

COMMITTEE REPORT

Date: 15 June 2017 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
 Commercial Team

Reference: 16/02815/FUL
Application at: The Cocoa Works Haxby Road York YO31 8TA
For: Construction of access road with associated landscaping and
 highway works
By: York 123 Ltd
Application Type: Full Application
Target Date: 1 March 2017
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to land by the remaining Almond and Cream former factory buildings and their associated gardens within which are functional single storey buildings and the grade II listed Joseph Rowntree Memorial Library. The site has been acquired by the applicants from Nestle.

1.2 This application is for a proposed access road into the site from Haxby Road (on the north side of the buildings) and the consequential required works in the highway; improved pedestrian crossing by the roundabout, relocation of the bus stops (inbound and outbound), and the relocation of the crossing on Haxby Road which would be just south of the library. The changes are shown on drawing 66016-TA-001 revision K.

1.3 The applicants have submitted this standalone application for the access and associated works to meet a requirement of the option agreement they have with Nestle for acquisition of the site. The applicants have also made full planning and listed building consent applications to re-develop the redundant buildings; the Almond and Cream blocks and the listed library.

1.4 After the factory buildings closed in 2007 the area was designated as a conservation area and the library was grade II listed.

1.5 There were applications for re-development of the site made in 2010 - 10/01960/FULM and 10/01955/OUTM for re-development of the redundant buildings and the land to the west where former factory buildings have since been removed. The applications were not approved as associated S106 legal agreements were not concluded.

1.6 The 2010 applications proposed an access road of similar alignment and design to this proposal. The road was to be a through route between Haxby Road and Wigginton Road for buses and not for private cars. Modelling showed creating a through route for cars would have an unacceptable impact on the highway network.

2.0 POLICY CONTEXT

2.1 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 adopted Local Plan in York. In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the NPPF and it is against this Framework and the statutory duties set out below that the application proposal should principally be addressed.

National Planning Policy Framework (NPPF)

2.2 Section 12 - Heritage

Statutory Duties

2.3 Section 66 of the 1990 Act requires that in determining planning applications for development which would affect a listed building or its setting the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

2.4 Section 72(1) of the 1990 Act refers to any buildings or other land in a conservation area and places a duty on Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Other material considerations

“Development Control Local Plan” 2005 (DCLP)

2.5 Although there is no formally adopted local plan, the “City of York Draft Local Plan Incorporating the Fourth Set of Changes” was approved for development control purposes in April 2005. Whilst it does not 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. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are:

GP1 Design and HE3 Conservation Areas.

2.6 Conservation Area Appraisal 2008 (see paragraph 4.8).

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 Officers have no objections to the scheme and recommend conditions to ensure delivery of the required works to the highway.

3.2 Vehicular access to the development is to be taken from a new junction onto Haxby Road. The design and location of the proposed access is consistent with the approach taken through the 2010 applications and is considered acceptable. Officers will be seeking that the proposed access road is designed, constructed and offered for adoption as publicly maintainable highway. This will ensure that once development plans come forward for the remaining part of the Nestle South site the remaining section of the public transport link between Haxby Road and Wigginton Road can be delivered as per the 2010 applications.

3.3 In order to provide the site access it is necessary to relocate the existing bus stops which further impacts on pedestrian crossing points. Officers have worked with the applicant's highway consultants to look at the whole of the site frontage with a view to providing an holistic package of works. The main changes consist of;

- The existing island on Haxby Road, just North of the proposed site access will be extended to provide a pedestrian crossing. This will be complimented with associated dropped kerbs, tactile paving and contrasting surfacing.
- The provision of a right turn ghost island to serve the new site access. This facility will ensure right turning traffic can wait clear of through traffic on Haxby Road.
- The removal of existing pedestrian refuge to the South of the site and the provision of a new refuge to just south of the library. The relocation of the crossing points ensures that crossing facilities are available on all likely pedestrian desire lines.
- Relocation of the existing inbound and outbound bus stops. The new bus stops will be provided to CYC standard specifications, which includes real time BLISS displays, shelter and Kassel kerbs.

Design, Conservation & Sustainable Development

Architecture

3.4 Officers have provided advice on the entire scheme which is summarised in the companion application 17/00284/FULM. The assessment considers the road proposed alongside changes to the landscaping, the library and proposed

convenience store and concludes that there would not be harm to the setting of the listed library or the conservation area.

Landscape Officer

3.5 Officers acknowledge attractive trees within the conservation area will be lost, but this is necessary to accommodate the access road required for the re-development. The impact is essentially the same as when members were minded to approve the previous applications for re-development of the site (10/01960/FULM and 10/01955/OUTM).

3.6 The tree cover alongside Haxby Road is fundamental to the attractive character of the conservation area and the setting of the remaining factory buildings. The development would result in the removal of a number of mature trees. This includes a sizeable Cherry and a Birch. These are located deeper into the site and are therefore of less significance to the existing public realm. Furthermore the Cherry is reaching over maturity and the Birch is a species that could be readily replaced within the grand scheme. The mature memorial Oak (ref: T921) which would also be removed however is a longer-lived, attractive, mature tree and presents a greater loss.

