation area boundary, however, the buildings on the opposite side of Mill Lane within the Heworth/Heworth Green, East parade and Huntington conservation area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) Act requires the Local Planning Authority when determining planning applications to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Case law has made clear that when deciding whether harm to a conservation area is outweighed by the advantages of a proposed development, the decision-maker

must give particular weight to desirability of avoiding such harm. There is a "strong presumption" against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by the need to give special weight to preserving the conservation area.

4.11 The statutory duty under Section 72 means that even where harm is less than substantial, such harm must still be afforded considerable importance and weight, i.e. the fact of harm to the conservation area is still to be given more weight than if it were simply a factor to be taken account along with all other material considerations. The legislative requirements of Section 72 are in addition to Central Government guidance contained in Section 12 of the NPPF. The NPPF classes Conservation Areas as "designated heritage assets". The NPPF's advice on heritage assets includes the following:

- Paragraph 132 advises that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be" ... "As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."
- Paragraph 133 advises that "Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of four specified criteria apply."
- Paragraph 134 advises that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum use."

4.12 The key views of the building are from Mill Lane and East Parade. The building forms a relatively prominent vista when nearing the site from East Parade. The existing shop front will be removed; however, the overall scale of the building will remain. The bay openings proposed to the front will provide visual interest and a rhythm to the frontage. The dormers, though relatively large in scale reflect the proportions of the bays below. The immediate area is characterised by a number of gable fronted buildings and the design of the dormers reflects this form. It is proposed to render the brick built building. This will update the exterior and reflects the materials of the attached office building.

4.13 There is no entrance proposed to the Mill Lane/Hawthorn Grove frontage. Landscaping and enclosing the front forecourt will contribute to the visual amenities

of the area. The details of the landscaping and boundary design can be controlled by condition. The details of the design and materials of the proposed bays and dormers should also be controlled by condition to ensure that they respect the appearance of the area and proximity to the conservation area.

4.14 The narrow width of the rear parking area limits the ability to provide significant landscaping, however, a small landscaped buffer is proposed along the rear elevation of the building. It is also proposed to re-surface the car park area. The design of the car park including surfacing, outbuildings, landscaping and lighting is covered by condition. The store at the northern end of the site, which is in relatively poor condition, is to be replaced by new cycle parking and bin storage.

IMPACT ON NEIGHBOURS' LIVING CONDITIONS

4.15 Policy GP1 of the Local Plan requires proposals to avoid causing undue harm to residents living conditions. The proposal will not have a significant additional impact on the neighbours to the front. The key issue is the impact on the properties to the rear and to the north. These are considered below:

36 Mill Lane

4.16 This is a traditional two-storey residential property with a garden to the rear. It has been converted to two flats. A single storey step is incorporated in the rear elevation of the proposed apartments to reflect the form of the existing off-shoot. Subject to these changes it is not considered that the alterations will have a significantly different impact on light and outlook than the existing building.

Flats Heworth Mews.

4.17 This is a modern development consisting of a three storey blocks of flats. In terms of loss of privacy it is noted that the side of the adjacent flat has no significant habitable room windows that will be impacted upon and the nearest first floor windows are voids or serve a staircase. It is considered there is adequate separation to the main habitable room windows to avoid undue harm. It is not considered that the activity associated with the new residential use is out of character.

John Minford Ltd, 31 Hawthorn Grove.

4.18 Revisions were received to remove an extension that was considered to have an unacceptable impact on the outlook of the office. It is not considered that the revised scheme would have a significant impact on the amenity of the offices.

PARKING AND HIGHWAYS ISSUES

4.19 Six off-street car parking spaces are proposed along with one covered and secure cycle space for each unit. Eight of the apartments are proposed to have one bedroom and two have two bedrooms. The site is very well located in respect to access to shops and services. Subject to the occupants of the apartments in the development being removed from accessing the local residents parking permit scheme it is considered that the development will not have a negative impact on local parking arrangements. This aspect would be controlled by a Section 106 legal agreement.

4.20 Covered cycle parking is proposed at the north of the car park. It is not considered that the likely level of traffic movement associated with the re-use of the building will create highway safety concerns

LOSS OF SHOP

4.21 The locality is well served with local shops. The Co-operative and adjacent post office on East Parade are only around two or three minutes walk away. The site is also within easy walking distance to the shops at Layerthorpe and Foss islands Road. It is not considered that the loss of the building to retail use will lead to a deficiency of provision in the area.

DRAINAGE

4.22 The development involves the re-use of an existing building and car park. It is not in a flood risk area and the development will not increase flood risk elsewhere.

QUALITY OF ACCOMMODATION CREATED

4.23 The smaller flats in the development typically have a gross floor area of around 40 square metres. This is considered to provide adequate space to ensure good living conditions. A landscaped buffer is proposed between the development and the car park/street. The apartments are single aspect, however, the east-west orientation will ensure that they receive acceptable levels of day light/sunlight.

4.24 The rear car park is intended to be re-surfaced to enhance the setting of the approach. It is considered that the rear of the development will be relatively functional, however, it is considered acceptable and safe for users.

