

## COMMITTEE REPORT

**Date:** 30 November 2017      **Ward:** Guildhall  
**Team:** Major and      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 17/01129/FULM  
**Application at:** Grove House 40 - 48 Penleys Grove Street York YO31 7PN  
**For:** Conversion and part demolition of former care home (use class C2) to provide 32 no. apartments (use class C3) with external alterations, new raised roof and first floor rear extension  
**By:** Mr R. Slater  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 6 December 2017  
**Recommendation:** Approve subject to the prior completion of a Section 106 Agreement

### 1.0 PROPOSAL

1.1 The application site is currently occupied by a vacant care home. The site is not within a conservation area; however the Central Historic Core Conservation Area abuts the site to the south and south east. Nearby 31 Penley's Grove Street is grade II listed. The area is residential in character with predominantly two storeys dwellings. However to the immediate north east of the site is a single storey crescent of alms houses, with a four storey block of flats on the corner of Helmsley House. Trees along the frontage of the site with Penley's Grove Street and St John's Crescent are subject to a Tree Preservation Order, (CYC 353). The existing building is designed around a landscaped courtyard, with parking to the north. There is a single storey element to the north.

1.2 Permission was initially sought for the change of use and extension of the existing building to create 33 flats. However concerns were raised regarding the impact of the development on the trees that are subject to a Tree Preservation Order, together with highway and neighbour amenity considerations. The development was revised to set back the first and second floor on Penley's Grove Street. This has resulted in a reduction to 32 flats. The mix of accommodation includes 28 no. 1 bed units, 1 no. 2 bed unit and 3 no. 3 bed units. The existing single storey element will be demolished, and replaced by a two storey extension, with a similar footprint, although set back at first and second floor. The ridge height of the two storey part of the existing building measures approximately 7.8m. The single storey element fronts Penley's Grove and has a flat roof that extends to 3.2m. The ridge height of the proposed building will be approximately 8.7m. The building works will retain the existing brick work, with an area of cedar cladding at the higher part of four of the gables. The roof will be covered in plain grey tile or slate.

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1.3 The initial application included a number of large dormers and projecting bays along the frontage with St John's Crescent. This part of the proposed development has been revised with the large dormer windows on this elevation now deleted, and only two small dormer windows remain.

1.4 The revised plans also show a revision to provide a single access into the site from Garden Street. Secure cycle storage will be provided on the ground floor adjacent to the access. Refuse provision is within a timber fenced compound adjacent to the access off Garden Street.

## **2.0 POLICY CONTEXT**

### **2.1 Development Plan Allocation:**

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

### **2.2 Draft 2005 Development Control Local Plan policies:**

GP1 Design  
GP3 Crime Prevention  
GP4A Sustainability  
GP9 Landscaping  
GP15A Development and Flood Risk  
L1c Provision of new open space in developments  
T4 Cycle parking standards  
T13a Travel Plans and contributions  
NE1 Trees Woodlands and Hedgerows  
HE10 Archaeology  
HE2 Development in Historic Locations  
HE3 Conservation Areas  
HE4 Listed Buildings  
C3 Change of use of community facilities  
CYH4A Housing Windfalls  
CYH2A Affordable Housing

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

Policy H3 Balancing the Housing Market  
Policy H10 Affordable Housing  
Policy D2 Landscape and setting  
Policy D4 Conservation  
Policy D5 Listed Buildings  
Policy D6 Archaeology  
Policy D11 Extensions and Alterations to existing buildings

Policy GB3 Reuse of Buildings  
Policy CC2 Sustainable Design and Construction of New Development  
Policy ENV3 Land Contamination  
Policy ENV5 Sustainable Drainage  
Policy CC2 Sustainable Design and Construction of New Development

### 3.0 CONSULTATIONS

#### INTERNAL

#### Planning and Environmental Management (Conservation)

3.1 The Conservation Area Appraisal (Character Area 6: Lord Mayor's Walk) defines the character of the adjacent Conservation Area in general terms as:

*These streets contain mid-19th century terraces of uniform design. They are two-storey red brick houses with bay windows. The doors are set back within shallow panelled porches. Many original sash windows and cornices remain. Some roof alterations have taken place, such as the insertion of windows for loft conversion and addition of solar panels.*

3.2 The houses on each side of St John Street also form a very distinctive framing view of the Minster which is identified in the Conservation Area Appraisal; the houses on are also considered buildings of merit. The existing south east elevation of Grove House is on St John Street and is parallel with the Conservation Area boundary and faces the terraced houses identified as buildings of merit. Consequently development of Grove House has the potential to affect the setting of the Conservation Area and, therefore, its significance as identified in Paragraph 129 of the NPPF.