3.7 Unavoidably, the need to insert a site access to allow development of the site would create a break in the tree cover along Haxby Road, the effect of which would be most prominent on the eastern approach off the roundabout, and immediately in front of the site entrance. From the oblique views up and down Haxby road the remaining tree cover would lessen the visual impact.

3.8 The scheme includes replacement tree planting of suitably large-species trees - Norway Maple, Lime and Rowan. These compensate in numbers and increase tree cover along the proposed internal route. Preferably re-planting would include a large-species, replacement tree at the front of the site closer to Haxby Road to replace tree cover lost along this frontage although this area is outside of the site (further north-east).

3.9 Conditions are recommended to protect trees which are to be retained and to secure the replacement planting.

Public Protection

3.10 Officers recommend a condition to secure a construction management plan, to manage noise, vibration, dust and light pollution during construction. Also given the former industrial uses of the site officers request that if unexpected contamination is encountered it be reported and dealt with accordingly.

EXTERNAL

Guildhall Planning Panel

3.11 No objection.

Theatres Trust

3.12 Object. Rowntree Theatre which is opposite the proposed site access. The trust have spoken with the theatre operators and object on highway safety grounds. The grounds of objection are set out below.

Relocation of the bus stop

3.13 Currently taxis, mini-buses and coaches are able to drop off and pick up parties without obstructing the emergency access for fire / ambulance vehicles by temporarily parking south of the entrance to the theatre. The proposed moving of the bus stop to this area makes more difficult by imposing limitations where vehicles could drop-off as there was be a bus stop to the south and the new junction to the north. In particular there is concern over elderly or disabled visitors.

Access for deliveries/servicing

3.14 The theatre has around 50 different shows / events every year. Some of the companies use large HGVs to deliver and collect scenery and stage properties. To do so they need to make full use of the width of Haxby Road in order to reverse along the driveway to the unloading bay. The proposed access road and the central road markings may make this manoeuvre highly dangerous to both the HGV personnel and other road users.

Safety at the roundabout

3.15 The proximity of the proposed access road exit allows vehicles to drive straight onto the road by the roundabout travelling northwards & eastwards. This means that Haleys Terrace traffic would have two streams of approaching traffic to monitor before proceeding thereby increasing the risk of an accident. In the interests of safety the roundabout should operate in a conventional manner rather than vehicles travelling north on Haxby Road being given priority.

Publicity

3.16 An objection has been made on behalf of the theatre. The ground for objection is on highways grounds, as per the comments made by the Theatres Trust.

4.0 APPRAISAL

Key Issues

4.1 Key issues with the application for the highway works are -

- Impact on the highway network
- Character and Appearance of the Conservation Area
- Setting of the grade II listed library

Assessment

Impact on the highway network

4.2 The National Planning Policy Framework advises that developments should provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians and maximise sustainable transport modes and minimise the need to travel.

4.3 The scheme is deemed to have an acceptable impact on the highway network on the following grounds -

- The proposed access necessitates relocation of the bus stops on Haxby Road. The change does leave less space by the theatre entrance for drop off. However alternatively there is hard-standing to the front of the theatre which could be used as a drop off and facilities will also be created on the proposed access road opposite. Whilst the theatre have a relevant point there are not alternative locations where the new access and bus stop could be accommodated. The loss of an ad-hoc drop off point on the highway is not grounds to refuse the application.
- Pedestrian crossing at the junction of Haley's Terrace and Haxby Road would be improved.
- Road safety audits would be secured as a condition, to be undertaken before changes to Haxby Road commence or the new road brought into use.
- HGV access to the theatre would be unaffected and the applicants have provided swept paths to confirm this.
- The council does not have evidence the roundabout is unsafe in its current iteration. The proposals would not have a material impact on its operation. There are no grounds to require the applicants to undertake any alterations to the design.

Character and Appearance of the Conservation Area

4.4 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.

4.5 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.

4.6 NPPF 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." To meet the statutory duty, considerable importance and weight must be attached to the desirability of avoiding any harm when applying this paragraph in the NPPF, even if the harm is less than substantial.

4.7 The NPPG explains that Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress. Public benefits may include heritage benefits, such as:

- sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- reducing or removing risks to a heritage asset
- securing the optimum viable use of a heritage asset in support of its long term conservation

4.8 There is a Conservation Area Appraisal for the area which was published in 2008. The document outlines the reasons for designation, considering the history and social value of the area, a character appraisal and opportunities for its enhancement. In the appraisal the part of the gardens where the road is proposed is identified as having a positive impact on the setting.

4.9 An access is necessary to allow servicing and car parking to the Almond and Cream buildings and is also desirable to serve the land to the west of the buildings which is previously developed land suitable for regeneration.

4.10 Although the existing landscaping makes a positive contribution of the character and appearance of the conservation area there are single storey buildings and hard-standing areas between the Almond and Cream buildings and Haxby Road within the remainder of the site which detract from the setting. These will be removed and landscaped. As a consequence of the overall scheme there would be an enhancement to the character and appearance of the conservation area.

