

COMMITTEE REPORT

Date: 9 November 2017 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 17/01546/FULM
Application at: Colin Hicks Motors Garage And Yard Rear Of 33 Bootham York YO30 7BP
For: Erection of 14no. flats (use class C3) following demolition of car repair garage
By: Mr Kevin Mohan
Application Type: Major Full Application (13 weeks)
Target Date: 11 October 2017
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 Demolition of a single-storey car repair workshop (use class B2) and erection of a 4-storey residential building comprising 14 flats and apartments (1 x 2-bedroom duplex apartment; 7 x 1-bedroom flats; and 6 x 1-bedroom studio flats). Cycle storage, refuse/recycling facilities and visitor parking for two cars would be provided on the ground floor. Access would be from Bootham Row, as existing.

1.2 The application is a revised resubmission of 15/02762/FUL, which was for nine, larger, flats (4 x 3 bed and 5 x 2 bed). The application was approved in July 2016. The main change to the external appearance of the approved scheme is that the top-floor accommodation, which occupies part of the footprint of the building, would be extended by 1.7m towards the north-east, i.e. towards Bootham Place. The top floor accommodation would be the upper floor of the proposed 2-bedroom duplex apartment.

1.3 The approved scheme remains valid and is the fallback position if the current application is refused.

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

2.2 Draft 2005 Development Control Local Plan Policies:

CYGP1 - Design

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CYGP4A	Sustainability
H3	Conservation Areas
H4	Listed Buildings
CGP15A	Development and Flood Risk
CYH4A	Housing Windfalls

2.3 Pre-Publication Draft Local Plan (September 2017) Policies:

D4	Conservation Areas
ENV5	Sustainable Drainage
D1	Placemaking

3.0 CONSULTATIONS

INTERNAL

Design, Conservation and Sustainable Development (Archaeology)

3.1 Due to the location within the Area of Archaeological Importance, a watching brief should be maintained on the site as a precautionary measure during groundworks ahead of construction of the building.

Education

3.2 No financial contribution required.

Public Health Programme Manager (Sports and Physical Activity)

3.3 A financial contribution of £3,195 will be required towards off-site sports provision in the city. The money would be used for improvements to sports facility at Door 84 community centre in the Groves, York.

Public Realm (Amenity and Leisure)

3.4 No amenity or play contributions are required due to regulations restricting the pooling of contributions.

Public Protection

3.5 No objections subject to conditions to cover: submission of a Construction Environmental Management Plan (CEMP), hours of demolition/construction; sound insulation; recharging of electric vehicles; and contaminated land.

Flood Risk Management

3.6 The revised drainage proposals, including discharge rates and on-site storage rates are satisfactory.

Waste Services

3.7 Recommended containers for refuse are 2 x 1100 litre bins and 1 x 360 litre bin.

EXTERNAL

Guildhall Planning Panel

3.8 No response.

Yorkshire Water

3.9 No comments to make.

Historic England

3.10 Does not wish to comment.

Neighbour Notification and Publicity

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

- Overlooking/loss of privacy
- Overdevelopment
- Overbearing
- Overshadowing
- Inadequate space for refuse/recycling bins
- Poor living standards for residents of flats
- Would not significantly increase supply of housing for local residents
- Noise nuisance and disturbance
- Would exacerbate traffic and parking problems
- Should include provision for recharging of electric vehicles
- Any tree planting should be limited to 3m high

4.0 APPRAISAL

4.1 KEY ISSUES

- Principle of Development for Housing
- Neighbour amenity

- Impact on heritage assets
- Traffic and parking

THE APPLICATION SITE

4.2 An L-shaped, predominantly backland site close to the city centre. The site comprises a vacant car repair workshop with ancillary car parking. The site lies within the Central Historic Core Conservation Area and within an area of archaeological importance. To the south and west of the site are listed buildings notably 33 and 35 Bootham (grade II) and 37 Bootham (Wandesford House, grade II*). The area is mixed residential/commercial. The immediate neighbours are mainly residential (classes C1-C3).

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

4.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Section 66 of the same Act states that in determining planning applications for development which affects a listed building or its setting the local planning authority 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. The council's statutory duty under s.66 and s.72 gives rise to a strong presumption against planning permission being granted, and considerable importance and weight must be given to any harm, even where that harm would be minor.

PLANNING POLICY CONTEXT

National Planning Policy Framework

4.4 Paragraph 7 says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. The presumption in favour of sustainable development at paragraph 14 does not apply to this application because it affects listed buildings and land designated as a conservation area. The application should be judged against, among other policies, sections 7 and 12 of the NPPF, (design and historic environment respectively).

