

## **COMMITTEE REPORT**

**Committee:** East Area  
**Date:** 10 April 2008

**Ward:** Fishergate  
**Parish:** Fishergate Planning Panel

**Reference:** 08/00113/FULM  
**Application at:** Christian Science Church Kilburn Road York YO10 4DE  
**For:** Erection of 5 no. townhouses and 5 no. apartments with associated garaging/parking after demolition of existing building (resubmission)  
**By:** Mr Matthew Gath  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 22 April 2008

### **1.0 PROPOSAL**

1.1 The application relates to the demolition of the Christian Science Church at the junction of Fulford Road and Kilburn Road and the erection of a terrace of five dwellinghouses and a block of five flats. The terrace would face Fulford Road and comprise three 5-bed, one 4-bed and one 3-bed houses. The block of flats would face Kilburn Road and would be 2.5-storeys high. A new crossover from Kilburn Road would provide access to a private parking area for 17 cars. The application has been revised since submission to improve the car parking layout and reduce the number of vehicular accesses from two to one.

1.2 The application is a resubmission of 07/01624/FUL, which was withdrawn due to officer concerns, mainly concerning impact on the street scene, highway issues and landscaping.

### **2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Conservation Area Fulford Road 0039

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

2.2 Policies:

CYGP1  
Design

CYGP4A  
Sustainability

CYGP9  
Landscaping

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYT4  
Cycle parking standards

CYL1C  
Provision of New Open Space in Development

CYED4  
Developer contributions towards Educational facilities

CYHE2  
Development in historic locations

### **3.0 CONSULTATIONS**

#### **3.1 Internal**

Highway Network Management - No highway objections to the revised scheme subject to standard conditions being applied.

Structures and Drainage/Engineering Consultancy - No objections to the principle of development. The drainage proposals submitted by the applicant are inadequate. Details of the existing drainage system and measures to attenuate rainwater run-off should be submitted. This can be made a condition of approval.

Education - A total contribution of £32,540 is required in accordance with policy ED4. It will be used to provide two places at Fulford Secondary School.

Environment, Conservation, Sustainable Development (Landscape) - Having a single access allows retention of an existing street tree and a longer length of hedging and grass verge, thereby softening the boundary. Despite the garden length having to be reduced the amenity spaces are adequate. The scheme would benefit from some minor revisions to the planting plan, namely relocating some of the tree species and adding more greenery to the Fulford Road elevation. These can be secured under condition LAND1.

Environmental Protection Unit - Part of the site has been used for military purposes so the council's 6-point contamination condition should be attached to any planning approval. The site is adjacent to the York Air Quality Management Area (AQMA). Air quality monitoring would suggest that nitrogen dioxide concentrations in the area are below the government's health-based objective levels. Also, since the proposed accommodation is set back from the carriageway due to the wide pavement the Environmental Protection Unit does not object to this application on the grounds of air quality.

#### **3.2 External**

Police Liaison -The developer should be encouraged to work in partnership with the Police and the local authority in trying to reduce crime by considering the Police 'Secured by Design' Award Scheme for this site.

Fishergate Planning Panel - No response.

Public Consultation - The consultation period expired on 5 March 2008. Nine objections have been received raising the following planning issues:

- overdevelopment of the site
- out of scale/character with area;
- loss of rare example of 20th century building;
- inadequate landscaping;
- additional traffic congestion in the area;
- inadequate on site parking;
- inadequate access including for emergency vehicles;
- surface water concerns;
- inadequate provision of refuse/recycling facilities.

## **4.0 APPRAISAL**

### 4.1 Key Issues

Housing use and density

Loss of church

Design and visual appearance

Occupier and neighbour amenity

Parking and highway issues

Public open space

Education

Sustainability

Landscaping

Drainage

Refuse/recycling

### 4.2 The Application Site

The existing building on the site is a substantial, detached, flat-roofed church at the corner of Fulford Road and Kilburn Road. The site is bounded on its two road frontages by a 1.3m-high privet hedge. The rear part of the site comprises a large parking area. The adjacent section of Fulford Road comprises a mixture of commercial uses and housing. Kilburn Road, in contrast, mainly comprises inter-war suburban housing. Immediate neighbours are the Fulford Arms public house in Fulford Road and an extended 2-storey house in Kilburn Road. The site is outside, but immediately adjacent to, Fulford Road Conservation Area, which lies to the west and includes the public highway at Fulford Road.

### 4.3 Housing Use and Density

The site is in a sustainable location, close to the city centre and with good access to shops and public transport. Use of the site for housing is acceptable. The proposed density is approximately 59dph, which is compatible with the diverse character of the

surrounding area and satisfies policy H5a which seeks to achieve a minimum density of 40dph.

#### 4.4 Loss of Church

The church is no longer in use. Whilst it is a prominent feature in the locality it is not listed and is not in a conservation area. The building therefore has no statutory protection. The council is currently re-appraising the Fulford Road Conservation Area, which abuts the site. Whilst the study includes a review of the conservation area boundaries, which could be altered as a result of the study, the process is at an early stage and carries little weight as a material consideration of the current planning application.