3.3 The proposal is to remodel the existing internal and external fabric to provide residential accommodation. The building is re-fenestrated, re-clad and the roof line is raised to achieve a second storey. During the application process a number of concerns were raised relating to the design and particularly in relation to the setting of the Conservation Area. It was felt that the scale of the proposal, due to the large dormers, and the proposed rendered finish was in conflict with the character of the Conservation Area. At present the existing building has a neutral impact on the setting of the Conservation Area due to its scale and complimentary materials.

3.4 The revised elevations have tackled these concerns and a more sympathetic scale has been achieved by removing the dormers and the character of the area is better reflected with the use of brick. The two small dormers proposed facing St John Street are, however, still considered too dominant in scale and these should be replaced with roof lights. In terms of the materials a condition should be included

with any approval but it is expected that the roof should be finished in a natural slate to maintain the quality and, therefore, the character of the area.

3.5 Following the revised drawings any negative impact on the significance of the Conservation Area has been considerably reduced. Considered that any negative impact remaining could be further reduced to a neutral impact if the two dormers, mentioned above, were removed and the roof material was confirmed as natural slate.

#### Planning and Environmental Management (Landscape Architect)

3.6 The Lime trees located within the application site along St. John's Crescent and Penley's Grove Street are subject to tree preservation order (TPO) CYC 353.

3.7 In relation to the original plans concerns were raised regarding:

- (i) The location of the bays due to the impact on the root protection zone of the Lime trees.
- (ii) The increase the height of the building to two or three storeys would create a direct conflict between the trees and the proposed flats because of the very close proximity of the tree canopies, which would result in significant shading of the rooms, a lack of outlook, and a regular contact between the trees and the building facade.
- (iii) The proposed one way parking system due to the impact on trees. There is invariably some compaction and a reduction in gaseous exchange between the soil and the atmosphere, plus an increased risk to the trees during construction.

3.8 Comments following the revised drawings: The ingress and egress are now both from the same point off Garden Street, thus avoiding the creation of a new cross-over from Penley's Grove Street. Whilst there remains a small encroachment into the theoretical root protection area (RPA) of Lime trees T14 and T13 (that is not already under hard standing or building), the extent of loss is relatively small; and the cellular grid construction for the parking bays is feasible, as no excavations are required to alter ground levels towards the pavement.

3.9 The first and second floor have been pulled back slightly to ease the relationship with the adjacent Lime trees T13 and T12. Whilst the proximity of the trees is still a bit tight, this latest arrangement is more comfortable.

3.10 The proposed removal of trees within the courtyard is acceptable. These have less public amenity value than the Limes. The Birch and Cherry are attractive trees. The recommendations within the Arboricultural report are fair and reasonable.

## Planning and Environmental Management (Ecology)

3.11 Evidence of Japanese knotweed was found on the site in 2015. This is listed in Part II of Schedule 9, of the Wildlife and Countryside Act 1981 (as amended). As such it is an offence to causes it to grow in the wild. Accordingly it is recommended that a condition be imposed in relation to detailing the containment, control and removal of it from site.

3.12. In relation to bats, it is not considered that the building has significant potential to support bats. However it is an opportunity to provide features which bats could use, such as integral bat boxes. An informative is recommended.

## Planning and Environmental Management (Archaeology)

3.13 Grove House lies within the Area of Archaeological Importance. It is situated in an area where there are a number of designated and undesignated heritage assets of local and national significance. These assets include stray Roman burials, evidence for medieval agriculture and listed buildings. The site also includes the location of the original, now demolished, 1845 Ann Harrison Hospital. Accordingly an archaeological watching brief will be required on any groundworks including the grubbing out of foundations following demolition and any excavations for new service connections of foundation trenches.