4.11 Trees will be removed, including a mature Oak within the site which is of high amenity value. There are not alternative options to accommodate a road within the application site. The road is necessary to allow re-development of the site and therefore suitable mitigation is required for the trees which will be lost. A condition on this application can ensure that trees which do not need to be removed to accommodate the road are protected should construction occur before the remainder of the scheme (as per the submitted plan) and a detailed planting plan will require adequate replacement species along the road. Within other applications the amount of tree cover over the entire site will be increased as a consequence of landscaping the land behind the buildings where the car park is proposed.

Setting of the grade II listed library

4.12 The library building addresses the street and is to the immediate south of the gated access with tree lined approach to the main entrance. Otherwise Haxby Road has tree cover along the site frontage, set behind boundary railings. Aside from the tree cover along Haxby Road the library is very much within an industrial setting penetrated by various access points.

4.13 The access proposed would be at the north end of the site and an adequate distance away from the library to preserve its immediate setting. There would be no change to the prominence of the library within the street scene. The access road, even considered in isolation would not harm the setting of the listed building.

5.0 CONCLUSION

5.1 The road access and associated changes in the highway are necessary to facilitate re-development of a considerable previously developed site in the urban area which has been identified by the Council to assist in meeting housing need. Re-development is desirable; consistent with the following core principles within the NPPF -

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.

5.2 Whilst this would lead to the loss of trees which have amenity value, these would be replaced and overall the former industrial site would see an increase in tree cover and an enhancement to the character and appearance of the conservation area. As the proposal enhances the conservation area, there is no harm to this heritage asset. There would not be harm to the setting of the grade II listed library. Approval is recommended.

5.3 The road layout is comparable to that which members were minded to approve in 2010 and whilst changes on Haxby Road would reduce available space for drop off at the theatre opposite the site, there are reasonable facilities for such in the locality. The works would not have an adverse effect on highway safety in this respect and nor would there be undue conflict with the NPPF which states developments should be located and designed where practical to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities and create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 PLANS1 Approved plans

- 66016-TA-001 Revision K Proposed highway works
- 26980(00)12 Revision F Location Plan
- D169.L.001 Revision A Landscape proposals

3 Tree protection Plan

Trees shown as being retained on the approved plans shall be protected in accordance with BS: 5837 Trees in relation to construction.

Prior to construction commencing a tree protection plan covering trees not to be removed on drawing D169.L.001 Revision A Landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with approved details, unless otherwise approved by the Local Planning Authority.

Reason: Details are required prior to commencement to ensure protection of existing trees before, during and after development which make a significant contribution to the amenity of the conservation area.

4 Highway Construction

Fully detailed drawings illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of any works within the highway. The details shall include removal of any redundant crossings and making good, any

street-lighting and a phased programme to deliver the site access and associated highway works to Haxby Road. The scheme shall be fully implemented in accordance with the approved details.

Reason: In the interests of highway safety, amenity and in the interests of the character and appearance of the conservation area.

5 Bus Stop Works

Prior to the commencement of any development within the highway detailed drawings of the works to implement the relocation of the existing inbound and outbound Bus Stops fronting the site, shall be submitted to and approved in writing by the Local Planning Authority. The aforementioned detailed drawings shall ensure that the relocated Bus Stops provide at least the following facilities;

- a) 19" TFT BLISS real time display,
- b) Kassel kerbs,
- c) JC Decaux Foster shelters of a cantilever design
- d) Bus stop flag pole and timetable
- e) seating
- f) lighting
- g) associated carriageway lining

The relocated Bus Stops shall then be implemented in accordance with the approved detailed drawings unless otherwise agreed in writing by the Local Planning Authority and within a timescale to be approved by the Local Planning Authority.

Reason: In the interests of the safe and free passage of highway users and to promote sustainable modes of transport.

6 Road Safety Audit

A full 4 stage road safety audit (carried out in accordance with guidance set out in the DMRB HD19/03 and guidance issued by the council) for the works as indicatively shown on drawings reference 66016-TA-001 REV K, or any such plans which are subsequently submitted to and approved in writing by the Local Planning Authority, shall be carried out prior to first use of the access road. Stage 1 of said audit shall be submitted to and approved in writing by the Local Planning Authority prior to any relevant works commencing within the highway.

Reason: To minimise the road safety risks associated with the changes imposed by the development.

7 Landscaping

Application Reference Number: 16/02815/FUL

Item No: 4d

The development shall not be brought into use until there has been submitted to and approved in writing by the Local Planning Authority a detailed landscaping scheme (hard and soft measures and including lighting and improvements to the footpath along Haxby Road) which shall illustrate the number, species, height and position of trees and shrubs to be planted. This scheme shall be completed prior to first use of the development or in accordance with a programme agreed in writing with the Local Planning Authority. Any trees or plants which 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: In the interests of visual amenity and to compensate for the loss of trees required to accommodate the access road, in the interests of the character and appearance of the conservation area.

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: sought revised plans to make the scheme acceptable and through the use of planning conditions.

2. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

3. INFORMATIVE:

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

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

Contact details:

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