#### 4.5 Design and Visual Appearance

The two main building blocks of the development (the terrace of houses and the apartment block) have been designed to reflect their immediate surroundings. The terrace, which would front onto Fulford Road, would be set back from the public footpath by approximately 1.2m, giving the terrace a strong frontage, reflecting the adjacent public house. The houses at each end would be lower than those in the centre, to respect in part the heights of the adjacent buildings, particularly the pub immediately to the south. Whilst the proposed house at the northern end of the terrace would be significantly higher than the bungalow on the opposite corner of Kilburn Road the difference in height would be mitigated by the width of the Kilburn Road carriageway. The overall appearance of the terrace (including roof, arrangement of windows, design details) would be in keeping with the character of the adjacent section of Fulford Road and the conservation area. Kilburn Road has an entirely different character. The scale and design of the proposed apartment block is, as a result, much more suburban, reflecting the predominantly 2-storey houses in the street. Moreover, the building line of the apartment block follows the established building line of the adjacent semi-detached houses. In summary, the design and appearance of the development are considered to be in keeping with the surroundings and the conservation area and are acceptable subject to matching materials being used.

#### 4.6 Occupier and Neighbour Amenity

The dwellings would each have adequate living space, outlook and amenities. Each of the houses would have a private rear garden. Distances between the new dwellings and the main facades of surrounding houses would be comparable with the surrounding residential area. No part of the development would significantly affect the amenities of nearby residents.

#### 4.7 Highway Issues

The revised proposals show a single vehicular access from Kilburn Road. Sightlines, turning areas, parking spaces and cycle storage are all adequate subject to the details being approved. Whilst some neighbours would prefer the access to be taken from Fulford Road this would not be acceptable to the highway authority. The convention is for developments to be accessed from a minor road where possible, such as here. Fulford Road, in contrast, is a busy classified road (A19). Moreover, exiting traffic would interfere with buses stopping at the nearby bus stop and vehicles exiting other junctions in the vicinity of the site. The council is considering imposing waiting restrictions along Kilburn Road in response to parking concerns by local residents. The council's deliberations do not affect the current application.

#### 4.8 Public Open Space.

An open space contribution of £23,034 would be required for the provision of public open space in accordance with policy L1 of the local plan. This has been agreed by the applicant.

#### 4.9 Education

A total contribution of £32,540 is required in accordance with policy ED4 of the local plan. It would be used to provide two places at Fulford Secondary School.

#### 4.10 Sustainability

The applicant states that the dwellings would be constructed to a high level of thermal insulation with fuel-efficient gas boilers, thermostatic valve-controlled radiators and high performance windows. The orientation and massing would provide good levels of sun/daylight penetration into buildings and rear gardens. Rainwater from roofs would be harvested for garden use. To ensure that the development achieves acceptable levels of sustainability the developer should be required to submit, prior to completion, a sustainability statement showing that the development would achieve Level 3 of the Code for Sustainable Homes in accordance with the council's adopted Interim Planning Statement on Sustainable Design and Construction.

#### 4.11 Landscaping

Having a single access allows retention of an existing street tree in Kilburn Road and a longer length of hedging, grass verge, and side garden to the apartment block, thereby softening the Kilburn Road boundary. Despite the private gardens to the houses having to be reduced the garden spaces are adequate. The scheme would benefit from some minor revisions to the planting plan, namely relocating some of the tree species and adding more greenery to the Fulford Road elevation. Submission of landscaping details should be made a condition of approval.

#### 4.12 Drainage

Adequate drainage arrangements can be achieved. However, the proposals submitted by the applicant are inadequate. Details of the existing drainage system and measures to attenuate rainwater run-off should be submitted for approval. This can be made a condition of approval.

#### 4.13 Refuse/recycling

Communal refuse/recycling facilities for the apartment block are included in the application. Details of those facilities should be made a condition of approval.

### **5.0 CONCLUSION**

5.1 The application is acceptable in terms of housing use, housing density, sustainability, visual impact, impact on residents' living conditions, neighbour amenity, open space, education facilities and highway issues and drainage. The application would require an educational contribution of £32,540 and an open space contribution of £23,034

### **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out only in accordance with the approved plans numbered Y81.612.02B, 03B, 10, 11, 13, 14B, 15, 16A and ASC 1250/101 or any plans or details subsequently agreed in writing by the Local Planning Authority as an amendment to the approved plans.

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

3 Notwithstanding the information contained on the approved plans, the height of the approved dwellings, as measured from existing ground level, shall not exceed the following: house type A2.5 - 10.2m; house type A3 - 11.9m; house type B End 2.5 - 9.8m; apartment block - 8.0m. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: To establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

4 No development shall commence unless and until a scheme to ensure the provision of adequate additional foundation and secondary school places within the local catchment area has been submitted to and approved by the local planning authority.