## Highway Network Management.

3.14 No objections to the proposed development from a highways point of view. The development retains a single point of access to car parking, via a reduced width vehicle crossover. Details of the new access should be conditioned, with existing vehicle crossover alongside the building to be brought up to footpath level. The car park layout includes a turning area to be retained solely for this purpose to ensure vehicles can manoeuvre into the echelon parking and exit the site in forward gear. Allocated car parking has been provided for 16 vehicles associated with the proposed apartments. The number of parking spaces does not exceed the maximum number of spaces required by out CYC Appendix E standards.

3.15 Good quality cycle parking has been detailed on the latest plans at a rate of 1 per unit and 8 extra, which positively exceeds CYC Appendix E minimum standards.

3.16 The development is currently within the R10 Resident parking zone. As a care home, the site would not have been eligible for residents parking zone permits. As a residential development of 32 units, the site could attract numerous residents parking permits, putting an unreasonable demand on the existing residents parking zone.

3.17 A length of single yellow lining in the Abbot Street and Garden Street, could attract indiscriminate parking overnight. An amendment to the traffic regulation order to convert these lines to double yellow 24 hour restrictions to protect the streets and junctions in the vicinity is required.

3.18 The site is situated in a particularly sustainable location in York city centre close to amenities public transport. Guildhall ward has the lowest number of cars per household in York with 51% of households not owning a car and 40% owning just 1. Parking for 16 cars is to be provided in the associated car park. Although the site is considered to be in a sustainable location the limited off-street parking means that without viable sustainable travel alternatives being promoted, the development has the potential to still attract multiple car ownership but without the off-street facilities to accommodate them. In order to address this we seek the following contributions/measures to incentivise sustainable travel and reduce the potential impact on the highway;

- 1) First occupiers to be offered the choice of either a free cycle or 6 month bus pass (up to the value of £200 per unit)
- 2) First occupiers to be given membership of and drivetime for the city car club. This is based upon a contribution of £200 per residential dwelling.

3.19 Although agreement has been reached regarding item 1 above, the applicant has indicated that they are unprepared to fund Car Club contributions. We recommend these proposals as access to this scheme has been proven to reduce car ownership in line with the sentiments of section 4 NPPF.

### Flood Risk Management

3.20 Require additional information to demonstrate that the impermeable part of the site is being reduced. It is also necessary to take account of the drainage needs of the SFRA and the reduced flow rates that are required from brownfield sites such as this. This can be achieved by condition.

### PFI/Schools Contracts Manager

3.21 No education contributions required.

### Public Realm (Strategy and Contracts)

3.22 There are no payments required for amenity open space, or children's play space, as there are no local sites which have not already had 5 schemes contributing to them.

3.23 There will be a need for an off site outdoor sports contribution of £8520, this will be used towards the improvement and expansion of facilities at Heworth rugby club to attract women into sport there.

### Public Protection

3.24 No objection in relation to noise, dust, light, odour, land contamination or air quality. Recommend conditions in relation to the reporting of unexpected contamination and the provision of an electric charging point.

## EXTERNAL

### Yorkshire Water Services

3.25 No observations

### Publicity

3.26 Eighteen letters of objection have been received and raise the following points:

- High density development with no variety in size. This will not provide a residential community that reflects the diversity of the surrounding neighbourhood.
- The height of the additional floors is not set down nor back as envisaged in the Planning Brief. The 2.5 storey will be overbearing on the street and impact on privacy.
- Development will lead to pressure for mutilation or tree removal due to proximity of trees to the building.
- Overlooking from number of new windows, in particular due to the increase in size of windows.
- If development is approved, quality materials should be approved that complement the surrounding Victorian houses, including matching bricks and a natural slate roof.
- If development approved, request an enforceable tree maintenance regime.
- Inadequate parking provision.
- Increase in height will change the character of the area.
- Top floor balconies should face courtyard.
- Bollards on Garden Street should remain in position.
- Impact of additional height on light to properties
- Impact on character of conservation area and setting of two listed buildings.
- Long term maintenance of lime trees
- Concern regarding loss of a sorbus as proposed
- Impact of construction on neighbouring occupiers.
- Traffic will increase