Draft 2005 Development Control Local Plan

4.6 Although there is no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. It does not form part of the statutory development plan for the purposes of s.38(6) of the Act. Its policies are however considered to be capable of being material considerations in the determination of

planning applications where policies relevant to the application are consistent with those in the NPPF.

Emerging Local Plan

4.7 A new pre-publication draft local plan and revised evidence base is currently at consultation until 30th October 2017. The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. The evidence base that underpins the proposed emerging policies is also a material consideration in the determination of the planning application.

PRINCIPLE OF DEVELOPMENT FOR HOUSING

4.8 The NPPF states that local planning authorities should deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (paragraphs 50-55). The proposal would provide much-needed housing in a sustainable location with very good access to shops, services and public transport. The principle of redevelopment of the site for housing was been accepted when planning permission was granted for the previous application.

NEIGHBOUR AMENITY

4.9 The site is constrained on all sides by residential buildings. The approved scheme addressed the constraints posed by the proximity of these adjacent buildings. The current proposal would not alter the impact on any of the properties except for the development at Bootham Place, a 4-storey block of flats to the north-east of the site. Main windows of these flats face the application site. In the approved scheme the windows of the first and second floors would be canted to avoid overlooking of the Bootham Place occupiers. The currently proposed scheme would not alter this arrangement.

4.10 The top floor of the approved scheme would be set back from the lower floors on the elevation facing Bootham Place. The separation distance, as approved, between the windows of the top floor flat and the main windows of Bootham Place would be 14.2m. The top floor accommodation as currently proposed would, due to its enlargement, be 12.5m from the windows of Bootham Place, i.e. 1.7m closer than for the approved scheme. In order to avoid overlooking the windows of the rooms on the top floor would be opaque. This should be made a condition of approval and has been agreed by the applicant. No roof terraces are proposed on this elevation. This should be made a condition of approval.

DESIGN

4.11 Section 7 of the NPPF requires good design, which is a key aspect of sustainable development and should contribute positively to making places better for people (paragraph 56). Planning policies and decisions should not attempt to impose architectural styles or particular tastes although it is proper to seek to promote or reinforce local distinctiveness (paragraph 60). Permission 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 (paragraph 64).

4.12 The building would be set amongst the surrounding buildings. It would be lower and have less mass than Bootham Place (to the north-east) and Aspire House (south-east) yet larger than the brick and pantile buildings (north-west) and the rear addition to 33 Bootham (south-west). The scale and massing would be in keeping with this surrounding built form and would help to mask the somewhat slab-like character of Aspire House when viewed from Bootham School. The building would be in keeping with the grain of the surrounding buildings, particularly as the proposed building would be seen as a series of blocks of varying heights. The enlarged top floor would not materially affect the overall appearance of the building as approved. The materials should be made subject to conditions of approval.

IMPACT ON HERITAGE ASSETS

4.13 The NPPF states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance (paragraph 126). 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. Any harm or loss should require clear and convincing justification (paragraph 132).

4.14 The site is in a conservation area. The almshouses at Wandesford House (37 Bootham) are listed grade II* and 33/35 Bootham are listed grade II. The conservation area and listed buildings are all designated heritage assets.

4.15 The approved scheme addressed the constraints posed by the conservation area status of the site and the proximity of listed buildings. The enlarged footprint of the accommodation on the top floor - and the whole scheme as proposed - would not harm cause harm to designated heritage assets or their significance..

ARCHAEOLOGY

4.16 The site lies within an area of archaeological importance and where there are significant archaeological features and deposits from the Roman period onwards. An archaeological evaluation of the site was carried out in 2017. Two trenches were excavated indicating that the ground level has been increased over the last 200 years. Earlier deposits may survive at lower depths. Due to the location within the Area of Archaeological Importance, a watching brief should be maintained on the

site as a precautionary measure during groundworks ahead of the construction of the building. The proposed alterations to the approved scheme would not affect the archaeological issues previously identified.

ACCESS AND PARKING

4.17 The absence of on site parking for residents is considered to be acceptable due to its central location. Two off-street parking spaces would be provided for visitors, in compliance with council standards. Secure, covered, cycle storage would be provided at ground-floor level, close to the main entrance from the public highway. In terms of access, traffic movements and parking the current application is not materially different from the approved scheme. The development does not include parking for the occupiers so a condition requiring recharging facilities for electric vehicles (sought by Public Protection and a third-party objector) would not be appropriate.