Reason: The education provision within the catchment area of the development has insufficient capacity to take more pupils, such that additional places are required in the interests of the sustainable development of the city in accordance with Policy C6 of the City of York Draft Local Plan and the Council's Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005.

**INFORMATIVE:**

The provisions of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, The obligation should provide for a financial contribution calculated at £32,540. The basis for this calculation is contained within the Council's Supplementary Planning Guidance "Developer Contributions to Education Facilities" dated January 2005. No development can take place on this site until the condition has been discharged and you are reminded of the Local Planning Authority's enforcement powers in this regard.

5 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and

approved in writing by the local planning authority. The open space shall thereafter be provided in accordance with the approved scheme or the alternative arrangements agreed in writing by the local planning authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1 of the City of York Draft Local Plan.

**INFORMATIVE:**

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £23,034. No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

6 VISQ8 Samples of exterior materials to be app

7 All windows and external doors shall be made of timber with a microporous paint or dark stain finish unless otherwise agreed in writing by the Local Planning Authority .

Reason: In the interests of visual amenity and the character and appearance of the conservation area.

8 Notwithstanding the approved plans no development shall take place until details (including location, dimensions and materials) of refuse/recycling enclosures for the proposed dwellings on the site have been submitted to and approved in writing by the local planning authority. The enclosures shall be provided in accordance with the approved details before the dwelling hereby approved are occupied, retained and used for no other purpose except with the written consent of the local planning authority.

Reason: In the interests of sustainability and visual amenity.

9 No building work shall take place until details of all windows, including method of opening, doors, door surrounds, sills and lintels have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the submitted details.

Reason: In the interests of visual amenity and the character and appearance of the conservation area.

10 No development shall take place 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. 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.

11 The development shall not come into use until the redundant crossing(s) shown on the approved plans have been removed by reinstating the kerbing, footway and verge to match adjacent levels.

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

12 HWAY10 Vehicular areas surfaced, details reqd

13 HWAY14 Access to be approved, details reqd

14 Prior to the development commencing details of the cycle parking areas for the flats, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

15 HWAY19 Car and cycle parking laid out

16 HWAY21 Internal turning areas to be provided

17 HWAY25 Pedestrian visibility splays protected

18 No barrier or gate to any vehicular access shall be erected within 5m of the rear of the footway abutting the site, without the prior written approval of the Local Planning Authority, and shall at no time open towards the public highway.

Reason: To prevent obstruction to other highway users.

19 HWAY31 No mud on highway during construction

20 DRAIN1 Drainage details to be agreed

21 Prior to the commencement of development the developer shall submit a "Sustainable Design and Construction" statement for the development. This statement shall include the measures to be incorporated at the design and construction stage in order for the dwelling to achieve an Ecohomes "Very Good" rating or the equivalent standard under the Code for Sustainable Homes. Prior to first occupation of the dwelling, a further statement shall be submitted which confirms that the dwelling has achieved this standard. If the dwelling has not achieved the required sustainability standard, details of the changes to be made to the development to bring the dwelling up to the standard required and a timetable for their implementation shall be



submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development and protection of the environment.

22 (i) A desk study shall be undertaken in order to identify any potentially contaminative uses which have or are currently occurring on the site. This shall include a site description and a site walkover and shall be submitted to and approved by the local planning authority prior to development commencing at the site. Informative: This should where possible date back to 1800.

(ii) A site investigation shall be undertaken based upon the findings of the desk study. The investigation shall be carried out in accordance with BS10175: Investigation of potentially contaminated land: code of practice. The results of the investigation shall be submitted to and approved by the local planning authority in writing prior to any development commencing on the site.

(iii) A risk-based remedial strategy shall be developed based on the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing at the site. Informative: The remedial strategy shall have due regard for UK adopted policy on risk assessment and shall be developed in full consultation with the appropriate regulator(s).

(iv) A validation report shall be submitted to and approved by the local planning authority, detailing sample locations and contaminant concentrations prior to any development commencing at the site.

(v) Any contamination detected during site works that has not been considered within the remedial strategy shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development at the site.

(vi) A timetable of proposed remedial works shall be submitted to the local planning authority prior to any works being undertaken on the site.

Reason: To protect the amenity of neighbouring residents and the wider environment.

23 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.	

Reason: To protect the amenity of local residents

## **7.0 INFORMATIVES: Notes to Applicant**

1. In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to housing density, sustainability, visual impact, landscaping, impact on residents' living conditions, open space, education facilities, impact on the adjacent conservation area and highway issues. The application

therefore complies with policies GP1, GP9, GP4a, H4a, H5a, T4, ED4, HE2 and L1c of the City of York Local Plan Deposit Draft.

2. 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: Vehicle crossing including reinstatement works - Stuart Partington (01904) 551361

3. The developer's attention should also be 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 noted and acted upon. Failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(i) 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".

(ii) 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.

(iii) 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.

(iv) 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.

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

**Contact details:**

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