- Segregation of affordable housing is inappropriate

## **4.0 APPRAISAL**

4.1 The key considerations are:

- Principle of development
- Heritage Assessment
- Landscape assessment
- Residential amenity
- Highway considerations
- Sustainable development
- Ecology seek clarification regarding Japanese Knotweed
- Drainage]
- Contributions

## **PLANNING POLICY**

4.2 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the National Planning Policy Framework (NPPF, March 2012). It is against this Framework that the application proposal should principally be addressed.

4.3 Paragraph 7 of the National Planning Policy Framework states that planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. 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.

4.4 Section 6 of the NPPF 'Delivering a wide choice of high quality homes' seeks to boost the supply of housing.

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. Paragraph 58 states that decisions should aim to ensure that development 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; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as



part of developments) and support local facilities and transport networks; respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and are visually attractive as a result of good architecture and appropriate landscaping.

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 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

4.11 Consultation on the Pre-Publication Draft -2017 ended on October 30th. 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. The evidence base that underpins the emerging policies is also a material consideration.

4.12 The up to date evidence base considered relevant to this application includes:

City of York Affordable Housing Viability Study (2010) and Annex 1 (2011) (AHVS)  
City of York Local Plan and CIL Viability Assessment (Draft) 2017.

Strategic Housing Market Assessment (SHMA) 2016

Strategic Housing Market Assessment Addendum (SHMA) 2016

City of York Heritage Topic Paper update September 2014

The Local Plan (2012) preferred options supporting documents - Biodiversity Action plan.

The Local Plan (2012) Preferred Options supporting document -local Heritage List for York SPD

## PRINCIPLE OF DEVELOPMENT

4.13 One of the core planning principles of the NPPF seeks to 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. A relevant policy of the DCLP is policy C3, 'Change of use of Community Facilities which includes criteria for the change of use of care homes. This requires demonstration that the facility is surplus to requirements and alternatives have been provided. It is considered that this has been established through the Older Person's Accommodation Programme. The Council's Executive meeting of October 29 2015 agreed to the closure of the home and the sale of the site to generate a capital receipt to support the wider Older Person's Accommodation Programme.

4.14 A further core principle in the NPPF states that planning should proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs. This is re-affirmed in chapter 6 of the NPPF which relates to the delivery of a wide choice of high quality homes. The site is undesignated within the 2005 Draft Local Plan. It is identified however in the Pre-publication Draft Local Plan as a housing allocation. Whilst the plan carries little weight at this stage, the evidence base in The City of York Council SHMA and Addendum (2016) concludes that demand is particularly high for smaller affordable properties although in order to meet the demands and expectations of family's larger market properties will also be required in the future. As recognised in Policy H3C of the DCLP and re-iterated in Policy H3

of the Pre-publication Draft Local Plan, neighbourhoods should reflect the diversity found across the city, rather than clustering similar groups together. As such, in order to balance the housing market there is a need to ensure a mix of types of housing across a development. Whilst little weight can be afforded to these policies, they are broadly in accordance with paragraph 50 of the NPPF.

4.15 The site is located in a very sustainable location with easy access to a wide range of services, shops, employment opportunities and public transport. Its use for housing is considered to be compatible with the surrounding area. As such it is considered that subject to other material considerations, the principle of the proposed development is acceptable.

## HERITAGE ASSESMENT AND DESIGN APPROACH.

4.16 The site is located adjacent Character Area 6 Lord Mayor's Walk, York's Central Historic Core Conservation Area (CHCCA). The boundary includes the eastern side of St John's Crescent and includes all of St Johns Street. Nos. 29 and 31 Penley's Grove Street is Grade II listed. The site lies within the Area of Archaeological Importance.

4.17 The NPPF states that Local Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and that they should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. (para 129). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the to the asset's conservation. The more important the asset the greater the weight should be (para 132). Where a proposed development would lead to substantial harm or to total loss of significance consent should be refused, unless this is necessary to achieve substantial public benefits; where a development proposal would lead to less than substantial harm to the significance of the asset, this harm should be weighed against public benefits of the proposal. The NPPF goes on to state that Local Planning Authorities should look for opportunities within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance.