FINANCIAL CONTRIBUTIONS

4.18 The council's public health programme manager seek a financial contribution of £3,195 towards off-site sports provision in the city. The contribution satisfies the tests at regulation 122 of the CIL Regulations, which require obligations to be (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. The applicant has agreed to make the contribution. It would be used for improvements to sports facilities at Door 84 community centre in the Groves, York. The contribution would be secured by a unilateral agreement under section 106. No contributions are required for education or open space.

OTHER MATTERS

4.19 Demolition of the existing workshop is unlikely to have a material impact on protected species. No mitigation is required.

4.20 The site is in low risk flood zone 1 and is unlikely to suffer from river flooding. Satisfactory drainage details, including attenuation, have been submitted.

4.21 A construction method statement has not been recommended as this is covered under other legislation and therefore such a planning condition would not meet the requirements of para.206 of the NPPF. The impact on the occupiers of the flats from noise and contamination can be dealt with by condition. The submitted geo-environmental appraisal identified elevated levels of lead within the site. A detailed remediation scheme is expected, which would obviate the need for a remediation condition. Members will be updated at the meeting.

5.0 CONCLUSION

5.1 The council's statutory duty under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act gives rise to a strong presumption against planning permission being granted. The proposals as revised would not be harmful to any heritage assets. All other matters are acceptable, subject to the imposition of conditions where appropriate. The application accords with national planning policy in the NPPF.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement to provide a financial contribution of £3,195 towards off-site sports provision in the city.

1 TIME2 Development start within three years

2 The development shall be carried out in accordance with the following approved plans:

17028_110_P00 Proposed Ground Floor Plan
17028_111_P00 Proposed First Floor Plan
17028_112_P00 Proposed Second Floor Plan
17028_113_P03 Proposed Third Floor Plan
17028_120_P02 Proposed Roof Plan
17028_130_P02 Proposed Elevations
17028_131_P02 Proposed Elevations
17028_132_P02 Proposed Elevations
17028_150_P02 Proposed Sections
17028_151_P02 Proposed Section
17028_275_P00 Bay Study - Juliet Balcony
17028_276_P00 Bay Study - Window
17028_277_P00 Bay Study - Bay Window - Window
17028_278_P00 Bay Study - Bay Window - Cladding
17028_279_P01 Bay Study - Curtain Wall to Third Floor Windows
17028_300_P01 Exterior Roof Detail
15309/SK500_Rev.2 – indicative Drainage Plan

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

3 Samples of the external materials to be used shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the construction of the development. 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 The north-eastern elevation of the premises on the third floor of the building hereby approved shall be (i) opaque in its entirety and (ii) any windows shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Reason: In the interests of the amenities of occupiers of the adjacent residential properties.

5 The north-east facing windows to the lobbies at first, second and third floor level shall be (i) obscure-glazed and (ii) non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Reason: In the interests of the amenities of occupiers of the adjacent residential properties.

6 No part of the roof of the building shall at any time be used as a roof terrace or external seating area or for any other purpose incidental to the residential use of the development.

Reason: To protect the amenity of neighbouring residents.

7 The development shall be carried out in accordance with the foul and surface water drainage details shown on drawing no. 15309/SK500 Rev.2.

Reason: In the interest of the proper and sustainable drainage of the site.

8 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

9 Prior to their installation details of all machinery, plant and equipment to be installed in or located on the use hereby permitted shall be submitted to the local

planning authority for approval. These details shall include maximum sound levels (LA_{max}(f)) and average sound levels (LA_{eq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To safeguard the amenity of occupants of neighbouring premises throughout the period of demolition and construction.

NOTE: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 5dB below the background noise level at 1 meter from the nearest noise sensitive façade when assessed in accordance with BS4142: 1997 (or exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014) inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

10 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification approved by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

11 Prior to development commencing, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared and submitted in writing to the Local Planning Authority and approved. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination during the whole of the

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construction period and 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.

12 Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and 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.

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

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

7.0 INFORMATIVES:

Notes to Applicant

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

In considering the application, the local planning authority implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) by seeking solutions to problems identified during the processing of the application. In order to achieve an acceptable outcome the local planning authority negotiated changes to the proposal to reduce its impact on neighbouring occupiers and heritage assets.

2. CONTROL OF POLLUTION ACT 1974

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to

ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

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

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

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

(f) There shall be no bonfires on the site

3. BATS

There are opportunities for the development to enhance the new building for bats. This can be done without detriment to the building through bat friendly features which can be designed at the outset and include features such as bat bricks, bat tiles or an adapted fascia.

(see http://www.bats.org.uk/pages/accommodating_bats_in_buildings.html for more information).

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