4.25 The adjacent accountancy office will retain two parking spaces under the existing rear balcony. It is considered that the office use and residential use are compatible. The balcony on the side of the office is close to unit 2 (ground floor apartment) and unit 7 (first floor apartment) however, the difference in levels between the balcony and the windows of the two apartments is such that there is little opportunity for overlooking directly into rooms.

SUSTAINABILITY

4.26 The proposal is considered to be a sustainable land use close to the city centre. The re-use of the building is a sustainable approach in respect to the use of materials.

CONTAMINATION

4.27 The history of the site would not give rise to concerns that the land is contaminated.

S106 AGREEMENT

4.28 A section 106 agreement was signed in respect to the previous approval for flats on the site. It removed the occupants' access to resident parking permits. If the application is approved the S106 agreement will need to be varied to relate to the current application.

5.0 CONCLUSION

5.1 In July 2016 planning permission was granted to demolish the building and erect 8t apartments with 7 car parking spaces. The scheme under consideration seeks to convert and adapt the existing building. 10 apartments are proposed with 6 car parking spaces. Secure cycle parking is proposed with one space per apartment.

5.2 The principle of residential use of the site has previously been agreed. There is an eclectic mix of building forms in the vicinity and in the context the proposal is considered acceptable. It is considered that the enclosure/ landscaping of the front forecourt will enhance the setting of the building.

5.3 Most of the flats will have one bedroom. They appear well proportioned and offer separate sleeping and living accommodation, rather than being of the 'studio' type.

5.4 The site is sustainably located. If the application is approved a section 106 agreement will be required to ensure that the development does not put additional pressure on the locality's residents parking scheme.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years

Application Reference Number: 17/00088/FULM

Item No: 4d

Page 9 of 14

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

Proposed ground floor plan KWL-093-006-010 rev C received by the Local Planning Authority on 13 April 2017.

Proposed site plan KWL-093-006-010 rev C received by the Local Planning Authority on 13 April 2017.

Proposed elevations KWL-093-006-013 rev C received by the Local Planning Authority on 13 April 2017.

Proposed first and second floor plan KWL-093-006-012 rev C received by the Local Planning Authority on 13 April 2017.

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

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials (including render colour) to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development above footings level. The development shall be carried out using the approved materials.

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

Reason: So as to achieve a visually cohesive appearance.

4 Notwithstanding the submitted details, large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development above footings level and the works shall be carried out in accordance with the approved details.

Windows and bays

Dormer windows

Eaves details

Main door opening and surround

Bin storage

Cycle storage

Lighting of car park

Reason: So that the Local Planning Authority may be satisfied with these details.

5 The building shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed hard and soft landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs to be planted in the rear and front forecourt along with details of the front boundary treatment. This scheme shall be implemented within a period of nine months of the completion of the development. Any trees or plants which 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.

6 The building shall not be occupied until the areas shown on the approved site plan for parking and manoeuvring of vehicles and cycles 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.

7 Prior to the development coming into use the site shall be re-surfaced in a manner in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the egress of water and loose material onto the public highway, enhance the setting of the building and reduce surface water run off.

8 Before the occupation of the residential accommodation an Electric Vehicle Recharging Point shall be provided in a position and to a specification to be first agreed in writing by the Council. Within 3 months of the first occupation of the accommodation, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years.

Note: Electric Vehicle Recharging Point means a free-standing, weatherproof, outdoor recharging unit for electric vehicles with the capacity to charge at both 3kw (13A) and 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point. Charging pointes should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Also, to prepare for increased demand in future years, appropriate cable provision should be included in the scheme design and development in agreement with the Local Planning Authority. This ties in with a key

theme of the NPPF, in that developments should enable future occupiers to make green vehicle choices and it explicitly states that 'developments should be located and designed where practical to incorporate facilities for charging plug in and other ultra low emission vehicles'

REASON: To promote and facilitate the uptake of electric vehicles / bikes / scooters on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

9 The design and location of any new vehicular entrance gates located at the site shall be agreed in writing prior to their erection and they shall be erected and maintained in accordance with the details.

Reason: To protect highway safety.

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

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

11 Notwithstanding the submitted details, development shall not begin until details of surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site to avoid increasing flood risk on adjacent sites and to reduce surface water run off rates where practical through attenuation and the use of permeable surfacing. These details are required in advance of the development of the site to ensure that ground works do not compromise the effective implementation of the condition.

12 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 and Bank Holidays.

Reason. To protect the amenity of local residents

7.0 INFORMATIVES:

Notes to Applicant

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

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

Revised drawings submitted to address the impact on neighbours living conditions, the streetscene and bin and cycle storage.

2. FOR INFORMATION – CONSTRUCTION METHODS.

(i) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

(ii) Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions.

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

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

3. PARKING PERMITS

It should be noted that the occupants of the flats will not be eligible to apply for a resident's permit to park in nearby streets and perspective occupiers and purchasers should be made aware of this.

4. SITE HISTORY

Because of the connection many York residents have with Londons' toy shop it is suggested that the developer considers ways in which the previous use can suitably be recorded and celebrated on site. If there is any doubt regarding whether any such works would need planning permission or advertisement consent the Local Planning Authority should be contacted.

Contact details:

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

Tel No: (01904) 551352