4.18 Paragraph 137 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of the asset should be treated favourably. Development Control Local Plan (2005) policies HE2, HE3, HE4 and HE10 reflect legislation and national planning guidance. In particular, Policy HE2 states that proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials.

4.19 The Central Historic Core Conservation Area Appraisal (2013) sets out important considerations for the area which must be met by any new development. It is considered that this is relevant for sites that lie within the setting of the Conservation Area. The appraisal advises that St John Street and St John's Crescent in particular possess high quality buildings with a largely uniform appearance and survival of original features. This, together with attractive front gardens and iron railings, forms a street scene which contributes positively to the Conservation Area. The appraisal further states that these streets are also important because of their close proximity to the Grade II listed College and the city wall. The houses on each side of St John Street form a very distinctive framing view of the Minster. Other neighbouring streets were considered for inclusion but were determined to be of lower architectural quality and lacked the attractive setting of front gardens. The buildings on St John Street and St John's Crescent are identified in the character appraisal as buildings of merit.

4.20 It is considered that the existing building has a neutral impact on the setting of the Conservation Area due to its scale and complimentary materials. During the application process, a number of concerns were raised relating to the scale of the proposal, and in particular the dormers, and the use of render. Revised elevations have been submitted which remove most of the dormers and the projecting bays.

4.21 It is not considered that the increase in height of the main part of the building will have a negative impact on the significance of the conservation area. Furthermore it is considered that the existing single storey extension is not sensitive to the character of the area, and its replacement with a full height extension will not be out of keeping with the surrounding area, nor will it harm the setting of the Conservation area. The deletion of the bays and most of the windows is welcomed, and removes much of the negative impact on the significance of the conservation area. The improvement in walling materials better reflects the character of the surrounding area.

4.22 It is considered however that the remaining harm relates to the two small dormers that front St John's Crescent, and the proposed roof materials. In relation to the dormers, it is considered however that due to their limited size, the set back of the building forms the frontage with St John's Crescent, and the location of the trees such harm is minor. Of more importance is the improvement to the proposed roofing materials. The applicant has confirmed that the front of the building that faces St John's Crescent will be natural slate. The other elevations will be artificial slate. Given that St John's Crescent leads to an important view, it is considered that the proposed materials will preserve the setting of the conservation area. It is not considered that the extension to the building will harm the setting of 29/31 Penley's Grove Street.

4.23 Overall it is considered that the scale and design of the proposed development is acceptable, and will not be out of scale with surrounding buildings. A letter of objection raises concern that the development will be overbearing in relation to neighbouring buildings. However it is not considered that increase in height of the main part of the building, nor the development above the existing single storey part of the building will result in a development that is over dominant. Taking account of the design of the existing building, the proposed use of natural slate fronting the principle elevation, and powder coated aluminium to windows, it is considered that the development will as such accord with paragraph 56 of the NPPF and the relevant criteria within policy GP1:Design of the DCLP.

4.24 In relation to archaeology, the site is situated in an area where there are a number of designated and undesignated heritage assets of local and national significance. Accordingly, it is recommended that any approval should be subject to a condition an archaeological watching brief will be required on any groundworks including the grubbing out of foundations following demolition and any excavations for new service connections of foundation trenches.

## LANDSCAPE ASSESSMENT

4.25 The existing building has a row of Lime Trees fronting Penley's Grove Street and St John's Crescent which are subject to a Tree Preservation Order, (TPO) CYC 353. It is considered that they have significant amenity value in the area and a feature within the setting of the conservation area. The building has a greater mass and different character than those surrounding residential properties, and the trees aid the transition in character.

4.26 The Landscape Architect expressed concern regarding elements of the scheme as submitted. In particular the impact of the projecting bays, the formation of the access, the impact of a pedestrian footpath and the proximity of the building as extended to the trees. Revised plans have been submitted that have addressed the issues in respect of the footpath and the projecting bays.

4.27 In relation to the impact of the extension to create a first and second floor above the existing ground floor of the building, Concern was raised regarding proximity to the trees. Revised plans have been received which show a set back in the first and second floor. The landscape architect has advised that whilst the relationship with the adjacent Lime trees T13 and T12 is still a bit tight, this latest arrangement is more comfortable.

4.28. In relation to the ground floor, the impact of the trees relates to a one bedroom flat. However because it will only be the trunk at this level, and the living room window is more or less unaffected, it is not considered that the proximity of the tree will have a significant impact on amenity. In relation to the first floor, the impact relates to two flats. However the set back of this storey is such that the impact on

amenity is reduced and indeed both flats in any event have two windows. The second floor will be little affected because it is situated within the roof space that slopes away from the tree canopy, and the living room is on the gable away from the trees.

4.29 In summary, it is considered that the relationship of T12 and T13 with the extended building is tight. Nevertheless, the revised plans are an improvement, and provide a better relationship between the building and the trees that have been identified as having great amenity value.

4.30 The ingress and egress are now both from the same point off Garden Street, thus avoiding the creation of a new cross-over from Penley's Grove Street. Whilst there remains a small encroachment into the theoretical root protection area (RPA) of Lime trees T14 and T13 (that is not already under hard standing or building), the extent of loss is relatively small; and the cellular grid construction for the parking bays is feasible, as no excavations are required to alter ground levels towards the pavement. It is considered that subject to an arboricultural management plan, the development as revised will accord with policy NE1 criteria a) and b) of the DCLP and policy D2 ii) of the pre-publication plan.

4.31 An objection has been received regarding the loss of a tree within the court yard, however the amenity value of this tree is not so substantial as to require its retention. Furthermore additional planting in the form of a beech hedge is being provided around the frontage of the site.

## AMENITY SPACE

4.32 The proposed development will retain the landscaped courtyard within the site. It is considered that this is commensurate with the scale of the development and provides a similar level of amenity space as other developments of flats in the area..

## NEIGHBOUR IMPACT

4.33 The site is situated within a residential area, and as such it is considered that the proposed use is compatible with the area. Neighbour objections have been received in relation to overlooking from windows and impact on privacy. The building will be increased in height on two elevations by approx 1m in height. The distance to those properties on Garden Street is approximately 15m. It is considered that this distance is in keeping with surrounding areas and is acceptable, furthermore the outlook is onto the side elevations of neighbouring properties. In relation to St John's Crescent, the distance remains as existing. The level of fenestration has increased by virtue of the rooflights and two dormer windows. Officers sought revised plans in part to reduce the level of overlooking. The most recent changes have limited the width of the first floor balcony on the southern extent of this elevation. Given the existing fenestration on this elevation it is not considered that there will be a

significant adverse impact on existing amenities. In relation to Penley's Grove, there is a greater change by virtue of the extension to provide two additional floors over that part of the building that is currently single storey. There are also additional windows to provide the extra floor of accommodation. In view of this there will be some additional potential to overlook those properties that lie on the opposite side of Penley's Grove Street. It is acknowledged that the use of the building for flats is more intensive than it would be for a traditional dwelling; nevertheless it is considered that the separation of the building from those houses opposite is acceptable, in particular for an urban street frontage. The softening impact of the trees will be beneficial.

4.34 The building will also have some impact on Ann Harrison's Almshouses. These are single storey dwellings arranged around a crescent. There is increased height at the northern extent of the application building, together with additional windows, including balconies. The gables of the building as extended are orientated towards blank gable on the almshouses. There is potential to look at a more oblique angle towards the front of the almshouses, however given the angle, it is considered that the minimum distance of 20m is acceptable. The more direct views are a minimum of 25m, and extending to 40m. Whilst the application building is much greater in scale, than the almshouses, it is not considered that it will have an overbearing impact due to the relationship of the two buildings, and existing landscaping on the common boundary.

4.35 Overall it is considered that the development accords with the core policy in the NPPF in relation to amenity, together with that part of policy GP1 that relates to amenity.

## HIGHWAY CONSIDERATIONS

4.36 As a result of concerns raised by highway and landscape officers, the access to the site has now been changed to exit and egress from Garden Street. This has reduced the conflict with trees. The parking and cycle provision accords with policy.

4.37 The development will provide 16 car parking spaces. A contribution is required to secure amendments to the Traffic Regulation Order to exclude the site from the resident's parking zone. This will prevent future occupants from applying for resident parking permits thereby avoiding creating unreasonable demands being placed on the existing residents parking zone. A length of single yellow lining in the Abbot Street and Garden Street, could attract indiscriminate parking overnight. An amendment to the TRO to convert these lines to double yellow 24 hour restrictions to protect the streets and junctions in the vicinity is also required.. 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.

4.38 Officers in Highway Network Management have recommended measures to incentivise sustainable travel and reduce the potential impact on the highway. This includes occupiers being offered the choice of either a free cycle or 6 month bus pass, and being given membership of and drive time for the city car club. The site is in a sustainable location, and whilst the development has the potential to attract multiple car ownership it is proposed that the development be removed from the resident's parking zone. It is noted that the applicant has agreed to fund the free cycle or bus pass. However given that there is no approved policy for this and it is not considered necessary to make the development acceptable in planning terms it is not considered that it such a request meets the tests at paragraph 122 of the CIL Regulations.

## DRAINAGE

4.39 The applicant has advised that the existing drainage will be updated to take account of the change in development. In terms of surface water, there is no increase in footprint, and the parking/ hardstanding areas will be permeable. In view of this, there will be a reduction in outfall from the development. The Flood Risk Manager has recommended a condition to provided specific details to take account of the drainage needs from the SFRA and the reduced flow rates that are required from all brownfield sites. Subject to the approval of such details it is considered that the development complies with Section 10 of the NPPF in meeting the challenge of climate change, flooding and coastal change, and that part of Policy GP15a that relates to sustainable drainage systems.

## CRIME PREVENTION

4.40 The development will be occupied by 32 flats with windows around all elevations. The building will be accessed by a secure key entry system. It is considered that this will provide a level of surveillance that will be beneficial in crime prevention. Accordingly it is considered that the development accords with policy GP3 of the DCLP.

## SUSTAINABLE DESIGN

4.41 The applicant has stated that the proposed upgrade will comply with current building regulations/BREEAM requirements where possible/appropriate and as such will be efficient in terms of thermal insulation & energy consumption which assists in minimising the carbon footprint of the existing building. Construction materials & components, wherever possible, will be selected with regard to life cycle costing, the amount of energy embodied within & with a view to recyclability. Materials will also be used & sourced locally, wherever possible to benefit the local economy & community. The re-use of the building is also in itself sustainable.



## PROVISION OF OFF-SITE OPEN SPACE

4.42 The Council's Public Health Programme Manager has requested a contribution of £8,520 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 the contribution. It will be used towards the improvement and expansion of facilities at Heworth Rugby Club to attract women into sport there.

## AFFORDABLE HOUSING

4.43 In relation to affordable housing provision the applicant is proposing to provide an affordable housing commuted sum in respect of the increased floorspace to be provided. Discussions are on-going as to whether the development of the site is subject to the Vacant Building Credit. Members will be updated on whether it applies in this case.

## 5.0 CONCLUSION

5.1 When considering the planning balance, as some harm is identified to the setting of the adjacent conservation Area, the more restrictive policies in the NPPF relating to conservation of heritage assets apply, rather than the 'tilted balance' in favour of sustainable development in paragraph 14 of the NPPF. In the planning balance, the site is previously developed land within a sustainable location. The provision of 32 flats will contribute towards City of York Council's housing supply.

5.2 It is considered that the revised plans have addressed concerns identified in relation to the plans as submitted in relation to the impact of the development on the trees subject to a Tree Preservation Order that front the site, and in relation to access concerns and neighbour amenity.

5.3 In accordance with paragraph 129 of the NPPF, revised plans were sought that addressed concern in relation to the impact of the development on the significance of the Conservation Area. Great weight has been given to the minor harm identified in relation to the revised plans on the setting of the conservation area in accordance with paragraph 132 of the NPPF. The harm identified is very minor, and it is considered that the public benefits of the delivery of residential development, in a sustainable location, outweighs that harm. (para134)

5.4 Accordingly, the recommendation is one of approval subject to a Section 106 Agreement to provide a financial contribution towards off-site sport provision and to secure affordable housing provision.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve subject to the prior completion of a Section 106 Agreement to provide a contribution of £8520 (index-linked) towards off site outdoor sports provision and up to £5000 to amend the existing Traffic Regulation Order in respect of the Resident's Parking Zone and to extend existing parking restrictions. Members will be updated regarding the contribution towards affordable housing provision.

1      TIME2      Development start within three years

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

NOR-472-002 14 REV F

NOR-472-002D Proposed Block Plan

NOR-472-002 10 REV E Proposed ground and basement

NOR-472-002 11 REV E Proposed First Floor Plan

NOR-472-002 12 REV D Proposed Second Floor Plan

NOR-472-002 20 REV E Proposed Elevations

NOR-472-002 21 REV E Context Elevations

Arboricultural Survey & Implication Study

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

3      The elevation fronting St John's Crescent shall be roofed in natural slate. Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any construction work.

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 and in the interests of the character and appearance of the adjacent conservation area.

4      The development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. The scheme shall detail proposed planting within the courtyard and ground cover planting between the parking bays, together with a Beech hedge around the

perimeter site as identified on the proposed Site Plan (NOR-472-002 14F).

This scheme shall be implemented 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 in the interests of the character and appearance of the area.

5 Prior to the commencement of any invasive work on site, including demolition, excavations, and building operations, an Arboricultural Method Statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst others information,, this statement shall include details and locations of protective fencing, site rules and prohibitions, phasing of works, site access and means of demolition/construction, types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of site compound. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material and/or boundary treatments is proposed within the root protection area of existing trees. A copy of the document shall be available for inspection on site at all times.

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

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), the windows shown to be 'coated glazed blank panels' on the submitted elevations (NOR-472-002 20 REV E); shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

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

7 Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Japanese Knotweed on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: To ensure that an adequate means of eradicating or containing the spread of Japanese knotweed is considered and thereafter implemented to prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

8 The development shall not be occupied until the junction between the internal access road and the highway has been constructed in accordance with a scheme which has previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety.

9 The development shall not be brought into use until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb and footway to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

10 HWAY18 Cycle parking details to be agreed

11 HWAY19 Car and cycle parking laid out

12 No part of the site shall come into use until the turning areas have been provided in accordance with the approved plans. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To enable vehicles to enter and leave the site in a forward gear thereby ensuring the safe and free passage of traffic on the public highway.

13 Development shall not begin until details of foul and 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.

Details to include:

- i. Calculations and invert levels to ordnance datum of the existing surface water system should be provided together with details to include calculations and invert levels to ordnance datum of the proposals for the new development.
- ii. Topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

- iii. Additional surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.
- iv. An assessment carried out under BRE Digest 365, (preferably in winter) to prove that the ground has sufficient capacity to except surface water discharge from the proposed permeable paving, and to prevent flooding of the surrounding land and the paving itself. Note: City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.
- v. If the above testing proves to be unsuitable then In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

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

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

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

15 EPU1 Electricity socket for vehicles

16 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.

17 NOISE7 - Restricted hours of construction (8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays)

## **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:

Requested revised plans in relation to design, neighbour impact, landscape and access.

#### **2. Ecology**

(i) In the UK, due to the decline in bat numbers in the last century, all species of bat are protected by the Wildlife & Countryside Act (1981) as amended, Countryside and Rights of Way Act (2000) and the Conservation of Habitats and Species Regulations (2010). Because of their protected status, it should be noted that if bats are discovered during the course of the work, all works must cease and Natural England must be informed immediately. It is an offence for anyone to disturb or handle a bat without the appropriate licences. This may cause some delay but should not prevent the work continuing, provided that due account is taken of their presence.

(ii) There are opportunities for the development to enhance the 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/bat\\_boxes.html](http://www.bats.org.uk/pages/bat_boxes.html) for more information).

### 3. INFORMATIVE:

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

#### **Contact details:**

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